

EXHIBIT 1



780 N. Commercial Street
P.O. Box 330
Manchester, NH 03105-0330

Robert A. Bersak
Chief Regulatory Counsel

603-634-3355
robert.bersak@eversource.com

January 14, 2019
Via e-mail and U.S. Mail

Timothy J. McLaughlin, Esq.
Shaheen & Gordon, P.A.
107 Storrs Street
P. O. Box 2703
Concord, New Hampshire 03301

David L. Schwartz, Esq.
Latham & Watkins, LLP
555 Eleventh Street, NW
Suite 1000
Washington, D.C. 20004-1304

Re: NHPUC Docket No. DE 18-002, Implementation of N.H. Senate Bill 365

Dear Attorneys McLaughlin and Schwartz:

Last session, the New Hampshire Legislature enacted Senate Bill 365, "AN ACT relative to the use of renewable generation to provide fuel diversity." This Law created RSA Chapter 362-H that provides an opportunity for certain eligible generating facilities to sell their net electrical output to Eversource at a statutory "adjusted energy rate" -- a rate that is forecast to be greater than the market value of that energy. Over the three-year life of SB 365, it has been estimated that SB 365 would cost New Hampshire ratepayers approximately \$75 million in above-market costs, on top of the subsidy for these plants that already became law in 2017 through Senate Bill 129.

The validity of SB 365 is currently uncertain. The New England Ratepayers Association, the New Hampshire Office of Consumer Advocate, and the Electric Power Supply Association have asked the Federal Energy Regulatory Commission ("FERC") to declare SB 365 unconstitutional, arguing it conflicts with the provisions of existing federal law.

It is against this backdrop that Eversource is trying to implement the goals of the Legislature while also ensuring that customers are protected in the event that the law is invalidated by federal authorities. Considering these significant costs, the uncertainty of the validity of SB 365, and ambiguities in the law itself, Eversource requested the New Hampshire Public Utilities Commission (the "Commission" or "PUC") to determine how this new law should be implemented.

On January 11, 2019, the Commission issued its Order No. 26,208 “Order Concerning Implementation of RSA Chapter 362-H, The Preservation and Use of Renewable Generation to Provide Fuel Diversity” (the “Order”) in its Docket No. DE 18-002.

In that Order, the Commission answered several questions relating to the proper interpretation of RSA Chapter 362-H. In particular, the Commission decided that the only product the legislation intended to be sold/purchased is energy.

Further, the Commission decided that the law’s “adjusted energy rate” was not based solely on the wholesale bid price for energy service received by Eversource in response to Eversource’s RFP process. Instead, the “adjusted energy rate” is based upon the full retail energy service rate approved by the Commission minus the costs of compliance with the Renewable Portfolio Standard. Hence, the “adjusted energy rate” includes state jurisdictional costs as set out in Eversource’s pleading of December 27, 2018, contrary to what your clients have reported to the Federal Energy Regulatory Commission in their filings in FERC Docket No. EL19-10.¹

However, the PUC Order also left many questions unanswered. It indicated that under RSA 362-H the Commission had no authority to act as an arbiter regarding the commercial terms of any purchase/sale obligation under that law; it held that its role is limited to a review of agreements submitted by Eversource. Noting “that both Eversource and the Wood Plants are sophisticated market participants,” the Commission left the negotiation of such commercial terms to the buyer and sellers. Order, *slip op.* at 22.

In addition to leaving critical issues unanswered, the Commission inserted a very significant new roadblock to the timely implementation of RSA Chapter 362-H. Despite the requirement in RSA 362-H:2, V that “The electric distribution company shall recover the difference between its energy purchase costs and the market energy clearing price through a nonbypassable delivery services charge applicable to all customers in the utility’s service territory,” the Commission expressly held that such recovery may not be authorized if the law is ultimately found to be unconstitutional:

[I]n the circumstance that the statute is found unconstitutional after Eversource has made over-market payments to eligible facilities, the very authority for a Commission order authorizing recovery of those charges from customers would be invalidated. Until the constitutionality of the statute is determined, and the authority for recovery of over-market charges from customers is upheld, the Commission cannot order rate recovery of over-market costs associated with compliance with the statute. Therefore, we are unable to provide the assurance requested by Eversource regarding stranded cost recovery until the constitutionality of RSA 362-H is fully resolved.

Id. at 24.

¹ You may wish to inform FERC of this NHPUC determination. See Rule 3.3 “Candor Toward the Tribunal” of the ABA’s Model Rules of Professional Conduct.

The Commission also refused to implement any of the customer protection measures suggested by Eversource, the Office of Consumer Advocate, and the New England Ratepayers Association to work around this roadblock that it created. The Commission demurred stating, "we are not authorized by the statute to impose customer protection terms in any eligible facility agreement." *Id.* at 25.

Eversource finds itself in the same situation as the Commission - - i.e., how to move forward with a law that may be invalidated. Without a mechanism in place to protect customers and Eversource from the above-market costs created by the Legislature in RSA Chapter 362-H that may exceed "what is allowed by law" (*Id.* at 24), Eversource is not in a position to make any purchases under that law.

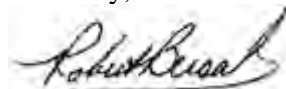
The Commission suggested a way around this roadblock created by the Order. In the Order, the Commission told Eversource and the Wood Plants that it "encourage[d] the parties to consider voluntary inclusion of appropriate customer protections against the possibility of constitutional invalidation of the statute in any eligible facility agreement that is submitted to the Commission for review." *Id.* at 25.

Would the Wood IPPs agree to inclusion of a customer protection provision in purchase/sale arrangements under RSA Chapter 362-H?

Eversource is willing to accept an escrowing of the difference between the law's adjusted energy rate and the real-time market price until the status of RSA 362-H has been finally adjudicated. Such an escrow arrangement could be achieved at no cost to the parties. Unless the Wood IPPs are willing to voluntarily agree to the inclusion of an appropriate customer protection against the possibility of constitutional invalidation of the statute as suggested by the PUC, discussions regarding how to implement RSA 362-H would be unproductive.

Please let me know by Thursday, January 17 whether your clients are willing to voluntarily accept inclusion of a customer protection mechanism in any arrangement for the purchase and sale of energy under RSA Chapter 362-H so that the necessary arrangements to implement SB 365 can be accomplished in a timely manner.

Sincerely,



Robert A. Bersak
Chief Regulatory Counsel

cc: Service List, NHPUC Docket No. DE 18-002 (via e-mail)

EXHIBIT 2

SHAHEEN & GORDON, P.A.

A T T O R N E Y S A T L A W

Timothy J. McLaughlin
Attorney at Law

Tenacity. Creativity. Results.™

January 17, 2019

**VIA ELECTRONIC SERVICE (robert.bersak@eversource.com)
AND U.S. MAIL**

Eversource
Attn: Robert Bersak, Chief Regulatory Counsel
780 N. Commercial Street
P.O. Box 330
Manchester, NH 03105-0330

Re: NHPUC Docket No. DE 18-002
Response to Eversource's letter of January 14, 2019 concerning Order No. 26,208

Dear Attorney Bersak,

Springfield Power LLC, DG Whitefield LLC, Bridgewater Power Company, L.P., Pinetree Power Tamworth LLC and Pinetree Power LLC ("Intervenors") respond to your letter of January 14, 2019 concerning Order No. 26,208 ("Order") as follows.

First, thank you for your outreach, and for your efforts to work towards a resolution.

The Order does not create any "roadblocks" to the implementation of RSA 362-H. Rather, it helps bridge the gap between the parties' positions by resolving most of the issues that Eversource raised in its Solicitation and Petition. For instance:

- The Commission "reject[ed] Eversource's proposal that we issue 'rate orders' requiring it to purchase power from the eligible facilities." Order, p. 18.
- The Commission rejected Eversource's belated argument that RSA 362-H was ambiguous relative to its mandate to purchase energy. Order, pp. 19-20 ("contrary to Eversource's assertion that the statute is ambiguous, we find that the plain meaning of RSA 362-H requires EDCs to offer to purchase energy only, and not capacity"). Intervenors' Confirmations sent in response to Eversource's Solicitation are consistent with the Commission's pronouncement on this issue.
- Regarding the "adjusted energy rate," the Commission clarified for Eversource that the language of the statute was unequivocal and explicit on the rate question. Order, p. 21 ("The statute is clear and unambiguous. The default energy rate applicable to residential class customers is the retail rate for electric customers who are otherwise without an electricity supplier; therefore, by the plain language of the statute, the adjusted energy rate under RSA 362-H is based on the retail rate approved by the Commission. We find nothing in the statute to support an argument that the adjusted energy rate should be based on anything else."). Intervenors' Confirmations sent in

response to Eversource's Solicitation are consistent with the Commission's pronouncement on this issue.

- The Commission rejected any attempt to require the eligible facilities to maintain qualifying status under PURPA. Order, pp. 21-22 (holding "Eversource's requirement that the eligible facilities maintain QF status during the purchase agreement term is inconsistent with RSA 362-H."). Intervenor's Confirmations sent in response to Eversource's solicitation are consistent with the Commission's pronouncement on this issue and removed the QF requirement.
- The Commission rejected Eversource's argument that RSA 362-H requires participation in the ISO-NE markets. Order, p. 22 (holding "RSA 362-H does not expressly require the eligible facilities to participate in the regional wholesale energy markets."). Intervenor's Confirmations sent in response to Eversource's Solicitation are consistent with the Commission's pronouncement on this issue.
- The Commission rejected Eversource's attempt to limit payment to the real-time ISO-NE energy price until the constitutionality of RSA 362-H is confirmed. The Commission explained "[i]n its solicitation, Eversource changed the price to be paid to eligible facilities to the real-time energy market price, rather than the adjusted energy rate, until such time as the constitutionality of RSA 362-H has been confirmed. ... [But] RSA 362-H specifically anticipates such over-market costs and provides for recovery from customers through a nonbypassable charge. RSA 362-H:2, V. As a result, we must find that the payment term requested by Eversource does not conform with the express language in RSA 362-H." Order, pp. 22-23. Intervenor's Confirmations sent in response to Eversource's Solicitation are consistent with the Commission's pronouncement on this issue.
- Regarding Eversource's request that the Commission "include assurances in an order that the over-market payments made by Eversource in compliance with RSA 362-H will be recoverable as part of its stranded cost recovery," Eversource incorrectly suggests that the Commission would not authorize stranded cost recovery. However, the Commission held "RSA 362-H:2, V expressly allows EDCs to recover any above-market costs of purchases from eligible facilities as part of a nonbypassable charge to all electric delivery customers." Order, pp. 23-24 (underline added). The Commission went on to add "we are not willing to separately order recovery of stranded costs from Eversource customers". Order, p. 24 (underline added).¹
- In resolution of the question of whether Eversource is required to purchase energy from the eligible facilities under RSA 362-H, the Commission stated that RSA 362-H "requires electric distribution companies to purchase the net energy output of any eligible biomass or municipal waste facility located in its service territory" and "directs each of the electric distribution companies...to 'offer to purchase the net energy output of any eligible facility in its service territory.'" Order, pp. 1-3. The

¹ The rate recovery provisions specified in RSA 362-H:2, V were included in Intervenor's proposals. Intervenor will join Eversource in its requests to ensure those statutory and contractual provisions are followed.

Order repeatedly refers to “mandated” and “required” purchases under RSA 362-H, and holds that “RSA 362-H requires EDCs to offer to purchase energy” from the eligible facilities. Order, pp. 19-20.

- The Commission rejected Eversource’s proposals to impose escrow and/or credit conditions and “determined that the first option is contrary to the terms of RSA 362-H [and the] second option would likely impose significant additional expense and uncertainty upon the very eligible facilities the statute is designed to benefit, and therefore is also inconsistent with RSA 362-H.” Order, pp. 24-25. Thus, no such terms were included in intervenors’ confirmations sent in response to Eversource’s solicitation.

Notwithstanding the Commission’s determination that Eversource’s proposed escrow or letter of credit provisions are inconsistent with RSA 362-H, Eversource has asked whether intervenors would be willing to include customer protection provisions in a power purchase agreement under RSA 362-H. The entire purpose of RSA 362-H was to ensure the eligible facilities would be able to continue to operate as important state renewable resources, which requires sufficient revenues to maintain such operations. In the Order, the Commission quoted the General Court’s findings that “it is in the public interest to promote the continued operation of, and the preservation of employment and environmental benefits associated with these sources of indigenous-fueled renewables, and thereby promote fuel diversity as part of the state’s overall energy policy.” Order, p. 2.

While an indefinite delay of the purchase prices in RSA 362-H would not allow for the continued operation of the eligible facilities, intervenors are willing to agree to the voluntary inclusion of a 60-day customer protection provision beginning on February 1, 2019 in order to allow additional time for a determination on the constitutionality of RSA 362-H. Under this voluntary customer protection provision, the eligible facilities would have the choice to utilize any of the commonly used forms of security that have been accepted in the industry in power purchase agreements (*e.g.*, letters of credit, parent guarantees, and/or cash collateral) for the expected above-market portion for a 60-day period, or have the above market portion for that 60-day period escrowed. The 60-day voluntary customer protection would remain in place for one year, after which the security or escrow would terminate and be returned to the eligible facility.

We look forward to working to resolve these issues with Eversource over the next week.

To that end, intervenors will separately submit today directly to Eversource revised Forms of Confirmation and Governing Terms that conform to the requirements of RSA 362-H as determined by the Commission in the Order. Pursuant to the requirements of RSA 362-H, Eversource “shall select all proposals” that conform to the requirements of RSA 362-H and then “shall submit all eligible facility agreements to the commission” for its conformity review so that the agreements can take effect by February 1, 2019.

Very truly yours,



Timothy J. McLaughlin

tmclaughlin@shaheengordon.com

cc: Clients
Service List, NHPUC Docket No. DE 18-002 (via e-mail)

EXHIBIT 3

SHAHEEN & GORDON, P.A.

A T T O R N E Y S A T L A W

Timothy J. McLaughlin
Attorney at Law

Tenacity. Creativity. Results.™

January 17, 2019

Via e-mail only: **robert.bersak@eversource.com**
 rick.white@eversource.com
 david.errichetti@eversource.com

Eversource Energy
Attn: Robert Bersak, Frederick White and David Errichetti
107 Selden Street
Berlin, CT 06037

P.O. Box 270
Hartford CT 06141

Re: Bridgewater Power Company, L.P. – Revised Draft Confirmation and Governing Terms
 Follow-up regarding correspondence of January 17, 2019

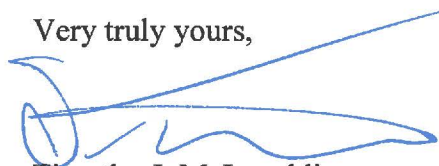
Dear Messrs. Bersak, White and Errichetti,

In accordance with the provisions of RSA 362-H as determined by NHPUC Order No. 26,208 ("Order"), Shaheen & Gordon, P.A. submits to Public Service Company of New Hampshire d/b/a Eversource ("Eversource") the following on behalf of Bridgewater Power Company, L.P. in supplementation of its November 16, 2018 submission:

- Revised Draft Confirmation; and
- Revised Governing Terms.

As you know, Eversource "shall select all proposals from eligible facilities that conform to the requirements of" RSA 362-H. If there are any terms submitted herein that do not conform to the requirements of RSA 362-H as determined by the Order, please let me know promptly so that we can work to ensure the agreements can take effect by February 1, 2019. Otherwise, we expect that Eversource "shall submit all eligible facility agreements to the commission" for its conformity review so that the agreements can take effect by February 1, 2019.

Very truly yours,



Timothy J. McLaughlin
tmclaughlin@shaheengordon.com

TJM/jpk
cc: Bridgewater Power Company, L.P.

DRAFT

THIS DOCUMENT CONSTITUTES FORM OF CONFIRMATION ON THE PART OF THE SELLER. IT DOES NOT CONSTITUTE AN OFFER BY PSNH CAPABLE OF ACCEPTANCE AND NO LEGALLY BINDING COMMITMENT OR OBLIGATION RELATED TO THE SUBJECT MATTER OF THIS LETTER SHALL EXIST UNLESS AND UNTIL THE EXECUTION AND DELIVERY OF DEFINITIVE DOCUMENTS BY SELLER CONTAINING TERMS AND CONDITIONS, AND REVIEW BY THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION OF THIS CONFIRMATION AND ITS ATTACHMENT A AS BEING IN CONFORMITY WITH RSA 362-H.

FORM OF CONFIRMATION

This Transaction Confirmation ("Confirmation") relates to the sale of energy by Bridgewater Power Company, L.P. ("Seller") to Public Service Company of New Hampshire ("PSNH"). This Confirmation is for the sale of Unit Contingent Energy (as defined below) from Seller's Eligible Facility to PSNH (the "Transaction").

PSNH notes that this Transaction is mandated by force of law and is not a voluntarily act of PSNH. This Transaction is not a "Negotiated Rate or Term" as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature's override of the Governor's veto, mandates that PSNH purchase the net energy output of any "Eligible Facility" as defined by RSA 362-H:1,V,(a), located in its service territory.

PSNH's performance under this Confirmation is expressly subject to and conditioned by the terms herein and in Attachment A and an order from the New Hampshire Public Utilities Commission ("NHPUC") reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H.

Buyer: Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
A New Hampshire corporation

Seller: **Bridgewater Power Company, L.P.**
Legal Name

P.O. Box 678 Ashland, NH 03217

Address

603-968-9602

Telephone

Limited Partnership -NH

Entity Type and State of Formation

Eligible Facility: Seller's 15.7 MW biomass fired generating facility which is located in Bridgewater, New Hampshire, identified in the ISO-NE market settlement system with the Asset name Bridgewater and ID # 357.

Product: Unit Contingent Energy

Delivery Period and Term: The Term begins on the later of the date of the final NHPUC Determination that this Confirmation and its Attachment A are in conformity with RSA 362-H or February 1, 2019 and continues through July 31, 2019.

Energy Price: PSNH will pay Seller the "adjusted energy rate" as defined by New Hampshire RSA 362-H:1, I for the Delivery Period.

Payment Schedule: The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer, Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by designating PSNH, ID 50094, the Asset Owner for ISO-NE energy market billing and settlement purposes. Payment will equal Delivered Energy times the Energy Price adjusted for any revenues or expenses readily identifiable in the ISO-NE bill resulting from ownership not included in "Market Energy Clearing Price," including any and all resettlements.

Audit Rights: Buyer and Seller shall each have the right throughout the Term and for a period of six (6) months following when the ISO-NE energy market settlement is final, upon reasonable prior notice, to audit relevant records of the other party to the limited extent necessary to verify the basis for payments.

Delivery Point: The Delivery Point shall be at the interconnection between the Eligible Facility and Buyer's facilities as specified in Seller's existing Interconnection Agreement.

Scheduling: Seller will remain the designated Lead Market Participant – Asset and Lead Market Participant – Resource in accordance with ISO-NE rules and procedures.

Conditions:

This Confirmation and the transactions contemplated hereunder are subject to the following conditions:

- An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H,
- PSNH's requirement to comply with the terms of RSA 362-H arise solely from RSA 362-H.
- The Facility shall maintain its status as an "Eligible facility" per RSA 362-H throughout such Term.

Cost Recovery:

As provided in RSA 362-H:2, V PSNH is eligible to recover the Transaction's difference between its energy purchase costs and the market clearing price through a nonbypassable delivery services charge applicable to all customer's in PSNH's service territory. The charge may include reasonable costs incurred by PSNH, and the charges shall be allocated using the customer class allocation percentages approved in NHPUC docket DE 14-238, order 25,920.

Definitions:

"Day-Ahead Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Real-Time Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Market Energy Clearing Price" means the Day-Ahead Locational Marginal Price and Real-Time Locational Marginal Price at the Pricing Node applicable to the asset in the ISO-NE energy market settlement for commitments in the day-ahead energy market and deviations in the real-time energy market, respectively.

"Unit Contingent" means, with respect to this Confirmation, that delivery or receipt of the Product from the Facility may be interrupted for any reason or for no reason by Seller, without liability on the part of either Party. However, Buyer shall be entitled to 100% of the output from the Facility during the Term of this Agreement.

"NHPUC Order" means receipt of a final, decision from the New Hampshire Public Utilities Commission, stating that it has reviewed this Confirmation and its Attachment A and finds they are in conformity with RSA 362-H.

"Delivered Energy" is the generation in MWh reported by ISO-NE for the Eligible Facility in the energy market settlement at the price node identified below:

Eligible Facility Generator Name	Asset ID #	Lead Participant	Price Node
BRIDGEWATER	357	Bridgewater Power Company, L.P.	UN.ASHLAND 34.5BRID

Governing Terms:

All other terms and conditions not specified herein shall be in accordance with, and subject to, the attached Governing Terms which are incorporated by reference and made a part hereof. In the event of any inconsistency between the Governing Terms and the terms of a Confirmation, the terms of the Confirmation will govern for the Transaction.

Notices:

Any notice or communication shall be provided to the following:

If to Buyer:

Primary Contact for PSNH:

Frederick White
860-665-5272 (phone)
860-665-4583 (fax)
rick.white@eversource.com

Secondary Contact for PSNH:

David Errichetti
860-665-4519 (phone)
860-665-4583 (fax)
david.errichetti@eversource.com

If to Seller:

Primary Contact:

Michael O'Leary (name)
603-968-9602 ex. 11(phone)
603-968-9605(fax)
moleary@bridgewater-os.com (email)

Secondary Contact:

Sean Lane (name)
973-753-0181 (phone)
973-254-3619 (fax)
slane@olympuspower.com (email)

Seller executes this Draft Confirmation to express its indication of interest to accept the terms hereof and of the attached Governing Terms. A final, execution version of this Confirmation will be provided subsequent to PSNH selecting winning suppliers in its default energy service solicitation and developing proposed residential default energy service rates needed for inclusion in PSNH's filing to the NHPUC for the commission's review of this Confirmation and its Attachment A for conformity with RSA 362-H.

BRIDGEWATER POWER COMPANY, L.P.



BY _____
Name: Michael O'Leary
Title: Asset Manager
Date 1-17-19

ATTACHMENT A
GOVERNING TERMS

**GOVERNING TERMS
FOR THE PURCHASE OF ENERGY BY
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY
PURSUANT TO THE LEGAL MANDATE CONTAINED
IN NEW HAMPSHIRE RSA CHAPTER 362-H**

This document sets forth the Governing Terms for purchases by Public Service Company of New Hampshire d/b/a Eversource Energy (“Buyer”) pursuant to the legal mandate set forth in New Hampshire RSA Chapter 362-H.

Each Transaction (as defined below) is subject to the signed Form of Confirmation and these Governing Terms, is mandated by force of law, is not a voluntary act of PSNH, and further is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362- H:1,V,(a), located in its service territory, including the facility owned by Seller as set forth in the Confirmation (the “Facility”).

PSNH’s performance hereunder is expressly subject to and conditioned upon the terms herein and in the Confirmation and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing the Confirmation and Governing Terms and finding that provisions addressed by RSA 362-H and contained herein are in conformity with RSA 362-H.

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in these Governing Terms and not defined herein shall have the same meaning as ascribed to such terms under, first NH RSA Chapter 362-H, then by the ISO-NE Practices and ISO-NE Rules.

“Affiliate” shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

“Business Day” means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

“Buyer” shall mean Public Service Company of New Hampshire.

“Day-Ahead Energy Market” shall have the meaning set forth in the ISO-NE Rules.

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

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

“Deliver” or **“Delivery”** shall mean the supply of Energy into Buyer’s ISO-NE account in accordance with the terms of these Governing Terms, the applicable Confirmation and the ISO-NE Rules.

“Delivery Failure” shall have the meaning set forth in Section 4.3 hereof.

“Delivery Point” shall mean the point of interconnection between the Eligible Facility and Buyer’s facilities as specified in Seller’s existing Interconnection Agreement.

“Commission” shall mean the New Hampshire Public Utilities Commission, or NHPUC.

“Delivery Period” shall have the meaning as set forth in the Confirmation.

“Dispute” shall have the meaning set forth in Section 10.1 hereof.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time at the Buyer’s meter used for billing and revenue determination.

“Energy Price” shall have the meaning as set forth in the Confirmation.

“Event of Default” shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

“Eligible Facility” shall have the meaning set forth in the Confirmation.

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

“Force Majeure” shall have the meaning set forth in Section 10.1(a) hereof.

“Good Utility Practice” shall mean compliance with all applicable laws, codes and regulations, all ISO NE Rules and ISO NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is

made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

“Governmental Entity” shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

“Interconnecting Utility” shall mean the utility (which may be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the transmission system of that utility.

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

“Interconnection Point” shall mean the point of interconnection set forth in the Interconnection Agreement.

“ISO” or **“ISO-NE”** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

“ISO-NE Practices” shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Participants Agreement, and any applicable successor practices and procedures.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the NEPOOL Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

“ISO-NE Tariff” shall mean ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended from time to time.

“ISO Settlement Market System” shall have the meaning as set forth in the ISO-NE Tariff.

“Late Payment Rate” shall have the meaning set forth in Section 5.3.

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

“Locational Marginal Price” or “LMP” shall have the meaning set forth in the ISO-NE Tariff for the New Hampshire load zone

“Meters” shall have the meaning set forth in Section 4.6(a) hereof.

“MW” shall mean a megawatt.

“MWh” shall mean a megawatt-hour (one MWh shall equal 1,000 kilowatt-hours).

“NEPOOL” shall mean the New England Power Pool and any successor organization.

“NEPOOL Participants Agreement” shall mean the Second Restated New England Power Pool Agreement dated as of August 31, 2011, as amended and/or restated from time to time.

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

“New England Control Area” shall have the meaning as set forth in the ISO-NE Tariff.

“Party” and **“Parties”** shall mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

“Permits” shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“Person” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

“Pool Transmission Facilities” has the meaning given that term in the ISO-NE Rules.

“Price” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth on the Confirmation.

“Products” shall mean Energy only.

“Real-Time Energy Market” shall have the meaning as set forth in the ISO-NE Rules.

“Regulatory Approval” shall mean the NHPUC’s order reviewing the Governing Terms and the Confirmation and finding that they are in conformity with RSA 362-H, provided that such order does not include any conditions or modifications that are inconsistent with RSA 362-H.

“RTO” shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC’s Order No. 2000 and FERC’s corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

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

“Seller” shall have the meaning as set forth in the Confirmation.

“Term” shall have the meaning set forth in the Confirmation.

“Transaction” means the sale of Energy produced by the Facility by Seller to Buyer as set forth in the Confirmation.

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

“Unit Contingent” shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating energy, and as further defined in the Confirmation.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. These Governing Terms are effective for the Term.

2.2 Term. The Term of the Transaction is the period set forth in the Confirmation.

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all

practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under these Governing Terms, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, maintain and operate the Facility in accordance with Good Utility Practice and Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete operation and maintenance functions, so long as Seller maintains overall control over the operation and maintenance of the Facility throughout the Term.

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

(e) ISO-NE Status. Seller shall, at all times during the Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and these Governing Terms.

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

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

(h) Compliance with Law. Without limiting the generality of any other provision of these Governing Terms, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies,

criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with Law.

Upon Buyer's request, Seller shall provide Buyer information pertaining to Facility emissions, fuel and operations, and information requested by Buyer to comply with Buyer's disclosure obligations. To the extent Buyer is subject to any other certification or reporting requirement with respect to the Products, Seller shall promptly provide such information to Buyer.

(i) FERC Status. Seller shall obtain and maintain any requisite authority to sell the output of the Facility under applicable law.

(j) Emissions. Seller shall be responsible for all costs associated with the Facility's emissions, including the cost of procuring emission reductions, offsets, allowances or similar items associated with the Facility's emissions, to the extent required to operate the Facility. Without limiting the generality of the foregoing, failure or inability of Seller to procure emission reductions, offsets, allowances or similar items associated with the Facility's emissions shall not constitute a Force Majeure.

3.2 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Throughout the Term, Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of these Governing Terms and the Confirmation. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers during the Term.

(b) Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Term, Seller shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with these Governing Terms, all ISO-NE Practices and ISO-NE Rules, as applicable. Seller shall transfer the Energy to Buyer in the Day-Ahead Energy Market or Real-Time Energy Market, as directed by Buyer and consistent with prevailing electric industry practices at the time, in such a manner that Buyer may resell such Energy in the Day-Ahead Energy Market or Real-Time Energy Market at the Market Price, as applicable, and Buyer shall have no obligation to pay for any Energy not transferred to Buyer in the Day-Ahead Energy Market or Real-Time Energy Market or for which Buyer is not credited in the ISO-NE Settlement Market System (including, without limitation, as a result of an outage on any electric transmission system).

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.3 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees and other FERC-approved charges in connection with the Delivery of Energy to the Delivery Point. Seller shall also be responsible for all charges, fees and losses required for Delivery of Energy from the Facility to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. Seller shall also apply for and schedule all such services.

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-

NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.4 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the "Meters"), shall be installed, operated, maintained and tested at Seller's expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller's expense at least once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer's expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than one percent (1%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than one percent (1%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The meter used by Buyer (or its Affiliate) for billing and revenue purposes shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Purchase Cost for Products. All Products Delivered to Buyer in accordance with these Governing Terms shall be purchased as specified in the Confirmation.

5.2 Payment and Netting

(a) Billing Period. The calendar month shall be the standard period for all payments under these Governing Terms. On or before the twenty-first (21st) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days after receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices

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

- (ii) A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under these Governing Terms on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under these Governing Terms, including any related damages calculated pursuant to these Governing Terms, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the “Money Rates” section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the “Late Payment Rate”).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products (“**Seller’s Taxes**”). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) (“**Buyer’s Taxes**”). In the event Seller shall be required by law or regulation to remit or pay any Buyer’s Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller’s Taxes, Seller shall reimburse Buyer for such payment, and Buyer may deduct any of the amount of any such Seller’s Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller’s or the Facility’s eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller’s accounting, reporting or tax purposes, or to receive any other grant or subsidy from a Governmental Entity or other Person. The obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and Price for and Seller’s obligation to deliver the Products, shall be effective regardless of whether the production and/or sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment during the Term.

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

6.1 **Representations and Warranties of Buyer.** Buyer hereby represents and warrants to Seller as follows:

(a) **Organization and Good Standing; Power and Authority.** Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of New Hampshire. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power to perform its obligations under these Governing Terms.

(b) **Due Authorization; No Conflicts.** Performance by Buyer of these Governing Terms, and the performance by Buyer of its obligations hereunder are mandated by New Hampshire law and subject to the receipt of the Regulatory Approval.

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

(a) **Organization and Good Standing; Power and Authority.** Seller is duly formed, validly existing and in good standing under the laws of the state of its formation and is authorized to do business in the State of New Hampshire. Seller has all requisite power and authority to execute, deliver, and perform its obligations under these Governing Terms.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to own and operate the Facility and to deliver the Products to the Buyer in accordance with these Governing Terms.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(d) Binding Agreement. These Governing Terms has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Seller constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) Consents and Approvals. The execution, delivery and performance by Seller of its obligations under these Governing Terms do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, and final.

(f) Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under these Governing Terms, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under these Governing Terms.

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

(h) No Default. No Default or Event of Default has occurred, and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under these Governing Terms.

6.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 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 Article 7 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 the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

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

(d) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under these Governing Terms.

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under these Governing Terms or on Buyer or Buyer's ability to receive the benefits under these Governing Terms, provided that if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(c) Failure to Maintain Material Contracts. The failure of Seller to maintain in effect any material agreements required to Deliver the Energy committed to Buyer hereunder to the Delivery Point, including the Interconnection Agreement, provided that if Seller's failure does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(d) Abandonment. On or after the Commercial Operation date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a sale or transfer of the Facility and the Governing Terms and Confirmation; or

(e) Assignment. The assignment of these Governing Terms by Seller, except as permitted in accordance with Article 12.

(f) Failure to Deliver. Seller's failure to deliver Products to Buyer in accordance with these Governing Terms and the applicable Confirmation.

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing

Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

(b) Termination. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate these Governing Terms at its sole discretion by providing written notice of such termination to the Defaulting Party. Such termination shall be with a full reservation of the Non-Defaulting Party's rights and remedies under law and equity.

(c) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THESE GOVERNING TERMS SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. **FORCE MAJEURE**

9.1 Force Majeure.

(a) The term "Force Majeure" means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under these Governing Terms. Under no circumstances shall Force Majeure include (v) any full or partial

curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under these Governing Terms, such performance (other than the obligation to make payment of amounts due and payable under these Governing Terms) shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under these Governing Terms, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 10.1(a) has occurred.

10. DISPUTE RESOLUTION

10.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to these Governing Terms (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior

management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC and/or the FERC depending on the nature of the Dispute.

11. INDEMNIFICATION

11.1 Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to Seller's execution, delivery or performance of these Governing Terms, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under these Governing Terms.

11.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of the Seller contest, settle or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of such indemnifying Party or, absent such consent, written consent of Buyer's counsel that such claim is meritorious or warrants settlement

12. ASSIGNMENT AND CHANGE OF CONTROL

The Transaction governed by these Governing Terms may not be assigned by either party except to the extent associated with a merger or consolidation of a Party or in connection with Seller's sale or transfer of its interest (or any part thereof) in the Facility.

13. TITLE; RISK OF LOSS

Title to and risk of loss related to the Delivered Product shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

14. AUDIT

14.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under these Governing Terms, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to these Governing Terms. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment or underpayment was made until paid.

14.2 Consolidation of Financial Information. Generally accepted accounting principles and SEC rules may, from time to time, and in accordance with such accounting principles and rules change throughout the Term, requiring Buyer to have access to Seller's financial records and personnel. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's reasonable written request, any and all listed financial information and statements then available to Seller as well as access to financial personnel, to the extent that Buyer needs such information in order to comply with generally accepted accounting principles and SEC rules for financial reporting purposes, subject to Buyer's agreement to maintain the confidentiality and prevent the disclosure of such information.

15. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing, as set forth in the Confirmation.

16. WAIVER AND MODIFICATION

These Governing Terms may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of these Governing Terms shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of these Governing Terms shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine whether any amendment or waiver of the provisions of these Governing Terms shall require NHPUC review of the same for conformity with RSA 362-H, and if Buyer determines that such NHPUC review is required for any amendment or waiver of the provisions of these Governing Terms, then such amendment or waiver shall not become effective unless and until such NHPUC review is obtained.

17. INTERPRETATION

17.1 Choice of Law. Interpretation and performance of these Governing Terms shall be in accordance with, and shall be controlled by, the laws of the State of New Hampshire (without regard to its principles of conflicts of law).

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of these Governing Terms. The words "hereof" and "hereunder" shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

17.3 Change in ISO-NE Rules and Practices. These Governing Terms are subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of these Governing Terms, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Buyer shall modify these Governing Terms and submit the modified document to the NHPUC for its review for conformity with RSA 362-H. The intent is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to these Governing Terms, or (ii) the Price.

17.4 Change in Law or Buyer's Accounting Treatment. If, during the Term of these Governing Terms, there is a change in Law or accounting standards or rules or a change in the interpretation of applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with these Governing Terms or the amounts paid for Products purchased hereunder, the Buyer shall amend or clarify these Governing Terms to avoid or significantly mitigate such impacts and submit such amendments or clarifications to the NHPUC for review for conformity with RSA 362-H .

18. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of the Form of Confirmation may be executed, and each shall have the same force and effect as an original. Facsimile signatures on any notice or other instrument delivered under these Governing Terms shall have the same force and effect as original signatures.

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

If any term or provision of these Governing Terms or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of these Governing Terms and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law.

21. INDEPENDENT CONTRACTOR

Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be

the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

These Governing Terms and the Confirmation shall govern the entire relationship between the Parties hereto relating to the mandates set forth in NH RSA Chapter 362-H and shall supersede all prior agreements and communication.

EXHIBIT 4

SHAHEEN & GORDON, P.A.

A T T O R N E Y S A T L A W

Timothy J. McLaughlin
Attorney at Law

Tenacity. Creativity. Results.™

January 17, 2019

Via e-mail only: **robert.bersak@eversource.com**
 rick.white@eversource.com
 david.errichetti@eversource.com

Eversource Energy
Attn: Robert Bersak, Frederick White and David Errichetti
107 Selden Street
Berlin, CT 06037

P.O. Box 270
Hartford CT 06141

Re: Springfield Power, LLC – Revised Draft Confirmation and Governing Terms
 Follow-up regarding correspondence of January 17, 2019

Dear Messrs. Bersak, White and Errichetti,

In accordance with the provisions of RSA 362-H as determined by NHPUC Order No. 26,208 (“Order”), Shaheen & Gordon, P.A. submits to Public Service Company of New Hampshire d/b/a Eversource (“Eversource”) the following on behalf of Springfield Power, LLC in supplementation of its November 16, 2018 submission:

- Revised Draft Confirmation; and
- Revised Governing Terms.

As you know, Eversource “shall select all proposals from eligible facilities that conform to the requirements of” RSA 362-H. If there are any terms submitted herein that do not conform to the requirements of RSA 362-H as determined by the Order, please let me know promptly so that we can work to ensure the agreements can take effect by February 1, 2019. Otherwise, we expect that Eversource “shall submit all eligible facility agreements to the commission” for its conformity review so that the agreements can take effect by February 1, 2019.

Very truly yours,


Timothy J. McLaughlin
tmclaughlin@shaheengordon.com

TJM/jpk
cc: Springfield Power, LLC

DRAFT

THIS DOCUMENT CONSTITUTES FORM OF CONFIRMATION ON THE PART OF THE SELLER. IT DOES NOT CONSTITUTE AN OFFER BY PSNH CAPABLE OF ACCEPTANCE AND NO LEGALLY BINDING COMMITMENT OR OBLIGATION RELATED TO THE SUBJECT MATTER OF THIS LETTER SHALL EXIST UNLESS AND UNTIL THE EXECUTION AND DELIVERY OF DEFINITIVE DOCUMENTS BY SELLER CONTAINING TERMS AND CONDITIONS, AND REVIEW BY THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION OF THIS CONFIRMATION AND ITS ATTACHMENT A AS BEING IN CONFORMITY WITH RSA 362-H.

FORM OF CONFIRMATION

This Transaction Confirmation ("Confirmation") relates to the sale of energy by Springfield Power, LLC ("Seller") to Public Service Company of New Hampshire ("PSNH"). This Confirmation is for the sale of Unit Contingent Energy (as defined below) from Seller's Eligible Facility to PSNH (the "Transaction").

PSNH notes that this Transaction is mandated by force of law and is not a voluntarily act of PSNH. This Transaction is not a "Negotiated Rate or Term" as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature's override of the Governor's veto, mandates that PSNH purchase the net energy output of any "Eligible Facility" as defined by RSA 362- H:1,V,(a), located in its service territory.

PSNH's performance under this Confirmation is expressly subject to and conditioned the terms herein and in Attachment A and an order from the New Hampshire Public Utilities Commission ("NHPUC") reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H.

Buyer: Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
A New Hampshire corporation

Seller: **Springfield Power, LLC**
Legal Name

54 Fisher Corner Road, Springfield, NH 03284
Address

603-763-4757
Telephone

Limited Liability Corporation-DE
Entity Type and State of Formation

Eligible Facility: Seller's 17.5 MW biomass fired generating facility which is located in Springfield, New Hampshire, identified in the ISO-NE market settlement system with the Asset name Hemphill 1 and ID # 436.

Product: Unit Contingent Energy

Delivery Period and Term: The Term begins on the later of the date of the final NHPUC Determination that this Confirmation and its Attachment A are in conformity with RSA 362-H or February 1, 2019 and continues through July 31, 2019.

Energy Price: PSNH will pay Seller the "adjusted energy rate" as defined by New Hampshire RSA 362-H:1, I for the Delivery Period.

Payment Schedule: The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer, Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by designating PSNH, ID 50094, the Asset Owner for ISO-NE energy market billing and settlement purposes. Payment will equal Delivered Energy times the Energy Price adjusted for any revenues or expenses readily identifiable in the ISO-NE bill resulting from ownership not included in "Market Energy Clearing Price," including any and all resettlements.

Audit Rights: Buyer and Seller shall each have the right throughout the Term and for a period of six (6) months following when the ISO-NE energy market settlement is final, upon reasonable prior notice, to audit relevant records of the other party to the limited extent necessary to verify the basis for payments.

Delivery Point: The Delivery Point shall be at the interconnection between the Eligible Facility and Buyer's facilities as specified in Seller's existing Interconnection Agreement.

Scheduling: Seller will remain the designated Lead Market Participant – Asset and Lead Market Participant – Resource in accordance with ISO-NE rules and procedures.

Conditions:

This Confirmation and the transactions contemplated hereunder are subject to the following conditions:

- An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H,
- PSNH's requirement to comply with the terms of RSA 362-H arise solely from RSA 362-H.
- The Facility shall maintain its status as an "Eligible facility" per RSA 362-H throughout such Term.

Cost Recovery:

As provided in RSA 362-H:2, V PSNH is eligible to recover the Transaction's difference between its energy purchase costs and the market clearing price through a nonbypassable delivery services charge applicable to all customer's in PSNH's service territory. The charge may include reasonable costs incurred by PSNH, and the charges shall be allocated using the customer class allocation percentages approved in NHPUC docket DE 14-238, order 25,920.

Definitions:

"Day-Ahead Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Real-Time Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Market Energy Clearing Price" means the Day-Ahead Locational Marginal Price and Real-Time Locational Marginal Price at the Pricing Node applicable to the asset in the ISO-NE energy market settlement for commitments in the day-ahead energy market and deviations in the real-time energy market, respectively.

"Unit Contingent" means, with respect to this Confirmation, that delivery or receipt of the Product from the Facility may be interrupted for any reason or for no reason by Seller, without liability on the part of either Party. However, Buyer shall be entitled to 100% of the output from the Facility during the Term of this Agreement.

"NHPUC Order" means receipt of a final, decision from the New Hampshire Public Utilities Commission, stating that it has reviewed this Confirmation and its Attachment A and finds they are in conformity with RSA 362-H.

"Delivered Energy" is the generation in MWh reported by ISO-NE for the Eligible Facility in the energy market settlement at the price node identified below:

Eligible Facility Generator Name	Asset ID #	Lead Participant	Price Node
HEMPHILL	436	Springfield Power, LLC	UN.NORTH_RD34.5HEMP

Governing Terms:

All other terms and conditions not specified herein shall be in accordance with, and subject to, the attached Governing Terms which are incorporated by reference and made a part hereof. In the event of any inconsistency between the Governing Terms and the terms of a Confirmation, the terms of the Confirmation will govern for the Transaction.

Notices:

Any notice or communication shall be provided to the following:

If to Buyer:

Primary Contact for PSNH:

Frederick White
860-665-5272 (phone)
860-665-4583 (fax)
rick.white@eversource.com

Secondary Contact for PSNH:

David Errichetti
860-665-4519 (phone)
860-665-4583 (fax)
david.errichetti@eversource.com

If to Seller:

Primary Contact:

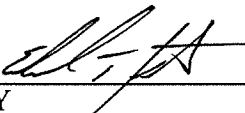
Edward Kent (name)
856-206-0930 (phone)
N/A (fax)
Kent-e@ewprc.com (email)

Secondary Contact:

Sean Pak (name)
856-206-0930 (phone)
N/A (fax)
Pak-s@ewprc.com (email)

Seller executes this Draft Confirmation to express its indication of interest to accept the terms hereof and of the attached Governing Terms. A final, execution version of this Confirmation will be provided subsequent to PSNH selecting winning suppliers in its default energy service solicitation and developing proposed residential default energy service rates needed for inclusion in PSNH's filing to the NHPUC for the commission's review of this Confirmation and its Attachment A for conformity with RSA 362-H.

SPRINGFIELD POWER, LLC



BY
Name: EDWARD KENT
Title: PRESIDENT
Date: 1/17/2019

ATTACHMENT A
GOVERNING TERMS

**GOVERNING TERMS
FOR THE PURCHASE OF ENERGY BY
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY
PURSUANT TO THE LEGAL MANDATE CONTAINED
IN NEW HAMPSHIRE RSA CHAPTER 362-H**

This document sets forth the Governing Terms for purchases by Public Service Company of New Hampshire d/b/a Eversource Energy (“Buyer”) pursuant to the legal mandate set forth in New Hampshire RSA Chapter 362-H.

Each Transaction (as defined below) is subject to the signed Form of Confirmation and these Governing Terms, is mandated by force of law, is not a voluntary act of PSNH, and further is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362- H:1,V,(a), located in its service territory, including the facility owned by Seller as set forth in the Confirmation (the “Facility”).

PSNH’s performance hereunder is expressly subject to and conditioned upon the terms herein and in the Confirmation and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing the Confirmation and Governing Terms and finding that provisions addressed by RSA 362-H and contained herein are in conformity with RSA 362-H.

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in these Governing Terms and not defined herein shall have the same meaning as ascribed to such terms under, first NH RSA Chapter 362-H, then by the ISO-NE Practices and ISO-NE Rules.

“Affiliate” shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

“Business Day” means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

“Buyer” shall mean Public Service Company of New Hampshire.

“Day-Ahead Energy Market” shall have the meaning set forth in the ISO-NE Rules.

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

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

“Deliver” or **“Delivery”** shall mean the supply of Energy into Buyer’s ISO-NE account in accordance with the terms of these Governing Terms, the applicable Confirmation and the ISO-NE Rules.

“Delivery Failure” shall have the meaning set forth in Section 4.3 hereof.

“Delivery Point” shall mean the point of interconnection between the Eligible Facility and Buyer’s facilities as specified in Seller’s existing Interconnection Agreement.

“Commission” shall mean the New Hampshire Public Utilities Commission, or NHPUC.

“Delivery Period” shall have the meaning as set forth in the Confirmation.

“Dispute” shall have the meaning set forth in Section 10.1 hereof.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time at the Buyer’s meter used for billing and revenue determination.

“Energy Price” shall have the meaning as set forth in the Confirmation.

“Event of Default” shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

“Eligible Facility” shall have the meaning set forth in the Confirmation.

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

“Force Majeure” shall have the meaning set forth in Section 10.1(a) hereof.

“Good Utility Practice” shall mean compliance with all applicable laws, codes and regulations, all ISO NE Rules and ISO NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is

made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

“Governmental Entity” shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

“Interconnecting Utility” shall mean the utility (which may be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the transmission system of that utility.

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

“Interconnection Point” shall mean the point of interconnection set forth in the Interconnection Agreement.

“ISO” or **“ISO-NE”** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

“ISO-NE Practices” shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Participants Agreement, and any applicable successor practices and procedures.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the NEPOOL Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

“ISO-NE Tariff” shall mean ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended from time to time.

“ISO Settlement Market System” shall have the meaning as set forth in the ISO-NE Tariff.

“Late Payment Rate” shall have the meaning set forth in Section 5.3.

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

“Locational Marginal Price” or “LMP” shall have the meaning set forth in the ISO-NE Tariff for the New Hampshire load zone

“Meters” shall have the meaning set forth in Section 4.6(a) hereof.

“MW” shall mean a megawatt.

“MWh” shall mean a megawatt-hour (one MWh shall equal 1,000 kilowatt-hours).

“NEPOOL” shall mean the New England Power Pool and any successor organization.

“NEPOOL Participants Agreement” shall mean the Second Restated New England Power Pool Agreement dated as of August 31, 2011, as amended and/or restated from time to time.

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

“New England Control Area” shall have the meaning as set forth in the ISO-NE Tariff.

“Party” and **“Parties”** shall mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

“Permits” shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“Person” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

“Pool Transmission Facilities” has the meaning given that term in the ISO-NE Rules.

“Price” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth on the Confirmation.

“Products” shall mean Energy only.

“Real-Time Energy Market” shall have the meaning as set forth in the ISO-NE Rules.

“Regulatory Approval” shall mean the NHPUC’s order reviewing the Governing Terms and the Confirmation and finding that they are in conformity with RSA 362-H, provided that such order does not include any conditions or modifications that are inconsistent with RSA 362-H.

“RTO” shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC’s Order No. 2000 and FERC’s corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

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

“Seller” shall have the meaning as set forth in the Confirmation.

“Term” shall have the meaning set forth in the Confirmation.

“Transaction” means the sale of Energy produced by the Facility by Seller to Buyer as set forth in the Confirmation.

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

“Unit Contingent” shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating energy, and as further defined in the Confirmation.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. These Governing Terms are effective for the Term.

2.2 Term. The Term of the Transaction is the period set forth in the Confirmation.

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all

practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under these Governing Terms, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, maintain and operate the Facility in accordance with Good Utility Practice and Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete operation and maintenance functions, so long as Seller maintains overall control over the operation and maintenance of the Facility throughout the Term.

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

(e) ISO-NE Status. Seller shall, at all times during the Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and these Governing Terms.

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

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

(h) Compliance with Law. Without limiting the generality of any other provision of these Governing Terms, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies,

criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with Law.

Upon Buyer's request, Seller shall provide Buyer information pertaining to Facility emissions, fuel and operations, and information requested by Buyer to comply with Buyer's disclosure obligations. To the extent Buyer is subject to any other certification or reporting requirement with respect to the Products, Seller shall promptly provide such information to Buyer.

(i) FERC Status. Seller shall obtain and maintain any requisite authority to sell the output of the Facility under applicable law.

(j) Emissions. Seller shall be responsible for all costs associated with the Facility's emissions, including the cost of procuring emission reductions, offsets, allowances or similar items associated with the Facility's emissions, to the extent required to operate the Facility. Without limiting the generality of the foregoing, failure or inability of Seller to procure emission reductions, offsets, allowances or similar items associated with the Facility's emissions shall not constitute a Force Majeure.

3.2 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Throughout the Term, Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of these Governing Terms and the Confirmation. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers during the Term.

(b) Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Term, Seller shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with these Governing Terms, all ISO-NE Practices and ISO-NE Rules, as applicable. Seller shall transfer the Energy to Buyer in the Day-Ahead Energy Market or Real-Time Energy Market, as directed by Buyer and consistent with prevailing electric industry practices at the time, in such a manner that Buyer may resell such Energy in the Day-Ahead Energy Market or Real-Time Energy Market at the Market Price, as applicable, and Buyer shall have no obligation to pay for any Energy not transferred to Buyer in the Day-Ahead Energy Market or Real-Time Energy Market or for which Buyer is not credited in the ISO-NE Settlement Market System (including, without limitation, as a result of an outage on any electric transmission system).

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.3 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees and other FERC-approved charges in connection with the Delivery of Energy to the Delivery Point. Seller shall also be responsible for all charges, fees and losses required for Delivery of Energy from the Facility to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. Seller shall also apply for and schedule all such services.

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-

NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.4 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the "Meters"), shall be installed, operated, maintained and tested at Seller's expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller's expense at least once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer's expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than one percent (1%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than one percent (1%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The meter used by Buyer (or its Affiliate) for billing and revenue purposes shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Purchase Cost for Products. All Products Delivered to Buyer in accordance with these Governing Terms shall be purchased as specified in the Confirmation.

5.2 Payment and Netting

(a) Billing Period. The calendar month shall be the standard period for all payments under these Governing Terms. On or before the twenty-first (21st) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days after receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices

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

- (ii) A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under these Governing Terms on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under these Governing Terms, including any related damages calculated pursuant to these Governing Terms, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the “Money Rates” section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the “Late Payment Rate”).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products (“**Seller’s Taxes**”). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) (“**Buyer’s Taxes**”). In the event Seller shall be required by law or regulation to remit or pay any Buyer’s Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller’s Taxes, Seller shall reimburse Buyer for such payment, and Buyer may deduct any of the amount of any such Seller’s Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller’s or the Facility’s eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller’s accounting, reporting or tax purposes, or to receive any other grant or subsidy from a Governmental Entity or other Person. The obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and Price for and Seller’s obligation to deliver the Products, shall be effective regardless of whether the production and/or sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment during the Term.

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

6.1 **Representations and Warranties of Buyer.** Buyer hereby represents and warrants to Seller as follows:

(a) **Organization and Good Standing; Power and Authority.** Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of New Hampshire. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power to perform its obligations under these Governing Terms.

(b) **Due Authorization; No Conflicts.** Performance by Buyer of these Governing Terms, and the performance by Buyer of its obligations hereunder are mandated by New Hampshire law and subject to the receipt of the Regulatory Approval.

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

(a) **Organization and Good Standing; Power and Authority.** Seller is duly formed, validly existing and in good standing under the laws of the state of its formation and is authorized to do business in the State of New Hampshire. Seller has all requisite power and authority to execute, deliver, and perform its obligations under these Governing Terms.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to own and operate the Facility and to deliver the Products to the Buyer in accordance with these Governing Terms.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(d) Binding Agreement. These Governing Terms has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Seller constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) Consents and Approvals. The execution, delivery and performance by Seller of its obligations under these Governing Terms do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, and final.

(f) Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under these Governing Terms, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under these Governing Terms.

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

(h) No Default. No Default or Event of Default has occurred, and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under these Governing Terms.

6.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 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 Article 7 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 the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

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

(d) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under these Governing Terms.

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under these Governing Terms or on Buyer or Buyer's ability to receive the benefits under these Governing Terms, provided that if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(c) Failure to Maintain Material Contracts. The failure of Seller to maintain in effect any material agreements required to Deliver the Energy committed to Buyer hereunder to the Delivery Point, including the Interconnection Agreement, provided that if Seller's failure does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(d) Abandonment. On or after the Commercial Operation date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a sale or transfer of the Facility and the Governing Terms and Confirmation; or

(e) Assignment. The assignment of these Governing Terms by Seller, except as permitted in accordance with Article 12.

(f) Failure to Deliver. Seller's failure to deliver Products to Buyer in accordance with these Governing Terms and the applicable Confirmation.

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing

Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

(b) Termination. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate these Governing Terms at its sole discretion by providing written notice of such termination to the Defaulting Party. Such termination shall be with a full reservation of the Non-Defaulting Party's rights and remedies under law and equity.

(c) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THESE GOVERNING TERMS SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. FORCE MAJEURE

9.1 Force Majeure.

(a) The term "Force Majeure" means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under these Governing Terms. Under no circumstances shall Force Majeure include (v) any full or partial

curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under these Governing Terms, such performance (other than the obligation to make payment of amounts due and payable under these Governing Terms) shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under these Governing Terms, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 10.1(a) has occurred.

10. DISPUTE RESOLUTION

10.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to these Governing Terms (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior

management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC and/or the FERC depending on the nature of the Dispute.

11. INDEMNIFICATION

11.1 Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to Seller's execution, delivery or performance of these Governing Terms, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under these Governing Terms.

11.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of the Seller contest, settle or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of such indemnifying Party or, absent such consent, written consent of Buyer's counsel that such claim is meritorious or warrants settlement

12. ASSIGNMENT AND CHANGE OF CONTROL

The Transaction governed by these Governing Terms may not be assigned by either party except to the extent associated with a merger or consolidation of a Party or in connection with Seller's sale or transfer of its interest (or any part thereof) in the Facility.

13. TITLE; RISK OF LOSS

Title to and risk of loss related to the Delivered Product shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

14. AUDIT

14.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under these Governing Terms, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to these Governing Terms. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment or underpayment was made until paid.

14.2 Consolidation of Financial Information. Generally accepted accounting principles and SEC rules may, from time to time, and in accordance with such accounting principles and rules change throughout the Term, requiring Buyer to have access to Seller's financial records and personnel. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's reasonable written request, any and all listed financial information and statements then available to Seller as well as access to financial personnel, to the extent that Buyer needs such information in order to comply with generally accepted accounting principles and SEC rules for financial reporting purposes, subject to Buyer's agreement to maintain the confidentiality and prevent the disclosure of such information.

15. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing, as set forth in the Confirmation.

16. WAIVER AND MODIFICATION

These Governing Terms may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of these Governing Terms shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of these Governing Terms shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine whether any amendment or waiver of the provisions of these Governing Terms shall require NHPUC review of the same for conformity with RSA 362-H, and if Buyer determines that such NHPUC review is required for any amendment or waiver of the provisions of these Governing Terms, then such amendment or waiver shall not become effective unless and until such NHPUC review is obtained.

17. INTERPRETATION

17.1 Choice of Law. Interpretation and performance of these Governing Terms shall be in accordance with, and shall be controlled by, the laws of the State of New Hampshire (without regard to its principles of conflicts of law).

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of these Governing Terms. The words "hereof" and "hereunder" shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

17.3 Change in ISO-NE Rules and Practices. These Governing Terms are subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of these Governing Terms, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Buyer shall modify these Governing Terms and submit the modified document to the NHPUC for its review for conformity with RSA 362-H. The intent is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to these Governing Terms, or (ii) the Price.

17.4 Change in Law or Buyer's Accounting Treatment. If, during the Term of these Governing Terms, there is a change in Law or accounting standards or rules or a change in the interpretation of applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with these Governing Terms or the amounts paid for Products purchased hereunder, the Buyer shall amend or clarify these Governing Terms to avoid or significantly mitigate such impacts and submit such amendments or clarifications to the NHPUC for review for conformity with RSA 362-H.

18. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of the Form of Confirmation may be executed, and each shall have the same force and effect as an original. Facsimile signatures on any notice or other instrument delivered under these Governing Terms shall have the same force and effect as original signatures.

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

If any term or provision of these Governing Terms or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of these Governing Terms and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law.

21. INDEPENDENT CONTRACTOR

Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be

the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

These Governing Terms and the Confirmation shall govern the entire relationship between the Parties hereto relating to the mandates set forth in NH RSA Chapter 362-H and shall supersede all prior agreements and communication.

EXHIBIT 5

SHAHEEN & GORDON, P.A.

A T T O R N E Y S A T L A W

Timothy J. McLaughlin
Attorney at Law

Tenacity. Creativity. Results.™

January 17, 2019

Via e-mail only: **robert.bersak@eversource.com**
 rick.white@eversource.com
 david.errichetti@eversource.com

Eversource Energy
Attn: Robert Bersak, Frederick White and David Errichetti
107 Selden Street
Berlin, CT 06037

P.O. Box 270
Hartford CT 06141

Re: DG Whitefield LLC – Revised Draft Confirmation and Governing Terms
 Follow-up regarding correspondence of January 17, 2019

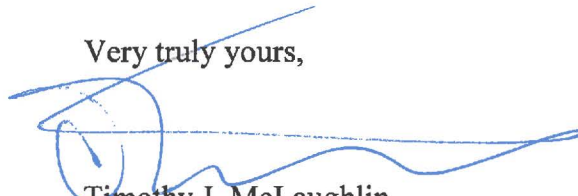
Dear Messrs. Bersak, White and Errichetti,

In accordance with the provisions of RSA 362-H as determined by NHPUC Order No. 26,208 (“Order”), Shaheen & Gordon, P.A. submits to Public Service Company of New Hampshire d/b/a Eversource (“Eversource”) the following on behalf of DG Whitefield LLC in supplementation of its November 16, 2018 submission:

- Revised Draft Confirmation; and
- Revised Governing Terms.

As you know, Eversource “shall select all proposals from eligible facilities that conform to the requirements of” RSA 362-H. If there are any terms submitted herein that do not conform to the requirements of RSA 362-H as determined by the Order, please let me know promptly so that we can work to ensure the agreements can take effect by February 1, 2019. Otherwise, we expect that Eversource “shall submit all eligible facility agreements to the commission” for its conformity review so that the agreements can take effect by February 1, 2019.

Very truly yours,



Timothy J. McLaughlin
tmclaughlin@shaheengordon.com

TJM/jpk
cc: DG Whitefield LLC

DRAFT

THIS DOCUMENT CONSTITUTES FORM OF CONFIRMATION ON THE PART OF THE SELLER. IT DOES NOT CONSTITUTE AN OFFER BY PSNH CAPABLE OF ACCEPTANCE AND NO LEGALLY BINDING COMMITMENT OR OBLIGATION RELATED TO THE SUBJECT MATTER OF THIS LETTER SHALL EXIST UNLESS AND UNTIL THE EXECUTION AND DELIVERY OF DEFINITIVE DOCUMENTS BY SELLER CONTAINING TERMS AND CONDITIONS, AND REVIEW BY THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION OF THIS CONFIRMATION AND ITS ATTACHMENT A AS BEING IN CONFORMITY WITH RSA 362-H.

FORM OF CONFIRMATION

This Transaction Confirmation ("Confirmation") relates to the sale of energy by DG Whitefield, LLC ("Seller") to Public Service Company of New Hampshire ("PSNH"). This Confirmation is for the sale of Unit Contingent Energy (as defined below) from Seller's Eligible Facility to PSNH (the "Transaction").

PSNH notes that this Transaction is mandated by force of law and is not a voluntarily act of PSNH. This Transaction is not a "Negotiated Rate or Term" as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature's override of the Governor's veto, mandates that PSNH purchase the net energy output of any "Eligible Facility" as defined by RSA 362-H:1,V,(a), located in its service territory.

PSNH's performance under this Confirmation is expressly subject to and conditioned the terms herein and in Attachment A and an order from the New Hampshire Public Utilities Commission ("NHPUC") reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H.

Buyer: Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
A New Hampshire corporation

Seller: **DG Whitefield, LLC**
Legal Name

260 Airport Road, Whitefield, NH 03598

Address

603-837-9328

Telephone

Limited Liability Corporation-DE

Entity Type and State of Formation

Eligible Facility: Seller's 17.0 MW biomass fired generating facility which is located in Whitefield, New Hampshire, identified in the ISO-NE market settlement system with the Asset name DG Whitefield LLC and ID # 618.

Product: Unit Contingent Energy

Delivery Period and Term: The Term begins on the later of the date of the final NHPUC Determination that this Confirmation and its Attachment A are in conformity with RSA 362-H or February 1, 2019 and continues through July 31, 2019.

Energy Price: PSNH will pay Seller the "adjusted energy rate" as defined by New Hampshire RSA 262-H:1, I for the Delivery Period.

Payment Schedule: The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer, Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by designating PSNH, ID 50094, the Asset Owner for ISO-NE energy market billing and settlement purposes. Payment will equal Delivered Energy times the Energy Price adjusted for any revenues or expenses readily identifiable in the ISO-NE bill resulting from ownership not included in "Market Energy Clearing Price," including any and all resettlements.

Audit Rights: Buyer and Seller shall each have the right throughout the Term and for a period of six (6) months following when the ISO-NE energy market settlement is final, upon reasonable prior notice, to audit relevant records of the other party to the limited extent necessary to verify the basis for payments.

Delivery Point: The Delivery Point shall be at the interconnection between the Eligible Facility and Buyer's facilities as specified in Seller's existing Interconnection Agreement.

Scheduling: Seller will remain the designated Lead Market Participant – Asset and Lead Market Participant – Resource in accordance with ISO-NE rules and procedures.

Conditions:

This Confirmation and the transactions contemplated hereunder are subject to the following conditions:

- An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H,
- PSNH's requirement to comply with the terms of RSA 362-H arise solely from RSA 362-H.
- The Facility shall maintain its status as an "Eligible facility" per RSA 362-H throughout such Term.

Cost Recovery:

As provided in RSA 362-H:2, V PSNH is eligible to recover the Transaction's difference between its energy purchase costs and the market clearing price through a nonbypassable delivery services charge applicable to all customer's in PSNH's service territory. The charge may include reasonable costs incurred by PSNH, and the charges shall be allocated using the customer class allocation percentages approved in NHPUC docket DE 14-238, order 25,920.

Definitions:

"Day-Ahead Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Real-Time Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Market Energy Clearing Price" means the Day-Ahead Locational Marginal Price and Real-Time Locational Marginal Price at the Pricing Node applicable to the asset in the ISO-NE energy market settlement for commitments in the day-ahead energy market and deviations in the real-time energy market, respectively.

"Unit Contingent" means, with respect to this Confirmation, that delivery or receipt of the Product from the Facility may be interrupted for any reason or for no reason by Seller, without liability on the part of either Party. However, Buyer shall be entitled to 100% of the output from the Facility during the Term of this Agreement.

"NHPUC Order" means receipt of a final, decision from the New Hampshire Public Utilities Commission, stating that it has reviewed this Confirmation and its Attachment A and finds they are in conformity with RSA 362-H.

"Delivered Energy" is the generation in MWh reported by ISO-NE for the Eligible Facility in the energy market settlement at the price node identified below:

Eligible Facility Generator Name	Asset ID #	Lead Participant	Price Node
DG Whitefield, LLC	618	Springfield Power, LLC	UN.WHITEFLD34.5WFPL

Governing Terms:

All other terms and conditions not specified herein shall be in accordance with, and subject to, the attached Governing Terms which are incorporated by reference and made a part hereof. In the event of any inconsistency between the Governing Terms and the terms of a Confirmation, the terms of the Confirmation will govern for the Transaction.

Notices:

Any notice or communication shall be provided to the following:

If to Buyer:

Primary Contact for PSNH:

Frederick White
860-665-5272 (phone)
860-665-4583 (fax)
rick.white@eversource.com

Secondary Contact for PSNH:

David Errichetti
860-665-4519 (phone)
860-665-4583 (fax)
david.errichetti@eversource.com

If to Seller:

Primary Contact:


Edward Kent (name)
856-206-0930 (phone)
N/A (fax)
Kent-e@ewprc.com (email)

Secondary Contact:

Sean Pak (name)
856-206-0930 (phone)
N/A (fax)
Pak-s@ewprc.com (email)

Seller executes this Draft Confirmation to express its indication of interest to accept the terms hereof and of the attached Governing Terms. A final, execution version of this Confirmation will be provided subsequent to PSNH selecting winning suppliers in its default energy service solicitation and developing proposed residential default energy service rates needed for inclusion in PSNH's filing to the NHPUC for the commission's review of this Confirmation and its Attachment A for conformity with RSA 362-H.

DG WHITEFIELD, LLC


BY _____
Name: EDWARD KENT
Title: PRESIDENT
Date: 1/17/2019

ATTACHMENT A
GOVERNING TERMS

**GOVERNING TERMS
FOR THE PURCHASE OF ENERGY BY
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY
PURSUANT TO THE LEGAL MANDATE CONTAINED
IN NEW HAMPSHIRE RSA CHAPTER 362-H**

This document sets forth the Governing Terms for purchases by Public Service Company of New Hampshire d/b/a Eversource Energy (“Buyer”) pursuant to the legal mandate set forth in New Hampshire RSA Chapter 362-H.

Each Transaction (as defined below) is subject to the signed Form of Confirmation and these Governing Terms, is mandated by force of law, is not a voluntary act of PSNH, and further is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362- H:1,V,(a), located in its service territory, including the facility owned by Seller as set forth in the Confirmation (the “Facility”).

PSNH’s performance hereunder is expressly subject to and conditioned upon the terms herein and in the Confirmation and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing the Confirmation and Governing Terms and finding that provisions addressed by RSA 362-H and contained herein are in conformity with RSA 362-H.

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in these Governing Terms and not defined herein shall have the same meaning as ascribed to such terms under, first NH RSA Chapter 362-H, then by the ISO-NE Practices and ISO-NE Rules.

“Affiliate” shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

“Business Day” means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

“Buyer” shall mean Public Service Company of New Hampshire.

“Day-Ahead Energy Market” shall have the meaning set forth in the ISO-NE Rules.

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

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

“Deliver” or **“Delivery”** shall mean the supply of Energy into Buyer’s ISO-NE account in accordance with the terms of these Governing Terms, the applicable Confirmation and the ISO-NE Rules.

“Delivery Failure” shall have the meaning set forth in Section 4.3 hereof.

“Delivery Point” shall mean the point of interconnection between the Eligible Facility and Buyer’s facilities as specified in Seller’s existing Interconnection Agreement.

“Commission” shall mean the New Hampshire Public Utilities Commission, or NHPUC.

“Delivery Period” shall have the meaning as set forth in the Confirmation.

“Dispute” shall have the meaning set forth in Section 10.1 hereof.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time at the Buyer’s meter used for billing and revenue determination.

“Energy Price” shall have the meaning as set forth in the Confirmation.

“Event of Default” shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

“Eligible Facility” shall have the meaning set forth in the Confirmation.

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

“Force Majeure” shall have the meaning set forth in Section 10.1(a) hereof.

“Good Utility Practice” shall mean compliance with all applicable laws, codes and regulations, all ISO NE Rules and ISO NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is

made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

“Governmental Entity” shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

“Interconnecting Utility” shall mean the utility (which may be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the transmission system of that utility.

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

“Interconnection Point” shall mean the point of interconnection set forth in the Interconnection Agreement.

“ISO” or **“ISO-NE”** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

“ISO-NE Practices” shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Participants Agreement, and any applicable successor practices and procedures.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the NEPOOL Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

“ISO-NE Tariff” shall mean ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended from time to time.

“ISO Settlement Market System” shall have the meaning as set forth in the ISO-NE Tariff.

“Late Payment Rate” shall have the meaning set forth in Section 5.3.

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

“Locational Marginal Price” or “LMP” shall have the meaning set forth in the ISO-NE Tariff for the New Hampshire load zone

“Meters” shall have the meaning set forth in Section 4.6(a) hereof.

“MW” shall mean a megawatt.

“MWh” shall mean a megawatt-hour (one MWh shall equal 1,000 kilowatt-hours).

“NEPOOL” shall mean the New England Power Pool and any successor organization.

“NEPOOL Participants Agreement” shall mean the Second Restated New England Power Pool Agreement dated as of August 31, 2011, as amended and/or restated from time to time.

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

“New England Control Area” shall have the meaning as set forth in the ISO-NE Tariff.

“Party” and **“Parties”** shall mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

“Permits” shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“Person” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

“Pool Transmission Facilities” has the meaning given that term in the ISO-NE Rules.

“Price” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth on the Confirmation.

“Products” shall mean Energy only.

“Real-Time Energy Market” shall have the meaning as set forth in the ISO-NE Rules.

“Regulatory Approval” shall mean the NHPUC’s order reviewing the Governing Terms and the Confirmation and finding that they are in conformity with RSA 362-H, provided that such order does not include any conditions or modifications that are inconsistent with RSA 362-H.

“RTO” shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC’s Order No. 2000 and FERC’s corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

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

“Seller” shall have the meaning as set forth in the Confirmation.

“Term” shall have the meaning set forth in the Confirmation.

“Transaction” means the sale of Energy produced by the Facility by Seller to Buyer as set forth in the Confirmation.

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

“Unit Contingent” shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating energy, and as further defined in the Confirmation.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. These Governing Terms are effective for the Term.

2.2 Term. The Term of the Transaction is the period set forth in the Confirmation.

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all

practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under these Governing Terms, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, maintain and operate the Facility in accordance with Good Utility Practice and Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete operation and maintenance functions, so long as Seller maintains overall control over the operation and maintenance of the Facility throughout the Term.

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

(e) ISO-NE Status. Seller shall, at all times during the Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and these Governing Terms.

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

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

(h) Compliance with Law. Without limiting the generality of any other provision of these Governing Terms, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies,

criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with Law.

Upon Buyer's request, Seller shall provide Buyer information pertaining to Facility emissions, fuel and operations, and information requested by Buyer to comply with Buyer's disclosure obligations. To the extent Buyer is subject to any other certification or reporting requirement with respect to the Products, Seller shall promptly provide such information to Buyer.

(i) FERC Status. Seller shall obtain and maintain any requisite authority to sell the output of the Facility under applicable law.

(j) Emissions. Seller shall be responsible for all costs associated with the Facility's emissions, including the cost of procuring emission reductions, offsets, allowances or similar items associated with the Facility's emissions, to the extent required to operate the Facility. Without limiting the generality of the foregoing, failure or inability of Seller to procure emission reductions, offsets, allowances or similar items associated with the Facility's emissions shall not constitute a Force Majeure.

3.2 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Throughout the Term, Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of these Governing Terms and the Confirmation. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers during the Term.

(b) Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Term, Seller shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with these Governing Terms, all ISO-NE Practices and ISO-NE Rules, as applicable. Seller shall transfer the Energy to Buyer in the Day-Ahead Energy Market or Real-Time Energy Market, as directed by Buyer and consistent with prevailing electric industry practices at the time, in such a manner that Buyer may resell such Energy in the Day-Ahead Energy Market or Real-Time Energy Market at the Market Price, as applicable, and Buyer shall have no obligation to pay for any Energy not transferred to Buyer in the Day-Ahead Energy Market or Real-Time Energy Market or for which Buyer is not credited in the ISO-NE Settlement Market System (including, without limitation, as a result of an outage on any electric transmission system).

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.3 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees and other FERC-approved charges in connection with the Delivery of Energy to the Delivery Point. Seller shall also be responsible for all charges, fees and losses required for Delivery of Energy from the Facility to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. Seller shall also apply for and schedule all such services.

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-

NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.4 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the "Meters"), shall be installed, operated, maintained and tested at Seller's expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller's expense at least once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer's expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than one percent (1%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than one percent (1%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The meter used by Buyer (or its Affiliate) for billing and revenue purposes shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Purchase Cost for Products. All Products Delivered to Buyer in accordance with these Governing Terms shall be purchased as specified in the Confirmation.

5.2 Payment and Netting

(a) Billing Period. The calendar month shall be the standard period for all payments under these Governing Terms. On or before the twenty-first (21st) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days after receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices

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

- (ii) A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under these Governing Terms on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under these Governing Terms, including any related damages calculated pursuant to these Governing Terms, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the “Money Rates” section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the “Late Payment Rate”).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products (“**Seller’s Taxes**”). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) (“**Buyer’s Taxes**”). In the event Seller shall be required by law or regulation to remit or pay any Buyer’s Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller’s Taxes, Seller shall reimburse Buyer for such payment, and Buyer may deduct any of the amount of any such Seller’s Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller’s or the Facility’s eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller’s accounting, reporting or tax purposes, or to receive any other grant or subsidy from a Governmental Entity or other Person. The obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and Price for and Seller’s obligation to deliver the Products, shall be effective regardless of whether the production and/or sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment during the Term.

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

6.1 **Representations and Warranties of Buyer.** Buyer hereby represents and warrants to Seller as follows:

(a) **Organization and Good Standing; Power and Authority.** Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of New Hampshire. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power to perform its obligations under these Governing Terms.

(b) **Due Authorization; No Conflicts.** Performance by Buyer of these Governing Terms, and the performance by Buyer of its obligations hereunder are mandated by New Hampshire law and subject to the receipt of the Regulatory Approval.

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

(a) **Organization and Good Standing; Power and Authority.** Seller is duly formed, validly existing and in good standing under the laws of the state of its formation and is authorized to do business in the State of New Hampshire. Seller has all requisite power and authority to execute, deliver, and perform its obligations under these Governing Terms.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to own and operate the Facility and to deliver the Products to the Buyer in accordance with these Governing Terms.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(d) Binding Agreement. These Governing Terms has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Seller constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) Consents and Approvals. The execution, delivery and performance by Seller of its obligations under these Governing Terms do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, and final.

(f) Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under these Governing Terms, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under these Governing Terms.

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

(h) No Default. No Default or Event of Default has occurred, and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under these Governing Terms.

6.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 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 Article 7 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 the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

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

(d) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under these Governing Terms.

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under these Governing Terms or on Buyer or Buyer's ability to receive the benefits under these Governing Terms, provided that if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(c) Failure to Maintain Material Contracts. The failure of Seller to maintain in effect any material agreements required to Deliver the Energy committed to Buyer hereunder to the Delivery Point, including the Interconnection Agreement, provided that if Seller's failure does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(d) Abandonment. On or after the Commercial Operation date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a sale or transfer of the Facility and the Governing Terms and Confirmation; or

(e) Assignment. The assignment of these Governing Terms by Seller, except as permitted in accordance with Article 12.

(f) Failure to Deliver. Seller's failure to deliver Products to Buyer in accordance with these Governing Terms and the applicable Confirmation.

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing

Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

(b) Termination. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate these Governing Terms at its sole discretion by providing written notice of such termination to the Defaulting Party. Such termination shall be with a full reservation of the Non-Defaulting Party's rights and remedies under law and equity.

(c) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THESE GOVERNING TERMS SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. **FORCE MAJEURE**

9.1 Force Majeure.

(a) The term "Force Majeure" means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under these Governing Terms. Under no circumstances shall Force Majeure include (v) any full or partial

curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under these Governing Terms, such performance (other than the obligation to make payment of amounts due and payable under these Governing Terms) shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under these Governing Terms, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 10.1(a) has occurred.

10. DISPUTE RESOLUTION

10.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to these Governing Terms (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior

management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC and/or the FERC depending on the nature of the Dispute.

11. INDEMNIFICATION

11.1 Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to Seller's execution, delivery or performance of these Governing Terms, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under these Governing Terms.

11.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of the Seller contest, settle or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of such indemnifying Party or, absent such consent, written consent of Buyer's counsel that such claim is meritorious or warrants settlement

12. ASSIGNMENT AND CHANGE OF CONTROL

The Transaction governed by these Governing Terms may not be assigned by either party except to the extent associated with a merger or consolidation of a Party or in connection with Seller's sale or transfer of its interest (or any part thereof) in the Facility.

13. TITLE; RISK OF LOSS

Title to and risk of loss related to the Delivered Product shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

14. AUDIT

14.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under these Governing Terms, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to these Governing Terms. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment or underpayment was made until paid.

14.2 Consolidation of Financial Information. Generally accepted accounting principles and SEC rules may, from time to time, and in accordance with such accounting principles and rules change throughout the Term, requiring Buyer to have access to Seller's financial records and personnel. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's reasonable written request, any and all listed financial information and statements then available to Seller as well as access to financial personnel, to the extent that Buyer needs such information in order to comply with generally accepted accounting principles and SEC rules for financial reporting purposes, subject to Buyer's agreement to maintain the confidentiality and prevent the disclosure of such information.

15. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing, as set forth in the Confirmation.

16. WAIVER AND MODIFICATION

These Governing Terms may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of these Governing Terms shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of these Governing Terms shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine whether any amendment or waiver of the provisions of these Governing Terms shall require NHPUC review of the same for conformity with RSA 362-H, and if Buyer determines that such NHPUC review is required for any amendment or waiver of the provisions of these Governing Terms, then such amendment or waiver shall not become effective unless and until such NHPUC review is obtained.

17. INTERPRETATION

17.1 Choice of Law. Interpretation and performance of these Governing Terms shall be in accordance with, and shall be controlled by, the laws of the State of New Hampshire (without regard to its principles of conflicts of law).

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of these Governing Terms. The words "hereof" and "hereunder" shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

17.3 Change in ISO-NE Rules and Practices. These Governing Terms are subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of these Governing Terms, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Buyer shall modify these Governing Terms and submit the modified document to the NHPUC for its review for conformity with RSA 362-H. The intent is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to these Governing Terms, or (ii) the Price.

17.4 Change in Law or Buyer's Accounting Treatment. If, during the Term of these Governing Terms, there is a change in Law or accounting standards or rules or a change in the interpretation of applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with these Governing Terms or the amounts paid for Products purchased hereunder, the Buyer shall amend or clarify these Governing Terms to avoid or significantly mitigate such impacts and submit such amendments or clarifications to the NHPUC for review for conformity with RSA 362-H.

18. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of the Form of Confirmation may be executed, and each shall have the same force and effect as an original. Facsimile signatures on any notice or other instrument delivered under these Governing Terms shall have the same force and effect as original signatures.

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

If any term or provision of these Governing Terms or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of these Governing Terms and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law.

21. INDEPENDENT CONTRACTOR

Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be

the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

These Governing Terms and the Confirmation shall govern the entire relationship between the Parties hereto relating to the mandates set forth in NH RSA Chapter 362-H and shall supersede all prior agreements and communication.

EXHIBIT 6

SHAHEEN & GORDON, P.A.

A T T O R N E Y S A T L A W

Timothy J. McLaughlin
Attorney at Law

Tenacity. Creativity. Results.™

January 17, 2019

Via e-mail only: **robert.bersak@eversource.com**
 rick.white@eversource.com
 david.errichetti@eversource.com

Eversource Energy
Attn: Robert Bersak, Frederick White and David Errichetti
107 Selden Street
Berlin, CT 06037

P.O. Box 270
Hartford CT 06141

Re: Pinetree Power LLC – Revised Draft Confirmation and Governing Terms
 Follow-up regarding correspondence of January 17, 2019

Dear Messrs. Bersak, White and Errichetti,

In accordance with the provisions of RSA 362-H as determined by NHPUC Order No. 26,208 (“Order”), Shaheen & Gordon, P.A. submits to Public Service Company of New Hampshire d/b/a Eversource (“Eversource”) the following on behalf of Pinetree Power LLC in supplementation of its November 16, 2018 submission:

- Revised Draft Confirmation; and
- Revised Governing Terms.

As you know, Eversource “shall select all proposals from eligible facilities that conform to the requirements of” RSA 362-H. If there are any terms submitted herein that do not conform to the requirements of RSA 362-H as determined by the Order, please let me know promptly so that we can work to ensure the agreements can take effect by February 1, 2019. Otherwise, we expect that Eversource “shall submit all eligible facility agreements to the commission” for its conformity review so that the agreements can take effect by February 1, 2019.

Very truly yours,



Timothy J. McLaughlin
tmclaughlin@shaheengordon.com

TJM/jpk
cc: Pinetree Power LLC

DRAFT

THIS DOCUMENT CONSTITUTES FORM OF CONFIRMATION ON THE PART OF THE SELLER. IT DOES NOT CONSTITUTE AN OFFER BY PSNH CAPABLE OF ACCEPTANCE AND NO LEGALLY BINDING COMMITMENT OR OBLIGATION RELATED TO THE SUBJECT MATTER OF THIS LETTER SHALL EXIST UNLESS AND UNTIL THE EXECUTION AND DELIVERY OF DEFINITIVE DOCUMENTS BY SELLER CONTAINING TERMS AND CONDITIONS, AND REVIEW BY THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION OF THIS CONFIRMATION AND ITS ATTACHMENT A AS BEING IN CONFORMITY WITH RSA 362-H.

FORM OF CONFIRMATION

This Transaction Confirmation ("Confirmation") relates to the sale of energy by Pinetree Power, LLC ("Seller") to Public Service Company of New Hampshire ("PSNH"). This Confirmation is for the sale of Unit Contingent Energy (as defined below) from Seller's Eligible Facility to PSNH (the "Transaction").

PSNH notes that this Transaction is mandated by force of law and is not a voluntarily act of PSNH. This Transaction is not a "Negotiated Rate or Term" as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature's override of the Governor's veto, mandates that PSNH purchase the net energy output of any "Eligible Facility" as defined by RSA 362-H:1,V,(a), located in its service territory.

PSNH's performance under this Confirmation is expressly subject to and conditioned by the terms herein and in Attachment A and an order from the New Hampshire Public Utilities Commission ("NHPUC") reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H.

Buyer: Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
A New Hampshire corporation

Seller: **PINETREE POWER, LLC**
Legal Name

1241 Whitefield Rd. Bethlehem, NH 03574
Address

603-444-9993
Telephone

Limited Liability Company-NH
Entity Type and State of Formation

Eligible Facility: Seller's 15.5 MW biomass fired generating facility which is located in Bethlehem, New Hampshire, identified in the ISO-NE market settlement system with the Asset name Bethlehem and ID # 337.

Product: Unit Contingent Energy

Delivery Period and Term: The Term begins on the later of the date of the final NHPUC Determination that this Confirmation and its Attachment A are in conformity with RSA 362-H or February 1, 2019 and continues through July 31, 2019.

Energy Price: PSNH will pay Seller the "adjusted energy rate" as defined by New Hampshire RSA 362-H:1, I for the Delivery Period.

Payment Schedule: The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer, Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by designating PSNH, ID 50094, the Asset Owner for ISO-NE energy market billing and settlement purposes. Payment will equal Delivered Energy times the Energy Price adjusted for any revenues or expenses readily identifiable in the ISO-NE bill resulting from ownership not included in "Market Energy Clearing Price," including any and all resettlements.

Audit Rights: Buyer and Seller shall each have the right throughout the Term and for a period of six (6) months following when the ISO-NE energy market settlement is final, upon reasonable prior notice, to audit relevant records of the other party to the limited extent necessary to verify the basis for payments.

Delivery Point: The Delivery Point shall be at the interconnection between the Eligible Facility and Buyer's facilities as specified in Seller's existing Interconnection Agreement.

Scheduling: Seller will remain the designated Lead Market Participant – Asset and Lead Market Participant – Resource in accordance with ISO-NE rules and procedures.

Conditions:

This Confirmation and the transactions contemplated hereunder are subject to the following conditions:

- An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H,
- PSNH's requirement to comply with the terms of RSA 362-H arise solely from RSA 362-H.
- The Facility shall maintain its status as an "Eligible facility" per RSA 362-H throughout such Term.

Cost Recovery:

As provided in RSA 362-H:2, V PSNH is eligible to recover the Transaction's difference between its energy purchase costs and the market clearing price through a nonbypassable delivery services charge applicable to all customer's in PSNH's service territory. The charge may include reasonable costs incurred by PSNH, and the charges shall be allocated using the customer class allocation percentages approved in NHPUC docket DE 14-238, order 25,920.

Definitions:

"Day-Ahead Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Real-Time Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Market Energy Clearing Price" means the Day-Ahead Locational Marginal Price and Real-Time Locational Marginal Price at the Pricing Node applicable to the asset in the ISO-NE energy market settlement for commitments in the day-ahead energy market and deviations in the real-time energy market, respectively.

"Unit Contingent" means, with respect to this Confirmation, that delivery or receipt of the Product from the Facility may be interrupted for any reason or for no reason by Seller, without liability on the part of either Party. However, Buyer shall be entitled to 100% of the output from the Facility during the Term of this Agreement.

"NHPUC Order" means receipt of a final, decision from the New Hampshire Public Utilities Commission, stating that it has reviewed this Confirmation and its Attachment A and finds they are in conformity with RSA 362-H.

"Delivered Energy" is the generation in MWh reported by ISO-NE for the Eligible Facility in the energy market settlement at the price node identified below:

Eligible Facility Generator Name	Asset ID #	Lead Participant	Price Node
Bethlehem	337	Engie Energy Marketing NA, Inc.	UN.WHITEFLD34.5BETH

Governing Terms:

All other terms and conditions not specified herein shall be in accordance with, and subject to, the attached Governing Terms which are incorporated by reference and made a part hereof. In the event of any inconsistency between the Governing Terms and the terms of a Confirmation, the terms of the Confirmation will govern for the Transaction.

Notices:

Any notice or communication shall be provided to the following:

If to Buyer:

Primary Contact for PSNH:

Frederick White

860-665-5272 (phone)

860-665-4583 (fax)

rick.white@eversource.com

Secondary Contact for PSNH:

David Errichetti

860-665-4519 (phone)

860-665-4583 (fax)

david.errichetti@eversource.com

If to Seller:

Primary Contact:

Mark Driscoll (name)

603-444-9993, ex. 12 (phone)

603-444-6476 (fax)

Mark.driscoll@engie.com (email)

Secondary Contact:

Alonzo Ramirez (name)

713-636-1237 (phone)

713-636-1858 (fax)

Alonzo.ramirez@engie.com (email)

Seller executes this Draft Confirmation to express its indication of interest to accept the terms hereof and of the attached Governing Terms. A final, execution version of this Confirmation will be provided subsequent to PSNH selecting winning suppliers in its default energy service solicitation and developing proposed residential default energy service rates needed for inclusion in PSNH's filing to the NHPUC for the commission's review of this Confirmation and its Attachment A for conformity with RSA 362-H.

PINETREE POWER, LLC

BY

Name: STEFAN SERCU

Title: PRESIDENT

Date: JANUARY 17, 2019

ATTACHMENT A
GOVERNING TERMS

**GOVERNING TERMS
FOR THE PURCHASE OF ENERGY BY
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY
PURSUANT TO THE LEGAL MANDATE CONTAINED
IN NEW HAMPSHIRE RSA CHAPTER 362-H**

This document sets forth the Governing Terms for purchases by Public Service Company of New Hampshire d/b/a Eversource Energy (“Buyer”) pursuant to the legal mandate set forth in New Hampshire RSA Chapter 362-H.

Each Transaction (as defined below) is subject to the signed Form of Confirmation and these Governing Terms, is mandated by force of law, is not a voluntary act of PSNH, and further is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362- H:1,V,(a), located in its service territory, including the facility owned by Seller as set forth in the Confirmation (the “Facility”).

PSNH’s performance hereunder is expressly subject to and conditioned upon the terms herein and in the Confirmation and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing the Confirmation and Governing Terms and finding that provisions addressed by RSA 362-H and contained herein are in conformity with RSA 362-H.

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in these Governing Terms and not defined herein shall have the same meaning as ascribed to such terms under, first NH RSA Chapter 362-H, then by the ISO-NE Practices and ISO-NE Rules.

“**Affiliate**” shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

“**Business Day**” means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

“**Buyer**” shall mean Public Service Company of New Hampshire.

“**Day-Ahead Energy Market**” shall have the meaning set forth in the ISO-NE Rules.

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

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

“Deliver” or **“Delivery”** shall mean the supply of Energy into Buyer’s ISO-NE account in accordance with the terms of these Governing Terms, the applicable Confirmation and the ISO-NE Rules.

“Delivery Failure” shall have the meaning set forth in Section 4.3 hereof.

“Delivery Point” shall mean the point of interconnection between the Eligible Facility and Buyer’s facilities as specified in Seller’s existing Interconnection Agreement.

“Commission” shall mean the New Hampshire Public Utilities Commission, or NHPUC.

“Delivery Period” shall have the meaning as set forth in the Confirmation.

“Dispute” shall have the meaning set forth in Section 10.1 hereof.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time at the Buyer’s meter used for billing and revenue determination.

“Energy Price” shall have the meaning as set forth in the Confirmation.

“Event of Default” shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

“Eligible Facility” shall have the meaning set forth in the Confirmation.

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

“Force Majeure” shall have the meaning set forth in Section 10.1(a) hereof.

“Good Utility Practice” shall mean compliance with all applicable laws, codes and regulations, all ISO NE Rules and ISO NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is

made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

“Governmental Entity” shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

“Interconnecting Utility” shall mean the utility (which may be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the transmission system of that utility.

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

“Interconnection Point” shall mean the point of interconnection set forth in the Interconnection Agreement.

“ISO” or **“ISO-NE”** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

“ISO-NE Practices” shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Participants Agreement, and any applicable successor practices and procedures.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the NEPOOL Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

“ISO-NE Tariff” shall mean ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended from time to time.

“ISO Settlement Market System” shall have the meaning as set forth in the ISO-NE Tariff.

“Late Payment Rate” shall have the meaning set forth in Section 5.3.

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

“Locational Marginal Price” or “LMP” shall have the meaning set forth in the ISO-NE Tariff for the New Hampshire load zone

“Meters” shall have the meaning set forth in Section 4.6(a) hereof.

“MW” shall mean a megawatt.

“MWh” shall mean a megawatt-hour (one MWh shall equal 1,000 kilowatt-hours).

“NEPOOL” shall mean the New England Power Pool and any successor organization.

“NEPOOL Participants Agreement” shall mean the Second Restated New England Power Pool Agreement dated as of August 31, 2011, as amended and/or restated from time to time.

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

“New England Control Area” shall have the meaning as set forth in the ISO-NE Tariff.

“Party” and **“Parties”** shall mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

“Permits” shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“Person” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

“Pool Transmission Facilities” has the meaning given that term in the ISO-NE Rules.

“Price” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth on the Confirmation.

“Products” shall mean Energy only.

“Real-Time Energy Market” shall have the meaning as set forth in the ISO-NE Rules.

“Regulatory Approval” shall mean the NHPUC’s order reviewing the Governing Terms and the Confirmation and finding that they are in conformity with RSA 362-H, provided that such order does not include any conditions or modifications that are inconsistent with RSA 362-H.

“RTO” shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC’s Order No. 2000 and FERC’s corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

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

“Seller” shall have the meaning as set forth in the Confirmation.

“Term” shall have the meaning set forth in the Confirmation.

“Transaction” means the sale of Energy produced by the Facility by Seller to Buyer as set forth in the Confirmation.

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

“Unit Contingent” shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating energy, and as further defined in the Confirmation.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. These Governing Terms are effective for the Term.

2.2 Term. The Term of the Transaction is the period set forth in the Confirmation.

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all

practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under these Governing Terms, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, maintain and operate the Facility in accordance with Good Utility Practice and Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete operation and maintenance functions, so long as Seller maintains overall control over the operation and maintenance of the Facility throughout the Term.

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

(e) ISO-NE Status. Seller shall, at all times during the Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and these Governing Terms.

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

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

(h) Compliance with Law. Without limiting the generality of any other provision of these Governing Terms, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies,

criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with Law.

Upon Buyer's request, Seller shall provide Buyer information pertaining to Facility emissions, fuel and operations, and information requested by Buyer to comply with Buyer's disclosure obligations. To the extent Buyer is subject to any other certification or reporting requirement with respect to the Products, Seller shall promptly provide such information to Buyer.

(i) FERC Status. Seller shall obtain and maintain any requisite authority to sell the output of the Facility under applicable law.

(j) Emissions. Seller shall be responsible for all costs associated with the Facility's emissions, including the cost of procuring emission reductions, offsets, allowances or similar items associated with the Facility's emissions, to the extent required to operate the Facility. Without limiting the generality of the foregoing, failure or inability of Seller to procure emission reductions, offsets, allowances or similar items associated with the Facility's emissions shall not constitute a Force Majeure.

3.2 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Throughout the Term, Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of these Governing Terms and the Confirmation. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers during the Term.

(b) Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Term, Seller shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with these Governing Terms, all ISO-NE Practices and ISO-NE Rules, as applicable. Seller shall transfer the Energy to Buyer in the Day-Ahead Energy Market or Real-Time Energy Market, as directed by Buyer and consistent with prevailing electric industry practices at the time, in such a manner that Buyer may resell such Energy in the Day-Ahead Energy Market or Real-Time Energy Market at the Market Price, as applicable, and Buyer shall have no obligation to pay for any Energy not transferred to Buyer in the Day-Ahead Energy Market or Real-Time Energy Market or for which Buyer is not credited in the ISO-NE Settlement Market System (including, without limitation, as a result of an outage on any electric transmission system).

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.3 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees and other FERC-approved charges in connection with the Delivery of Energy to the Delivery Point. Seller shall also be responsible for all charges, fees and losses required for Delivery of Energy from the Facility to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. Seller shall also apply for and schedule all such services.

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-

NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.4 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the "Meters"), shall be installed, operated, maintained and tested at Seller's expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller's expense at least once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer's expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than one percent (1%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than one percent (1%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The meter used by Buyer (or its Affiliate) for billing and revenue purposes shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Purchase Cost for Products. All Products Delivered to Buyer in accordance with these Governing Terms shall be purchased as specified in the Confirmation.

5.2 Payment and Netting

(a) Billing Period. The calendar month shall be the standard period for all payments under these Governing Terms. On or before the twenty-first (21st) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days after receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices

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

- (ii) A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under these Governing Terms on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under these Governing Terms, including any related damages calculated pursuant to these Governing Terms, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the “Money Rates” section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the “Late Payment Rate”).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products (“**Seller’s Taxes**”). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) (“**Buyer’s Taxes**”). In the event Seller shall be required by law or regulation to remit or pay any Buyer’s Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller’s Taxes, Seller shall reimburse Buyer for such payment, and Buyer may deduct any of the amount of any such Seller’s Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller’s or the Facility’s eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller’s accounting, reporting or tax purposes, or to receive any other grant or subsidy from a Governmental Entity or other Person. The obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and Price for and Seller’s obligation to deliver the Products, shall be effective regardless of whether the production and/or sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment during the Term.

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

6.1 **Representations and Warranties of Buyer.** Buyer hereby represents and warrants to Seller as follows:

(a) **Organization and Good Standing; Power and Authority.** Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of New Hampshire. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power to perform its obligations under these Governing Terms.

(b) **Due Authorization; No Conflicts.** Performance by Buyer of these Governing Terms, and the performance by Buyer of its obligations hereunder are mandated by New Hampshire law and subject to the receipt of the Regulatory Approval.

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

(a) **Organization and Good Standing; Power and Authority.** Seller is duly formed, validly existing and in good standing under the laws of the state of its formation and is authorized to do business in the State of New Hampshire. Seller has all requisite power and authority to execute, deliver, and perform its obligations under these Governing Terms.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to own and operate the Facility and to deliver the Products to the Buyer in accordance with these Governing Terms.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(d) Binding Agreement. These Governing Terms has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Seller constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) Consents and Approvals. The execution, delivery and performance by Seller of its obligations under these Governing Terms do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, and final.

(f) Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under these Governing Terms, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under these Governing Terms.

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

(h) No Default. No Default or Event of Default has occurred, and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under these Governing Terms.

6.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 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 Article 7 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 the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

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

(d) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under these Governing Terms.

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under these Governing Terms or on Buyer or Buyer's ability to receive the benefits under these Governing Terms, provided that if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(c) Failure to Maintain Material Contracts. The failure of Seller to maintain in effect any material agreements required to Deliver the Energy committed to Buyer hereunder to the Delivery Point, including the Interconnection Agreement, provided that if Seller's failure does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(d) Abandonment. On or after the Commercial Operation date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a sale or transfer of the Facility and the Governing Terms and Confirmation; or

(e) Assignment. The assignment of these Governing Terms by Seller, except as permitted in accordance with Article 12.

(f) Failure to Deliver. Seller's failure to deliver Products to Buyer in accordance with these Governing Terms and the applicable Confirmation.

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing

Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

(b) Termination. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate these Governing Terms at its sole discretion by providing written notice of such termination to the Defaulting Party. Such termination shall be with a full reservation of the Non-Defaulting Party's rights and remedies under law and equity.

(c) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THESE GOVERNING TERMS SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. FORCE MAJEURE

9.1 Force Majeure.

(a) The term "Force Majeure" means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under these Governing Terms. Under no circumstances shall Force Majeure include (v) any full or partial

curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under these Governing Terms, such performance (other than the obligation to make payment of amounts due and payable under these Governing Terms) shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under these Governing Terms, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 10.1(a) has occurred.

10. DISPUTE RESOLUTION

10.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to these Governing Terms (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior

management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC and/or the FERC depending on the nature of the Dispute.

11. INDEMNIFICATION

11.1 Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to Seller's execution, delivery or performance of these Governing Terms, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under these Governing Terms.

11.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of the Seller contest, settle or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of such indemnifying Party or, absent such consent, written consent of Buyer's counsel that such claim is meritorious or warrants settlement

12. ASSIGNMENT AND CHANGE OF CONTROL

The Transaction governed by these Governing Terms may not be assigned by either party except to the extent associated with a merger or consolidation of a Party or in connection with Seller's sale or transfer of its interest (or any part thereof) in the Facility.

13. TITLE; RISK OF LOSS

Title to and risk of loss related to the Delivered Product shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

14. AUDIT

14.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under these Governing Terms, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to these Governing Terms. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment or underpayment was made until paid.

14.2 Consolidation of Financial Information. Generally accepted accounting principles and SEC rules may, from time to time, and in accordance with such accounting principles and rules change throughout the Term, requiring Buyer to have access to Seller's financial records and personnel. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's reasonable written request, any and all listed financial information and statements then available to Seller as well as access to financial personnel, to the extent that Buyer needs such information in order to comply with generally accepted accounting principles and SEC rules for financial reporting purposes, subject to Buyer's agreement to maintain the confidentiality and prevent the disclosure of such information.

15. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing, as set forth in the Confirmation.

16. WAIVER AND MODIFICATION

These Governing Terms may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of these Governing Terms shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of these Governing Terms shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine whether any amendment or waiver of the provisions of these Governing Terms shall require NHPUC review of the same for conformity with RSA 362-H, and if Buyer determines that such NHPUC review is required for any amendment or waiver of the provisions of these Governing Terms, then such amendment or waiver shall not become effective unless and until such NHPUC review is obtained.

17. INTERPRETATION

17.1 Choice of Law. Interpretation and performance of these Governing Terms shall be in accordance with, and shall be controlled by, the laws of the State of New Hampshire (without regard to its principles of conflicts of law).

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of these Governing Terms. The words "hereof" and "hereunder" shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

17.3 Change in ISO-NE Rules and Practices. These Governing Terms are subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of these Governing Terms, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Buyer shall modify these Governing Terms and submit the modified document to the NHPUC for its review for conformity with RSA 362-H. The intent is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to these Governing Terms, or (ii) the Price.

17.4 Change in Law or Buyer's Accounting Treatment. If, during the Term of these Governing Terms, there is a change in Law or accounting standards or rules or a change in the interpretation of applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with these Governing Terms or the amounts paid for Products purchased hereunder, the Buyer shall amend or clarify these Governing Terms to avoid or significantly mitigate such impacts and submit such amendments or clarifications to the NHPUC for review for conformity with RSA 362-H .

18. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of the Form of Confirmation may be executed, and each shall have the same force and effect as an original. Facsimile signatures on any notice or other instrument delivered under these Governing Terms shall have the same force and effect as original signatures.

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

If any term or provision of these Governing Terms or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of these Governing Terms and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law.

21. INDEPENDENT CONTRACTOR

Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be

the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

These Governing Terms and the Confirmation shall govern the entire relationship between the Parties hereto relating to the mandates set forth in NH RSA Chapter 362-H and shall supersede all prior agreements and communication.

EXHIBIT 7

SHAHEEN & GORDON, P.A.

A T T O R N E Y S A T L A W

Timothy J. McLaughlin
Attorney at Law

Tenacity. Creativity. Results.™

January 17, 2019

Via e-mail only: **robert.bersak@eversource.com**
 rick.white@eversource.com
 david.errichetti@eversource.com

Eversource Energy
Attn: Robert Bersak, Frederick White and David Errichetti
107 Selden Street
Berlin, CT 06037

P.O. Box 270
Hartford CT 06141

Re: Pinetree Power Tamworth LLC – Revised Draft Confirmation and Governing Terms
Follow-up regarding correspondence of January 17, 2019

Dear Messrs. Bersak, White and Errichetti,

In accordance with the provisions of RSA 362-H as determined by NHPUC Order No. 26,208 (“Order”), Shaheen & Gordon, P.A. submits to Public Service Company of New Hampshire d/b/a Eversource (“Eversource”) the following on behalf of Pinetree Power Tamworth LLC in supplementation of its November 16, 2018 submission:

- Revised Draft Confirmation; and
- Revised Governing Terms.

As you know, Eversource “shall select all proposals from eligible facilities that conform to the requirements of” RSA 362-H. If there are any terms submitted herein that do not conform to the requirements of RSA 362-H as determined by the Order, please let me know promptly so that we can work to ensure the agreements can take effect by February 1, 2019. Otherwise, we expect that Eversource “shall submit all eligible facility agreements to the commission” for its conformity review so that the agreements can take effect by February 1, 2019.

Very truly yours,


Timothy J. McLaughlin
tmclaughlin@shaheengordon.com

TJM/jpk
cc: Pinetree Power Tamworth LLC

DRAFT

THIS DOCUMENT CONSTITUTES FORM OF CONFIRMATION ON THE PART OF THE SELLER. IT DOES NOT CONSTITUTE AN OFFER BY PSNH CAPABLE OF ACCEPTANCE AND NO LEGALLY BINDING COMMITMENT OR OBLIGATION RELATED TO THE SUBJECT MATTER OF THIS LETTER SHALL EXIST UNLESS AND UNTIL THE EXECUTION AND DELIVERY OF DEFINITIVE DOCUMENTS BY SELLER CONTAINING TERMS AND CONDITIONS, AND REVIEW BY THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION OF THIS CONFIRMATION AND ITS ATTACHMENT A AS BEING IN CONFORMITY WITH RSA 362-H.

FORM OF CONFIRMATION

This Transaction Confirmation ("Confirmation") relates to the sale of energy by Pinetree Power Tamworth, LLC ("Seller") to Public Service Company of New Hampshire ("PSNH"). This Confirmation is for the sale of Unit Contingent Energy (as defined below) from Seller's Eligible Facility to PSNH (the "Transaction").

PSNH notes that this Transaction is mandated by force of law and is not a voluntarily act of PSNH. This Transaction is not a "Negotiated Rate or Term" as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature's override of the Governor's veto, mandates that PSNH purchase the net energy output of any "Eligible Facility" as defined by RSA 362-H:1,V,(a), located in its service territory.

PSNH's performance under this Confirmation is expressly subject to and conditioned by the terms herein and in Attachment A and an order from the New Hampshire Public Utilities Commission ("NHPUC") reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H.

Buyer: Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
A New Hampshire corporation

Seller: **PINETREE POWER TAMWORTH, LLC**
Legal Name

69 Plains Rd. Tamworth, NH 03890
Address

603-323-8187
Telephone

Limited Liability Company-NH
Entity Type and State of Formation

Eligible Facility: Seller's 20.5 MW biomass fired generating facility which is located in Tamworth, New Hampshire, identified in the ISO-NE market settlement system with the Asset name Tamworth and ID # 592.

Product: Unit Contingent Energy

Delivery Period and Term: The Term begins on the later of the date of the final NHPUC Determination that this Confirmation and its Attachment A are in conformity with RSA 362-H or February 1, 2019 and continues through July 31, 2019.

Energy Price: PSNH will pay Seller the "adjusted energy rate" as defined by New Hampshire RSA 362-H:1, I for the Delivery Period.

Payment Schedule: The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer, Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by designating PSNH, ID 50094, the Asset Owner for ISO-NE energy market billing and settlement purposes. Payment will equal Delivered Energy times the Energy Price adjusted for any revenues or expenses readily identifiable in the ISO-NE bill resulting from ownership not included in "Market Energy Clearing Price," including any and all resettlements.

Audit Rights: Buyer and Seller shall each have the right throughout the Term and for a period of six (6) months following when the ISO-NE energy market settlement is final, upon reasonable prior notice, to audit relevant records of the other party to the limited extent necessary to verify the basis for payments.

Delivery Point: The Delivery Point shall be at the interconnection between the Eligible Facility and Buyer's facilities as specified in Seller's existing Interconnection Agreement.

Scheduling: Seller will remain the designated Lead Market Participant – Asset and Lead Market Participant – Resource in accordance with ISO-NE rules and procedures.

Conditions:

This Confirmation and the transactions contemplated hereunder are subject to the following conditions:

- An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H,
- PSNH's requirement to comply with the terms of RSA 362-H arise solely from RSA 362-H.
- The Facility shall maintain its status as an "Eligible facility" per RSA 362-H throughout such Term.

Cost Recovery:

As provided in RSA 362-H:2, V PSNH is eligible to recover the Transaction's difference between its energy purchase costs and the market clearing price through a nonbypassable delivery services charge applicable to all customer's in PSNH's service territory. The charge may include reasonable costs incurred by PSNH, and the charges shall be allocated using the customer class allocation percentages approved in NHPUC docket DE 14-238, order 25,920.

Definitions:

"Day-Ahead Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Real-Time Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Market Energy Clearing Price" means the Day-Ahead Locational Marginal Price and Real-Time Locational Marginal Price at the Pricing Node applicable to the asset in the ISO-NE energy market settlement for commitments in the day-ahead energy market and deviations in the real-time energy market, respectively.

"Unit Contingent" means, with respect to this Confirmation, that delivery or receipt of the Product from the Facility may be interrupted for any reason or for no reason by Seller, without liability on the part of either Party. However, Buyer shall be entitled to 100% of the output from the Facility during the Term of this Agreement.

"NHPUC Order" means receipt of a final, decision from the New Hampshire Public Utilities Commission, stating that it has reviewed this Confirmation and its Attachment A and finds they are in conformity with RSA 362-H.

"Delivered Energy" is the generation in MWh reported by ISO-NE for the Eligible Facility in the energy market settlement at the price node identified below:

Eligible Facility Generator Name	Asset ID #	Lead Participant	Price Node
Tamworth	592	Engie Energy Marketing NA, Inc.	UN.TAMWORTH115TAMW

Governing Terms:

All other terms and conditions not specified herein shall be in accordance with, and subject to, the attached Governing Terms which are incorporated by reference and made a part hereof. In the event of any inconsistency between the Governing Terms and the terms of a Confirmation, the terms of the Confirmation will govern for the Transaction.

Notices:

Any notice or communication shall be provided to the following:

If to Buyer:

Primary Contact for PSNH:

Frederick White

860-665-5272 (phone)

860-665-4583 (fax)

rick.white@eversource.com

Secondary Contact for PSNH:

David Errichetti

860-665-4519 (phone)

860-665-4583 (fax)

david.errichetti@eversource.com

If to Seller:

Primary Contact:

Robert Lussier (name)

603-323-8187 (phone)

603-323-7501 (fax)

Robert.lussier@engie.com (email)

Secondary Contact:

Alonzo Ramirez (name)

713-636-1237 (phone)

713-636-1858 (fax)

Alonzo.ramirez@engie.com (email)

Seller executes this Draft Confirmation to express its indication of interest to accept the terms hereof and of the attached Governing Terms. A final, execution version of this Confirmation will be provided subsequent to PSNH selecting winning suppliers in its default energy service solicitation and developing proposed residential default energy service rates needed for inclusion in PSNH's filing to the NHPUC for the commission's review of this Confirmation and its Attachment A for conformity with RSA 362-H.

PINETREE POWER TAMWORTH, LLC

BY

Name: STEPAAN SARCJ

Title: PRESIDENT

Date: JANUARY 17, 2019

ATTACHMENT A
GOVERNING TERMS

**GOVERNING TERMS
FOR THE PURCHASE OF ENERGY BY
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY
PURSUANT TO THE LEGAL MANDATE CONTAINED
IN NEW HAMPSHIRE RSA CHAPTER 362-H**

This document sets forth the Governing Terms for purchases by Public Service Company of New Hampshire d/b/a Eversource Energy (“Buyer”) pursuant to the legal mandate set forth in New Hampshire RSA Chapter 362-H.

Each Transaction (as defined below) is subject to the signed Form of Confirmation and these Governing Terms, is mandated by force of law, is not a voluntary act of PSNH, and further is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362- H:1,V,(a), located in its service territory, including the facility owned by Seller as set forth in the Confirmation (the “Facility”).

PSNH’s performance hereunder is expressly subject to and conditioned upon the terms herein and in the Confirmation and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing the Confirmation and Governing Terms and finding that provisions addressed by RSA 362-H and contained herein are in conformity with RSA 362-H.

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in these Governing Terms and not defined herein shall have the same meaning as ascribed to such terms under, first NH RSA Chapter 362-H, then by the ISO-NE Practices and ISO-NE Rules.

“**Affiliate**” shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

“**Business Day**” means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

“**Buyer**” shall mean Public Service Company of New Hampshire.

“**Day-Ahead Energy Market**” shall have the meaning set forth in the ISO-NE Rules.

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

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

“Deliver” or **“Delivery”** shall mean the supply of Energy into Buyer’s ISO-NE account in accordance with the terms of these Governing Terms, the applicable Confirmation and the ISO-NE Rules.

“Delivery Failure” shall have the meaning set forth in Section 4.3 hereof.

“Delivery Point” shall mean the point of interconnection between the Eligible Facility and Buyer’s facilities as specified in Seller’s existing Interconnection Agreement.

“Commission” shall mean the New Hampshire Public Utilities Commission, or NHPUC.

“Delivery Period” shall have the meaning as set forth in the Confirmation.

“Dispute” shall have the meaning set forth in Section 10.1 hereof.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time at the Buyer’s meter used for billing and revenue determination.

“Energy Price” shall have the meaning as set forth in the Confirmation.

“Event of Default” shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

“Eligible Facility” shall have the meaning set forth in the Confirmation.

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

“Force Majeure” shall have the meaning set forth in Section 10.1(a) hereof.

“Good Utility Practice” shall mean compliance with all applicable laws, codes and regulations, all ISO NE Rules and ISO NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is

made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

“Governmental Entity” shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

“Interconnecting Utility” shall mean the utility (which may be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the transmission system of that utility.

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

“Interconnection Point” shall mean the point of interconnection set forth in the Interconnection Agreement.

“ISO” or **“ISO-NE”** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

“ISO-NE Practices” shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Participants Agreement, and any applicable successor practices and procedures.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the NEPOOL Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

“ISO-NE Tariff” shall mean ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended from time to time.

“ISO Settlement Market System” shall have the meaning as set forth in the ISO-NE Tariff.

“Late Payment Rate” shall have the meaning set forth in Section 5.3.

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

“Locational Marginal Price” or “LMP” shall have the meaning set forth in the ISO-NE Tariff for the New Hampshire load zone

“Meters” shall have the meaning set forth in Section 4.6(a) hereof.

“MW” shall mean a megawatt.

“MWh” shall mean a megawatt-hour (one MWh shall equal 1,000 kilowatt-hours).

“NEPOOL” shall mean the New England Power Pool and any successor organization.

“NEPOOL Participants Agreement” shall mean the Second Restated New England Power Pool Agreement dated as of August 31, 2011, as amended and/or restated from time to time.

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

“New England Control Area” shall have the meaning as set forth in the ISO-NE Tariff.

“Party” and **“Parties”** shall mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

“Permits” shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“Person” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

“Pool Transmission Facilities” has the meaning given that term in the ISO-NE Rules.

“Price” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth on the Confirmation.

“Products” shall mean Energy only.

“Real-Time Energy Market” shall have the meaning as set forth in the ISO-NE Rules.

“Regulatory Approval” shall mean the NHPUC’s order reviewing the Governing Terms and the Confirmation and finding that they are in conformity with RSA 362-H, provided that such order does not include any conditions or modifications that are inconsistent with RSA 362-H.

“RTO” shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC’s Order No. 2000 and FERC’s corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

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

“Seller” shall have the meaning as set forth in the Confirmation.

“Term” shall have the meaning set forth in the Confirmation.

“Transaction” means the sale of Energy produced by the Facility by Seller to Buyer as set forth in the Confirmation.

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

“Unit Contingent” shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating energy, and as further defined in the Confirmation.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. These Governing Terms are effective for the Term.

2.2 Term. The Term of the Transaction is the period set forth in the Confirmation.

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all

practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under these Governing Terms, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, maintain and operate the Facility in accordance with Good Utility Practice and Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete operation and maintenance functions, so long as Seller maintains overall control over the operation and maintenance of the Facility throughout the Term.

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

(e) ISO-NE Status. Seller shall, at all times during the Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and these Governing Terms.

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

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

(h) Compliance with Law. Without limiting the generality of any other provision of these Governing Terms, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies,

criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with Law.

Upon Buyer's request, Seller shall provide Buyer information pertaining to Facility emissions, fuel and operations, and information requested by Buyer to comply with Buyer's disclosure obligations. To the extent Buyer is subject to any other certification or reporting requirement with respect to the Products, Seller shall promptly provide such information to Buyer.

(i) FERC Status. Seller shall obtain and maintain any requisite authority to sell the output of the Facility under applicable law.

(j) Emissions. Seller shall be responsible for all costs associated with the Facility's emissions, including the cost of procuring emission reductions, offsets, allowances or similar items associated with the Facility's emissions, to the extent required to operate the Facility. Without limiting the generality of the foregoing, failure or inability of Seller to procure emission reductions, offsets, allowances or similar items associated with the Facility's emissions shall not constitute a Force Majeure.

3.2 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Throughout the Term, Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of these Governing Terms and the Confirmation. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers during the Term.

(b) Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Term, Seller shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with these Governing Terms, all ISO-NE Practices and ISO-NE Rules, as applicable. Seller shall transfer the Energy to Buyer in the Day-Ahead Energy Market or Real-Time Energy Market, as directed by Buyer and consistent with prevailing electric industry practices at the time, in such a manner that Buyer may resell such Energy in the Day-Ahead Energy Market or Real-Time Energy Market at the Market Price, as applicable, and Buyer shall have no obligation to pay for any Energy not transferred to Buyer in the Day-Ahead Energy Market or Real-Time Energy Market or for which Buyer is not credited in the ISO-NE Settlement Market System (including, without limitation, as a result of an outage on any electric transmission system).

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.3 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees and other FERC-approved charges in connection with the Delivery of Energy to the Delivery Point. Seller shall also be responsible for all charges, fees and losses required for Delivery of Energy from the Facility to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. Seller shall also apply for and schedule all such services.

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-

NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.4 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the "Meters"), shall be installed, operated, maintained and tested at Seller's expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller's expense at least once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer's expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than one percent (1%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than one percent (1%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The meter used by Buyer (or its Affiliate) for billing and revenue purposes shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Purchase Cost for Products. All Products Delivered to Buyer in accordance with these Governing Terms shall be purchased as specified in the Confirmation.

5.2 Payment and Netting

(a) Billing Period. The calendar month shall be the standard period for all payments under these Governing Terms. On or before the twenty-first (21st) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days after receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices

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

- (ii) A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under these Governing Terms on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under these Governing Terms, including any related damages calculated pursuant to these Governing Terms, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the “Money Rates” section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the “Late Payment Rate”).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products (“**Seller’s Taxes**”). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) (“**Buyer’s Taxes**”). In the event Seller shall be required by law or regulation to remit or pay any Buyer’s Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller’s Taxes, Seller shall reimburse Buyer for such payment, and Buyer may deduct any of the amount of any such Seller’s Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller’s or the Facility’s eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller’s accounting, reporting or tax purposes, or to receive any other grant or subsidy from a Governmental Entity or other Person. The obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and Price for and Seller’s obligation to deliver the Products, shall be effective regardless of whether the production and/or sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment during the Term.

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

6.1 **Representations and Warranties of Buyer.** Buyer hereby represents and warrants to Seller as follows:

(a) **Organization and Good Standing; Power and Authority.** Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of New Hampshire. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power to perform its obligations under these Governing Terms.

(b) **Due Authorization; No Conflicts.** Performance by Buyer of these Governing Terms, and the performance by Buyer of its obligations hereunder are mandated by New Hampshire law and subject to the receipt of the Regulatory Approval.

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

(a) **Organization and Good Standing; Power and Authority.** Seller is duly formed, validly existing and in good standing under the laws of the state of its formation and is authorized to do business in the State of New Hampshire. Seller has all requisite power and authority to execute, deliver, and perform its obligations under these Governing Terms.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to own and operate the Facility and to deliver the Products to the Buyer in accordance with these Governing Terms.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(d) Binding Agreement. These Governing Terms has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Seller constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) Consents and Approvals. The execution, delivery and performance by Seller of its obligations under these Governing Terms do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, and final.

(f) Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under these Governing Terms, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under these Governing Terms.

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

(h) No Default. No Default or Event of Default has occurred, and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under these Governing Terms.

6.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 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 Article 7 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 the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

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

(d) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under these Governing Terms.

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under these Governing Terms or on Buyer or Buyer's ability to receive the benefits under these Governing Terms, provided that if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(c) Failure to Maintain Material Contracts. The failure of Seller to maintain in effect any material agreements required to Deliver the Energy committed to Buyer hereunder to the Delivery Point, including the Interconnection Agreement, provided that if Seller's failure does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(d) Abandonment. On or after the Commercial Operation date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a sale or transfer of the Facility and the Governing Terms and Confirmation; or

(e) Assignment. The assignment of these Governing Terms by Seller, except as permitted in accordance with Article 12.

(f) Failure to Deliver. Seller's failure to deliver Products to Buyer in accordance with these Governing Terms and the applicable Confirmation.

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing

Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

(b) Termination. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate these Governing Terms at its sole discretion by providing written notice of such termination to the Defaulting Party. Such termination shall be with a full reservation of the Non-Defaulting Party's rights and remedies under law and equity.

(c) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THESE GOVERNING TERMS SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. **FORCE MAJEURE**

9.1 Force Majeure.

(a) The term "Force Majeure" means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under these Governing Terms. Under no circumstances shall Force Majeure include (v) any full or partial

curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under these Governing Terms, such performance (other than the obligation to make payment of amounts due and payable under these Governing Terms) shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under these Governing Terms, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 10.1(a) has occurred.

10. DISPUTE RESOLUTION

10.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to these Governing Terms (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior

management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC and/or the FERC depending on the nature of the Dispute.

11. INDEMNIFICATION

11.1 Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to Seller's execution, delivery or performance of these Governing Terms, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under these Governing Terms.

11.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of the Seller contest, settle or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of such indemnifying Party or, absent such consent, written consent of Buyer's counsel that such claim is meritorious or warrants settlement

12. ASSIGNMENT AND CHANGE OF CONTROL

The Transaction governed by these Governing Terms may not be assigned by either party except to the extent associated with a merger or consolidation of a Party or in connection with Seller's sale or transfer of its interest (or any part thereof) in the Facility.

13. TITLE; RISK OF LOSS

Title to and risk of loss related to the Delivered Product shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

14. AUDIT

14.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under these Governing Terms, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to these Governing Terms. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment or underpayment was made until paid.

14.2 Consolidation of Financial Information. Generally accepted accounting principles and SEC rules may, from time to time, and in accordance with such accounting principles and rules change throughout the Term, requiring Buyer to have access to Seller's financial records and personnel. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's reasonable written request, any and all listed financial information and statements then available to Seller as well as access to financial personnel, to the extent that Buyer needs such information in order to comply with generally accepted accounting principles and SEC rules for financial reporting purposes, subject to Buyer's agreement to maintain the confidentiality and prevent the disclosure of such information.

15. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing, as set forth in the Confirmation.

16. WAIVER AND MODIFICATION

These Governing Terms may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of these Governing Terms shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of these Governing Terms shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine whether any amendment or waiver of the provisions of these Governing Terms shall require NHPUC review of the same for conformity with RSA 362-H, and if Buyer determines that such NHPUC review is required for any amendment or waiver of the provisions of these Governing Terms, then such amendment or waiver shall not become effective unless and until such NHPUC review is obtained.

17. INTERPRETATION

17.1 Choice of Law. Interpretation and performance of these Governing Terms shall be in accordance with, and shall be controlled by, the laws of the State of New Hampshire (without regard to its principles of conflicts of law).

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of these Governing Terms. The words "hereof" and "hereunder" shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

17.3 Change in ISO-NE Rules and Practices. These Governing Terms are subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of these Governing Terms, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Buyer shall modify these Governing Terms and submit the modified document to the NHPUC for its review for conformity with RSA 362-H. The intent is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to these Governing Terms, or (ii) the Price.

17.4 Change in Law or Buyer's Accounting Treatment. If, during the Term of these Governing Terms, there is a change in Law or accounting standards or rules or a change in the interpretation of applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with these Governing Terms or the amounts paid for Products purchased hereunder, the Buyer shall amend or clarify these Governing Terms to avoid or significantly mitigate such impacts and submit such amendments or clarifications to the NHPUC for review for conformity with RSA 362-H.

18. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of the Form of Confirmation may be executed, and each shall have the same force and effect as an original. Facsimile signatures on any notice or other instrument delivered under these Governing Terms shall have the same force and effect as original signatures.

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

If any term or provision of these Governing Terms or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of these Governing Terms and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law.

21. INDEPENDENT CONTRACTOR

Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be

the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

These Governing Terms and the Confirmation shall govern the entire relationship between the Parties hereto relating to the mandates set forth in NH RSA Chapter 362-H and shall supersede all prior agreements and communication.

EXHIBIT 8

From: [Jillian Keller](#)
To: [White, Frederick](#); [Bersak, Robert A](#); [Errichetti, David A](#)
Cc: [Steven Gordon](#); [Timothy J. McLaughlin](#)
Subject: RE: Springfield Power, LLC
Date: Friday, January 18, 2019 9:14:06 AM
Attachments: [Biomass Doc DE18-002 Seller's Governing Terms 1-17-19 Ex A to Confirmation word ver 1-18.docx](#)
[Biomass Doc RSA 362-H Solicitation Bridgewater Confirmation 1-17-19 Execution Version word ver1-18.docx](#)

Hi Mr. White,

As requested, attached please find word versions of the governing terms and confirmation documents. Thank you for sending along word versions of your documents, it is much appreciated.

Thank you.
Sincerely,
Jillian

From: White, Frederick <rick.white@eversource.com>
Sent: Friday, January 18, 2019 8:36 AM
To: Jillian Keller <jkeller@shaheengordon.com>; Bersak, Robert A <robert.bersak@eversource.com>; Errichetti, David A <david.errichetti@eversource.com>
Cc: Steven Gordon <sgordon@Shaheengordon.com>; Timothy J. McLaughlin <tmclaughlin@Shaheengordon.com>
Subject: RE: Springfield Power, LLC

Jillian,

Presumably, the sets of confirmation and governing terms documents are identical except for generator locations. Please provide one set as Word versions to facilitate review & comment. In the alternative, attached are Word versions of our original documents marked-up to address your previous revisions. Please note specifically under Payment Terms the intention to implement the arrangement as a financial transaction, which was discussed as an acceptable alternative with Mssrs Kent and Oleary – probably the simplest structure for both parties. Also, not fully addressed is appropriate escrow language.

Thanks.
Rick

Rick White
Eversource Energy - Electric Supply
Berlin, CT - 860-665-2572
Cell - 860-712-3780
rick.white@eversource.com

From: Jillian Keller <jkeller@shaheengordon.com>

Sent: Thursday, January 17, 2019 4:06 PM

To: Bersak, Robert A <robert.bersak@eversource.com>; White, Frederick
<rick.white@eversource.com>; Errichetti, David A <david.errichetti@eversource.com>

Cc: Steven Gordon <sgordon@Shaheengordon.com>; Timothy J. McLaughlin
<tmclaughlin@Shaheengordon.com>

Subject: Springfield Power, LLC

EVERSOURCE IT NOTICE – EXTERNAL EMAIL SENDER ** Don't be quick to click! ******

Do not click on links or attachments if sender is unknown or if the email is unexpected from someone you know, and never provide a user ID or password. Report suspicious emails by selecting 'Report Phishing' or forwarding to SPAMFEEDBACK@EVERSOURCE.COM for analysis by our cyber security team.

Dear Messrs. Bersak, White and Errichetti,

Attached please find a letter on behalf of Springfield Power, LLC enclosing a Revised Draft Confirmation and Revised Governing Terms.

Sincerely,
Jillian

Jillian P. Keller
Legal Assistant
Shaheen & Gordon, P.A.
107 Storrs Street
P.O. Box 2703, Concord, NH, 03302
Main: 603-225-7262
Fax: 603-225-5112



Website: www.ShaheenGordon.com

Twitter: @ShaheenGordon

Facebook: Shaheen & Gordon, PA

STATEMENT OF CONFIDENTIALITY

This e-mail, and any attachments, is intended only for use by the addressee and may contain legally privileged or confidential information. If you are not the intended recipient of this e-mail, any dissemination, distribution or copying of this e-mail, and any attachments, is prohibited. If you have received this e-mail in error, please immediately notify me by telephone, permanently delete the original and any copy of the e-mail.

This electronic message contains information from Eversource Energy or its affiliates that may be confidential, proprietary or otherwise protected from disclosure. The information is intended to be used solely by the recipient(s) named. Any views or opinions expressed in this message are not

necessarily those of Eversource Energy or its affiliates. Any disclosure, copying or distribution of this message or the taking of any action based on its contents, other than by the intended recipient for its intended purpose, is strictly prohibited. If you have received this e-mail in error, please notify the sender immediately and delete it from your system. Email transmission cannot be guaranteed to be error-free or secure or free from viruses, and Eversource Energy disclaims all liability for any resulting damage, errors, or omissions.

DRAFT

THIS DOCUMENT CONSTITUTES FORM OF CONFIRMATION ON THE PART OF THE SELLER. IT DOES NOT CONSTITUTE AN OFFER BY PSNH CAPABLE OF ACCEPTANCE AND NO LEGALLY BINDING COMMITMENT OR OBLIGATION RELATED TO THE SUBJECT MATTER OF THIS LETTER SHALL EXIST UNLESS AND UNTIL THE EXECUTION AND DELIVERY OF DEFINITIVE DOCUMENTS BY SELLER CONTAINING TERMS AND CONDITIONS, AND REVIEW BY THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION OF THIS CONFIRMATION AND ITS ATTACHMENT A AS BEING IN CONFORMITY WITH RSA 362-H.

FORM OF CONFIRMATION

This Transaction Confirmation (“Confirmation”) relates to the sale of energy by Bridgewater Power Company, L.P. (“Seller”) to Public Service Company of New Hampshire (“PSNH”). This Confirmation is for the sale of Unit Contingent Energy (as defined below) from Seller’s Eligible Facility to PSNH (the “Transaction”).

PSNH notes that this Transaction is mandated by force of law and is not a voluntarily act of PSNH. This Transaction is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362-H:1,V,(a), located in its service territory.

PSNH’s performance under this Confirmation is expressly subject to and conditioned by the terms herein and in Attachment A and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H.

Buyer: Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
A New Hampshire corporation

Seller: **Bridgewater Power Company, L.P.**
Legal Name

P.O. Box 678 Ashland, NH 03217

Address

603-968-9602

Telephone

Limited Partnership -NH

Entity Type and State of Formation

Eligible Facility: Seller's 15.7 MW biomass fired generating facility which is located in Bridgewater, New Hampshire, identified in the ISO-NE market settlement system with the Asset name Bridgewater and ID # 357.

Product: Unit Contingent Energy

Delivery Period and Term: The Term begins on the later of the date of the final NHPUC Determination that this Confirmation and its Attachment A are in conformity with RSA 362-H or February 1, 2019 and continues through July 31, 2019.

Energy Price: PSNH will pay Seller the "adjusted energy rate" as defined by New Hampshire RSA 362-H:1, I for the Delivery Period.

Payment Schedule: The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer, Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by designating PSNH, ID 50094, the Asset Owner for ISO-NE energy market billing and settlement purposes. Payment will equal Delivered Energy times the Energy Price adjusted for any revenues or expenses readily identifiable in the ISO-NE bill resulting from ownership not included in "Market Energy Clearing Price," including any and all resettlements.

Audit Rights: Buyer and Seller shall each have the right throughout the Term and for a period of six (6) months following when the ISO-NE energy market settlement is final, upon reasonable prior notice, to audit relevant records of the other party to the limited extent necessary to verify the basis for payments.

Delivery Point: The Delivery Point shall be at the interconnection between the Eligible Facility and Buyer's facilities as specified in Seller's existing Interconnection Agreement.

Scheduling: Seller will remain the designated Lead Market Participant – Asset and Lead Market Participant – Resource in accordance with ISO-NE rules and procedures.

Conditions:

This Confirmation and the transactions contemplated hereunder are subject to the following conditions:

- An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H,
- PSNH's requirement to comply with the terms of RSA 362-H arise solely from RSA 362-H.
- The Facility shall maintain its status as an "Eligible facility" per RSA 362-H throughout such Term.

Cost Recovery:

As provided in RSA 362-H:2, V PSNH is eligible to recover the Transaction's difference between its energy purchase costs and the market clearing price through a nonbypassable delivery services charge applicable to all customer's in PSNH's service territory. The charge may include reasonable costs incurred by PSNH, and the charges shall be allocated using the customer class allocation percentages approved in NHPUC docket DE 14-238, order 25,920.

Definitions:

"Day-Ahead Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Real-Time Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Market Energy Clearing Price" means the Day-Ahead Locational Marginal Price and Real-Time Locational Marginal Price at the Pricing Node applicable to the asset in the ISO-NE energy market settlement for commitments in the day-ahead energy market and deviations in the real-time energy market, respectively.

"Unit Contingent" means, with respect to this Confirmation, that delivery or receipt of the Product from the Facility may be interrupted for any reason or for no reason by Seller, without liability on the part of either Party. However, Buyer shall be entitled to 100% of the output from the Facility during the Term of this Agreement.

"NHPUC Order" means receipt of a final, decision from the New Hampshire Public Utilities Commission, stating that it has reviewed this Confirmation and its Attachment A and finds they are in conformity with RSA 362-H.

"Delivered Energy" is the generation in MWh reported by ISO-NE for the Eligible Facility in the energy market settlement at the price node identified below:

Eligible Facility Generator Name	Asset ID #	Lead Participant	Price Node
BRIDGEWATER	357	Bridgewater Power Company, L.P.	UN.ASHLAND 34.5BRID

Governing Terms:

All other terms and conditions not specified herein shall be in accordance with, and subject to, the attached Governing Terms which are incorporated by reference and made a part hereof. In the event of any inconsistency between the Governing Terms and the terms of a Confirmation, the terms of the Confirmation will govern for the Transaction.

Notices:

Any notice or communication shall be provided to the following:

If to Buyer:

Primary Contact for PSNH:

Frederick White

860-665-5272 (phone)

860-665-4583 (fax)

rick.white@eversource.com

Secondary Contact for PSNH:

David Errichetti

860-665-4519 (phone)

860-665-4583 (fax)

david.errichetti@eversource.com

If to Seller:

Primary Contact:

Michael O'Leary (name)

603-968-9602 ex. 11(phone)

603-968-9605(fax)

moleary@bridgewater-os.com (email)

Secondary Contact:

Sean Lane (name)

973-753-0181 (phone)

973-254-3619 (fax)

slane@olympuspower.com (email)

Seller executes this Draft Confirmation to express its indication of interest to accept the terms hereof and of the attached Governing Terms. A final, execution version of this Confirmation will be provided subsequent to PSNH selecting winning suppliers in its default energy service solicitation and developing proposed residential default energy service rates needed for inclusion in PSNH's filing to the NHPUC for the commission's review of this Confirmation and its Attachment A for conformity with RSA 362-H.

BRIDGEWATER POWER COMPANY, L.P.

BY

Name:

Title:

Date

ATTACHMENT A
GOVERNING TERMS

**GOVERNING TERMS
FOR THE PURCHASE OF ENERGY BY
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY
PURSUANT TO THE LEGAL MANDATE CONTAINED IN
NEW HAMPSHIRE RSA CHAPTER 362-H**

This document sets forth the Governing Terms for purchases by Public Service Company of New Hampshire d/b/a Eversource Energy (“Buyer”) pursuant to the legal mandate set forth in New Hampshire RSA Chapter 362-H.

Each Transaction (as defined below) is subject to the signed Form of Confirmation and these Governing Terms, is mandated by force of law, is not a voluntary act of PSNH, and further is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362- H:1,V,(a), located in its service territory, including the facility owned by Seller as set forth in the Confirmation (the “Facility”).

PSNH’s performance hereunder is expressly subject to and conditioned upon the terms herein and in the Confirmation and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing the Confirmation and Governing Terms and finding that provisions addressed by RSA 362-H and contained herein are in conformity with RSA 362-H.

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in these Governing Terms and not defined herein shall have the same meaning as ascribed to such terms under, first NH RSA Chapter 362-H, then by the ISO-NE Practices and ISO-NE Rules.

“Affiliate” shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

“Business Day” means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

“Buyer” shall mean Public Service Company of New Hampshire.

“Day-Ahead Energy Market” shall have the meaning set forth in the ISO-NE Rules.

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

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

“Deliver” or **“Delivery”** shall mean the supply of Energy into Buyer’s ISO-NE account in accordance with the terms of these Governing Terms, the applicable Confirmation and the ISO-NE Rules.

“Delivery Failure” shall have the meaning set forth in Section 4.3 hereof.

“Delivery Point” shall mean the point of interconnection between the Eligible Facility and Buyer’s facilities as specified in Seller’s existing Interconnection Agreement.

“Commission” shall mean the New Hampshire Public Utilities Commission, or NHPUC.

“Delivery Period” shall have the meaning as set forth in the Confirmation.

“Dispute” shall have the meaning set forth in Section 10.1 hereof.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time at the Buyer’s meter used for billing and revenue determination.

“Energy Price” shall have the meaning as set forth in the Confirmation.

“Event of Default” shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

“Eligible Facility” shall have the meaning set forth in the Confirmation.

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

“Force Majeure” shall have the meaning set forth in Section 10.1(a) hereof.

“Good Utility Practice” shall mean compliance with all applicable laws, codes and regulations, all ISO NE Rules and ISO NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is

made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

“Governmental Entity” shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

“Interconnecting Utility” shall mean the utility (which may be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the transmission system of that utility.

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

“Interconnection Point” shall mean the point of interconnection set forth in the Interconnection Agreement.

“ISO” or **“ISO-NE”** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

“ISO-NE Practices” shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Participants Agreement, and any applicable successor practices and procedures.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the NEPOOL Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

“ISO-NE Tariff” shall mean ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended from time to time.

“ISO Settlement Market System” shall have the meaning as set forth in the ISO-NE Tariff.

“Late Payment Rate” shall have the meaning set forth in Section 5.3.

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

“Locational Marginal Price” or “LMP” shall have the meaning set forth in the ISO-NE Tariff for the New Hampshire load zone

“Meters” shall have the meaning set forth in Section 4.6(a) hereof.

“MW” shall mean a megawatt.

“MWh” shall mean a megawatt-hour (one MWh shall equal 1,000 kilowatt-hours).

“NEPOOL” shall mean the New England Power Pool and any successor organization.

“NEPOOL Participants Agreement” shall mean the Second Restated New England Power Pool Agreement dated as of August 31, 2011, as amended and/or restated from time to time.

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

“New England Control Area” shall have the meaning as set forth in the ISO-NE Tariff.

“Party” and **“Parties”** shall mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

“Permits” shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“Person” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

“Pool Transmission Facilities” has the meaning given that term in the ISO-NE Rules.

“Price” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth on the Confirmation.

“Products” shall mean Energy only.

“Real-Time Energy Market” shall have the meaning as set forth in the ISO-NE Rules.

“Regulatory Approval” shall mean the NHPUC’s order reviewing the Governing Terms and the Confirmation and finding that they are in conformity with RSA 362-H, provided that such order does not include any conditions or modifications that are inconsistent with RSA 362-H.

“RTO” shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC’s Order No. 2000 and FERC’s corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

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

“Seller” shall have the meaning as set forth in the Confirmation.

“Term” shall have the meaning set forth in the Confirmation.

“Transaction” means the sale of Energy produced by the Facility by Seller to Buyer as set forth in the Confirmation.

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

“Unit Contingent” shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating energy, and as further defined in the Confirmation.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. These Governing Terms are effective for the Term.

2.2 Term. The Term of the Transaction is the period set forth in the Confirmation.

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all

practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under these Governing Terms, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, maintain and operate the Facility in accordance with Good Utility Practice and Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete operation and maintenance functions, so long as Seller maintains overall control over the operation and maintenance of the Facility throughout the Term.

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

(e) ISO-NE Status. Seller shall, at all times during the Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and these Governing Terms.

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

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

(h) Compliance with Law. Without limiting the generality of any other provision of these Governing Terms, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies,

criteria, guidelines and requirements imposed by FERC and any other Governmental Entity,

whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with Law. Upon Buyer's request, Seller shall provide Buyer information pertaining to Facility emissions, fuel and operations, and information requested by Buyer to comply with Buyer's disclosure obligations. To the extent Buyer is subject to any other certification or reporting requirement with respect to the Products, Seller shall promptly provide such information to Buyer.

(i) FERC Status. Seller shall obtain and maintain any requisite authority to sell the output of the Facility under applicable law.

(j) Emissions. Seller shall be responsible for all costs associated with the Facility's emissions, including the cost of procuring emission reductions, offsets, allowances or similar items associated with the Facility's emissions, to the extent required to operate the Facility. Without limiting the generality of the foregoing, failure or inability of Seller to procure emission reductions, offsets, allowances or similar items associated with the Facility's emissions shall not constitute a Force Majeure.

3.2 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Throughout the Term, Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of these Governing Terms and the Confirmation. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers during the Term.

(b) Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Term, Seller shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with these Governing Terms, all ISO-NE Practices and ISO-NE Rules, as applicable. Seller shall transfer the Energy to Buyer in the Day-Ahead Energy Market or Real-Time Energy Market, as directed by Buyer and consistent with prevailing electric industry practices at the time, in such a manner that Buyer may resell such Energy in the Day-Ahead Energy Market or Real-Time Energy Market at the Market Price, as applicable, and Buyer shall have no obligation to pay for any Energy not transferred to Buyer in the Day-Ahead Energy Market or Real-Time Energy Market or for which Buyer is not credited in the ISO-NE Settlement Market System (including, without limitation, as a result of an outage on any electric transmission system).

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.3 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees and other FERC-approved charges in connection with the Delivery of Energy to the Delivery Point. Seller shall also be responsible for all charges, fees and losses required for Delivery of Energy from the Facility to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. Seller shall also apply for and schedule all such services.

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-

NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.4 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the “Meters”), shall be installed, operated, maintained and tested at Seller’s expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller’s expense at least once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer’s expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than one percent (1%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than one percent (1%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The meter used by Buyer (or its Affiliate) for billing and revenue purposes shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Purchase Cost for Products. All Products Delivered to Buyer in accordance with these Governing Terms shall be purchased as specified in the Confirmation.

5.2 Payment and Netting

(a) Billing Period. The calendar month shall be the standard period for all payments under these Governing Terms. On or before the twenty-first (21st) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days after receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices

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

in this Section 5.2.

- (ii) A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under these Governing Terms on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under these Governing Terms, including any related damages calculated pursuant to these Governing Terms, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the “Money Rates” section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the “Late Payment Rate”).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products (“**Seller’s Taxes**”). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) (“**Buyer’s Taxes**”). In the event Seller shall be required by law or regulation to remit or pay any Buyer’s Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller’s Taxes, Seller shall reimburse Buyer for such payment, and Buyer may deduct any of the amount of any such Seller’s Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller’s or the Facility’s eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller’s accounting, reporting or tax purposes, or to receive any other grant or subsidy from a Governmental Entity or other Person. The obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and Price for and Seller’s obligation to deliver the Products, shall be effective regardless of whether the production and/or sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment during the Term.

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

6.1 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as follows:

(a) Organization and Good Standing; Power and Authority. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of New Hampshire. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power to perform its obligations under these Governing Terms.

(b) Due Authorization; No Conflicts. Performance by Buyer of these Governing Terms, and the performance by Buyer of its obligations hereunder are mandated by New Hampshire law and subject to the receipt of the Regulatory Approval.

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

(a) Organization and Good Standing; Power and Authority. Seller is duly formed, validly existing and in good standing under the laws of the state of its formation and is authorized to do business in the State of New Hampshire. Seller has all requisite power and

authority to execute, deliver, and perform its obligations under these Governing Terms.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to own and operate the Facility and to deliver the Products to the Buyer in accordance with these Governing Terms.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(d) Binding Agreement. These Governing Terms has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Seller constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) Consents and Approvals. The execution, delivery and performance by Seller of its obligations under these Governing Terms do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, and final.

(f) Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under these Governing Terms, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under these Governing Terms.

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

(h) No Default. No Default or Event of Default has occurred and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under these Governing Terms.

6.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 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 Article 7 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 the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

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

(d) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under these Governing Terms.

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under these Governing Terms or on Buyer or Buyer's ability to receive the benefits under these Governing Terms, provided that if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(c) Failure to Maintain Material Contracts. The failure of Seller to maintain in effect any material agreements required to Deliver the Energy committed to Buyer hereunder to the Delivery Point, including the Interconnection Agreement, provided that if Seller's failure does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(d) Abandonment. On or after the Commercial Operation date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a sale or transfer of the Facility and the Governing Terms and Confirmation; or

(e) Assignment. The assignment of these Governing Terms by Seller, except as permitted in accordance with Article 12.

(f) Failure to Deliver. Seller's failure to deliver Products to Buyer in accordance with these Governing Terms and the applicable Confirmation.

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing

Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

(b) Termination. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate these Governing Terms at its sole discretion by providing written notice of such termination to the Defaulting Party. Such termination shall be with a full reservation of the Non-Defaulting Party's rights and remedies under law and equity.

(c) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THESE GOVERNING TERMS SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. FORCE MAJEURE

9.1 Force Majeure.

(a) The term "**Force Majeure**" means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under these Governing Terms. Under no circumstances shall Force Majeure include (v) any full or partial

curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under these Governing Terms, such performance (other than the obligation to make payment of amounts due and payable under these Governing Terms) shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under these Governing Terms, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 10.1(a) has occurred.

10. DISPUTE RESOLUTION

10.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to these Governing Terms (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior

management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC and/or the FERC depending on the nature of the Dispute.

-

11. INDEMNIFICATION

11.1 Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to Seller's execution, delivery or performance of these Governing Terms, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under these Governing Terms.

11.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of the Seller contest, settle or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of such indemnifying Party or, absent such consent, written consent of Buyer's counsel that such claim is meritorious or warrants settlement

12. ASSIGNMENT AND CHANGE OF CONTROL

The Transaction governed by these Governing Terms may not be assigned by either party except to the extent associated with a merger or consolidation of a Party or in connection with Seller's sale or transfer of its interest (or any part thereof) in the Facility.

13. TITLE; RISK OF LOSS

Title to and risk of loss related to the Delivered Product shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

14. AUDIT

14.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under these Governing Terms, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to these Governing Terms. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment or underpayment was made until paid.

14.2 Consolidation of Financial Information. Generally accepted accounting principles and SEC rules may, from time to time, and in accordance with such accounting principles and rules change throughout the Term, requiring Buyer to have access to Seller's financial records and personnel. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's reasonable written request, any and all listed financial information and statements then available to Seller as well as access to financial personnel, to the extent that Buyer needs such information in order to comply with generally accepted accounting principles and SEC rules for financial reporting purposes, subject to Buyer's agreement to maintain the confidentiality and prevent the disclosure of such information.

15. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing, as set forth in the Confirmation.

16. WAIVER AND MODIFICATION

These Governing Terms may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of these Governing Terms shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of these Governing Terms shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine whether any amendment or waiver of the provisions of these Governing Terms shall require NHPUC review of the same for conformity with RSA 362-H, and if Buyer determines that such NHPUC review is required for any amendment or waiver of the provisions of these Governing Terms, then such amendment or waiver shall not become effective unless and until such NHPUC review is obtained.

17. INTERPRETATION

17.1 Choice of Law. Interpretation and performance of these Governing Terms shall be in accordance with, and shall be controlled by, the laws of the State of New Hampshire (without regard to its principles of conflicts of law).

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of these Governing Terms. The words "hereof" and "hereunder" shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

17.3 Change in ISO-NE Rules and Practices. These Governing Terms are subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of these Governing Terms, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Buyer shall modify these Governing Terms and submit the modified document to the NHPUC for its review for conformity with RSA 362-H. The intent is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to these Governing Terms, or (ii) the Price.

17.4 Change in Law or Buyer's Accounting Treatment. If, during the Term of these Governing Terms, there is a change in Law or accounting standards or rules or a change in the interpretation of applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with these Governing Terms or the amounts paid for Products purchased hereunder, the Buyer shall amend or clarify these Governing Terms to avoid or significantly mitigate such impacts and submit such amendments or clarifications to the NHPUC for review for conformity with RSA 362-H.

18. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of the Form of Confirmation may be executed, and each shall have the same force and effect as an original. Facsimile signatures on any notice or other instrument delivered under these Governing Terms shall have the same force and effect as original signatures.

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

If any term or provision of these Governing Terms or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of these Governing Terms and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law.

21. INDEPENDENT CONTRACTOR

Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be

the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

These Governing Terms and the Confirmation shall govern the entire relationship between the Parties hereto relating to the mandates set forth in NH RSA Chapter 362-H and shall supersede all prior agreements and communications.

EXHIBIT 9



780 N. Commercial Street
P.O. Box 330
Manchester, NH 03105-0330

Robert A. Bersak
Chief Regulatory Counsel

603-634-3355
robert.bersak@eversource.com

January 23, 2019
Via e-mail and U.S. Mail

Timothy J. McLaughlin, Esq.
Shaheen & Gordon, P.A.
107 Storrs Street
P. O. Box 2703
Concord, New Hampshire 03301

Re: NHPUC Docket No. DE 18-002, Implementation of N.H. Senate Bill 365

Dear Attorney McLaughlin:

Thank you for your January 17 response to my letter of January 14. Although there is some progress toward implementation of Senate Bill 365 by February 1, contrary to the position stated in your response the fundamental “roadblock” noted in my January 14 letter remains.

The “roadblock” is the New Hampshire Public Utilities Commission’s (“NHPUC” or “Commission”) decision in its Order No. 26,208 (the “Order”) that despite the requirement in RSA 362-H:2, V providing, “The electric distribution company shall recover the difference between its energy purchase costs and the market energy clearing price through a nonbypassable delivery services charge applicable to all customers in the utility’s service territory,” it would have no authority to allow recovery of such above-market costs if SB 365 is ultimately found to be unconstitutional. The Order clearly says that if SB 365 is set-aside, “the very authority for a Commission order authorizing recovery of those charges from customers would be invalidated.” Order at 24.

As a regulated utility, Eversource is subject to the Commission’s plenary authority to set the rates that the Company may collect. With respect to SB 365, the Commission has made it clear that if SB 365 is unenforceable Eversource will not likely be allowed to recover the above-market costs created by that law.

Eversource (and the Commission in its Order) provided a pathway to achieve timely implementation of the purchase/sale requirements of SB 365. That path was for the parties to consider voluntary “inclusion of appropriate customer protections against the possibility of constitutional invalidation of the statute in any eligible facility agreement that is submitted to the Commission for review.” *Id.* at 25. In my January 14 letter, Eversource indicated it was

willing to move forward with SB 365 if there was agreement to establish an escrow mechanism to receive the above-market costs created by the law until there was a final, unappealable ruling on the law's validity.

In your January 17 response, the Wood IPPs rejected Eversource's customer protection proposal. In its place, the Wood IPPs have offered to include in any agreements a security mechanism of the Wood IPPs' own choice that would only account for 60 days of above-market costs and which would terminate in one year, regardless of whether the validity of SB 365 is still being contested. Eversource cannot accept that offer.

If SB 365 is invalidated, whether such determination occurs within 60 days, beyond 60 days, or even after one year, the NHPUC has said customers would not be required to pay the above-market costs of that law. In order to be an "appropriate customer protection[] against the possibility of constitutional invalidation of the statute," there must be a customer protection mechanism that continues its operation until the final adjudication of the law's validity – not just for 60 days. Moreover, any customer protection mechanism must be one where the funds are immediately accessible to re-pay customers should the law be invalidated, not one where further litigation might be required.

Hence, the "roadblock." Despite what RSA 362-H:2, V says, the Commission has placed recovery of the above-market costs of SB 365 in doubt while "the legality of RSA 362-H remains unresolved." *Id.* at 24. Without such recovery, Eversource shareholders would be left subsidizing the uneconomic operation of the Wood IPPs. Eversource will not enter into any agreement that puts such risk on its shareholders.

It is the owners of the Wood IPP facilities that stand to receive the monetary benefits of SB 365, not Eversource's retail customers or shareholders. As risk should follow reward, it is up to the Wood IPPs to decide whether they are willing to move forward with the implementation of SB 365 by taking on any risk regarding the legality of that law. The Wood IPPs have to date made four filings with FERC totaling 158 pages stating that SB 365 is not pre-empted; if those filings have merit, the Wood IPPs must view any risk they would have to bear as minimal.

If the Wood IPPs disagree with the Commission's decision in Order No. 26,208 that it will not enforce the cost recovery requirement of RSA 362-H:2, V unless and until the validity of that law has been adjudicated, they may seek rehearing and appeal of the Commission's decision under RSA Chapter 541. Further, the Wood IPPs could seek a suspension of the Commission's Order under RSA 541:18. But note that under RSA 541:18, there would seemingly be a requirement for the Wood IPPs to "provid[e] a means for securing the prompt repayment of all excess rates, fares, and charges over and above the rates, fares, and charges which shall be finally determined to be reasonable and just." *I.E.*, the Legislature itself has indicated that a customer protection mechanism be put in place if customers are required to pay rates or charges above what the Commission has approved.

Eversource remains willing to move forward per the terms of my January 14 letter. Please let me know if your clients are willing to accept those terms.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert A. Bersak", with a stylized flourish at the end.

Robert A. Bersak
Chief Regulatory Counsel

cc: Service List, NHPUC Docket No. DE 18-002 (via e-mail)

EXHIBIT 10

From: [White, Frederick](#)
To: [Jillian Keller](#); [Bersak, Robert A](#); [Errichetti, David A](#)
Cc: [Steven Gordon](#); [Timothy J. McLaughlin](#)
Subject: Eversource Markup of Wood IPPs Documents
Date: Monday, January 28, 2019 11:08:21 AM
Attachments: [Biomass Doc RSA 362-H Solicitation Confirmation EversourceMarkup 012819.docx](#)
[Biomass Doc DE18-002 Seller's Governing Terms EversourceMarkup 012819.docx](#)

Jillian,

Thanks for sending the Word documents. In case we find ourselves needing to quickly put in place these transactions, find attached Eversource's markups to your documents. Please recognize these updates are still under internal review, so it may take a few iterations to fully reach consensus, but I believe we can find agreement on the commercial terms and transaction structure. Note that escrow language, should we go that route, has been put aside for the time being. Please review and comment.

Thanks.
Rick

Rick White
Eversource Energy - Electric Supply
Berlin, CT - 860-665-2572
Cell - 860-712-3780
rick.white@eversource.com

From: Jillian Keller <jkeller@shaheengordon.com>
Sent: Friday, January 18, 2019 9:14 AM
To: White, Frederick <rick.white@eversource.com>; Bersak, Robert A <robert.bersak@eversource.com>; Errichetti, David A <david.errichetti@eversource.com>
Cc: Steven Gordon <sgordon@Shaheengordon.com>; Timothy J. McLaughlin <tmclaughlin@Shaheengordon.com>
Subject: RE: Springfield Power, LLC

EVERSOURCE IT NOTICE – EXTERNAL EMAIL SENDER *** Don't be quick to click! *******

Do not click on links or attachments if sender is unknown or if the email is unexpected from someone you know, and never provide a user ID or password. Report suspicious emails by selecting 'Report Phishing' or forwarding to SPAMFEEDBACK@EVERSOURCE.COM for analysis by our cyber security team.

Hi Mr. White,

As requested, attached please find word versions of the governing terms and confirmation documents. Thank you for sending along word versions of your documents, it is much

appreciated.

Thank you.
Sincerely,
Jillian

From: White, Frederick <rick.white@eversource.com>
Sent: Friday, January 18, 2019 8:36 AM
To: Jillian Keller <jkeller@shaheengordon.com>; Bersak, Robert A <robert.bersak@eversource.com>; Errichetti, David A <david.errichetti@eversource.com>
Cc: Steven Gordon <sgordon@Shaheengordon.com>; Timothy J. McLaughlin <tmclaughlin@Shaheengordon.com>
Subject: RE: Springfield Power, LLC

Jillian,

Presumably, the sets of confirmation and governing terms documents are identical except for generator locations. Please provide one set as Word versions to facilitate review & comment. In the alternative, attached are Word versions of our original documents marked-up to address your previous revisions. Please note specifically under Payment Terms the intention to implement the arrangement as a financial transaction, which was discussed as an acceptable alternative with Mssrs Kent and Oleary – probably the simplest structure for both parties. Also, not fully addressed is appropriate escrow language.

Thanks.
Rick

Rick White
Eversource Energy - Electric Supply
Berlin, CT - 860-665-2572
Cell - 860-712-3780
rick.white@eversource.com

From: Jillian Keller <jkeller@shaheengordon.com>
Sent: Thursday, January 17, 2019 4:06 PM
To: Bersak, Robert A <robert.bersak@eversource.com>; White, Frederick <rick.white@eversource.com>; Errichetti, David A <david.errichetti@eversource.com>
Cc: Steven Gordon <sgordon@Shaheengordon.com>; Timothy J. McLaughlin <tmclaughlin@Shaheengordon.com>
Subject: Springfield Power, LLC

EVERSOURCE IT NOTICE – EXTERNAL EMAIL SENDER ** Don't be quick to click! ******

Do not click on links or attachments if sender is unknown or if the email is unexpected from

someone you know, and never provide a user ID or password. Report suspicious emails by selecting 'Report Phishing' or forwarding to SPAMFEEDBACK@EVERSOURCE.COM for analysis by our cyber security team.

Dear Messrs. Bersak, White and Errichetti,

Attached please find a letter on behalf of Springfield Power, LLC enclosing a Revised Draft Confirmation and Revised Governing Terms.

Sincerely,
Jillian

Jillian P. Keller
Legal Assistant
Shaheen & Gordon, P.A.
107 Storrs Street
P.O. Box 2703, Concord, NH, 03302
Main: 603-225-7262
Fax: 603-225-5112



Website: www.ShaheenGordon.com
Twitter: @ShaheenGordon
Facebook: Shaheen & Gordon, PA

STATEMENT OF CONFIDENTIALITY

This e-mail, and any attachments, is intended only for use by the addressee and may contain legally privileged or confidential information. If you are not the intended recipient of this e-mail, any dissemination, distribution or copying of this e-mail, and any attachments, is prohibited. If you have received this e-mail in error, please immediately notify me by telephone, permanently delete the original and any copy of the e-mail.

This electronic message contains information from Eversource Energy or its affiliates that may be confidential, proprietary or otherwise protected from disclosure. The information is intended to be used solely by the recipient(s) named. Any views or opinions expressed in this message are not necessarily those of Eversource Energy or its affiliates. Any disclosure, copying or distribution of this message or the taking of any action based on its contents, other than by the intended recipient for its intended purpose, is strictly prohibited. If you have received this e-mail in error, please notify the sender immediately and delete it from your system. Email transmission cannot be guaranteed to be error-free or secure or free from viruses, and Eversource Energy disclaims all liability for any resulting damage, errors, or omissions.

This electronic message contains information from Eversource Energy or its affiliates that may be confidential, proprietary or otherwise protected from disclosure. The information is intended to be used solely by the recipient(s) named. Any views or opinions expressed in this message are not necessarily those of Eversource Energy or its affiliates. Any disclosure,

copying or distribution of this message or the taking of any action based on its contents, other than by the intended recipient for its intended purpose, is strictly prohibited. If you have received this e-mail in error, please notify the sender immediately and delete it from your system. Email transmission cannot be guaranteed to be error-free or secure or free from viruses, and Eversource Energy disclaims all liability for any resulting damage, errors, or omissions.

DRAFT

Formatted: Normal, Centered, Indent: Left: 3.11",
Right: 3.05", Space Before: 3.55 pt

~~THIS DOCUMENT CONSTITUTES FORM OF CONFIRMATION ON THE PART OF THE SELLER. IT DOES NOT CONSTITUTE AN OFFER BY PSNH CAPABLE OF ACCEPTANCE AND NO LEGALLY BINDING COMMITMENT OR OBLIGATION RELATED TO THE SUBJECT MATTER OF THIS LETTER SHALL EXIST UNLESS AND UNTIL THE EXECUTION AND DELIVERY OF DEFINITIVE DOCUMENTS BY SELLER CONTAINING TERMS AND CONDITIONS, AND REVIEW BY THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION OF THIS CONFIRMATION AND ITS ATTACHMENT A AS BEING IN CONFORMITY WITH RSA 362-H.~~

TRANSACTIONFORM OF CONFIRMATION

This Transaction Confirmation ("Confirmation") relates to the sale of energy by Bridgewater Power Company, L.P. ("Seller") to Public Service Company of New Hampshire ("PSNH"). This Confirmation is for the sale of Unit Contingent Energy (as defined below) from Seller's Eligible Facility to PSNH (the "Transaction").

PSNH notes that this Transaction is mandated by force of law and is not a voluntarily act of PSNH. This Transaction is not a "Negotiated Rate or Term" as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature's override of the Governor's veto, mandates that PSNH purchase the net energy output of any "Eligible Facility" as defined by RSA 362-H:1,V,(a), located in its service territory.

PSNH's performance under this Confirmation is expressly subject to and conditioned by the terms herein and in Attachment A and an order from the New Hampshire Public Utilities Commission ("NHPUC") reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H.

Buyer: Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
A New Hampshire corporation

Seller: **Bridgewater Power Company, L.P.**
Legal Name

P.O. Box 678 Ashland, NH 03217
Address

603-968-9602
Telephone

Limited Partnership -NH
Entity Type and State of Formation

Eligible Facility: Seller's 15.7 MW biomass fired generating facility which is located in Bridgewater, New Hampshire, identified in the ISO-NE market settlement system with the Asset name Bridgewater and ID # 357.

Formatted: No underline

Formatted: No underline

Product: Unit Contingent Energy

Delivery Period and Term: The Term begins on the later of the date of the final NHPUC determination that this Confirmation and its Attachment A are in conformity with RSA 362-H or February 1, 2019 and continues through July 31, 2019.

Energy Price: PSNH will compensate Seller for Unit Contingent Energy delivered to the Delivery Point at pay Seller the \$77.68/MWh "adjusted energy rate" as defined by New Hampshire RSA 362-H:1, I for the Delivery Period.

Formatted: Justified, Indent: Left: 2.14", Right: 0.38", Space Before: 0 pt

Payment Schedule: The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer, Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by Eligible Facility remaining Lead Market Participant – Asset and Lead Market Participant - Resource. Payment will equal Delivered Energy times the difference between the Energy Price and the "Market Energy Clearing Price," including any and all resettlements. Seller shall provide Purchaser sufficient ISO-NE settlement detail to verify Delivered Energy and "Market Energy Clearing Price" designating PSNH, ID 50094, the Asset Owner for ISO-NE energy market billing and settlement purposes. Payment will equal Delivered Energy times the Energy Price adjusted for any revenues or expenses readily identifiable in the ISO-NE bill resulting from ownership not included in "Market Energy Clearing Price," including any and all resettlements.

Audit Rights: Buyer and Seller shall each have the right throughout the Term and for a period of six (6) months following when the ISO-NE energy market settlement is final, upon reasonable prior notice, to audit relevant records of the other party to the limited extent necessary to verify the basis for payments.

Delivery Point: The Delivery Point shall be at the interconnection between the Eligible Facility and Buyer's facilities as specified in Seller's existing Interconnection Agreement.

Scheduling: Seller will remain the designated Lead Market Participant – Asset and Lead Market Participant – Resource responsible for scheduling in accordance with ISO-NE rules and procedures.

Conditions:

This Confirmation and the transactions contemplated hereunder are subject to the following conditions:

- An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H,
- PSNH's requirement to comply with the terms of RSA 362-H arise solely from RSA 362-H.
- The Facility shall maintain its status as an "Eligible facility" per RSA 362-H throughout ~~the~~^{such} Term.

Cost Recovery:

-As provided in RSA 362-H:2, V PSNH is eligible to recover the Transaction's difference between its energy purchase costs and the ~~"Market Energy Clearing Price"~~ through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. The charge may include reasonable costs incurred by PSNH, and the charges shall be allocated using the customer class allocation percentages approved in NHPUC docket DE 14-238, ~~Order~~^{Order} 25,920.

Definitions:

"Day-Ahead Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Real-Time Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Market Energy Clearing Price" means the Day-Ahead Locational Marginal Price and Real-Time Locational Marginal Price at the Pricing Node applicable to the asset in the ISO-NE energy market settlement for commitments in the day-ahead energy market and deviations in the real-time energy market, respectively.

"Unit Contingent" means, with respect to this Confirmation, that delivery or receipt of the Product from the Facility may be interrupted for any reason or for no reason by Seller, without liability on the part of either Party. However, Buyer shall be entitled to 100% of the output from the Facility during the Term of this Agreement.

"NHPUC Order" means receipt of a final⁷ decision from the New Hampshire Public Utilities Commission, stating that it has reviewed this Confirmation and its Attachment A and finds they are in conformity with RSA 362-H.

"Delivered Energy" is the generation in MWh reported by ISO-NE for the Eligible Facility in the energy market settlement at the price node identified below:

Eligible Facility Generator Name	Asset ID #	Lead Participant	Price Node
BRIDGEWATER	357	Bridgewater Power Company, L.P.	UN.ASHLAND 34.5BRID

Governing Terms:

All other terms and conditions not specified herein shall be in accordance with, and subject to, the attached Governing Terms which are incorporated by reference and made a part hereof. In the event of any inconsistency between the Governing Terms and the terms of a Confirmation, the terms of the Confirmation will govern for the Transaction.

Notices:

Any notice or communication shall be provided to the following:

If to Buyer:

Primary Contact for PSNH:

~~Frederick~~Rick White
860-665-52572 (phone)
860-665-4583 (fax)
rick.white@eversource.com

Secondary Contact for PSNH:

David Errichetti
860-665-4519 (phone)
860-665-4583 (fax)
david.errichetti@eversource.com

If to Seller:

Primary Contact:

Michael O'Leary (name)
603-968-9602 ex. 11(phone)
603-968-9605(fax)
moleary@bridgewater-os.com (email)

Secondary Contact:

Sean Lane (name)
973-753-0181 (phone)
973-254-3619 (fax)
slane@olympuspower.com (email)

~~Seller executes this Draft Confirmation to express its indication of interest to accept the terms hereof and of the attached Governing Terms. A final, execution version of this Confirmation will be provided subsequent to PSNH selecting winning suppliers in its default energy service solicitation and developing proposed residential default energy service rates needed for inclusion in PSNH's filing to the NHPUC for the commission's review of this Confirmation and its Attachment A for conformity with RSA 362-H.~~

BRIDGEWATER POWER COMPANY, L.P.

BY
Name:
Title:
Date

EVERSOURCE ENERGY d/b/a PSNH

BY
Name:
Title:
Date

Formatted: Heading 1, Justified, Right: 1.02", Space Before: 4.55 pt

ATTACHMENT A
GOVERNING TERMS

DRAFT

GOVERNING TERMS FOR THE PURCHASE OF ENERGY BY PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a EVERSOURCE ENERGY PURSUANT TO THE LEGAL MANDATE CONTAINED IN NEW HAMPSHIRE RSA CHAPTER 362-H

Formatted: Centered

This document sets forth the Governing Terms for purchases by Public Service Company of New Hampshire d/b/a Eversource Energy ("Buyer") pursuant to the legal mandate set forth in New Hampshire RSA Chapter 362-H.

Each Transaction (as defined below) is subject to the signed Form of Confirmation and these Governing Terms, is mandated by force of law, is not a voluntary act of PSNH, and further is not a "Negotiated Rate or Term" as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature's override of the Governor's veto, mandates that PSNH purchase the net energy output of any "Eligible Facility" as defined by RSA 362- H:1,V,(a), located in its service territory, including the facility owned by Seller as set forth in the Confirmation (the "Facility").

PSNH's performance hereunder is expressly subject to and conditioned upon the terms herein and in the Confirmation, and an order from the New Hampshire Public Utilities Commission ("NHPUC") reviewing the Confirmation and Governing Terms and finding that the provisions addressed by RSA 362-H and contained therein are in conformity with RSA 362-H.

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in these Governing Terms and not defined herein shall have the same meaning as ascribed to such terms under, first NH RSA Chapter 362-H, then by the ISO-NE Practices and ISO-NE Rules.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

"Business Day" means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

"Buyer" shall mean Public Service Company of New Hampshire.

"Day-Ahead Energy Market" shall have the meaning set forth in the ISO-NE Rules.

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

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

“Deliver” or **“Delivery”** shall mean the supply of Energy into Buyer’s ISO-NE account in accordance with the terms of these Governing Terms, the applicable Confirmation and the ISO-NE Rules.

“Delivery Failure” shall have the meaning set forth in Section 4.3 hereof.

“Delivery Point” shall mean the point of interconnection between the Eligible Facility and Buyer’s facilities as specified in Seller’s existing Interconnection Agreement.

“Commission” shall mean the New Hampshire Public Utilities Commission, or NHPUC.

“Delivery Period” shall have the meaning as set forth in the Confirmation.

“Dispute” shall have the meaning set forth in Section 10.1 hereof.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time at the Buyer’s meter used for billing and revenue determination.

“Energy Price” shall have the meaning as set forth in the Confirmation.

“Event of Default” shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

“Eligible Facility” shall have the meaning set forth in the Confirmation.

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

“Force Majeure” shall have the meaning set forth in Section 10.1(a) hereof.

“Good Utility Practice” shall mean compliance with all applicable laws, codes and regulations, all ISO NE Rules and ISO NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is

made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

“Governmental Entity” shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

“Interconnecting Utility” shall mean the utility (which may be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the transmission system of that utility.

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

“Interconnection Point” shall mean the point of interconnection set forth in the Interconnection Agreement.

“ISO” or **“ISO-NE”** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

“ISO-NE Practices” shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Participants Agreement, and any applicable successor practices and procedures.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the NEPOOL Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

“ISO-NE Tariff” shall mean ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended from time to time.

“ISO Settlement Market System” shall have the meaning as set forth in the ISO-NE Tariff.

“Late Payment Rate” shall have the meaning set forth in Section 5.3.

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

“**Locational Marginal Price**” or “LMP” shall have the meaning set forth in the ISO-NE Tariff for the New Hampshire load zone

“**Meters**” shall have the meaning set forth in Section 4.6(a) hereof.

“**MW**” shall mean a megawatt.

“**MWh**” shall mean a megawatt-hour (one MWh shall equal 1,000 kilowatt-hours).

“**NEPOOL**” shall mean the New England Power Pool and any successor organization.

“**NEPOOL Participants Agreement**” shall mean the Second Restated New England Power Pool Agreement dated as of August 31, 2011, as amended and/or restated from time to time.

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

“**New England Control Area**” shall have the meaning as set forth in the ISO-NE Tariff.

“**Party**” and “**Parties**” shall mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

“**Permits**” shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“**Person**” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

“**Pool Transmission Facilities**” has the meaning given that term in the ISO-NE Rules.

“**Price**” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth ~~o~~_in the Confirmation.

“**Products**” shall mean Energy only.

“Real-Time Energy Market” shall have the meaning as set forth in the ISO-NE Rules.

“Regulatory Approval” shall mean the NHPUC’s order reviewing the Governing Terms and the Confirmation and finding that they are in conformity with RSA 362-H, provided that such order does not include any conditions or modifications that are inconsistent with RSA 362-H.

“RTO” shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC’s Order No. 2000 and FERC’s corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

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

“Seller” shall have the meaning as set forth in the Confirmation.

“Term” shall have the meaning set forth in the Confirmation.

“Transaction” means the sale of Energy produced by the Facility by Seller to Buyer as set forth in the Confirmation.

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

“Unit Contingent” shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating energy, and as further defined in the Confirmation.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. These Governing Terms are effective for the Term.

2.2 Term. The Term of the Transaction is the period set forth in the Confirmation.

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all

practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under these Governing Terms, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, maintain and operate the Facility in accordance with Good Utility Practice and Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete operation and maintenance functions, so long as Seller maintains overall control over the operation and maintenance of the Facility throughout the Term.

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

(e) ISO-NE Status. Seller shall, at all times during the Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE- related obligations in connection with the Facility and these Governing Terms.

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

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

(h) Compliance with Law. Without limiting the generality of any other provision of these Governing Terms, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies,

criteria, guidelines and requirements imposed by FERC and any other Governmental Entity,

whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with Law. Upon Buyer's request, Seller shall provide Buyer information pertaining to Facility emissions, fuel and operations, and information requested by Buyer to comply with Buyer's disclosure obligations. To the extent Buyer is subject to any other certification or reporting requirement with respect to the Products, Seller shall promptly provide such information to Buyer.

(i) FERC Status. Seller shall obtain and maintain any requisite authority to sell the output of the Facility under applicable law.

(j) Emissions. Seller shall be responsible for all costs associated with the Facility's emissions, including the cost of procuring emission reductions, offsets, allowances or similar items associated with the Facility's emissions, to the extent required to operate the Facility. Without limiting the generality of the foregoing, failure or inability of Seller to procure emission reductions, offsets, allowances or similar items associated with the Facility's emissions shall not constitute a Force Majeure.

3.2 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Throughout the Term, Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of these Governing Terms and the Confirmation. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers during the Term.

(b) Throughout the Term. Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Term, Seller shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with these Governing Terms, all ISO-NE Practices and ISO-NE Rules, as applicable. Seller shall transfer the Energy to Buyer in the Day-Ahead Energy Market or Real-Time Energy Market, as directed by Buyer and consistent with prevailing electric industry practices at the time, in such a manner that Buyer may resell such Energy in the Day-Ahead Energy Market or Real-Time Energy Market at the Market Price, as applicable, and Buyer shall have no obligation to pay for any Energy not transferred to Buyer in the Day-Ahead Energy Market or Real-Time Energy Market or for which Buyer is not credited in the ISO-NE Settlement Market System (including, without limitation, as a result of an outage on any electric transmission system).

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.3 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees and other FERC-approved charges in connection with the Delivery of Energy to the Delivery Point. Seller shall also be responsible for all charges, fees and losses required for Delivery of Energy from the Facility to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. Seller shall also apply for and schedule all such services.

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-

NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.4 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the “Meters”), shall be installed, operated, maintained and tested at Seller’s expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller’s expense at least once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer’s expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than one percent (1%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than one percent (1%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The meter used by Buyer (or its Affiliate) for billing and revenue purposes shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Purchase Cost for Products. All Products Delivered to Buyer in accordance with these Governing Terms shall be purchased as specified in the Confirmation.

5.2 Payment and Netting.

(a) Billing Period. The calendar month shall be the standard period for all payments under these Governing Terms. On or before the twenty-first (21st) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days after receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices.

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

|

in this Section 5.2.

- I
- (ii) A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under these Governing Terms on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under these Governing Terms, including any related damages calculated pursuant to these Governing Terms, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the “Money Rates” section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the “Late Payment Rate”).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products (“**Seller’s Taxes**”). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) (“**Buyer’s Taxes**”). In the event Seller shall be required by law or regulation to remit or pay any Buyer’s Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller’s Taxes, Seller shall reimburse Buyer for such payment, and Buyer may deduct any of the amount of any such Seller’s Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller’s or the Facility’s eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller’s accounting, reporting or tax purposes, or to receive any other grant or subsidy from a Governmental Entity or other Person. The obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and Price for and Seller’s obligation to deliver the Products, shall be effective regardless of whether the production and/or sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment during the Term.

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

6.1 **Representations and Warranties of Buyer.** Buyer hereby represents and warrants to Seller as follows:

(a) **Organization and Good Standing; Power and Authority.** Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of New Hampshire. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power to perform its obligations under these Governing Terms.

(b) **Due Authorization; No Conflicts.** Performance by Buyer of these Governing Terms, and the performance by Buyer of its obligations hereunder, are mandated by New Hampshire law and –subject to the receipt of the Regulatory Approval.

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

(a) **Organization and Good Standing; Power and Authority.** Seller is duly formed, validly existing and in good standing under the laws of the state of its formation and is authorized to do business in the State of New Hampshire. Seller has all requisite power and

| authority to execute, deliver, and perform its obligations under these Governing Terms.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to own and operate the Facility and to deliver the Products to the Buyer in accordance with these Governing Terms.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(d) Binding Agreement. These Governing Terms has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Seller constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) Consents and Approvals. The execution, delivery and performance by Seller of its obligations under these Governing Terms do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, and final.

(f) Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under these Governing Terms, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under these Governing Terms.

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

(h) No Default. No Default or Event of Default has occurred and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under these Governing Terms.

6.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 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 Article 7 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 the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

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

(d) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under these Governing Terms.

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under these Governing Terms or on Buyer or Buyer's ability to receive the benefits under these Governing Terms, provided that if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(c) Failure to Maintain Material Contracts. The failure of Seller to maintain in effect any material agreements required to Deliver the Energy committed to Buyer hereunder to the Delivery Point, including the Interconnection Agreement, provided that if Seller's failure does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(d) Abandonment. On or after the Commercial Operation date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a sale or transfer of the Facility ~~and the Governing Terms and Confirmation~~; or

(e) Assignment. The assignment of these Governing Terms by Seller, except as permitted in accordance with Article 12: ~~or~~;

(f) Failure to Deliver. Seller's failure to deliver Products to Buyer in accordance with these Governing Terms and the applicable Confirmation.

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing

Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

(b) Termination. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate these Governing Terms at its sole discretion by providing written notice of such termination to the Defaulting Party. Such termination shall be with a full reservation of the Non-Defaulting Party's rights and remedies under law and equity.

(c) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THESE GOVERNING TERMS SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. FORCE MAJEURE

9.1 Force Majeure.

(a) The term "**Force Majeure**" means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under these Governing Terms. Under no circumstances shall Force Majeure include (v) any full or partial

curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under these Governing Terms, such performance (other than the obligation to make payment of amounts due and payable under these Governing Terms) shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under these Governing Terms, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 10.1(a) has occurred.

10. DISPUTE RESOLUTION

10.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to these Governing Terms (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior

management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC and/or the FERC depending on the nature of the Dispute.

-

11. INDEMNIFICATION

11.1 Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to Seller's execution, delivery or performance of these Governing Terms, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under these Governing Terms.

11.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of the Seller contest, settle or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of such indemnifying Party or, absent such consent, written consent of Buyer's counsel that such claim is meritorious or warrants settlement

12. ASSIGNMENT AND CHANGE OF CONTROL

The Transaction governed by these Governing Terms may not be assigned by either party except to the extent associated with a merger or consolidation of a Party or in connection with Seller's sale or transfer of its interest (or any part thereof) in the Facility.

13. TITLE; RISK OF LOSS

Title to and risk of loss related to the Delivered Product shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

14. AUDIT

14.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under these Governing Terms, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to these Governing Terms. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment

| or underpayment was made until paid.

14.2 Consolidation of Financial Information. Generally accepted accounting principles and SEC rules may, from time to time, and in accordance with such accounting principles and rules change throughout the Term, requiring Buyer to have access to Seller's financial records and personnel. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's reasonable written request, any and all listed financial information and statements then available to Seller as well as access to financial personnel, to the extent that Buyer needs such information in order to comply with generally accepted accounting principles and SEC rules for financial reporting purposes, subject to Buyer's agreement to maintain the confidentiality and prevent the disclosure of such information.

15. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing, as set forth in the Confirmation.

16. WAIVER AND MODIFICATION

These Governing Terms may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of these Governing Terms shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of these Governing Terms shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine whether any amendment or waiver of the provisions of these Governing Terms shall require NHPUC review of the same for conformity with RSA 362-H, and if Buyer determines that such NHPUC review is required for any amendment or waiver of the provisions of these Governing Terms, then such amendment or waiver shall not become effective unless and until such NHPUC review is obtained.

17. INTERPRETATION

17.1 Choice of Law. Interpretation and performance of these Governing Terms shall be in accordance with, and shall be controlled by, the laws of the State of New Hampshire (without regard to its principles of conflicts of law).

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of these Governing Terms. The words "hereof" and "hereunder" shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

17.3 Change in ISO-NE Rules and Practices. These Governing Terms are subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of these Governing Terms, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Buyer shall modify these Governing Terms and submit the modified document to the NHPUC for its review for conformity with RSA 362-H. The intent is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to these Governing Terms, or (ii) the Price.

17.4 Change in Law or Buyer's Accounting Treatment. If, during the Term of these Governing Terms, there is a change in Law or accounting standards or rules or a change in the interpretation of applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with these Governing Terms or the amounts paid for Products purchased hereunder, the Buyer shall amend or clarify these Governing Terms to avoid or significantly mitigate such impacts and submit such amendments or clarifications to the NHPUC for review for conformity with RSA 362-H.

18. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of the Form of Confirmation may be executed, and each shall have the same force and effect as an original. Facsimile signatures on any notice or other instrument delivered under these Governing Terms shall have the same force and effect as original signatures.

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

If any term or provision of these Governing Terms or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of these Governing Terms and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law.

21. INDEPENDENT CONTRACTOR

Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be

the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

These Governing Terms and the Confirmation shall govern the entire relationship between the Parties hereto relating to the mandates set forth in NH RSA Chapter 362-H and shall supersede all prior agreements and communications.

EXHIBIT 11

From: [White, Frederick](#)
To: [Jillian Keller](#); [Bersak, Robert A](#); [Errichetti, David A](#)
Cc: [Steven Gordon](#); [Timothy J. McLaughlin](#)
Subject: RE: Eversource Markup of Wood IPPs Documents
Date: Wednesday, January 30, 2019 12:57:02 PM
Attachments: [Biomass Doc RSA 362-H Solicitation Confirmation EversourceMarkup 013019.docx](#)
[Biomass Doc DE18-002 Seller's Governing Terms EversourceMarkup 013019.docx](#)

Jillian,

In my earlier email I mentioned that the SB 365 Confirmation and Governing Terms documents were still under internal review. I have received some additional edits and wanted to get them to you. Please see the attached documents.

In the Confirmation document there are additional changes in the following areas:

- In the preamble, paragraphs 2 & 3.
- Delivery Period and Term.
- Energy Price.
- Conditions – Last bullet added.
- Definitions:
 - Market Clearing Price.
 - NHPUC Order.
- At the end, corrected to, PSNH d/b/a Eversource Energy.

In the Governing Terms document there are additional changes in the following areas:

- In the preamble, paragraph 3.
- Definition of Regulatory Approval.
- Section 4.2 (a).
- Section 6.2 (f)

Let us know if you'd like to discuss.

Rick

Rick White
Eversource Energy - Electric Supply
Berlin, CT - 860-665-2572
Cell - 860-712-3780
rick.white@eversource.com

From: White, Frederick
Sent: Monday, January 28, 2019 11:08 AM
To: Jillian Keller <jkeller@shaheengordon.com>; Bersak, Robert A <robert.bersak@eversource.com>; Errichetti, David A <david.errichetti@eversource.com>
Cc: Steven Gordon <sgordon@Shaheengordon.com>; Timothy J. McLaughlin <tmclaughlin@Shaheengordon.com>

Subject: Eversource MarkUp of Wood IPPs Documents

Jillian,

Thanks for sending the Word documents. In case we find ourselves needing to quickly put in place these transactions, find attached Eversource's markups to your documents. Please recognize these updates are still under internal review, so it may take a few iterations to fully reach consensus, but I believe we can find agreement on the commercial terms and transaction structure. Note that escrow language, should we go that route, has been put aside for the time being. Please review and comment.

Thanks.
Rick

Rick White
Eversource Energy - Electric Supply
Berlin, CT - 860-665-2572
Cell - 860-712-3780
rick.white@eversource.com

From: Jillian Keller <jkeller@shaheengordon.com>
Sent: Friday, January 18, 2019 9:14 AM
To: White, Frederick <rick.white@eversource.com>; Bersak, Robert A <robert.bersak@eversource.com>; Errichetti, David A <david.errichetti@eversource.com>
Cc: Steven Gordon <sgordon@Shaheengordon.com>; Timothy J. McLaughlin <tmclaughlin@Shaheengordon.com>
Subject: RE: Springfield Power, LLC

EVERSOURCE IT NOTICE – EXTERNAL EMAIL SENDER *** Don't be quick to click! *******

Do not click on links or attachments if sender is unknown or if the email is unexpected from someone you know, and never provide a user ID or password. Report suspicious emails by selecting 'Report Phishing' or forwarding to SPAMFEEDBACK@EVERSOURCE.COM for analysis by our cyber security team.

Hi Mr. White,

As requested, attached please find word versions of the governing terms and confirmation documents. Thank you for sending along word versions of your documents, it is much appreciated.

Thank you.
Sincerely,
Jillian

From: White, Frederick <rick.white@eversource.com>
Sent: Friday, January 18, 2019 8:36 AM
To: Jillian Keller <jkeller@shaheengordon.com>; Bersak, Robert A <robert.bersak@eversource.com>; Errichetti, David A <david.errichetti@eversource.com>
Cc: Steven Gordon <sgordon@Shaheengordon.com>; Timothy J. McLaughlin <tmclaughlin@Shaheengordon.com>
Subject: RE: Springfield Power, LLC

Jillian,

Presumably, the sets of confirmation and governing terms documents are identical except for generator locations. Please provide one set as Word versions to facilitate review & comment. In the alternative, attached are Word versions of our original documents marked-up to address your previous revisions. Please note specifically under Payment Terms the intention to implement the arrangement as a financial transaction, which was discussed as an acceptable alternative with Mssrs Kent and Oleary – probably the simplest structure for both parties. Also, not fully addressed is appropriate escrow language.

Thanks.
Rick

Rick White
Eversource Energy - Electric Supply
Berlin, CT - 860-665-2572
Cell - 860-712-3780
rick.white@eversource.com

From: Jillian Keller <jkeller@shaheengordon.com>
Sent: Thursday, January 17, 2019 4:06 PM
To: Bersak, Robert A <robert.bersak@eversource.com>; White, Frederick <rick.white@eversource.com>; Errichetti, David A <david.errichetti@eversource.com>
Cc: Steven Gordon <sgordon@Shaheengordon.com>; Timothy J. McLaughlin <tmclaughlin@Shaheengordon.com>
Subject: Springfield Power, LLC

EVERSOURCE IT NOTICE – EXTERNAL EMAIL SENDER *** Don't be quick to click! *******

Do not click on links or attachments if sender is unknown or if the email is unexpected from someone you know, and never provide a user ID or password. Report suspicious emails by selecting 'Report Phishing' or forwarding to SPAMFEEDBACK@EVERSOURCE.COM for analysis by our cyber security team.

Dear Messrs. Bersak, White and Errichetti,

Attached please find a letter on behalf of Springfield Power, LLC enclosing a Revised Draft Confirmation and Revised Governing Terms.

Sincerely,
Jillian

Jillian P. Keller
Legal Assistant
Shaheen & Gordon, P.A.
107 Storrs Street
P.O. Box 2703, Concord, NH, 03302
Main: 603-225-7262
Fax: 603-225-5112



Website: www.ShaheenGordon.com
Twitter: @ShaheenGordon
Facebook: Shaheen & Gordon, PA

STATEMENT OF CONFIDENTIALITY

This e-mail, and any attachments, is intended only for use by the addressee and may contain legally privileged or confidential information. If you are not the intended recipient of this e-mail, any dissemination, distribution or copying of this e-mail, and any attachments, is prohibited. If you have received this e-mail in error, please immediately notify me by telephone, permanently delete the original and any copy of the e-mail.

This electronic message contains information from Eversource Energy or its affiliates that may be confidential, proprietary or otherwise protected from disclosure. The information is intended to be used solely by the recipient(s) named. Any views or opinions expressed in this message are not necessarily those of Eversource Energy or its affiliates. Any disclosure, copying or distribution of this message or the taking of any action based on its contents, other than by the intended recipient for its intended purpose, is strictly prohibited. If you have received this e-mail in error, please notify the sender immediately and delete it from your system. Email transmission cannot be guaranteed to be error-free or secure or free from viruses, and Eversource Energy disclaims all liability for any resulting damage, errors, or omissions.

This electronic message contains information from Eversource Energy or its affiliates that may be confidential, proprietary or otherwise protected from disclosure. The information is intended to be used solely by the recipient(s) named. Any views or opinions expressed in this message are not necessarily those of Eversource Energy or its affiliates. Any disclosure, copying or distribution of this message or the taking of any action based on its contents, other than by the intended recipient for its intended purpose, is strictly prohibited. If you have received this e-mail in error, please notify the sender immediately and delete it from your system. Email transmission cannot be guaranteed to be error-free or secure or free from viruses, and Eversource Energy disclaims all liability for any resulting damage, errors, or

omissions.

DRAFT

Formatted: Normal, Centered, Indent: Left: 3.11",
Right: 3.05", Space Before: 3.55 pt

~~THIS DOCUMENT CONSTITUTES FORM OF CONFIRMATION ON THE PART OF THE SELLER. IT DOES NOT CONSTITUTE AN OFFER BY PSNH CAPABLE OF ACCEPTANCE AND NO LEGALLY BINDING COMMITMENT OR OBLIGATION RELATED TO THE SUBJECT MATTER OF THIS LETTER SHALL EXIST UNLESS AND UNTIL THE EXECUTION AND DELIVERY OF DEFINITIVE DOCUMENTS BY SELLER CONTAINING TERMS AND CONDITIONS, AND REVIEW BY THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION OF THIS CONFIRMATION AND ITS ATTACHMENT A AS BEING IN CONFORMITY WITH RSA 362-H.~~

TRANSACTIONFORM OF CONFIRMATION

This Transaction Confirmation ("Confirmation") relates to the sale of energy by Bridgewater Power Company, L.P. ("Seller") to Public Service Company of New Hampshire ("PSNH"). This Confirmation is for the sale of Unit Contingent Energy (as defined below) from Seller's Eligible Facility to PSNH (the "Transaction").

PSNH notes that this Transaction is mandated by force of law and is not a voluntarily act of PSNH. This Transaction is not a "Negotiated Rate or Term" as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature's override of the Governor's veto, mandates that PSNH purchase the net energy output of any "Eligible Facility" as defined by RSA 362-H:1,V,(a), located in its service territory at a statutory, non-negotiated "Adjusted Energy Price" as defined by RSA 362-H:1, I.

PSNH's performance under this Confirmation is expressly subject to and conditioned by the terms herein and in Attachment A and an order from the New Hampshire Public Utilities Commission ("NHPUC") reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H and authorizing PSNH to full recovery of the difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory.

Buyer: Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
A New Hampshire corporation

Seller: **Bridgewater Power Company, L.P.**
Legal Name

P.O. Box 678 Ashland, NH 03217
Address

603-968-9602
Telephone

Limited Partnership -NH
Entity Type and State of Formation

Eligible Facility: Seller's 15.7 MW biomass fired generating facility which is located in Bridgewater, New Hampshire, identified in the ISO-NE market settlement system with the Asset name Bridgewater and ID # 357.

Formatted: No underline

Formatted: No underline

Product: Unit Contingent Energy

Delivery Period and Term: The Term begins on the later of the date of the ~~final~~ "NHPUC Order" ~~Determination that this Confirmation and its Attachment A are in conformity with RSA 362-H~~ or February 1, 2019 and continues through July 31, 2019.

Energy Price: PSNH will ~~compensate Seller for Unit Contingent Energy delivered to the Delivery Point at the statutory "Adjusted Energy Price" as defined in RSA 362-H:1, I, which the NHPUC has determined in its Order No. 26,208 dated January 11, 2019 to be \$77.68/MWh pay Seller the \$77.68/MWh "adjusted energy rate" as defined by New Hampshire RSA 362-H:1, I~~ for the Delivery Period.

Formatted: Justified, Indent: Left: 2.14", Right: 0.38", Space Before: 0 pt

Payment Schedule: The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer, Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by ~~Eligible Facility remaining Lead Market Participant – Asset and Lead Market Participant – Resource. Payment will equal Delivered Energy times the difference between the Energy Price and the "Market Energy Clearing Price," including any and all resettlements. Seller shall provide Purchaser sufficient ISO-NE settlement detail to verify Delivered Energy and "Market Energy Clearing Price," designating PSNH, ID 50094, the Asset Owner for ISO-NE energy market billing and settlement purposes. Payment will equal Delivered Energy times the Energy Price adjusted for any revenues or expenses readily identifiable in the ISO-NE bill resulting from ownership not included in "Market Energy Clearing Price," including any and all resettlements.~~

Audit Rights: Buyer and Seller shall each have the right throughout the Term and for a period of six (6) months following when the ISO-NE energy market settlement is final, upon reasonable prior notice, to audit relevant records of the other party to the limited extent necessary to verify the basis for payments.

Delivery Point: The Delivery Point shall be at the interconnection between the Eligible Facility and Buyer's facilities as specified in Seller's existing Interconnection Agreement.

Scheduling: Seller will remain the designated Lead Market Participant – Asset and Lead Market Participant – Resource responsible for scheduling in accordance

with ISO-NE rules and procedures.

Conditions:

This Confirmation and the transactions contemplated hereunder are subject to the following conditions:

- An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H,
- PSNH's requirement to comply with the terms of RSA 362-H arise solely from RSA 362-H.
- The Facility shall maintain its status as an "Eligible facility" per RSA 362-H throughout ~~the such~~ Term.
- Receipt of approval by PSNH from the NHPUC authorizing cost recovery of the difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. PSNH will waive this condition upon Seller's agreement to the "Escrow Provision" set forth herein.

Cost Recovery:

-As provided in RSA 362-H:2, V PSNH is eligible to recover the Transaction's difference between its energy purchase costs and the ~~"Market eEnergy eClearing pPrice"~~ through a nonbypassable delivery services charge applicable to all customer~~s~~ in PSNH's service territory. The charge may include reasonable costs incurred by PSNH, and the charges shall be allocated using the customer class allocation percentages approved in NHPUC docket DE 14-238, ~~eOrder~~ 25,920.

Definitions:

"Day-Ahead Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Real-Time Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Market Energy Clearing Price" means ~~either~~ the Day-Ahead Locational Marginal Price ~~orand~~ Real-Time Locational Marginal Price at the Pricing Node ~~that is~~ applicable to the asset in the ISO-NE energy market settlement for commitments in the day-ahead energy market ~~orand~~ deviations in the real-time energy market, respectively.

"Unit Contingent" means, with respect to this Confirmation, that delivery or receipt of the Product from the Facility may be interrupted for any reason or for no reason by Seller, without liability on the part of either Party. However, Buyer shall be entitled to 100% of the output from the Facility during the Term of this Agreement.

"NHPUC Order" means receipt of a final~~;~~ decision from the New Hampshire Public Utilities Commission, stating that it has reviewed this Confirmation and its Attachment A and finds they are in conformity with

RSA 362-H, and authorizes PSNH to full recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory.

“**Delivered Energy**” is the generation in MWh reported by ISO-NE for the Eligible Facility in the energy market settlement at the price node identified below:

Eligible Facility Generator Name	Asset ID #	Lead Participant	Price Node
BRIDGEWATER	357	Bridgewater Power Company, L.P.	UN.ASHLAND 34.5BRID

Governing Terms:

All other terms and conditions not specified herein shall be in accordance with, and subject to, the attached Governing Terms which are incorporated by reference and made a part hereof. In the event of any inconsistency between the Governing Terms and the terms of a Confirmation, the terms of the Confirmation will govern for the Transaction.

Notices:

Any notice or communication shall be provided to the following:

If to Buyer:

Primary Contact for PSNH:

~~Frederick~~Rick White
860-665-52572 (phone)
860-665-4583 (fax)
rick.white@eversource.com

Secondary Contact for PSNH:

David Errichetti
860-665-4519 (phone)
860-665-4583 (fax)
david.errichetti@eversource.com

If to Seller:

Primary Contact:

Michael O'Leary (name)
603-968-9602 ex. 11(phone)
603-968-9605(fax)
moleary@bridgewater-os.com (email)

Secondary Contact:

Sean Lane (name)
973-753-0181 (phone)
973-254-3619 (fax)
slane@olympuspower.com (email)

~~Seller executes this Draft Confirmation to express its indication of interest to accept the terms hereof and of the attached Governing Terms. A final, execution version of this Confirmation will be provided subsequent to PSNH selecting winning suppliers in its default energy service solicitation and developing proposed residential default energy service rates needed for inclusion in PSNH's filing to the NHPUC for the commission's review of this Confirmation and its Attachment A for conformity with RSA 362-H.~~

BRIDGEWATER POWER COMPANY, L.P.

BY
Name:
Title:
Date

PSNH d/b/a EVERSOURCE ENERGY d/b/a PSNH

BY
Name:
Title:
Date

Formatted: Heading 1, Justified, Right: 1.02", Space Before: 4.55 pt

ATTACHMENT A
GOVERNING TERMS

DRAFT

GOVERNING TERMS FOR THE PURCHASE OF ENERGY BY PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a EVERSOURCE ENERGY PURSUANT TO THE LEGAL MANDATE CONTAINED IN NEW HAMPSHIRE RSA CHAPTER 362-H

Formatted: Centered

This document sets forth the Governing Terms for purchases by Public Service Company of New Hampshire d/b/a Eversource Energy ("Buyer") pursuant to the legal mandate set forth in New Hampshire RSA Chapter 362-H.

Each Transaction (as defined below) is subject to the signed Form of Confirmation and these Governing Terms, is mandated by force of law, is not a voluntary act of PSNH, and further is not a "Negotiated Rate or Term" as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature's override of the Governor's veto, mandates that PSNH purchase the net energy output of any "Eligible Facility" as defined by RSA 362- H:1,V,(a), located in its service territory, including the facility owned by Seller as set forth in the Confirmation (the "Facility").

PSNH's performance hereunder is expressly subject to and conditioned upon the terms herein and in the Confirmation, and an order from the New Hampshire Public Utilities Commission ("NHPUC") reviewing the Confirmation and Governing Terms and finding that the provisions addressed by RSA 362-H and contained therein are in conformity with RSA 362-H and authorizing PSNH to full recovery of the difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customer's in PSNH's service territory.

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in these Governing Terms and not defined herein shall have the same meaning as ascribed to such terms under, first NH RSA Chapter 362-H, then by the ISO-NE Practices and ISO-NE Rules.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

"Business Day" means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

"Buyer" shall mean Public Service Company of New Hampshire.

"Day-Ahead Energy Market" shall have the meaning set forth in the ISO-NE Rules.

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

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

“Deliver” or **“Delivery”** shall mean the supply of Energy into Buyer’s ISO-NE account in accordance with the terms of these Governing Terms, the applicable Confirmation and the ISO-NE Rules.

“Delivery Failure” shall have the meaning set forth in Section 4.3 hereof.

“Delivery Point” shall mean the point of interconnection between the Eligible Facility and Buyer’s facilities as specified in Seller’s existing Interconnection Agreement.

“Commission” shall mean the New Hampshire Public Utilities Commission, or NHPUC.

“Delivery Period” shall have the meaning as set forth in the Confirmation.

“Dispute” shall have the meaning set forth in Section 10.1 hereof.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time at the Buyer’s meter used for billing and revenue determination.

“Energy Price” shall have the meaning as set forth in the Confirmation.

“Event of Default” shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

“Eligible Facility” shall have the meaning set forth in the Confirmation.

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

“Force Majeure” shall have the meaning set forth in Section 10.1(a) hereof.

“Good Utility Practice” shall mean compliance with all applicable laws, codes and regulations, all ISO NE Rules and ISO NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is

made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

“Governmental Entity” shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

“Interconnecting Utility” shall mean the utility (which may be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the transmission system of that utility.

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

“Interconnection Point” shall mean the point of interconnection set forth in the Interconnection Agreement.

“ISO” or **“ISO-NE”** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

“ISO-NE Practices” shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Participants Agreement, and any applicable successor practices and procedures.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the NEPOOL Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

“ISO-NE Tariff” shall mean ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended from time to time.

“ISO Settlement Market System” shall have the meaning as set forth in the ISO-NE Tariff.

“Late Payment Rate” shall have the meaning set forth in Section 5.3.

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

“**Locational Marginal Price**” or “LMP” shall have the meaning set forth in the ISO-NE Tariff for the New Hampshire load zone

“**Meters**” shall have the meaning set forth in Section 4.6(a) hereof.

“**MW**” shall mean a megawatt.

“**MWh**” shall mean a megawatt-hour (one MWh shall equal 1,000 kilowatt-hours).

“**NEPOOL**” shall mean the New England Power Pool and any successor organization.

“**NEPOOL Participants Agreement**” shall mean the Second Restated New England Power Pool Agreement dated as of August 31, 2011, as amended and/or restated from time to time.

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

“**New England Control Area**” shall have the meaning as set forth in the ISO-NE Tariff.

“**Party**” and “**Parties**” shall mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

“**Permits**” shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“**Person**” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

“**Pool Transmission Facilities**” has the meaning given that term in the ISO-NE Rules.

“**Price**” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth ~~o~~_in the Confirmation.

“**Products**” shall mean Energy only.

“Real-Time Energy Market” shall have the meaning as set forth in the ISO-NE Rules.

“Regulatory Approval” shall mean the “NHPUC Order” as set forth in the Confirmation~~NHPUC’s order reviewing the Governing Terms and the Confirmation and finding that they are in conformity with RSA 362-H, provided that such order does not include any conditions or modifications that are inconsistent with RSA 362-H.~~

“RTO” shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC’s Order No. 2000 and FERC’s corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

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

“Seller” shall have the meaning as set forth in the Confirmation.

“Term” shall have the meaning set forth in the Confirmation.

“Transaction” means the sale of Energy produced by the Facility by Seller to Buyer as set forth in the Confirmation.

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

“Unit Contingent” shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating energy, and as further defined in the Confirmation.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. These Governing Terms are effective for the Term.

2.2 Term. The Term of the Transaction is the period set forth in the Confirmation.

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any

Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all

practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under these Governing Terms, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, maintain and operate the Facility in accordance with Good Utility Practice and Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete operation and maintenance functions, so long as Seller maintains overall control over the operation and maintenance of the Facility throughout the Term.

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

(e) ISO-NE Status. Seller shall, at all times during the Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE- related obligations in connection with the Facility and these Governing Terms.

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

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

(h) Compliance with Law. Without limiting the generality of any other provision of these Governing Terms, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies,

criteria, guidelines and requirements imposed by FERC and any other Governmental Entity,

whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with Law. Upon Buyer's request, Seller shall provide Buyer information pertaining to Facility emissions, fuel and operations, and information requested by Buyer to comply with Buyer's disclosure obligations. To the extent Buyer is subject to any other certification or reporting requirement with respect to the Products, Seller shall promptly provide such information to Buyer.

(i) FERC Status. Seller shall obtain and maintain any requisite authority to sell the output of the Facility under applicable law.

(j) Emissions. Seller shall be responsible for all costs associated with the Facility's emissions, including the cost of procuring emission reductions, offsets, allowances or similar items associated with the Facility's emissions, to the extent required to operate the Facility. Without limiting the generality of the foregoing, failure or inability of Seller to procure emission reductions, offsets, allowances or similar items associated with the Facility's emissions shall not constitute a Force Majeure.

3.2 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Throughout the Term, Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of these Governing Terms and the Confirmation. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers during the Term.

(b) Throughout the Term, Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Term, Seller shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with these Governing Terms, all ISO-NE Practices and ISO-NE Rules, as applicable. ~~Seller shall transfer the Energy to Buyer in the Day Ahead Energy Market or Real Time Energy Market, as directed by Buyer and consistent with prevailing electric industry practices at the time, in such a manner that Buyer may resell such Energy in the Day Ahead Energy Market or Real Time Energy Market at the Market Price, as applicable, and Buyer shall have no obligation to pay for any Energy not transferred to Buyer in the Day Ahead Energy Market or Real Time Energy Market or for which Buyer is not credited in the ISO-NE Settlement Market System (including, without limitation, as a result of an outage on any electric transmission system).~~

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.3 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees and other FERC-approved charges in connection with the Delivery of Energy to the Delivery Point. Seller shall also be responsible for all charges, fees and losses required for Delivery of Energy from the Facility to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. Seller shall also apply for and schedule all such services.

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-

NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.4 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the “Meters”), shall be installed, operated, maintained and tested at Seller’s expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller’s expense at least once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer’s expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than one percent (1%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than one percent (1%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The meter used by Buyer (or its Affiliate) for billing and revenue purposes shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Purchase Cost for Products. All Products Delivered to Buyer in accordance with these Governing Terms shall be purchased as specified in the Confirmation.

5.2 Payment and Netting.

(a) Billing Period. The calendar month shall be the standard period for all payments under these Governing Terms. On or before the twenty-first (21st) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days after receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices.

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

|

in this Section 5.2.

- I
- (ii) A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under these Governing Terms on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under these Governing Terms, including any related damages calculated pursuant to these Governing Terms, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the “Money Rates” section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the “Late Payment Rate”).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products (“**Seller’s Taxes**”). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) (“**Buyer’s Taxes**”). In the event Seller shall be required by law or regulation to remit or pay any Buyer’s Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller’s Taxes, Seller shall reimburse Buyer for such payment, and Buyer may deduct any of the amount of any such Seller’s Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller’s or the Facility’s eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller’s accounting, reporting or tax purposes, or to receive any other grant or subsidy from a Governmental Entity or other Person. The obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and Price for and Seller’s obligation to deliver the Products, shall be effective regardless of whether the production and/or sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment during the Term.

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

6.1 **Representations and Warranties of Buyer.** Buyer hereby represents and warrants to Seller as follows:

(a) **Organization and Good Standing; Power and Authority.** Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of New Hampshire. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power to perform its obligations under these Governing Terms.

(b) **Due Authorization; No Conflicts.** Performance by Buyer of these Governing Terms, and the performance by Buyer of its obligations hereunder, are mandated by New Hampshire law and subject to the receipt of the Regulatory Approval.

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

(a) **Organization and Good Standing; Power and Authority.** Seller is duly formed, validly existing and in good standing under the laws of the state of its formation and is authorized to do business in the State of New Hampshire. Seller has all requisite power and

| authority to execute, deliver, and perform its obligations under these Governing Terms.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to own and operate the Facility and to deliver the Products to the Buyer in accordance with these Governing Terms.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(d) Binding Agreement. These Governing Terms has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Seller constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) Consents and Approvals. The execution, delivery and performance by Seller of its obligations under these Governing Terms do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, and final.

(f) Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under these Governing Terms, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under these Governing Terms. The Buyer shall not take title to or risk of loss to any products or services generated, delivered, or sold by the Facility.

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

(h) No Default. No Default or Event of Default has occurred and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under these Governing Terms.

6.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 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 Article 7 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 the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

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

(d) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under these Governing Terms.

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under these Governing Terms or on Buyer or Buyer's ability to receive the benefits under these Governing Terms, provided that if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(c) Failure to Maintain Material Contracts. The failure of Seller to maintain in effect any material agreements required to Deliver the Energy committed to Buyer hereunder to the Delivery Point, including the Interconnection Agreement, provided that if Seller's failure does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(d) Abandonment. On or after the Commercial Operation date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a sale or transfer of the Facility ~~and the Governing Terms and Confirmation~~; or

(e) Assignment. The assignment of these Governing Terms by Seller, except as permitted in accordance with Article 12: ~~or~~;

(f) Failure to Deliver. Seller's failure to deliver Products to Buyer in accordance with these Governing Terms and the applicable Confirmation.

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing

Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

(b) Termination. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate these Governing Terms at its sole discretion by providing written notice of such termination to the Defaulting Party. Such termination shall be with a full reservation of the Non-Defaulting Party's rights and remedies under law and equity.

(c) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THESE GOVERNING TERMS SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. FORCE MAJEURE

9.1 Force Majeure.

(a) The term "**Force Majeure**" means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under these Governing Terms. Under no circumstances shall Force Majeure include (v) any full or partial

curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under these Governing Terms, such performance (other than the obligation to make payment of amounts due and payable under these Governing Terms) shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under these Governing Terms, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 10.1(a) has occurred.

10. DISPUTE RESOLUTION

10.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to these Governing Terms (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior

management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC and/or the FERC depending on the nature of the Dispute.

-

11. INDEMNIFICATION

11.1 Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to Seller's execution, delivery or performance of these Governing Terms, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under these Governing Terms.

11.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of the Seller contest, settle or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of such indemnifying Party or, absent such consent, written consent of Buyer's counsel that such claim is meritorious or warrants settlement

12. ASSIGNMENT AND CHANGE OF CONTROL

The Transaction governed by these Governing Terms may not be assigned by either party except to the extent associated with a merger or consolidation of a Party or in connection with Seller's sale or transfer of its interest (or any part thereof) in the Facility.

13. TITLE; RISK OF LOSS

Title to and risk of loss related to the Delivered Product shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

14. AUDIT

14.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under these Governing Terms, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to these Governing Terms. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment

| or underpayment was made until paid.

14.2 Consolidation of Financial Information. Generally accepted accounting principles and SEC rules may, from time to time, and in accordance with such accounting principles and rules change throughout the Term, requiring Buyer to have access to Seller's financial records and personnel. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's reasonable written request, any and all listed financial information and statements then available to Seller as well as access to financial personnel, to the extent that Buyer needs such information in order to comply with generally accepted accounting principles and SEC rules for financial reporting purposes, subject to Buyer's agreement to maintain the confidentiality and prevent the disclosure of such information.

15. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing, as set forth in the Confirmation.

16. WAIVER AND MODIFICATION

These Governing Terms may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of these Governing Terms shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of these Governing Terms shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine whether any amendment or waiver of the provisions of these Governing Terms shall require NHPUC review of the same for conformity with RSA 362-H, and if Buyer determines that such NHPUC review is required for any amendment or waiver of the provisions of these Governing Terms, then such amendment or waiver shall not become effective unless and until such NHPUC review is obtained.

17. INTERPRETATION

17.1 Choice of Law. Interpretation and performance of these Governing Terms shall be in accordance with, and shall be controlled by, the laws of the State of New Hampshire (without regard to its principles of conflicts of law).

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of these Governing Terms. The words "hereof" and "hereunder" shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

17.3 Change in ISO-NE Rules and Practices. These Governing Terms are subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of these Governing Terms, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Buyer shall modify these Governing Terms and submit the modified document to the NHPUC for its review for conformity with RSA 362-H. The intent is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to these Governing Terms, or (ii) the Price.

17.4 Change in Law or Buyer's Accounting Treatment. If, during the Term of these Governing Terms, there is a change in Law or accounting standards or rules or a change in the interpretation of applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with these Governing Terms or the amounts paid for Products purchased hereunder, the Buyer shall amend or clarify these Governing Terms to avoid or significantly mitigate such impacts and submit such amendments or clarifications to the NHPUC for review for conformity with RSA 362-H.

18. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of the Form of Confirmation may be executed, and each shall have the same force and effect as an original. Facsimile signatures on any notice or other instrument delivered under these Governing Terms shall have the same force and effect as original signatures.

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

If any term or provision of these Governing Terms or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of these Governing Terms and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law.

21. INDEPENDENT CONTRACTOR

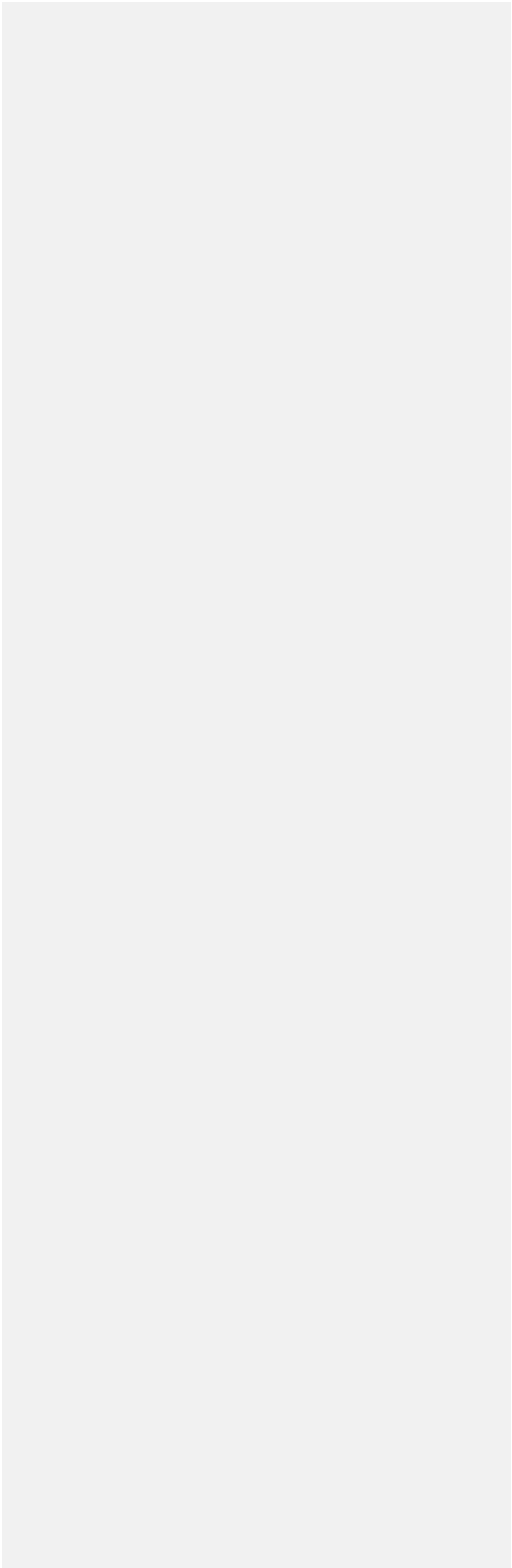
Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be

the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

These Governing Terms and the Confirmation shall govern the entire relationship between the Parties hereto relating to the mandates set forth in NH RSA Chapter 362-H and shall supersede all prior agreements and communications.

I



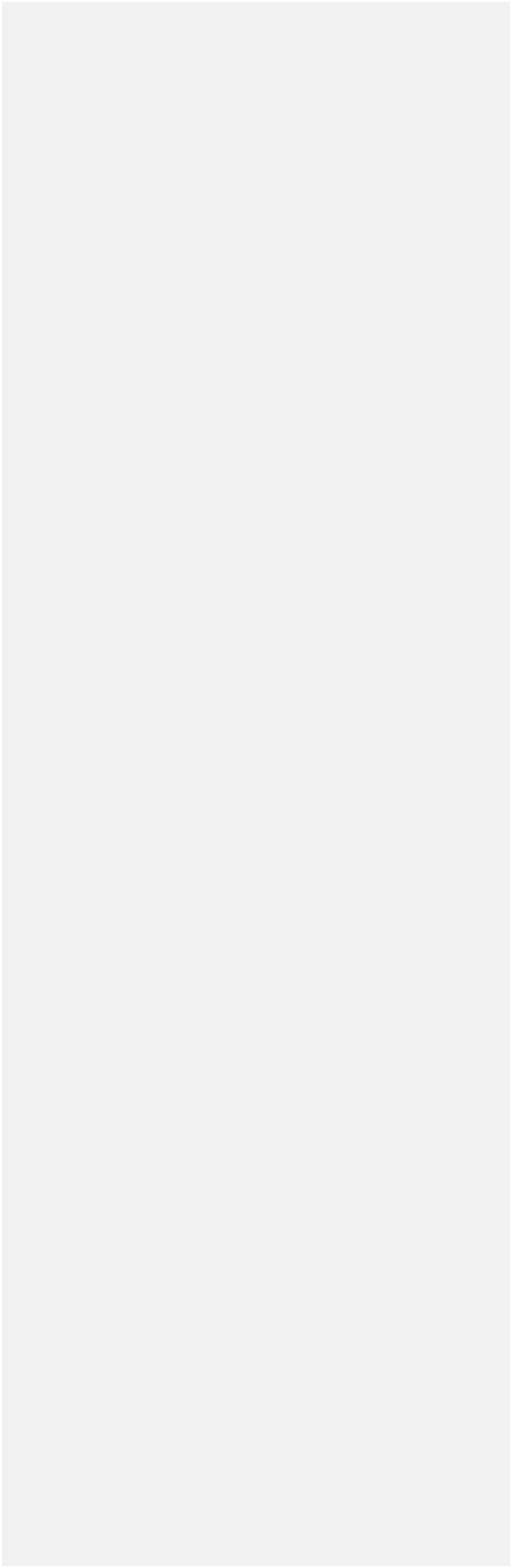


EXHIBIT 12

SHAHEEN & GORDON, P.A.

A T T O R N E Y S A T L A W

Timothy J. McLaughlin
Attorney at Law

Tenacity. Creativity. Results.™

January 31, 2019

Via e-mail only:

robert.bersak@eversource.com

rick.white@eversource.com

david.errichetti@eversource.com

Eversource Energy
Attn: Robert Bersak, Frederick White and David Errichetti
107 Selden Street
Berlin, CT 06037
P.O. Box 270
Hartford CT 06141

Re: Bridgewater Power Company, L.P. – Transaction Confirmation and Governing Terms

Dear Messrs. Bersak, White and Errichetti,

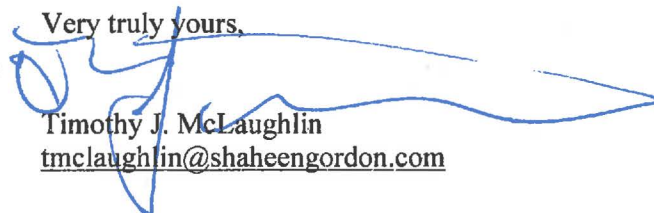
On January 17, 2019, Shaheen & Gordon, P.A. ("S&G") submitted to Public Service Company of New Hampshire d/b/a Eversource ("Eversource") on behalf of Bridgewater Power Company, L.P. its Revised Confirmation and Governing Terms proposal, which conforms with the provisions of RSA 362-H as further clarified by NHPUC Order No. 26,208 ("Order"). Despite being required to do so, Eversource neither selected the January 17, 2019 proposal nor submitted it as the mandated power purchase agreement to the New Hampshire Public Utilities Commission ("Commission") for its RSA 362-H conformity review. Furthermore, Eversource, contrary to the proposer's request, did not identify any non-conforming statutory provisions of the proposal. Instead, nearly two weeks later, on January 28, 2019 and January 30, 2019, Eversource required a multitude of revisions to certain of the business terms of that proposal.

S&G hereby re-submits to Eversource the enclosed proposal on behalf of Bridgewater Power Company, L.P. (in supplementation of its November 16, 2018 and January 17, 2019 submissions). This proposal incorporates all of Eversource's January 28th proposed revisions and the majority of its January 30th business terms revisions, and includes a revised provision on voluntary security measures at Section 5.5 of the Governing Terms. This proposal consists of the enclosed:

- Transaction Confirmation; and
- Governing Terms.

As you know, Eversource "shall select all proposals from eligible facilities that conform to the requirements of this section." See RSA 362-H:2, III (emphasis added). Because this re-submitted proposal conforms to the provisions of RSA 362-H as further clarified by the Order, we expect that Eversource will select it as the mandated power purchase agreement, and that it will submit this "eligible facility agreement[]" to the commission" for its review. See RSA 362-H:2, III.

Very truly yours,



Timothy J. McLaughlin
tmclaughlin@shaheengordon.com

cc: Bridgewater Power Company, L.P.

TRANSACTION CONFIRMATION

This Transaction Confirmation ("Confirmation") relates to the sale of energy by Bridgewater Power Company, L.P. ("Seller") to Public Service Company of New Hampshire ("PSNH"). This Confirmation is for the sale of Unit Contingent Energy (as defined below) from Seller's Eligible Facility to PSNH (the "Transaction").

PSNH notes that this Transaction is mandated by force of law and is not a voluntarily act of PSNH. This Transaction is not a "Negotiated Rate or Term" as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature's override of the Governor's veto, mandates that PSNH purchase the net energy output of any "Eligible Facility" as defined by RSA 362-H:1,V,(a), located in its service territory at a statutory, non-negotiated "Adjusted Energy Price" as defined by RSA 362-H:1, I.

PSNH's performance under this Confirmation is expressly subject to and conditioned by the terms herein and in Attachment A and an order from the New Hampshire Public Utilities Commission ("NHPUC") reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H and, subject to waiver by PSNH, authorizing PSNH to full recovery of the difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory.

Buyer: Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
A New Hampshire corporation

Seller: **Bridgewater Power Company, L.P.**
Legal Name

P.O. Box 678, Ashland, NH 03217

Address

603-968-9602

Telephone

Limited Partnership -NH

Entity Type and State of Formation

Eligible Facility: Seller's 15.7 MW biomass fired generating facility which is located in Bridgewater, New Hampshire, identified in the ISO-NE market settlement system with the Asset name Bridgewater and ID # 357.

Product: Unit Contingent Energy

Delivery Period and Term: The Term begins on the later of the date of the "NHPUC Order" or February 1, 2019 and continues through July 31, 2019.

Energy Price: PSNH will compensate Seller for Unit Contingent Energy delivered to the Delivery Point at the statutory "Adjusted Energy Price" as defined in RSA 362-H:1, I of \$77.68/MWh for the Delivery Period.

Payment Schedule: The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer, Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by Eligible Facility remaining Lead Market Participant – Asset and Lead Market Participant - Resource. Payment will equal Delivered Energy times the difference between the Energy Price and the "Market Energy Clearing Price," including any and all resettlements. Seller shall provide Purchaser sufficient ISO-NE settlement detail to verify Delivered Energy and "Market Energy Clearing Price".

Audit Rights: Buyer and Seller shall each have the right throughout the Term and for a period of six (6) months following when the ISO-NE energy market settlement is final, upon reasonable prior notice, to audit relevant records of the other party to the limited extent necessary to verify the basis for payments.

Delivery Point: The Delivery Point shall be at the interconnection between the Eligible Facility and Buyer's facilities as specified in Seller's existing Interconnection Agreement.

Scheduling: Seller will remain the designated Lead Market Participant – Asset and Lead Market Participant – Resource responsible for scheduling in accordance with ISO-NE rules and procedures.

Conditions:

This Confirmation and the transactions contemplated hereunder are subject to the following conditions:

- An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H,
- PSNH's requirement to comply with the terms of RSA 362-H arise solely from RSA 362-H.
- The Facility shall maintain its status as an "Eligible facility" per RSA 362-H throughout the Term.
- Receipt of approval by PSNH from the NHPUC authorizing cost recovery of the difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. PSNH will waive this condition upon Seller's agreement to the security provision in section 5.5 of Attachment A.

Cost Recovery:

As provided in RSA 362-H:2, V PSNH is eligible to recover the Transaction's difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. The charge may include reasonable costs incurred by PSNH, and the charges shall be allocated using the customer class allocation percentages approved in NHPUC docket DE 14-238, Order 25,920.

Definitions:

"Day-Ahead Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Real-Time Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Market Energy Clearing Price" means either the Day-Ahead Locational Marginal Price or Real-Time Locational Marginal Price at the Pricing Node that is applicable to the asset in the ISO-NE energy market settlement for commitments in the day-ahead energy market or deviations in the real-time energy market, respectively.

"Unit Contingent" means, with respect to this Confirmation, that delivery or receipt of the Product from the Facility may be interrupted for any reason or for no reason by Seller, without liability on the part of either Party. However, Buyer shall be entitled to 100% of the output from the Facility during the Term of this Agreement.

"NHPUC Order" means receipt of a final decision from the New Hampshire Public Utilities Commission, stating that it has reviewed this Confirmation and its Attachment A and finds they are in conformity with RSA 362-H, and, subject to waiver by PSNH upon Seller's agreement to the security provision in section 5.5 of Attachment A, authorizes PSNH to full

recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customers in PSNH’s service territory.

“Delivered Energy” is the generation in MWh reported by ISO-NE for the Eligible Facility in the energy market settlement at the price node identified below:

Eligible Facility Generator Name	Asset ID #	Lead Participant	Price Node
BRIDGEWATER	357	Bridgewater Power Company, L.P.	UN.ASHLAND 34.5BRID

Governing Terms: All other terms and conditions not specified herein shall be in accordance with, and subject to, the attached Governing Terms which are incorporated by reference and made a part hereof. In the event of any inconsistency between the Governing Terms and the terms of a Confirmation, the terms of the Confirmation will govern for the Transaction.

Notices: Any notice or communication shall be provided to the following:

If to Buyer:

Primary Contact for PSNH:

Rick White

860-665-2572 (phone)

860-665-4583 (fax)

rick.white@eversource.com

Secondary Contact for PSNH:

David Errichetti

860-665-4519 (phone)

860-665-4583 (fax)

david.errichetti@eversource.com

If to Seller:

Primary Contact:

Michael O'Leary (name)

603-968-9602 ex. 11 (phone)

603-968-9605 (fax)

moleary@bridgewater-os.com (email)

Secondary Contact:

Sean Lane (name)

973-753-0181 (phone)

973-254-3619 (fax)

slane@olympuspower.com (email)

BRIDGEWATER POWER COMPANY, L.P.



BY

Name: Michael O'Leary
Title: Asset Manager
Date 1/31/2019

PSNH d/b/a EVERSOURCE ENERGY

BY

Name:
Title:
Date

ATTACHMENT A
GOVERNING TERMS

**GOVERNING TERMS
FOR THE PURCHASE OF ENERGY BY
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY
PURSUANT TO THE LEGAL MANDATE CONTAINED IN
NEW HAMPSHIRE RSA CHAPTER 362-H**

This document sets forth the Governing Terms for purchases by Public Service Company of New Hampshire d/b/a Eversource Energy (“Buyer”) pursuant to the legal mandate set forth in New Hampshire RSA Chapter 362-H.

Each Transaction (as defined below) is subject to the signed Form of Confirmation and these Governing Terms, is mandated by force of law, is not a voluntary act of PSNH, and further is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362- H:1, V,(a), located in its service territory, including the facility owned by Seller as set forth in the Confirmation (the “Facility”).

PSNH’s performance hereunder is expressly subject to and conditioned upon the terms herein and in the Confirmation, and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing the Confirmation and Governing Terms and finding that the provisions contained therein are in conformity with RSA 362-H and, subject to waiver by PSNH (as stated in the Confirmation), authorizing PSNH to full recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customer's in PSNH's service territory.

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in these Governing Terms and not defined herein shall have the same meaning as ascribed to such terms under, first NH RSA Chapter 362-H, then by the ISO-NE Practices and ISO-NE Rules.

“**Affiliate**” shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

“**Business Day**” means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

“**Buyer**” shall mean Public Service Company of New Hampshire.

“**Day-Ahead Energy Market**” shall have the meaning set forth in the ISO-NE

Rules.

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

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

“Deliver” or **“Delivery”** shall mean the supply of Energy into Buyer’s ISO-NE account in accordance with the terms of these Governing Terms, the applicable Confirmation and the ISO-NE Rules.

“Delivery Failure” shall have the meaning set forth in Section 4.3 hereof.

“Delivery Point” shall mean the point of interconnection between the Eligible Facility and Buyer’s facilities as specified in Seller’s existing Interconnection Agreement.

“Commission” shall mean the New Hampshire Public Utilities Commission, or NHPUC.

“Delivery Period” shall have the meaning as set forth in the Confirmation.

“Dispute” shall have the meaning set forth in Section 10.1 hereof.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time at the Buyer’s meter used for billing and revenue determination.

“Energy Price” shall have the meaning as set forth in the Confirmation.

“Event of Default” shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

“Eligible Facility” shall have the meaning set forth in the Confirmation.

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

“Force Majeure” shall have the meaning set forth in Section 10.1(a) hereof.

“Good Utility Practice” shall mean compliance with all applicable laws, codes and regulations, all ISO NE Rules and ISO NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is

made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

“Governmental Entity” shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

“Interconnecting Utility” shall mean the utility (which may be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the transmission system of that utility.

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

“Interconnection Point” shall mean the point of interconnection set forth in the Interconnection Agreement.

“ISO” or **“ISO-NE”** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

“ISO-NE Practices” shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Participants Agreement, and any applicable successor practices and procedures.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the NEPOOL Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

“ISO-NE Tariff” shall mean ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended from time to time.

“ISO Settlement Market System” shall have the meaning as set forth in the ISO-NE Tariff.

“Late Payment Rate” shall have the meaning set forth in Section 5.3.

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

“Locational Marginal Price” or “LMP” shall have the meaning set forth in the ISO-NE Tariff for the New Hampshire load zone.

“Market Energy Clearing Price” shall have the meaning as set forth in the Confirmation.

“Meters” shall have the meaning set forth in Section 4.6(a) hereof.

“MW” shall mean a megawatt.

“MWh” shall mean a megawatt-hour (one MWh shall equal 1,000 kilowatt-hours).

“NEPOOL” shall mean the New England Power Pool and any successor organization.

“NEPOOL Participants Agreement” shall mean the Second Restated New England Power Pool Agreement dated as of August 31, 2011, as amended and/or restated from time to time.

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

“New England Control Area” shall have the meaning as set forth in the ISO-NE Tariff.

“Party” and **“Parties”** shall mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

“Permits” shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“Person” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

“Pool Transmission Facilities” has the meaning given that term in the ISO-NE Rules.

“Price” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth in the Confirmation.

“Products” shall mean Energy only.

“Real-Time Energy Market” shall have the meaning as set forth in the ISO-NE Rules.

“Regulatory Approval” shall mean the “NHPUC Order” as set forth in the Confirmation.

“RTO” shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC’s Order No. 2000 and FERC’s corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

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

“Seller” shall have the meaning as set forth in the Confirmation.

“Term” shall have the meaning set forth in the Confirmation.

“Transaction” means the sale of Energy produced by the Facility by Seller to Buyer as set forth in the Confirmation.

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

“Unit Contingent” shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating energy, and as further defined in the Confirmation.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. These Governing Terms are effective for the Term.

2.2 Term. The Term of the Transaction is the period set forth in the Confirmation.

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all

practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under these Governing Terms, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, maintain and operate the Facility in accordance with Good Utility Practice and Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete operation and maintenance functions, so long as Seller maintains overall control over the operation and maintenance of the Facility throughout the Term.

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

(e) ISO-NE Status. Seller shall, at all times during the Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and these Governing Terms.

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

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

(h) Compliance with Law. Without limiting the generality of any other provision of these Governing Terms, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies,

criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with Law. Upon Buyer's request, Seller shall provide Buyer information pertaining to Facility emissions, fuel and operations, and information requested by Buyer to comply with Buyer's disclosure obligations. To the extent Buyer is subject to any other certification or reporting requirement with respect to the Products, Seller shall promptly provide such information to Buyer.

(i) FERC Status. Seller shall obtain and maintain any requisite authority to sell the output of the Facility under applicable law.

(j) Emissions. Seller shall be responsible for all costs associated with the Facility's emissions, including the cost of procuring emission reductions, offsets, allowances or similar items associated with the Facility's emissions, to the extent required to operate the Facility. Without limiting the generality of the foregoing, failure or inability of Seller to procure emission reductions, offsets, allowances or similar items associated with the Facility's emissions shall not constitute a Force Majeure.

3.2 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Throughout the Term, Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of these Governing Terms and the Confirmation. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers during the Term.

(b) Throughout the Term, Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Term, Seller shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with these Governing Terms, all ISO-NE Practices and ISO-NE Rules, as applicable.

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.3 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees and other FERC-approved charges in connection with the Delivery of Energy to the Delivery Point. Seller shall also be responsible for all charges, fees and losses required for Delivery of Energy from the Facility to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. Seller shall also apply for and schedule all such services.

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-

NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.4 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the “Meters”), shall be installed, operated, maintained and tested at Seller’s expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller’s expense at least once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer’s expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than one percent (1%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than one percent (1%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The meter used by Buyer (or its Affiliate) for billing and revenue purposes shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Purchase Cost for Products. All Products Delivered to Buyer in accordance with these Governing Terms shall be purchased as specified in the Confirmation.

5.2 Payment and Netting

(a) Billing Period. The calendar month shall be the standard period for all payments under these Governing Terms. On or before the twenty-first (21st) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days after receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices

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

- (ii) in this Section 5.2.A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under these Governing Terms on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under these Governing Terms, including any related damages calculated pursuant to these Governing Terms, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the “Money Rates” section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the “Late Payment Rate”).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products (“**Seller’s Taxes**”). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) (“**Buyer’s Taxes**”). In the event Seller shall be required by law or regulation to remit or pay any Buyer’s Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller’s Taxes, Seller shall reimburse Buyer for such payment, and Buyer may deduct any of the amount of any such Seller’s Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller’s or the Facility’s eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller’s accounting, reporting or tax purposes, or to receive any other grant or subsidy from a Governmental Entity or other Person. The obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and Price for and Seller’s obligation to deliver the Products, shall be effective regardless of whether the production and/or sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment during the Term.

5.5 Security. Upon Buyer’s written request, Seller shall provide Buyer with collateral in the form of cash, letter(s) of credit, suitable guaranty, or other type of reasonable security mutually acceptable to the parties in an amount equal to the estimated difference between Buyer’s Energy Price and the Market Energy Clearing Price within ten (10) business days following receipt of such written request. Such security may only be exercised in the event that Buyer is required through a final and non-appealable order of the NHPUC to refund to its ratepayers the amount Buyer paid to the Seller above the Market Energy Clearing Price. The collateral would remain in place for the earlier of the Term or the date that the FERC issues a determination in Docket No. EL19-10 on the constitutional validity of RSA Chapter 362-H.

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

6.1 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as follows:

(a) Organization and Good Standing; Power and Authority. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of New Hampshire. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power to perform its obligations under these Governing Terms.

(b) Due Authorization; No Conflicts. Performance by Buyer of these

Governing Terms, and the performance by Buyer of its obligations hereunder are mandated by New Hampshire law and subject to the receipt of the Regulatory Approval.

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

(a) Organization and Good Standing; Power and Authority. Seller is duly formed, validly existing and in good standing under the laws of the state of its formation and is authorized to do business in the State of New Hampshire. Seller has all requisite power and authority to execute, deliver, and perform its obligations under these Governing Terms.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to own and operate the Facility and to deliver the Products to the Buyer in accordance with these Governing Terms.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(d) Binding Agreement. These Governing Terms has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Seller constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) Consents and Approvals. The execution, delivery and performance by Seller of its obligations under these Governing Terms do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, and final.

Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under these Governing Terms, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under these Governing Terms. The Buyer shall not assume risk of loss with respect to any Products or services generated, delivered, or sold by the Facility.

(f)

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

(h) No Default. No Default or Event of Default has occurred and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under these Governing Terms.

6.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 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 Article 7 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 the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

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

(d) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under these Governing Terms.

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under these Governing Terms or on Buyer or Buyer's ability to receive the benefits under these Governing Terms, provided that if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(c) Failure to Maintain Material Contracts. The failure of Seller to maintain in effect any material agreements required to Deliver the Energy committed to Buyer hereunder to the Delivery Point, including the Interconnection Agreement, provided that if Seller's failure does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(d) Abandonment. On or after the Commercial Operation date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a sale or transfer of the Facility; or

(e) Assignment. The assignment of these Governing Terms by Seller, except as permitted in accordance with Article 12; or

(f) Failure to Deliver. Seller's failure to deliver Products to Buyer in accordance with these Governing Terms and the applicable Confirmation.

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing

Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

(b) Termination. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate these Governing Terms at its sole discretion by providing written notice of such termination to the Defaulting Party. Such termination shall be with a full reservation of the Non-Defaulting Party's rights and remedies under law and equity.

(c) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THESE GOVERNING TERMS SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. FORCE MAJEURE

9.1 Force Majeure.

(a) The term "**Force Majeure**" means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under these Governing Terms. Under no circumstances shall Force Majeure include (v) any full or partial

curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under these Governing Terms, such performance (other than the obligation to make payment of amounts due and payable under these Governing Terms) shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under these Governing Terms, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 10.1(a) has occurred.

10. DISPUTE RESOLUTION

10.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to these Governing Terms (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior

management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC and/or the FERC depending on the nature of the Dispute.

11. INDEMNIFICATION

11.1 Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to Seller's execution, delivery or performance of these Governing Terms, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under these Governing Terms.

11.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of the Seller contest, settle or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of such indemnifying Party or, absent such consent, written consent of Buyer's counsel that such claim is meritorious or warrants settlement

12. ASSIGNMENT AND CHANGE OF CONTROL

The Transaction governed by these Governing Terms may not be assigned by either party except to the extent associated with a merger or consolidation of a Party or in connection with Seller's sale or transfer of its interest (or any part thereof) in the Facility.

13. TITLE; RISK OF LOSS

Title to and risk of loss related to the Delivered Product shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

14. AUDIT

14.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under these Governing Terms, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to these Governing Terms. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment

or underpayment was made until paid.

14.2 Consolidation of Financial Information. Generally accepted accounting principles and SEC rules may, from time to time, and in accordance with such accounting principles and rules change throughout the Term, requiring Buyer to have access to Seller's financial records and personnel. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's reasonable written request, any and all listed financial information and statements then available to Seller as well as access to financial personnel, to the extent that Buyer needs such information in order to comply with generally accepted accounting principles and SEC rules for financial reporting purposes, subject to Buyer's agreement to maintain the confidentiality and prevent the disclosure of such information.

15. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing, as set forth in the Confirmation.

16. WAIVER AND MODIFICATION

These Governing Terms may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of these Governing Terms shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of these Governing Terms shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine whether any amendment or waiver of the provisions of these Governing Terms shall require NHPUC review of the same for conformity with RSA 362-H, and if Buyer determines that such NHPUC review is required for any amendment or waiver of the provisions of these Governing Terms, then such amendment or waiver shall not become effective unless and until such NHPUC review is obtained.

17. INTERPRETATION

17.1 Choice of Law. Interpretation and performance of these Governing Terms shall be in accordance with, and shall be controlled by, the laws of the State of New Hampshire (without regard to its principles of conflicts of law).

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of these Governing Terms. The words "hereof" and "hereunder" shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

17.3 Change in ISO-NE Rules and Practices. These Governing Terms are subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of these Governing Terms, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Buyer shall modify these Governing Terms and submit the modified document to the NHPUC for its review for conformity with RSA 362-H. The intent is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to these Governing Terms, or (ii) the Price.

17.4 Change in Law or Buyer's Accounting Treatment. If, during the Term of these Governing Terms, there is a change in Law or accounting standards or rules or a change in the interpretation of applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with these Governing Terms or the amounts paid for Products purchased hereunder, the Buyer shall amend or clarify these Governing Terms to avoid or significantly mitigate such impacts and submit such amendments or clarifications to the NHPUC for review for conformity with RSA 362-H .

18. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of the Form of Confirmation may be executed, and each shall have the same force and effect as an original. Facsimile signatures on any notice or other instrument delivered under these Governing Terms shall have the same force and effect as original signatures.

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

If any term or provision of these Governing Terms or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of these Governing Terms and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law.

21. INDEPENDENT CONTRACTOR

Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be

the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

These Governing Terms and the Confirmation shall govern the entire relationship between the Parties hereto relating to the mandates set forth in NH RSA Chapter 362-H and shall supersede all prior agreements and communications.

EXHIBIT 13

SHAHEEN & GORDON, P.A.

A T T O R N E Y S A T L A W

Timothy J. McLaughlin
Attorney at Law

Tenacity. Creativity. Results.™

January 31, 2019

Via e-mail only:

robert.bersak@eversource.com

rick.white@eversource.com

david.errichetti@eversource.com

Eversource Energy
Attn: Robert Bersak, Frederick White and David Errichetti
107 Selden Street
Berlin, CT 06037
P.O. Box 270
Hartford CT 06141

Re: Springfield Power, LLC – Transaction Confirmation and Governing Terms

Dear Messrs. Bersak, White and Errichetti,

On January 17, 2019, Shaheen & Gordon, P.A. (“S&G”) submitted to Public Service Company of New Hampshire d/b/a Eversource (“Eversource”) on behalf of Springfield Power, LLC its Revised Confirmation and Governing Terms proposal, which conforms with the provisions of RSA 362-H as further clarified by NHPUC Order No. 26,208 (“Order”). Despite being required to do so, Eversource neither selected the January 17, 2019 proposal nor submitted it as the mandated power purchase agreement to the New Hampshire Public Utilities Commission (“Commission”) for its RSA 362-H conformity review. Furthermore, Eversource, contrary to the proposer’s request, did not identify any non-conforming statutory provisions of the proposal. Instead, nearly two weeks later, on January 28, 2019 and January 30, 2019, Eversource required a multitude of revisions to certain of the business terms of that proposal.

S&G hereby re-submits to Eversource the enclosed proposal on behalf of Springfield Power, LLC (in supplementation of its November 16, 2018 and January 17, 2019 submissions). This proposal incorporates all of Eversource’s January 28th proposed revisions and the majority of its January 30th business terms revisions, and includes a revised provision on voluntary security measures at Section 5.5 of the Governing Terms. This proposal consists of the enclosed:

- Transaction Confirmation; and
- Governing Terms.

As you know, Eversource “shall select all proposals from eligible facilities that conform to the requirements of this section.” See RSA 362-H:2, III (emphasis added). Because this re-submitted proposal conforms to the provisions of RSA 362-H as further clarified by the Order, we expect that Eversource will select it as the mandated power purchase agreement, and that it will submit this “eligible facility agreement[] to the commission” for its review. See RSA 362-H:2, III.

Very truly yours,



Timothy J. McLaughlin

tmclaughlin@shaheengordon.com

cc: Springfield Power, LLC

TRANSACTION CONFIRMATION

This Transaction Confirmation (“Confirmation”) relates to the sale of energy by Springfield Power, LLC (“Seller”) to Public Service Company of New Hampshire (“PSNH”). This Confirmation is for the sale of Unit Contingent Energy (as defined below) from Seller’s Eligible Facility to PSNH (the “Transaction”).

PSNH notes that this Transaction is mandated by force of law and is not a voluntarily act of PSNH. This Transaction is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362-H:1,V,(a), located in its service territory at a statutory, non-negotiated “Adjusted Energy Price” as defined by RSA 362-H:1, I.

PSNH’s performance under this Confirmation is expressly subject to and conditioned by the terms herein and in Attachment A and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H and, subject to waiver by PSNH, authorizing PSNH to full recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customers in PSNH’s service territory.

Buyer: Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
A New Hampshire corporation

Seller: **Springfield Power, LLC**
Legal Name

54 Fisher Road, Springfield, NH 03284
Address

603-763-4757
Telephone

Limited Liability Corporation-DE
Entity Type and State of Formation

Eligible Facility: Seller's 17.5 MW biomass fired generating facility which is located in Springfield, New Hampshire, identified in the ISO-NE market settlement system with the Asset name Hemphill 1 and ID # 436.

Product: Unit Contingent Energy

Delivery Period and Term: The Term begins on the later of the date of the "NHPUC Order" or February 1, 2019 and continues through July 31, 2019.

Energy Price: PSNH will compensate Seller for Unit Contingent Energy delivered to the Delivery Point at the statutory "Adjusted Energy Price" as defined in RSA 362-H:1, I of \$77.68/MWh for the Delivery Period.

Payment Schedule: The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer, Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by Eligible Facility remaining Lead Market Participant – Asset and Lead Market Participant - Resource. Payment will equal Delivered Energy times the difference between the Energy Price and the "Market Energy Clearing Price," including any and all resettlements. Seller shall provide Purchaser sufficient ISO-NE settlement detail to verify Delivered Energy and "Market Energy Clearing Price".

Audit Rights: Buyer and Seller shall each have the right throughout the Term and for a period of six (6) months following when the ISO-NE energy market settlement is final, upon reasonable prior notice, to audit relevant records of the other party to the limited extent necessary to verify the basis for payments.

Delivery Point: The Delivery Point shall be at the interconnection between the Eligible Facility and Buyer's facilities as specified in Seller's existing Interconnection Agreement.

Scheduling: Seller will remain the designated Lead Market Participant – Asset and Lead Market Participant – Resource responsible for scheduling in accordance with ISO-NE rules and procedures.

Conditions:

This Confirmation and the transactions contemplated hereunder are subject to the following conditions:

- An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H,
- PSNH's requirement to comply with the terms of RSA 362-H arise solely from RSA 362-H.
- The Facility shall maintain its status as an "Eligible facility" per RSA 362-H throughout the Term.
- Receipt of approval by PSNH from the NHPUC authorizing cost recovery of the difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. PSNH will waive this condition upon Seller's agreement to the security provision in section 5.5 of Attachment A.

Cost Recovery:

As provided in RSA 362-H:2, V PSNH is eligible to recover the Transaction's difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. The charge may include reasonable costs incurred by PSNH, and the charges shall be allocated using the customer class allocation percentages approved in NHPUC docket DE 14-238, Order 25,920.

Definitions:

"Day-Ahead Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Real-Time Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Market Energy Clearing Price" means either the Day-Ahead Locational Marginal Price or Real-Time Locational Marginal Price at the Pricing Node that is applicable to the asset in the ISO-NE energy market settlement for commitments in the day-ahead energy market or deviations in the real-time energy market, respectively.

"Unit Contingent" means, with respect to this Confirmation, that delivery or receipt of the Product from the Facility may be interrupted for any reason or for no reason by Seller, without liability on the part of either Party. However, Buyer shall be entitled to 100% of the output from the Facility during the Term of this Agreement.

"NHPUC Order" means receipt of a final decision from the New Hampshire Public Utilities Commission, stating that it has reviewed this Confirmation and its Attachment A and finds they are in conformity with RSA 362-H, and, subject to waiver by PSNH upon Seller's agreement to the

security provision in section 5.5 of Attachment A, authorizes PSNH to full recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customers in PSNH’s service territory..

“**Delivered Energy**” is the generation in MWh reported by ISO-NE for the Eligible Facility in the energy market settlement at the price node identified below:

Eligible Facility Generator Name	Asset ID #	Lead Participant	Price Node
HEMPHILL	436	Springfield Power, LLC	UN.NORTH_RD34.5HEMP

Governing Terms:

All other terms and conditions not specified herein shall be in accordance with, and subject to, the attached Governing Terms which are incorporated by reference and made a part hereof. In the event of any inconsistency between the Governing Terms and the terms of a Confirmation, the terms of the Confirmation will govern for the Transaction.

Notices:

Any notice or communication shall be provided to the following:

If to Buyer:

Primary Contact for PSNH:

Rick White
860-665-2572 (phone)
860-665-4583 (fax)
rick.white@eversource.com

Secondary Contact for PSNH:

David Errichetti
860-665-4519 (phone)
860-665-4583 (fax)
david.errichetti@eversource.com

If to Seller:

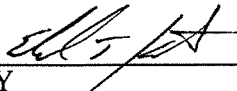
Primary Contact:

Edward Kent (name)
856-206-0930 (phone)
N/A (fax)
Kent-e@ewprc.com (email)

Secondary Contact:

Sean Pak (name)
856-206-0930 (phone)
N/A (fax)
Pak-s@ewprc.com (email)

SPRINGFIELD POWER, LLC



BY
Name: EDWARD KENT
Title: PRESIDENT
Date 1/31/2019

PSNH d/b/a EVERSOURCE ENERGY

BY
Name:
Title:
Date

ATTACHMENT A
GOVERNING TERMS

**GOVERNING TERMS
FOR THE PURCHASE OF ENERGY BY
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY
PURSUANT TO THE LEGAL MANDATE CONTAINED IN
NEW HAMPSHIRE RSA CHAPTER 362-H**

This document sets forth the Governing Terms for purchases by Public Service Company of New Hampshire d/b/a Eversource Energy (“Buyer”) pursuant to the legal mandate set forth in New Hampshire RSA Chapter 362-H.

Each Transaction (as defined below) is subject to the signed Form of Confirmation and these Governing Terms, is mandated by force of law, is not a voluntary act of PSNH, and further is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362- H:1, V,(a), located in its service territory, including the facility owned by Seller as set forth in the Confirmation (the “Facility”).

PSNH’s performance hereunder is expressly subject to and conditioned upon the terms herein and in the Confirmation, and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing the Confirmation and Governing Terms and finding that the provisions contained therein are in conformity with RSA 362-H and, subject to waiver by PSNH (as stated in the Confirmation), authorizing PSNH to full recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customer's in PSNH's service territory.

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in these Governing Terms and not defined herein shall have the same meaning as ascribed to such terms under, first NH RSA Chapter 362-H, then by the ISO-NE Practices and ISO-NE Rules.

“**Affiliate**” shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

“**Business Day**” means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

“**Buyer**” shall mean Public Service Company of New Hampshire.

“**Day-Ahead Energy Market**” shall have the meaning set forth in the ISO-NE

Rules.

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

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

“Deliver” or **“Delivery”** shall mean the supply of Energy into Buyer’s ISO-NE account in accordance with the terms of these Governing Terms, the applicable Confirmation and the ISO-NE Rules.

“Delivery Failure” shall have the meaning set forth in Section 4.3 hereof.

“Delivery Point” shall mean the point of interconnection between the Eligible Facility and Buyer’s facilities as specified in Seller’s existing Interconnection Agreement.

“Commission” shall mean the New Hampshire Public Utilities Commission, or NHPUC.

“Delivery Period” shall have the meaning as set forth in the Confirmation.

“Dispute” shall have the meaning set forth in Section 10.1 hereof.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time at the Buyer’s meter used for billing and revenue determination.

“Energy Price” shall have the meaning as set forth in the Confirmation.

“Event of Default” shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

“Eligible Facility” shall have the meaning set forth in the Confirmation.

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

“Force Majeure” shall have the meaning set forth in Section 10.1(a) hereof.

“Good Utility Practice” shall mean compliance with all applicable laws, codes and regulations, all ISO NE Rules and ISO NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is

made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

“Governmental Entity” shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

“Interconnecting Utility” shall mean the utility (which may be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the transmission system of that utility.

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

“Interconnection Point” shall mean the point of interconnection set forth in the Interconnection Agreement.

“ISO” or **“ISO-NE”** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

“ISO-NE Practices” shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Participants Agreement, and any applicable successor practices and procedures.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the NEPOOL Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

“ISO-NE Tariff” shall mean ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended from time to time.

“ISO Settlement Market System” shall have the meaning as set forth in the ISO-NE Tariff.

“Late Payment Rate” shall have the meaning set forth in Section 5.3.

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

“Locational Marginal Price” or “LMP” shall have the meaning set forth in the ISO-NE Tariff for the New Hampshire load zone.

“Market Energy Clearing Price” shall have the meaning as set forth in the Confirmation.

“Meters” shall have the meaning set forth in Section 4.6(a) hereof.

“MW” shall mean a megawatt.

“MWh” shall mean a megawatt-hour (one MWh shall equal 1,000 kilowatt-hours).

“NEPOOL” shall mean the New England Power Pool and any successor organization.

“NEPOOL Participants Agreement” shall mean the Second Restated New England Power Pool Agreement dated as of August 31, 2011, as amended and/or restated from time to time.

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

“New England Control Area” shall have the meaning as set forth in the ISO-NE Tariff.

“Party” and **“Parties”** shall mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

“Permits” shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“Person” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

“Pool Transmission Facilities” has the meaning given that term in the ISO-NE Rules.

“Price” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth in the Confirmation.

“Products” shall mean Energy only.

“Real-Time Energy Market” shall have the meaning as set forth in the ISO-NE Rules.

“Regulatory Approval” shall mean the “NHPUC Order” as set forth in the Confirmation.

“RTO” shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC’s Order No. 2000 and FERC’s corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

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

“Seller” shall have the meaning as set forth in the Confirmation.

“Term” shall have the meaning set forth in the Confirmation.

“Transaction” means the sale of Energy produced by the Facility by Seller to Buyer as set forth in the Confirmation.

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

“Unit Contingent” shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating energy, and as further defined in the Confirmation.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. These Governing Terms are effective for the Term.

2.2 Term. The Term of the Transaction is the period set forth in the Confirmation.

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all

practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under these Governing Terms, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, maintain and operate the Facility in accordance with Good Utility Practice and Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete operation and maintenance functions, so long as Seller maintains overall control over the operation and maintenance of the Facility throughout the Term.

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

(e) ISO-NE Status. Seller shall, at all times during the Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and these Governing Terms.

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

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

(h) Compliance with Law. Without limiting the generality of any other provision of these Governing Terms, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies,

criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with Law. Upon Buyer's request, Seller shall provide Buyer information pertaining to Facility emissions, fuel and operations, and information requested by Buyer to comply with Buyer's disclosure obligations. To the extent Buyer is subject to any other certification or reporting requirement with respect to the Products, Seller shall promptly provide such information to Buyer.

(i) FERC Status. Seller shall obtain and maintain any requisite authority to sell the output of the Facility under applicable law.

(j) Emissions. Seller shall be responsible for all costs associated with the Facility's emissions, including the cost of procuring emission reductions, offsets, allowances or similar items associated with the Facility's emissions, to the extent required to operate the Facility. Without limiting the generality of the foregoing, failure or inability of Seller to procure emission reductions, offsets, allowances or similar items associated with the Facility's emissions shall not constitute a Force Majeure.

3.2 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Throughout the Term, Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of these Governing Terms and the Confirmation. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers during the Term.

(b) Throughout the Term, Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Term, Seller shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with these Governing Terms, all ISO-NE Practices and ISO-NE Rules, as applicable.

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.3 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees and other FERC-approved charges in connection with the Delivery of Energy to the Delivery Point. Seller shall also be responsible for all charges, fees and losses required for Delivery of Energy from the Facility to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. Seller shall also apply for and schedule all such services.

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-

NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.4 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the “Meters”), shall be installed, operated, maintained and tested at Seller’s expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller’s expense at least once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer’s expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than one percent (1%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than one percent (1%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The meter used by Buyer (or its Affiliate) for billing and revenue purposes shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Purchase Cost for Products. All Products Delivered to Buyer in accordance with these Governing Terms shall be purchased as specified in the Confirmation.

5.2 Payment and Netting

(a) Billing Period. The calendar month shall be the standard period for all payments under these Governing Terms. On or before the twenty-first (21st) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days after receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices

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

- (ii) in this Section 5.2.A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under these Governing Terms on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under these Governing Terms, including any related damages calculated pursuant to these Governing Terms, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the “Money Rates” section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the “Late Payment Rate”).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products (“**Seller’s Taxes**”). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) (“**Buyer’s Taxes**”). In the event Seller shall be required by law or regulation to remit or pay any Buyer’s Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller’s Taxes, Seller shall reimburse Buyer for such payment, and Buyer may deduct any of the amount of any such Seller’s Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller’s or the Facility’s eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller’s accounting, reporting or tax purposes, or to receive any other grant or subsidy from a Governmental Entity or other Person. The obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and Price for and Seller’s obligation to deliver the Products, shall be effective regardless of whether the production and/or sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment during the Term.

5.5 Security. Upon Buyer’s written request, Seller shall provide Buyer with collateral in the form of cash, letter(s) of credit, suitable guaranty, or other type of reasonable security mutually acceptable to the parties in an amount equal to the estimated difference between Buyer’s Energy Price and the Market Energy Clearing Price within ten (10) business days following receipt of such written request. Such security may only be exercised in the event that Buyer is required through a final and non-appealable order of the NHPUC to refund to its ratepayers the amount Buyer paid to the Seller above the Market Energy Clearing Price. The collateral would remain in place for the earlier of the Term or the date that the FERC issues a determination in Docket No. EL19-10 on the constitutional validity of RSA Chapter 362-H.

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

6.1 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as follows:

(a) Organization and Good Standing; Power and Authority. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of New Hampshire. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power to perform its obligations under these Governing Terms.

(b) Due Authorization; No Conflicts. Performance by Buyer of these

Governing Terms, and the performance by Buyer of its obligations hereunder are mandated by New Hampshire law and subject to the receipt of the Regulatory Approval.

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

(a) Organization and Good Standing; Power and Authority. Seller is duly formed, validly existing and in good standing under the laws of the state of its formation and is authorized to do business in the State of New Hampshire. Seller has all requisite power and authority to execute, deliver, and perform its obligations under these Governing Terms.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to own and operate the Facility and to deliver the Products to the Buyer in accordance with these Governing Terms.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(d) Binding Agreement. These Governing Terms has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Seller constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) Consents and Approvals. The execution, delivery and performance by Seller of its obligations under these Governing Terms do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, and final.

Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under these Governing Terms, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under these Governing Terms. The Buyer shall not assume risk of loss with respect to any Products or services generated, delivered, or sold by the Facility.

(f)

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

(h) No Default. No Default or Event of Default has occurred and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under these Governing Terms.

6.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 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 Article 7 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 the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

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

(d) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under these Governing Terms.

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under these Governing Terms or on Buyer or Buyer's ability to receive the benefits under these Governing Terms, provided that if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(c) Failure to Maintain Material Contracts. The failure of Seller to maintain in effect any material agreements required to Deliver the Energy committed to Buyer hereunder to the Delivery Point, including the Interconnection Agreement, provided that if Seller's failure does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(d) Abandonment. On or after the Commercial Operation date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a sale or transfer of the Facility; or

(e) Assignment. The assignment of these Governing Terms by Seller, except as permitted in accordance with Article 12; or

(f) Failure to Deliver. Seller's failure to deliver Products to Buyer in accordance with these Governing Terms and the applicable Confirmation.

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing

Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

(b) Termination. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate these Governing Terms at its sole discretion by providing written notice of such termination to the Defaulting Party. Such termination shall be with a full reservation of the Non-Defaulting Party's rights and remedies under law and equity.

(c) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THESE GOVERNING TERMS SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. FORCE MAJEURE

9.1 Force Majeure.

(a) The term "**Force Majeure**" means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under these Governing Terms. Under no circumstances shall Force Majeure include (v) any full or partial

curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under these Governing Terms, such performance (other than the obligation to make payment of amounts due and payable under these Governing Terms) shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under these Governing Terms, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 10.1(a) has occurred.

10. DISPUTE RESOLUTION

10.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to these Governing Terms (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior

management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC and/or the FERC depending on the nature of the Dispute.

11. INDEMNIFICATION

11.1 Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to Seller's execution, delivery or performance of these Governing Terms, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under these Governing Terms.

11.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of the Seller contest, settle or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of such indemnifying Party or, absent such consent, written consent of Buyer's counsel that such claim is meritorious or warrants settlement

12. ASSIGNMENT AND CHANGE OF CONTROL

The Transaction governed by these Governing Terms may not be assigned by either party except to the extent associated with a merger or consolidation of a Party or in connection with Seller's sale or transfer of its interest (or any part thereof) in the Facility.

13. TITLE; RISK OF LOSS

Title to and risk of loss related to the Delivered Product shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

14. AUDIT

14.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under these Governing Terms, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to these Governing Terms. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment

or underpayment was made until paid.

14.2 Consolidation of Financial Information. Generally accepted accounting principles and SEC rules may, from time to time, and in accordance with such accounting principles and rules change throughout the Term, requiring Buyer to have access to Seller's financial records and personnel. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's reasonable written request, any and all listed financial information and statements then available to Seller as well as access to financial personnel, to the extent that Buyer needs such information in order to comply with generally accepted accounting principles and SEC rules for financial reporting purposes, subject to Buyer's agreement to maintain the confidentiality and prevent the disclosure of such information.

15. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing, as set forth in the Confirmation.

16. WAIVER AND MODIFICATION

These Governing Terms may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of these Governing Terms shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of these Governing Terms shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine whether any amendment or waiver of the provisions of these Governing Terms shall require NHPUC review of the same for conformity with RSA 362-H, and if Buyer determines that such NHPUC review is required for any amendment or waiver of the provisions of these Governing Terms, then such amendment or waiver shall not become effective unless and until such NHPUC review is obtained.

17. INTERPRETATION

17.1 Choice of Law. Interpretation and performance of these Governing Terms shall be in accordance with, and shall be controlled by, the laws of the State of New Hampshire (without regard to its principles of conflicts of law).

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of these Governing Terms. The words "hereof" and "hereunder" shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

17.3 Change in ISO-NE Rules and Practices. These Governing Terms are subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of these Governing Terms, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Buyer shall modify these Governing Terms and submit the modified document to the NHPUC for its review for conformity with RSA 362-H. The intent is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to these Governing Terms, or (ii) the Price.

17.4 Change in Law or Buyer's Accounting Treatment. If, during the Term of these Governing Terms, there is a change in Law or accounting standards or rules or a change in the interpretation of applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with these Governing Terms or the amounts paid for Products purchased hereunder, the Buyer shall amend or clarify these Governing Terms to avoid or significantly mitigate such impacts and submit such amendments or clarifications to the NHPUC for review for conformity with RSA 362-H .

18. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of the Form of Confirmation may be executed, and each shall have the same force and effect as an original. Facsimile signatures on any notice or other instrument delivered under these Governing Terms shall have the same force and effect as original signatures.

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

If any term or provision of these Governing Terms or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of these Governing Terms and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law.

21. INDEPENDENT CONTRACTOR

Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be

the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

These Governing Terms and the Confirmation shall govern the entire relationship between the Parties hereto relating to the mandates set forth in NH RSA Chapter 362-H and shall supersede all prior agreements and communications.

EXHIBIT 14

SHAHEEN & GORDON, P.A.

A T T O R N E Y S A T L A W

Timothy J. McLaughlin
Attorney at Law

Tenacity. Creativity. Results.™

January 31, 2019

Via e-mail only:

robert.bersak@eversource.com

rick.white@eversource.com

david.errichetti@eversource.com

Eversource Energy
Attn: Robert Bersak, Frederick White and David Errichetti
107 Selden Street
Berlin, CT 06037
P.O. Box 270
Hartford CT 06141

Re: DG Whitefield, LLC – Transaction Confirmation and Governing Terms

Dear Messrs. Bersak, White and Errichetti,

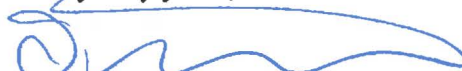
On January 17, 2019, Shaheen & Gordon, P.A. (“S&G”) submitted to Public Service Company of New Hampshire d/b/a Eversource (“Eversource”) on behalf of DG Whitefield, LLC its Revised Confirmation and Governing Terms proposal, which conforms with the provisions of RSA 362-H as further clarified by NHPUC Order No. 26,208 (“Order”). Despite being required to do so, Eversource neither selected the January 17, 2019 proposal nor submitted it as the mandated power purchase agreement to the New Hampshire Public Utilities Commission (“Commission”) for its RSA 362-H conformity review. Furthermore, Eversource, contrary to the proposer’s request, did not identify any non-conforming statutory provisions of the proposal. Instead, nearly two weeks later, on January 28, 2019 and January 30, 2019, Eversource required a multitude of revisions to certain of the business terms of that proposal.

S&G hereby re-submits to Eversource the enclosed proposal on behalf of DG Whitefield, LLC (in supplementation of its November 16, 2018 and January 17, 2019 submissions). This proposal incorporates all of Eversource’s January 28th proposed revisions and the majority of its January 30th business terms revisions, and includes a revised provision on voluntary security measures at Section 5.5 of the Governing Terms. This proposal consists of the enclosed:

- Transaction Confirmation; and
- Governing Terms.

As you know, Eversource “shall select all proposals from eligible facilities that conform to the requirements of this section.” See RSA 362-H:2, III (emphasis added). Because this re-submitted proposal conforms to the provisions of RSA 362-H as further clarified by the Order, we expect that Eversource will select it as the mandated power purchase agreement, and that it will submit this “eligible facility agreement[] to the commission” for its review. See RSA 362-H:2, III.

Very truly yours,



Timothy J. McLaughlin

tmclaughlin@shaheengordon.com

cc: DG Whitefield, LLC

TRANSACTION CONFIRMATION

This Transaction Confirmation ("Confirmation") relates to the sale of energy by DG Whitefield, LLC ("Seller") to Public Service Company of New Hampshire ("PSNH"). This Confirmation is for the sale of Unit Contingent Energy (as defined below) from Seller's Eligible Facility to PSNH (the "Transaction").

PSNH notes that this Transaction is mandated by force of law and is not a voluntarily act of PSNH. This Transaction is not a "Negotiated Rate or Term" as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature's override of the Governor's veto, mandates that PSNH purchase the net energy output of any "Eligible Facility" as defined by RSA 362-H:1,V,(a), located in its service territory at a statutory, non-negotiated "Adjusted Energy Price" as defined by RSA 362-H:1, I.

PSNH's performance under this Confirmation is expressly subject to and conditioned by the terms herein and in Attachment A and an order from the New Hampshire Public Utilities Commission ("NHPUC") reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H and, subject to waiver by PSNH, authorizing PSNH to full recovery of the difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory.

Buyer: Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
A New Hampshire corporation

Seller: **DG Whitefield, LLC**
Legal Name

260 Airport Road, Whitefield, NH 03598

Address

603-837-9328

Telephone

Limited Liability Corporation-DE

Entity Type and State of Formation

Eligible Facility: Seller's 17.0 MW biomass fired generating facility which is located in Whitefield, New Hampshire, identified in the ISO-NE market settlement system with the Asset name DG Whitefield LLC and ID # 618.

Product: Unit Contingent Energy

Delivery Period and Term: The Term begins on the later of the date of the "NHPUC Order" or February 1, 2019 and continues through July 31, 2019.

Energy Price: PSNH will compensate Seller for Unit Contingent Energy delivered to the Delivery Point at the statutory "Adjusted Energy Price" as defined in RSA 362-H:1, I of \$77.68/MWh for the Delivery Period.

Payment Schedule: The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer, Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by Eligible Facility remaining Lead Market Participant – Asset and Lead Market Participant – Resource. Payment will equal Delivered Energy times the difference between the Energy Price and the "Market Energy Clearing Price," including any and all resettlements. Seller shall provide Purchaser sufficient ISO-NE settlement detail to verify Delivered Energy and "Market Energy Clearing Price".

Audit Rights: Buyer and Seller shall each have the right throughout the Term and for a period of six (6) months following when the ISO-NE energy market settlement is final, upon reasonable prior notice, to audit relevant records of the other party to the limited extent necessary to verify the basis for payments.

Delivery Point: The Delivery Point shall be at the interconnection between the Eligible Facility and Buyer's facilities as specified in Seller's existing Interconnection Agreement.

Scheduling: Seller will remain the designated Lead Market Participant – Asset and Lead Market Participant – Resource responsible for scheduling in accordance with ISO-NE rules and procedures.

Conditions:

This Confirmation and the transactions contemplated hereunder are subject to the following conditions:

- An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H,
- PSNH's requirement to comply with the terms of RSA 362-H arise solely from RSA 362-H.
- The Facility shall maintain its status as an "Eligible facility" per RSA 362-H throughout the Term.
- Receipt of approval by PSNH from the NHPUC authorizing cost recovery of the difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. PSNH will waive this condition upon Seller's agreement to the security provision in section 5.5 of Attachment A.

Cost Recovery:

As provided in RSA 362-H:2, V PSNH is eligible to recover the Transaction's difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. The charge may include reasonable costs incurred by PSNH, and the charges shall be allocated using the customer class allocation percentages approved in NHPUC docket DE 14-238, Order 25,920.

Definitions:

"Day-Ahead Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Real-Time Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Market Energy Clearing Price" means either the Day-Ahead Locational Marginal Price or Real-Time Locational Marginal Price at the Pricing Node that is applicable to the asset in the ISO-NE energy market settlement for commitments in the day-ahead energy market or deviations in the real-time energy market, respectively.

"Unit Contingent" means, with respect to this Confirmation, that delivery or receipt of the Product from the Facility may be interrupted for any reason or for no reason by Seller, without liability on the part of either Party. However, Buyer shall be entitled to 100% of the output from the Facility during the Term of this Agreement.

"NHPUC Order" means receipt of a final decision from the New Hampshire Public Utilities Commission, stating that it has reviewed this Confirmation and its Attachment A and finds they are in conformity with RSA 362-H, and, subject to waiver by PSNH upon Seller's agreement to the

security provision in section 5.5 of Attachment A, authorizes PSNH to full recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customers in PSNH’s service territory.

“**Delivered Energy**” is the generation in MWh reported by ISO-NE for the Eligible Facility in the energy market settlement at the price node identified below:

Eligible Facility Generator Name	Asset ID #	Lead Participant	Price Node
DG Whitefield, LLC	618	Springfield Power, LLC	UN.WHITEFLD34.5WFPL

Governing Terms:

All other terms and conditions not specified herein shall be in accordance with, and subject to, the attached Governing Terms which are incorporated by reference and made a part hereof. In the event of any inconsistency between the Governing Terms and the terms of a Confirmation, the terms of the Confirmation will govern for the Transaction.

Notices:

Any notice or communication shall be provided to the following:

If to Buyer:

Primary Contact for PSNH:

Rick White
860-665-2572 (phone)
860-665-4583 (fax)
rick.white@eversource.com

Secondary Contact for PSNH:

David Errichetti
860-665-4519 (phone)
860-665-4583 (fax)
david.errichetti@eversource.com

If to Seller:


Primary Contact:

Edward Kent (name)
856-206-0930 (phone)
N/A (fax)
Kent-e@ewprc.com (email)

Secondary Contact:

Sean Pak (name)
856-206-0930 (phone)
N/A (fax)
Pak-s@ewprc.com (email)

DG WHITEFIELD, LLC



BY
Name: *EDWARD KENT*
Title: *PRESIDENT*
Date: *1/31/2019*

PSNH d/b/a EVERSOURCE ENERGY

BY
Name:
Title:
Date

ATTACHMENT A
GOVERNING TERMS

**GOVERNING TERMS
FOR THE PURCHASE OF ENERGY BY
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY
PURSUANT TO THE LEGAL MANDATE CONTAINED IN
NEW HAMPSHIRE RSA CHAPTER 362-H**

This document sets forth the Governing Terms for purchases by Public Service Company of New Hampshire d/b/a Eversource Energy (“Buyer”) pursuant to the legal mandate set forth in New Hampshire RSA Chapter 362-H.

Each Transaction (as defined below) is subject to the signed Form of Confirmation and these Governing Terms, is mandated by force of law, is not a voluntary act of PSNH, and further is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362- H:1, V,(a), located in its service territory, including the facility owned by Seller as set forth in the Confirmation (the “Facility”).

PSNH’s performance hereunder is expressly subject to and conditioned upon the terms herein and in the Confirmation, and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing the Confirmation and Governing Terms and finding that the provisions contained therein are in conformity with RSA 362-H and, subject to waiver by PSNH (as stated in the Confirmation), authorizing PSNH to full recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customer's in PSNH's service territory.

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in these Governing Terms and not defined herein shall have the same meaning as ascribed to such terms under, first NH RSA Chapter 362-H, then by the ISO-NE Practices and ISO-NE Rules.

“**Affiliate**” shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

“**Business Day**” means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

“**Buyer**” shall mean Public Service Company of New Hampshire.

“**Day-Ahead Energy Market**” shall have the meaning set forth in the ISO-NE

Rules.

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

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

“Deliver” or **“Delivery”** shall mean the supply of Energy into Buyer’s ISO-NE account in accordance with the terms of these Governing Terms, the applicable Confirmation and the ISO-NE Rules.

“Delivery Failure” shall have the meaning set forth in Section 4.3 hereof.

“Delivery Point” shall mean the point of interconnection between the Eligible Facility and Buyer’s facilities as specified in Seller’s existing Interconnection Agreement.

“Commission” shall mean the New Hampshire Public Utilities Commission, or NHPUC.

“Delivery Period” shall have the meaning as set forth in the Confirmation.

“Dispute” shall have the meaning set forth in Section 10.1 hereof.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time at the Buyer’s meter used for billing and revenue determination.

“Energy Price” shall have the meaning as set forth in the Confirmation.

“Event of Default” shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

“Eligible Facility” shall have the meaning set forth in the Confirmation.

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

“Force Majeure” shall have the meaning set forth in Section 10.1(a) hereof.

“Good Utility Practice” shall mean compliance with all applicable laws, codes and regulations, all ISO NE Rules and ISO NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is

made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

“Governmental Entity” shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

“Interconnecting Utility” shall mean the utility (which may be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the transmission system of that utility.

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

“Interconnection Point” shall mean the point of interconnection set forth in the Interconnection Agreement.

“ISO” or **“ISO-NE”** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

“ISO-NE Practices” shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Participants Agreement, and any applicable successor practices and procedures.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the NEPOOL Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

“ISO-NE Tariff” shall mean ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended from time to time.

“ISO Settlement Market System” shall have the meaning as set forth in the ISO-NE Tariff.

“Late Payment Rate” shall have the meaning set forth in Section 5.3.

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

“Locational Marginal Price” or “LMP” shall have the meaning set forth in the ISO-NE Tariff for the New Hampshire load zone.

“Market Energy Clearing Price” shall have the meaning as set forth in the Confirmation.

“Meters” shall have the meaning set forth in Section 4.6(a) hereof.

“MW” shall mean a megawatt.

“MWh” shall mean a megawatt-hour (one MWh shall equal 1,000 kilowatt-hours).

“NEPOOL” shall mean the New England Power Pool and any successor organization.

“NEPOOL Participants Agreement” shall mean the Second Restated New England Power Pool Agreement dated as of August 31, 2011, as amended and/or restated from time to time.

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

“New England Control Area” shall have the meaning as set forth in the ISO-NE Tariff.

“Party” and **“Parties”** shall mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

“Permits” shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“Person” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

“Pool Transmission Facilities” has the meaning given that term in the ISO-NE Rules.

“Price” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth in the Confirmation.

“Products” shall mean Energy only.

“Real-Time Energy Market” shall have the meaning as set forth in the ISO-NE Rules.

“Regulatory Approval” shall mean the “NHPUC Order” as set forth in the Confirmation.

“RTO” shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC’s Order No. 2000 and FERC’s corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

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

“Seller” shall have the meaning as set forth in the Confirmation.

“Term” shall have the meaning set forth in the Confirmation.

“Transaction” means the sale of Energy produced by the Facility by Seller to Buyer as set forth in the Confirmation.

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

“Unit Contingent” shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating energy, and as further defined in the Confirmation.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. These Governing Terms are effective for the Term.

2.2 Term. The Term of the Transaction is the period set forth in the Confirmation.

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all

practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under these Governing Terms, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, maintain and operate the Facility in accordance with Good Utility Practice and Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete operation and maintenance functions, so long as Seller maintains overall control over the operation and maintenance of the Facility throughout the Term.

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

(e) ISO-NE Status. Seller shall, at all times during the Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and these Governing Terms.

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

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

(h) Compliance with Law. Without limiting the generality of any other provision of these Governing Terms, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies,

criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with Law. Upon Buyer's request, Seller shall provide Buyer information pertaining to Facility emissions, fuel and operations, and information requested by Buyer to comply with Buyer's disclosure obligations. To the extent Buyer is subject to any other certification or reporting requirement with respect to the Products, Seller shall promptly provide such information to Buyer.

(i) FERC Status. Seller shall obtain and maintain any requisite authority to sell the output of the Facility under applicable law.

(j) Emissions. Seller shall be responsible for all costs associated with the Facility's emissions, including the cost of procuring emission reductions, offsets, allowances or similar items associated with the Facility's emissions, to the extent required to operate the Facility. Without limiting the generality of the foregoing, failure or inability of Seller to procure emission reductions, offsets, allowances or similar items associated with the Facility's emissions shall not constitute a Force Majeure.

3.2 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Throughout the Term, Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of these Governing Terms and the Confirmation. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers during the Term.

(b) Throughout the Term, Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Term, Seller shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with these Governing Terms, all ISO-NE Practices and ISO-NE Rules, as applicable.

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.3 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees and other FERC-approved charges in connection with the Delivery of Energy to the Delivery Point. Seller shall also be responsible for all charges, fees and losses required for Delivery of Energy from the Facility to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. Seller shall also apply for and schedule all such services.

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-

NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.4 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the “Meters”), shall be installed, operated, maintained and tested at Seller’s expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller’s expense at least once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer’s expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than one percent (1%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than one percent (1%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The meter used by Buyer (or its Affiliate) for billing and revenue purposes shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Purchase Cost for Products. All Products Delivered to Buyer in accordance with these Governing Terms shall be purchased as specified in the Confirmation.

5.2 Payment and Netting

(a) Billing Period. The calendar month shall be the standard period for all payments under these Governing Terms. On or before the twenty-first (21st) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days after receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices

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

- (ii) in this Section 5.2.A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under these Governing Terms on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under these Governing Terms, including any related damages calculated pursuant to these Governing Terms, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the “Money Rates” section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the “Late Payment Rate”).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products (“**Seller’s Taxes**”). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) (“**Buyer’s Taxes**”). In the event Seller shall be required by law or regulation to remit or pay any Buyer’s Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller’s Taxes, Seller shall reimburse Buyer for such payment, and Buyer may deduct any of the amount of any such Seller’s Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller’s or the Facility’s eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller’s accounting, reporting or tax purposes, or to receive any other grant or subsidy from a Governmental Entity or other Person. The obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and Price for and Seller’s obligation to deliver the Products, shall be effective regardless of whether the production and/or sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment during the Term.

5.5 Security. Upon Buyer’s written request, Seller shall provide Buyer with collateral in the form of cash, letter(s) of credit, suitable guaranty, or other type of reasonable security mutually acceptable to the parties in an amount equal to the estimated difference between Buyer’s Energy Price and the Market Energy Clearing Price within ten (10) business days following receipt of such written request. Such security may only be exercised in the event that Buyer is required through a final and non-appealable order of the NHPUC to refund to its ratepayers the amount Buyer paid to the Seller above the Market Energy Clearing Price. The collateral would remain in place for the earlier of the Term or the date that the FERC issues a determination in Docket No. EL19-10 on the constitutional validity of RSA Chapter 362-H.

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

6.1 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as follows:

(a) Organization and Good Standing; Power and Authority. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of New Hampshire. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power to perform its obligations under these Governing Terms.

(b) Due Authorization; No Conflicts. Performance by Buyer of these

Governing Terms, and the performance by Buyer of its obligations hereunder are mandated by New Hampshire law and subject to the receipt of the Regulatory Approval.

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

(a) Organization and Good Standing; Power and Authority. Seller is duly formed, validly existing and in good standing under the laws of the state of its formation and is authorized to do business in the State of New Hampshire. Seller has all requisite power and authority to execute, deliver, and perform its obligations under these Governing Terms.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to own and operate the Facility and to deliver the Products to the Buyer in accordance with these Governing Terms.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(d) Binding Agreement. These Governing Terms has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Seller constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) Consents and Approvals. The execution, delivery and performance by Seller of its obligations under these Governing Terms do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, and final.

Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under these Governing Terms, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under these Governing Terms. The Buyer shall not assume risk of loss with respect to any Products or services generated, delivered, or sold by the Facility.

(f)

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

(h) No Default. No Default or Event of Default has occurred and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under these Governing Terms.

6.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 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 Article 7 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 the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

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

(d) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under these Governing Terms.

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under these Governing Terms or on Buyer or Buyer's ability to receive the benefits under these Governing Terms, provided that if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(c) Failure to Maintain Material Contracts. The failure of Seller to maintain in effect any material agreements required to Deliver the Energy committed to Buyer hereunder to the Delivery Point, including the Interconnection Agreement, provided that if Seller's failure does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(d) Abandonment. On or after the Commercial Operation date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a sale or transfer of the Facility; or

(e) Assignment. The assignment of these Governing Terms by Seller, except as permitted in accordance with Article 12; or

(f) Failure to Deliver. Seller's failure to deliver Products to Buyer in accordance with these Governing Terms and the applicable Confirmation.

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing

Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

(b) Termination. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate these Governing Terms at its sole discretion by providing written notice of such termination to the Defaulting Party. Such termination shall be with a full reservation of the Non-Defaulting Party's rights and remedies under law and equity.

(c) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THESE GOVERNING TERMS SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. FORCE MAJEURE

9.1 Force Majeure.

(a) The term "**Force Majeure**" means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under these Governing Terms. Under no circumstances shall Force Majeure include (v) any full or partial

curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under these Governing Terms, such performance (other than the obligation to make payment of amounts due and payable under these Governing Terms) shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under these Governing Terms, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 10.1(a) has occurred.

10. DISPUTE RESOLUTION

10.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to these Governing Terms (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior

management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC and/or the FERC depending on the nature of the Dispute.

11. INDEMNIFICATION

11.1 Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to Seller's execution, delivery or performance of these Governing Terms, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under these Governing Terms.

11.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of the Seller contest, settle or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of such indemnifying Party or, absent such consent, written consent of Buyer's counsel that such claim is meritorious or warrants settlement

12. ASSIGNMENT AND CHANGE OF CONTROL

The Transaction governed by these Governing Terms may not be assigned by either party except to the extent associated with a merger or consolidation of a Party or in connection with Seller's sale or transfer of its interest (or any part thereof) in the Facility.

13. TITLE; RISK OF LOSS

Title to and risk of loss related to the Delivered Product shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

14. AUDIT

14.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under these Governing Terms, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to these Governing Terms. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment

or underpayment was made until paid.

14.2 Consolidation of Financial Information. Generally accepted accounting principles and SEC rules may, from time to time, and in accordance with such accounting principles and rules change throughout the Term, requiring Buyer to have access to Seller's financial records and personnel. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's reasonable written request, any and all listed financial information and statements then available to Seller as well as access to financial personnel, to the extent that Buyer needs such information in order to comply with generally accepted accounting principles and SEC rules for financial reporting purposes, subject to Buyer's agreement to maintain the confidentiality and prevent the disclosure of such information.

15. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing, as set forth in the Confirmation.

16. WAIVER AND MODIFICATION

These Governing Terms may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of these Governing Terms shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of these Governing Terms shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine whether any amendment or waiver of the provisions of these Governing Terms shall require NHPUC review of the same for conformity with RSA 362-H, and if Buyer determines that such NHPUC review is required for any amendment or waiver of the provisions of these Governing Terms, then such amendment or waiver shall not become effective unless and until such NHPUC review is obtained.

17. INTERPRETATION

17.1 Choice of Law. Interpretation and performance of these Governing Terms shall be in accordance with, and shall be controlled by, the laws of the State of New Hampshire (without regard to its principles of conflicts of law).

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of these Governing Terms. The words "hereof" and "hereunder" shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

17.3 Change in ISO-NE Rules and Practices. These Governing Terms are subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of these Governing Terms, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Buyer shall modify these Governing Terms and submit the modified document to the NHPUC for its review for conformity with RSA 362-H. The intent is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to these Governing Terms, or (ii) the Price.

17.4 Change in Law or Buyer's Accounting Treatment. If, during the Term of these Governing Terms, there is a change in Law or accounting standards or rules or a change in the interpretation of applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with these Governing Terms or the amounts paid for Products purchased hereunder, the Buyer shall amend or clarify these Governing Terms to avoid or significantly mitigate such impacts and submit such amendments or clarifications to the NHPUC for review for conformity with RSA 362-H .

18. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of the Form of Confirmation may be executed, and each shall have the same force and effect as an original. Facsimile signatures on any notice or other instrument delivered under these Governing Terms shall have the same force and effect as original signatures.

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

If any term or provision of these Governing Terms or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of these Governing Terms and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law.

21. INDEPENDENT CONTRACTOR

Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be

the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

These Governing Terms and the Confirmation shall govern the entire relationship between the Parties hereto relating to the mandates set forth in NH RSA Chapter 362-H and shall supersede all prior agreements and communications.

EXHIBIT 15

SHAHEEN & GORDON, P.A.

A T T O R N E Y S A T L A W

Timothy J. McLaughlin
Attorney at Law

Tenacity. Creativity. Results.™

January 31, 2019

Via e-mail only:

robert.bersak@eversource.com

rick.white@eversource.com

david.errichetti@eversource.com

Eversource Energy
Attn: Robert Bersak, Frederick White and David Errichetti
107 Selden Street
Berlin, CT 06037
P.O. Box 270
Hartford CT 06141

Re: Pinetree Power, LLC – Transaction Confirmation and Governing Terms

Dear Messrs. Bersak, White and Errichetti,

On January 17, 2019, Shaheen & Gordon, P.A. (“S&G”) submitted to Public Service Company of New Hampshire d/b/a Eversource (“Eversource”) on behalf of Pinetree Power, LLC its Revised Confirmation and Governing Terms proposal, which conforms with the provisions of RSA 362-H as further clarified by NHPUC Order No. 26,208 (“Order”). Despite being required to do so, Eversource neither selected the January 17, 2019 proposal nor submitted it as the mandated power purchase agreement to the New Hampshire Public Utilities Commission (“Commission”) for its RSA 362-H conformity review. Furthermore, Eversource, contrary to the proposer’s request, did not identify any non-conforming statutory provisions of the proposal. Instead, nearly two weeks later, on January 28, 2019 and January 30, 2019, Eversource required a multitude of revisions to certain of the business terms of that proposal.

S&G hereby re-submits to Eversource the enclosed proposal on behalf of Pinetree Power, LLC (in supplementation of its November 16, 2018 and January 17, 2019 submissions). This proposal incorporates all of Eversource’s January 28th proposed revisions and the majority of its January 30th business terms revisions, and includes a revised provision on voluntary security measures at Section 5.5 of the Governing Terms. This proposal consists of the enclosed:

- Transaction Confirmation; and
- Governing Terms.

As you know, Eversource “shall select all proposals from eligible facilities that conform to the requirements of this section.” See RSA 362-H:2, III (emphasis added). Because this re-submitted proposal conforms to the provisions of RSA 362-H as further clarified by the Order, we expect that Eversource will select it as the mandated power purchase agreement, and that it will submit this “eligible facility agreement[] to the commission” for its review. See RSA 362-H:2, III.

Very truly yours,



Timothy J. McLaughlin

tmclaughlin@shaheengordon.com

cc: Pinetree Power, LLC

TRANSACTION CONFIRMATION

This Transaction Confirmation ("Confirmation") relates to the sale of energy by Pinetree Power, LLC ("Seller") to Public Service Company of New Hampshire ("PSNH"). This Confirmation is for the sale of Unit Contingent Energy (as defined below) from Seller's Eligible Facility to PSNH (the "Transaction").

PSNH notes that this Transaction is mandated by force of law and is not a voluntarily act of PSNH. This Transaction is not a "Negotiated Rate or Term" as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature's override of the Governor's veto, mandates that PSNH purchase the net energy output of any "Eligible Facility" as defined by RSA 362-H:1, V, (a), located in its service territory at a statutory, non-negotiated "Adjusted Energy Price" as defined by RSA 362-H:1, I.

PSNH's performance under this Confirmation is expressly subject to and conditioned by the terms herein and in Attachment A and an order from the New Hampshire Public Utilities Commission ("NHPUC") reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H and, subject to waiver by PSNH, authorizing PSNH to full recovery of the difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory.

Buyer: Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
A New Hampshire corporation

Seller: **Pinetree Power, LLC**
Legal Name

1241 Whitefield Rd., Bethlehem, NH 03574
Address

603-444-9993
Telephone

Limited Liability Company-NH
Entity Type and State of Formation

Eligible Facility: Seller's 15.5 MW biomass fired generating facility which is located in Bethlehem, New Hampshire, identified in the ISO-NE market settlement system with the Asset name Bethlehem and ID # 337.

Product: Unit Contingent Energy

Delivery Period and Term: The Term begins on the later of the date of the "NHPUC Order" or February 1, 2019 and continues through July 31, 2019.

Energy Price: PSNH will compensate Seller for Unit Contingent Energy delivered to the Delivery Point at the statutory "Adjusted Energy Price" as defined in RSA 362-H:1, I of \$77.68/MWh for the Delivery Period.

Payment Schedule: The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer, Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by Eligible Facility remaining Lead Market Participant – Asset and Lead Market Participant - Resource. Payment will equal Delivered Energy times the difference between the Energy Price and the "Market Energy Clearing Price," including any and all resettlements. Seller shall provide Purchaser sufficient ISO-NE settlement detail to verify Delivered Energy and "Market Energy Clearing Price".

Audit Rights: Buyer and Seller shall each have the right throughout the Term and for a period of six (6) months following when the ISO-NE energy market settlement is final, upon reasonable prior notice, to audit relevant records of the other party to the limited extent necessary to verify the basis for payments.

Delivery Point: The Delivery Point shall be at the interconnection between the Eligible Facility and Buyer's facilities as specified in Seller's existing Interconnection Agreement.

Scheduling: Seller will remain the designated Lead Market Participant – Asset and Lead Market Participant – Resource responsible for scheduling in accordance with ISO-NE rules and procedures.

Conditions:

This Confirmation and the transactions contemplated hereunder are subject to the following conditions:

- An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H,
- PSNH's requirement to comply with the terms of RSA 362-H arise solely from RSA 362-H.
- The Facility shall maintain its status as an "Eligible facility" per RSA 362-H throughout the Term.
- Receipt of approval by PSNH from the NHPUC authorizing cost recovery of the difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. PSNH will waive this condition upon Seller's agreement to the security provision in section 5.5 of Attachment A.

Cost Recovery:

As provided in RSA 362-H:2, V PSNH is eligible to recover the Transaction's difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. The charge may include reasonable costs incurred by PSNH, and the charges shall be allocated using the customer class allocation percentages approved in NHPUC docket DE 14-238, Order 25,920.

Definitions:

"Day-Ahead Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Real-Time Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Market Energy Clearing Price" means either the Day-Ahead Locational Marginal Price or Real-Time Locational Marginal Price at the Pricing Node that is applicable to the asset in the ISO-NE energy market settlement for commitments in the day-ahead energy market or deviations in the real-time energy market, respectively.

"Unit Contingent" means, with respect to this Confirmation, that delivery or receipt of the Product from the Facility may be interrupted for any reason or for no reason by Seller, without liability on the part of either Party. However, Buyer shall be entitled to 100% of the output from the Facility during the Term of this Agreement.

"NHPUC Order" means receipt of a final decision from the New Hampshire Public Utilities Commission, stating that it has reviewed this Confirmation and its Attachment A and finds they are in conformity with RSA 362-H, and, subject to waiver by PSNH upon Seller's agreement to the

security provision in section 5.5 of Attachment A, authorizes PSNH to full recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customers in PSNH’s service territory.

“**Delivered Energy**” is the generation in MWh reported by ISO-NE for the Eligible Facility in the energy market settlement at the price node identified below:

Eligible Facility Generator Name	Asset ID #	Lead Participant	Price Node
BETHLEHEM	337	Engie Energy Marketing NA, Inc.	UN.WHITEFIELD34.5BETH

Governing Terms:

All other terms and conditions not specified herein shall be in accordance with, and subject to, the attached Governing Terms which are incorporated by reference and made a part hereof. In the event of any inconsistency between the Governing Terms and the terms of a Confirmation, the terms of the Confirmation will govern for the Transaction.

Notices:

Any notice or communication shall be provided to the following:

If to Buyer:

Primary Contact for PSNH:

Rick White
860-665-2572 (phone)
860-665-4583 (fax)
rick.white@eversource.com

Secondary Contact for PSNH:

David Errichetti
860-665-4519 (phone)
860-665-4583 (fax)
david.errichetti@eversource.com

If to Seller:

Primary Contact:

Mark Driscoll (name)
603-444-9993, ex. 12 (phone)
603-444-6476 (fax)
Mark.driscoll@engie.com (email)

Secondary Contact:

Alonzo Ramirez (name)
713-636-1237 (phone)
713-636-1858 (fax)
Alonzo.ramirez@engie.com (email)

PINETREE POWER, LLC



BY

Name: JOHN B. BOATWRIGHT, JR.

Title: SECRETARY

Date JANUARY 31, 2019

PSNH d/b/a EVERSOURCE ENERGY

BY

Name:

Title:

Date

ATTACHMENT A
GOVERNING TERMS

**GOVERNING TERMS
FOR THE PURCHASE OF ENERGY BY
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY
PURSUANT TO THE LEGAL MANDATE CONTAINED IN
NEW HAMPSHIRE RSA CHAPTER 362-H**

This document sets forth the Governing Terms for purchases by Public Service Company of New Hampshire d/b/a Eversource Energy (“Buyer”) pursuant to the legal mandate set forth in New Hampshire RSA Chapter 362-H.

Each Transaction (as defined below) is subject to the signed Form of Confirmation and these Governing Terms, is mandated by force of law, is not a voluntary act of PSNH, and further is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362- H:1, V,(a), located in its service territory, including the facility owned by Seller as set forth in the Confirmation (the “Facility”).

PSNH’s performance hereunder is expressly subject to and conditioned upon the terms herein and in the Confirmation, and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing the Confirmation and Governing Terms and finding that the provisions contained therein are in conformity with RSA 362-H and, subject to waiver by PSNH (as stated in the Confirmation), authorizing PSNH to full recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customer's in PSNH's service territory.

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in these Governing Terms and not defined herein shall have the same meaning as ascribed to such terms under, first NH RSA Chapter 362-H, then by the ISO-NE Practices and ISO-NE Rules.

“**Affiliate**” shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

“**Business Day**” means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

“**Buyer**” shall mean Public Service Company of New Hampshire.

“**Day-Ahead Energy Market**” shall have the meaning set forth in the ISO-NE

Rules.

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

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

“Deliver” or **“Delivery”** shall mean the supply of Energy into Buyer’s ISO-NE account in accordance with the terms of these Governing Terms, the applicable Confirmation and the ISO-NE Rules.

“Delivery Failure” shall have the meaning set forth in Section 4.3 hereof.

“Delivery Point” shall mean the point of interconnection between the Eligible Facility and Buyer’s facilities as specified in Seller’s existing Interconnection Agreement.

“Commission” shall mean the New Hampshire Public Utilities Commission, or NHPUC.

“Delivery Period” shall have the meaning as set forth in the Confirmation.

“Dispute” shall have the meaning set forth in Section 10.1 hereof.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time at the Buyer’s meter used for billing and revenue determination.

“Energy Price” shall have the meaning as set forth in the Confirmation.

“Event of Default” shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

“Eligible Facility” shall have the meaning set forth in the Confirmation.

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

“Force Majeure” shall have the meaning set forth in Section 10.1(a) hereof.

“Good Utility Practice” shall mean compliance with all applicable laws, codes and regulations, all ISO NE Rules and ISO NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is

made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

“Governmental Entity” shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

“Interconnecting Utility” shall mean the utility (which may be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the transmission system of that utility.

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

“Interconnection Point” shall mean the point of interconnection set forth in the Interconnection Agreement.

“ISO” or **“ISO-NE”** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

“ISO-NE Practices” shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Participants Agreement, and any applicable successor practices and procedures.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the NEPOOL Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

“ISO-NE Tariff” shall mean ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended from time to time.

“ISO Settlement Market System” shall have the meaning as set forth in the ISO-NE Tariff.

“Late Payment Rate” shall have the meaning set forth in Section 5.3.

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

“Locational Marginal Price” or “LMP” shall have the meaning set forth in the ISO-NE Tariff for the New Hampshire load zone.

“Market Energy Clearing Price” shall have the meaning as set forth in the Confirmation.

“Meters” shall have the meaning set forth in Section 4.6(a) hereof.

“MW” shall mean a megawatt.

“MWh” shall mean a megawatt-hour (one MWh shall equal 1,000 kilowatt-hours).

“NEPOOL” shall mean the New England Power Pool and any successor organization.

“NEPOOL Participants Agreement” shall mean the Second Restated New England Power Pool Agreement dated as of August 31, 2011, as amended and/or restated from time to time.

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

“New England Control Area” shall have the meaning as set forth in the ISO-NE Tariff.

“Party” and **“Parties”** shall mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

“Permits” shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“Person” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

“Pool Transmission Facilities” has the meaning given that term in the ISO-NE Rules.

“Price” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth in the Confirmation.

“Products” shall mean Energy only.

“Real-Time Energy Market” shall have the meaning as set forth in the ISO-NE Rules.

“Regulatory Approval” shall mean the “NHPUC Order” as set forth in the Confirmation.

“RTO” shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC’s Order No. 2000 and FERC’s corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

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

“Seller” shall have the meaning as set forth in the Confirmation.

“Term” shall have the meaning set forth in the Confirmation.

“Transaction” means the sale of Energy produced by the Facility by Seller to Buyer as set forth in the Confirmation.

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

“Unit Contingent” shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating energy, and as further defined in the Confirmation.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. These Governing Terms are effective for the Term.

2.2 Term. The Term of the Transaction is the period set forth in the Confirmation.

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all

practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under these Governing Terms, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, maintain and operate the Facility in accordance with Good Utility Practice and Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete operation and maintenance functions, so long as Seller maintains overall control over the operation and maintenance of the Facility throughout the Term.

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

(e) ISO-NE Status. Seller shall, at all times during the Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE-related obligations in connection with the Facility and these Governing Terms.

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

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

(h) Compliance with Law. Without limiting the generality of any other provision of these Governing Terms, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies,

criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with Law. Upon Buyer's request, Seller shall provide Buyer information pertaining to Facility emissions, fuel and operations, and information requested by Buyer to comply with Buyer's disclosure obligations. To the extent Buyer is subject to any other certification or reporting requirement with respect to the Products, Seller shall promptly provide such information to Buyer.

(i) FERC Status. Seller shall obtain and maintain any requisite authority to sell the output of the Facility under applicable law.

(j) Emissions. Seller shall be responsible for all costs associated with the Facility's emissions, including the cost of procuring emission reductions, offsets, allowances or similar items associated with the Facility's emissions, to the extent required to operate the Facility. Without limiting the generality of the foregoing, failure or inability of Seller to procure emission reductions, offsets, allowances or similar items associated with the Facility's emissions shall not constitute a Force Majeure.

3.2 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Throughout the Term, Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of these Governing Terms and the Confirmation. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers during the Term.

(b) Throughout the Term, Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Term, Seller shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with these Governing Terms, all ISO-NE Practices and ISO-NE Rules, as applicable.

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.3 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees and other FERC-approved charges in connection with the Delivery of Energy to the Delivery Point. Seller shall also be responsible for all charges, fees and losses required for Delivery of Energy from the Facility to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. Seller shall also apply for and schedule all such services.

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-

NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.4 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the “Meters”), shall be installed, operated, maintained and tested at Seller’s expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller’s expense at least once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer’s expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than one percent (1%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than one percent (1%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The meter used by Buyer (or its Affiliate) for billing and revenue purposes shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Purchase Cost for Products. All Products Delivered to Buyer in accordance with these Governing Terms shall be purchased as specified in the Confirmation.

5.2 Payment and Netting

(a) Billing Period. The calendar month shall be the standard period for all payments under these Governing Terms. On or before the twenty-first (21st) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days after receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices

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

- (ii) in this Section 5.2.A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under these Governing Terms on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under these Governing Terms, including any related damages calculated pursuant to these Governing Terms, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the “Money Rates” section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the “Late Payment Rate”).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products (“**Seller’s Taxes**”). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) (“**Buyer’s Taxes**”). In the event Seller shall be required by law or regulation to remit or pay any Buyer’s Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller’s Taxes, Seller shall reimburse Buyer for such payment, and Buyer may deduct any of the amount of any such Seller’s Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller’s or the Facility’s eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller’s accounting, reporting or tax purposes, or to receive any other grant or subsidy from a Governmental Entity or other Person. The obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and Price for and Seller’s obligation to deliver the Products, shall be effective regardless of whether the production and/or sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment during the Term.

5.5 Security. Upon Buyer’s written request, Seller shall provide Buyer with collateral in the form of cash, letter(s) of credit, suitable guaranty, or other type of reasonable security mutually acceptable to the parties in an amount equal to the estimated difference between Buyer’s Energy Price and the Market Energy Clearing Price within ten (10) business days following receipt of such written request. Such security may only be exercised in the event that Buyer is required through a final and non-appealable order of the NHPUC to refund to its ratepayers the amount Buyer paid to the Seller above the Market Energy Clearing Price. The collateral would remain in place for the earlier of the Term or the date that the FERC issues a determination in Docket No. EL19-10 on the constitutional validity of RSA Chapter 362-H.

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

6.1 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as follows:

(a) Organization and Good Standing; Power and Authority. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of New Hampshire. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power to perform its obligations under these Governing Terms.

(b) Due Authorization; No Conflicts. Performance by Buyer of these

Governing Terms, and the performance by Buyer of its obligations hereunder are mandated by New Hampshire law and subject to the receipt of the Regulatory Approval.

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

(a) Organization and Good Standing; Power and Authority. Seller is duly formed, validly existing and in good standing under the laws of the state of its formation and is authorized to do business in the State of New Hampshire. Seller has all requisite power and authority to execute, deliver, and perform its obligations under these Governing Terms.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to own and operate the Facility and to deliver the Products to the Buyer in accordance with these Governing Terms.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(d) Binding Agreement. These Governing Terms has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Seller constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) Consents and Approvals. The execution, delivery and performance by Seller of its obligations under these Governing Terms do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, and final.

Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under these Governing Terms, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under these Governing Terms. The Buyer shall not assume risk of loss with respect to any Products or services generated, delivered, or sold by the Facility.

(f)

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

(h) No Default. No Default or Event of Default has occurred and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under these Governing Terms.

6.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 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 Article 7 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 the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

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

(d) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under these Governing Terms.

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under these Governing Terms or on Buyer or Buyer's ability to receive the benefits under these Governing Terms, provided that if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(c) Failure to Maintain Material Contracts. The failure of Seller to maintain in effect any material agreements required to Deliver the Energy committed to Buyer hereunder to the Delivery Point, including the Interconnection Agreement, provided that if Seller's failure does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(d) Abandonment. On or after the Commercial Operation date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a sale or transfer of the Facility; or

(e) Assignment. The assignment of these Governing Terms by Seller, except as permitted in accordance with Article 12; or

(f) Failure to Deliver. Seller's failure to deliver Products to Buyer in accordance with these Governing Terms and the applicable Confirmation.

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing

Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

(b) Termination. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate these Governing Terms at its sole discretion by providing written notice of such termination to the Defaulting Party. Such termination shall be with a full reservation of the Non-Defaulting Party's rights and remedies under law and equity.

(c) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THESE GOVERNING TERMS SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. FORCE MAJEURE

9.1 Force Majeure.

(a) The term "**Force Majeure**" means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under these Governing Terms. Under no circumstances shall Force Majeure include (v) any full or partial

curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under these Governing Terms, such performance (other than the obligation to make payment of amounts due and payable under these Governing Terms) shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under these Governing Terms, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 10.1(a) has occurred.

10. DISPUTE RESOLUTION

10.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to these Governing Terms (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior

management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC and/or the FERC depending on the nature of the Dispute.

11. INDEMNIFICATION

11.1 Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to Seller's execution, delivery or performance of these Governing Terms, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under these Governing Terms.

11.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of the Seller contest, settle or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of such indemnifying Party or, absent such consent, written consent of Buyer's counsel that such claim is meritorious or warrants settlement

12. ASSIGNMENT AND CHANGE OF CONTROL

The Transaction governed by these Governing Terms may not be assigned by either party except to the extent associated with a merger or consolidation of a Party or in connection with Seller's sale or transfer of its interest (or any part thereof) in the Facility.

13. TITLE; RISK OF LOSS

Title to and risk of loss related to the Delivered Product shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

14. AUDIT

14.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under these Governing Terms, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to these Governing Terms. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment

or underpayment was made until paid.

14.2 Consolidation of Financial Information. Generally accepted accounting principles and SEC rules may, from time to time, and in accordance with such accounting principles and rules change throughout the Term, requiring Buyer to have access to Seller's financial records and personnel. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's reasonable written request, any and all listed financial information and statements then available to Seller as well as access to financial personnel, to the extent that Buyer needs such information in order to comply with generally accepted accounting principles and SEC rules for financial reporting purposes, subject to Buyer's agreement to maintain the confidentiality and prevent the disclosure of such information.

15. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing, as set forth in the Confirmation.

16. WAIVER AND MODIFICATION

These Governing Terms may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of these Governing Terms shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of these Governing Terms shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine whether any amendment or waiver of the provisions of these Governing Terms shall require NHPUC review of the same for conformity with RSA 362-H, and if Buyer determines that such NHPUC review is required for any amendment or waiver of the provisions of these Governing Terms, then such amendment or waiver shall not become effective unless and until such NHPUC review is obtained.

17. INTERPRETATION

17.1 Choice of Law. Interpretation and performance of these Governing Terms shall be in accordance with, and shall be controlled by, the laws of the State of New Hampshire (without regard to its principles of conflicts of law).

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of these Governing Terms. The words "hereof" and "hereunder" shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

17.3 Change in ISO-NE Rules and Practices. These Governing Terms are subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of these Governing Terms, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Buyer shall modify these Governing Terms and submit the modified document to the NHPUC for its review for conformity with RSA 362-H. The intent is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to these Governing Terms, or (ii) the Price.

17.4 Change in Law or Buyer's Accounting Treatment. If, during the Term of these Governing Terms, there is a change in Law or accounting standards or rules or a change in the interpretation of applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with these Governing Terms or the amounts paid for Products purchased hereunder, the Buyer shall amend or clarify these Governing Terms to avoid or significantly mitigate such impacts and submit such amendments or clarifications to the NHPUC for review for conformity with RSA 362-H .

18. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of the Form of Confirmation may be executed, and each shall have the same force and effect as an original. Facsimile signatures on any notice or other instrument delivered under these Governing Terms shall have the same force and effect as original signatures.

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

If any term or provision of these Governing Terms or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of these Governing Terms and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law.

21. INDEPENDENT CONTRACTOR

Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be

the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

These Governing Terms and the Confirmation shall govern the entire relationship between the Parties hereto relating to the mandates set forth in NH RSA Chapter 362-H and shall supersede all prior agreements and communications.

EXHIBIT 16

SHAHEEN & GORDON, P.A.

A T T O R N E Y S A T L A W

Timothy J. McLaughlin
Attorney at Law

Tenacity. Creativity. Results.™

January 31, 2019

Via e-mail only:

robert.bersak@eversource.com

rick.white@eversource.com

david.errichetti@eversource.com

Eversource Energy
Attn: Robert Bersak, Frederick White and David Errichetti
107 Selden Street
Berlin, CT 06037
P.O. Box 270
Hartford CT 06141

Re: Pinetree Power Tamworth, LLC – Transaction Confirmation and Governing Terms

Dear Messrs. Bersak, White and Errichetti,

On January 17, 2019, Shaheen & Gordon, P.A. (“S&G”) submitted to Public Service Company of New Hampshire d/b/a Eversource (“Eversource”) on behalf of Pinetree Power Tamworth, LLC its Revised Confirmation and Governing Terms proposal, which conforms with the provisions of RSA 362-H as further clarified by NHPUC Order No. 26,208 (“Order”). Despite being required to do so, Eversource neither selected the January 17, 2019 proposal nor submitted it as the mandated power purchase agreement to the New Hampshire Public Utilities Commission (“Commission”) for its RSA 362-H conformity review. Furthermore, Eversource, contrary to the proposer’s request, did not identify any non-conforming statutory provisions of the proposal. Instead, nearly two weeks later, on January 28, 2019 and January 30, 2019, Eversource required a multitude of revisions to certain of the business terms of that proposal.

S&G hereby re-submits to Eversource the enclosed proposal on behalf of Pinetree Power Tamworth, LLC (in supplementation of its November 16, 2018 and January 17, 2019 submissions). This proposal incorporates all of Eversource’s January 28th proposed revisions and the majority of its January 30th business terms revisions, and includes a revised provision on voluntary security measures at Section 5.5 of the Governing Terms. This proposal consists of the enclosed:

- Transaction Confirmation; and
- Governing Terms.

As you know, Eversource “shall select all proposals from eligible facilities that conform to the requirements of this section.” See RSA 362-H:2, III (emphasis added). Because this re-submitted proposal conforms to the provisions of RSA 362-H as further clarified by the Order, we expect that Eversource will select it as the mandated power purchase agreement, and that it will submit this “eligible facility agreement[] to the commission” for its review. See RSA 362-H:2, III.

Very truly yours,

Timothy J. McLaughlin

tmclaughlin@shaheengordon.com

cc: Pinetree Power Tamworth, LLC

TRANSACTION CONFIRMATION

This Transaction Confirmation ("Confirmation") relates to the sale of energy by Pinetree Power Tamworth, LLC ("Seller") to Public Service Company of New Hampshire ("PSNH"). This Confirmation is for the sale of Unit Contingent Energy (as defined below) from Seller's Eligible Facility to PSNH (the "Transaction").

PSNH notes that this Transaction is mandated by force of law and is not a voluntarily act of PSNH. This Transaction is not a "Negotiated Rate or Term" as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature's override of the Governor's veto, mandates that PSNH purchase the net energy output of any "Eligible Facility" as defined by RSA 362-H:1, V, (a), located in its service territory at a statutory, non-negotiated "Adjusted Energy Price" as defined by RSA 362-H:1, I.

PSNH's performance under this Confirmation is expressly subject to and conditioned by the terms herein and in Attachment A and an order from the New Hampshire Public Utilities Commission ("NHPUC") reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H and, subject to waiver by PSNH, authorizing PSNH to full recovery of the difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory.

Buyer: Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
A New Hampshire corporation

Seller: **Pinetree Power Tamworth, LLC**
Legal Name

69 Plains Rd., Tamworth, NH 03890
Address

603-323-8187
Telephone

Limited Liability Company-NH
Entity Type and State of Formation

Eligible Facility: Seller's 20.5 MW biomass fired generating facility which is located in Tamworth, New Hampshire, identified in the ISO-NE market settlement system with the Asset name Tamworth and ID # 592.

Product: Unit Contingent Energy

Delivery Period and Term: The Term begins on the later of the date of the "NHPUC Order" or February 1, 2019 and continues through July 31, 2019.

Energy Price: PSNH will compensate Seller for Unit Contingent Energy delivered to the Delivery Point at the statutory "Adjusted Energy Price" as defined in RSA 362-H:1, I of \$77.68/MWh for the Delivery Period.

Payment Schedule: The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer, Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by Eligible Facility remaining Lead Market Participant – Asset and Lead Market Participant - Resource. Payment will equal Delivered Energy times the difference between the Energy Price and the "Market Energy Clearing Price," including any and all resettlements. Seller shall provide Purchaser sufficient ISO-NE settlement detail to verify Delivered Energy and "Market Energy Clearing Price".

Audit Rights: Buyer and Seller shall each have the right throughout the Term and for a period of six (6) months following when the ISO-NE energy market settlement is final, upon reasonable prior notice, to audit relevant records of the other party to the limited extent necessary to verify the basis for payments.

Delivery Point: The Delivery Point shall be at the interconnection between the Eligible Facility and Buyer's facilities as specified in Seller's existing Interconnection Agreement.

Scheduling: Seller will remain the designated Lead Market Participant – Asset and Lead Market Participant – Resource responsible for scheduling in accordance with ISO-NE rules and procedures.

Conditions:

This Confirmation and the transactions contemplated hereunder are subject to the following conditions:

- An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H,
- PSNH's requirement to comply with the terms of RSA 362-H arise solely from RSA 362-H.
- The Facility shall maintain its status as an "Eligible facility" per RSA 362-H throughout the Term.
- Receipt of approval by PSNH from the NHPUC authorizing cost recovery of the difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. PSNH will waive this condition upon Seller's agreement to the security provision in section 5.5 of Attachment A.

Cost Recovery:

As provided in RSA 362-H:2, V PSNH is eligible to recover the Transaction's difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. The charge may include reasonable costs incurred by PSNH, and the charges shall be allocated using the customer class allocation percentages approved in NHPUC docket DE 14-238, Order 25,920.

Definitions:

"Day-Ahead Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Real-Time Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Market Energy Clearing Price" means either the Day-Ahead Locational Marginal Price or Real-Time Locational Marginal Price at the Pricing Node that is applicable to the asset in the ISO-NE energy market settlement for commitments in the day-ahead energy market or deviations in the real-time energy market, respectively.

"Unit Contingent" means, with respect to this Confirmation, that delivery or receipt of the Product from the Facility may be interrupted for any reason or for no reason by Seller, without liability on the part of either Party. However, Buyer shall be entitled to 100% of the output from the Facility during the Term of this Agreement.

"NHPUC Order" means receipt of a final decision from the New Hampshire Public Utilities Commission, stating that it has reviewed this Confirmation and its Attachment A and finds they are in conformity with RSA 362-H, and, subject to waiver by PSNH upon Seller's agreement to

the security provision in section 5.5 of Attachment A, authorizes PSNH to full recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customers in PSNH’s service territory.

“**Delivered Energy**” is the generation in MWh reported by ISO-NE for the Eligible Facility in the energy market settlement at the price node identified below:

Eligible Facility Generator Name	Asset ID #	Lead Participant	Price Node
Tamworth	592	Engie Energy Marketing NA, Inc.	UN.TAMWORTH115TAMW

Governing Terms:

All other terms and conditions not specified herein shall be in accordance with, and subject to, the attached Governing Terms which are incorporated by reference and made a part hereof. In the event of any inconsistency between the Governing Terms and the terms of a Confirmation, the terms of the Confirmation will govern for the Transaction.

Notices:

Any notice or communication shall be provided to the following:

If to Buyer:

Primary Contact for PSNH:

Rick White
860-665-2572 (phone)
860-665-4583 (fax)
rick.white@eversource.com

Secondary Contact for PSNH:

David Errichetti
860-665-4519 (phone)
860-665-4583 (fax)
david.errichetti@eversource.com

If to Seller:


Primary Contact:

Robert Lussier (name)
603-323-8187 (phone)
603-323-7501 (fax)
Robert.lussier@engie.com (email)

Secondary Contact:

Alonzo Ramirez (name)
713-636-1237 (phone)
713-636-1858 (fax)
Alonzo.ramirez@engie.com (email)

PINETREE POWER TAMWORTH, LLC


BY
Name: JOHN B. BOATWRIGHT, JR.
Title: SECRETARY
Date JANUARY 31, 2019

PSNH d/b/a EVERSOURCE ENERGY

BY
Name:
Title:
Date

ATTACHMENT A
GOVERNING TERMS

**GOVERNING TERMS
FOR THE PURCHASE OF ENERGY BY
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY
PURSUANT TO THE LEGAL MANDATE CONTAINED IN
NEW HAMPSHIRE RSA CHAPTER 362-H**

This document sets forth the Governing Terms for purchases by Public Service Company of New Hampshire d/b/a Eversource Energy (“Buyer”) pursuant to the legal mandate set forth in New Hampshire RSA Chapter 362-H.

Each Transaction (as defined below) is subject to the signed Form of Confirmation and these Governing Terms, is mandated by force of law, is not a voluntary act of PSNH, and further is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362- H:1, V,(a), located in its service territory, including the facility owned by Seller as set forth in the Confirmation (the “Facility”).

PSNH’s performance hereunder is expressly subject to and conditioned upon the terms herein and in the Confirmation, and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing the Confirmation and Governing Terms and finding that the provisions contained therein are in conformity with RSA 362-H and, subject to waiver by PSNH (as stated in the Confirmation), authorizing PSNH to full recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customer's in PSNH's service territory.

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in these Governing Terms and not defined herein shall have the same meaning as ascribed to such terms under, first NH RSA Chapter 362-H, then by the ISO-NE Practices and ISO-NE Rules.

“**Affiliate**” shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

“**Business Day**” means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

“**Buyer**” shall mean Public Service Company of New Hampshire.

“**Day-Ahead Energy Market**” shall have the meaning set forth in the ISO-NE

Rules.

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

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

“Deliver” or **“Delivery”** shall mean the supply of Energy into Buyer’s ISO-NE account in accordance with the terms of these Governing Terms, the applicable Confirmation and the ISO-NE Rules.

“Delivery Failure” shall have the meaning set forth in Section 4.3 hereof.

“Delivery Point” shall mean the point of interconnection between the Eligible Facility and Buyer’s facilities as specified in Seller’s existing Interconnection Agreement.

“Commission” shall mean the New Hampshire Public Utilities Commission, or NHPUC.

“Delivery Period” shall have the meaning as set forth in the Confirmation.

“Dispute” shall have the meaning set forth in Section 10.1 hereof.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time at the Buyer’s meter used for billing and revenue determination.

“Energy Price” shall have the meaning as set forth in the Confirmation.

“Event of Default” shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

“Eligible Facility” shall have the meaning set forth in the Confirmation.

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

“Force Majeure” shall have the meaning set forth in Section 10.1(a) hereof.

“Good Utility Practice” shall mean compliance with all applicable laws, codes and regulations, all ISO NE Rules and ISO NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is

made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

“Governmental Entity” shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

“Interconnecting Utility” shall mean the utility (which may be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the transmission system of that utility.

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

“Interconnection Point” shall mean the point of interconnection set forth in the Interconnection Agreement.

“ISO” or **“ISO-NE”** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

“ISO-NE Practices” shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Participants Agreement, and any applicable successor practices and procedures.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the NEPOOL Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

“ISO-NE Tariff” shall mean ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended from time to time.

“ISO Settlement Market System” shall have the meaning as set forth in the ISO-NE Tariff.

“Late Payment Rate” shall have the meaning set forth in Section 5.3.

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

“Locational Marginal Price” or “LMP” shall have the meaning set forth in the ISO-NE Tariff for the New Hampshire load zone.

“Market Energy Clearing Price” shall have the meaning as set forth in the Confirmation.

“Meters” shall have the meaning set forth in Section 4.6(a) hereof.

“MW” shall mean a megawatt.

“MWh” shall mean a megawatt-hour (one MWh shall equal 1,000 kilowatt-hours).

“NEPOOL” shall mean the New England Power Pool and any successor organization.

“NEPOOL Participants Agreement” shall mean the Second Restated New England Power Pool Agreement dated as of August 31, 2011, as amended and/or restated from time to time.

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

“New England Control Area” shall have the meaning as set forth in the ISO-NE Tariff.

“Party” and **“Parties”** shall mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

“Permits” shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“Person” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

“Pool Transmission Facilities” has the meaning given that term in the ISO-NE Rules.

“Price” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth in the Confirmation.

“Products” shall mean Energy only.

“Real-Time Energy Market” shall have the meaning as set forth in the ISO-NE Rules.

“Regulatory Approval” shall mean the “NHPUC Order” as set forth in the Confirmation.

“RTO” shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC’s Order No. 2000 and FERC’s corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

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

“Seller” shall have the meaning as set forth in the Confirmation.

“Term” shall have the meaning set forth in the Confirmation.

“Transaction” means the sale of Energy produced by the Facility by Seller to Buyer as set forth in the Confirmation.

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

“Unit Contingent” shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating energy, and as further defined in the Confirmation.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. These Governing Terms are effective for the Term.

2.2 Term. The Term of the Transaction is the period set forth in the Confirmation.

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all

practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under these Governing Terms, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, maintain and operate the Facility in accordance with Good Utility Practice and Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete operation and maintenance functions, so long as Seller maintains overall control over the operation and maintenance of the Facility throughout the Term.

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

(e) ISO-NE Status. Seller shall, at all times during the Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE- related obligations in connection with the Facility and these Governing Terms.

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

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

(h) Compliance with Law. Without limiting the generality of any other provision of these Governing Terms, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies,

criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with Law. Upon Buyer's request, Seller shall provide Buyer information pertaining to Facility emissions, fuel and operations, and information requested by Buyer to comply with Buyer's disclosure obligations. To the extent Buyer is subject to any other certification or reporting requirement with respect to the Products, Seller shall promptly provide such information to Buyer.

(i) FERC Status. Seller shall obtain and maintain any requisite authority to sell the output of the Facility under applicable law.

(j) Emissions. Seller shall be responsible for all costs associated with the Facility's emissions, including the cost of procuring emission reductions, offsets, allowances or similar items associated with the Facility's emissions, to the extent required to operate the Facility. Without limiting the generality of the foregoing, failure or inability of Seller to procure emission reductions, offsets, allowances or similar items associated with the Facility's emissions shall not constitute a Force Majeure.

3.2 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Throughout the Term, Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of these Governing Terms and the Confirmation. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers during the Term.

(b) Throughout the Term, Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Term, Seller shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with these Governing Terms, all ISO-NE Practices and ISO-NE Rules, as applicable.

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.3 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees and other FERC-approved charges in connection with the Delivery of Energy to the Delivery Point. Seller shall also be responsible for all charges, fees and losses required for Delivery of Energy from the Facility to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. Seller shall also apply for and schedule all such services.

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-

NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.4 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the “Meters”), shall be installed, operated, maintained and tested at Seller’s expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller’s expense at least once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer’s expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than one percent (1%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than one percent (1%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The meter used by Buyer (or its Affiliate) for billing and revenue purposes shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Purchase Cost for Products. All Products Delivered to Buyer in accordance with these Governing Terms shall be purchased as specified in the Confirmation.

5.2 Payment and Netting

(a) Billing Period. The calendar month shall be the standard period for all payments under these Governing Terms. On or before the twenty-first (21st) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days after receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices

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

- (ii) in this Section 5.2.A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under these Governing Terms on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under these Governing Terms, including any related damages calculated pursuant to these Governing Terms, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the “Money Rates” section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the “Late Payment Rate”).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products (“**Seller’s Taxes**”). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) (“**Buyer’s Taxes**”). In the event Seller shall be required by law or regulation to remit or pay any Buyer’s Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller’s Taxes, Seller shall reimburse Buyer for such payment, and Buyer may deduct any of the amount of any such Seller’s Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller’s or the Facility’s eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller’s accounting, reporting or tax purposes, or to receive any other grant or subsidy from a Governmental Entity or other Person. The obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and Price for and Seller’s obligation to deliver the Products, shall be effective regardless of whether the production and/or sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment during the Term.

5.5 Security. Upon Buyer’s written request, Seller shall provide Buyer with collateral in the form of cash, letter(s) of credit, suitable guaranty, or other type of reasonable security mutually acceptable to the parties in an amount equal to the estimated difference between Buyer’s Energy Price and the Market Energy Clearing Price within ten (10) business days following receipt of such written request. Such security may only be exercised in the event that Buyer is required through a final and non-appealable order of the NHPUC to refund to its ratepayers the amount Buyer paid to the Seller above the Market Energy Clearing Price. The collateral would remain in place for the earlier of the Term or the date that the FERC issues a determination in Docket No. EL19-10 on the constitutional validity of RSA Chapter 362-H.

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

6.1 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as follows:

(a) Organization and Good Standing; Power and Authority. Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of New Hampshire. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power to perform its obligations under these Governing Terms.

(b) Due Authorization; No Conflicts. Performance by Buyer of these

Governing Terms, and the performance by Buyer of its obligations hereunder are mandated by New Hampshire law and subject to the receipt of the Regulatory Approval.

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

(a) Organization and Good Standing; Power and Authority. Seller is duly formed, validly existing and in good standing under the laws of the state of its formation and is authorized to do business in the State of New Hampshire. Seller has all requisite power and authority to execute, deliver, and perform its obligations under these Governing Terms.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to own and operate the Facility and to deliver the Products to the Buyer in accordance with these Governing Terms.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(d) Binding Agreement. These Governing Terms has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Seller constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) Consents and Approvals. The execution, delivery and performance by Seller of its obligations under these Governing Terms do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, and final. -

Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under these Governing Terms, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under these Governing Terms. The Buyer shall not assume risk of loss with respect to any Products or services generated, delivered, or sold by the Facility.

(f)

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

(h) No Default. No Default or Event of Default has occurred and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under these Governing Terms.

6.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 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 Article 7 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 the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

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

(d) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under these Governing Terms.

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under these Governing Terms or on Buyer or Buyer's ability to receive the benefits under these Governing Terms, provided that if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(c) Failure to Maintain Material Contracts. The failure of Seller to maintain in effect any material agreements required to Deliver the Energy committed to Buyer hereunder to the Delivery Point, including the Interconnection Agreement, provided that if Seller's failure does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(d) Abandonment. On or after the Commercial Operation date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a sale or transfer of the Facility; or

(e) Assignment. The assignment of these Governing Terms by Seller, except as permitted in accordance with Article 12; or

(f) Failure to Deliver. Seller's failure to deliver Products to Buyer in accordance with these Governing Terms and the applicable Confirmation.

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing

Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

(b) Termination. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate these Governing Terms at its sole discretion by providing written notice of such termination to the Defaulting Party. Such termination shall be with a full reservation of the Non-Defaulting Party's rights and remedies under law and equity.

(c) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THESE GOVERNING TERMS SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. FORCE MAJEURE

9.1 Force Majeure.

(a) The term "**Force Majeure**" means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under these Governing Terms. Under no circumstances shall Force Majeure include (v) any full or partial

curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under these Governing Terms, such performance (other than the obligation to make payment of amounts due and payable under these Governing Terms) shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under these Governing Terms, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 10.1(a) has occurred.

10. DISPUTE RESOLUTION

10.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to these Governing Terms (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior

management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC and/or the FERC depending on the nature of the Dispute.

11. INDEMNIFICATION

11.1 Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to Seller's execution, delivery or performance of these Governing Terms, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under these Governing Terms.

11.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of the Seller contest, settle or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of such indemnifying Party or, absent such consent, written consent of Buyer's counsel that such claim is meritorious or warrants settlement

12. ASSIGNMENT AND CHANGE OF CONTROL

The Transaction governed by these Governing Terms may not be assigned by either party except to the extent associated with a merger or consolidation of a Party or in connection with Seller's sale or transfer of its interest (or any part thereof) in the Facility.

13. TITLE; RISK OF LOSS

Title to and risk of loss related to the Delivered Product shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

14. AUDIT

14.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under these Governing Terms, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to these Governing Terms. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment

or underpayment was made until paid.

14.2 Consolidation of Financial Information. Generally accepted accounting principles and SEC rules may, from time to time, and in accordance with such accounting principles and rules change throughout the Term, requiring Buyer to have access to Seller's financial records and personnel. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's reasonable written request, any and all listed financial information and statements then available to Seller as well as access to financial personnel, to the extent that Buyer needs such information in order to comply with generally accepted accounting principles and SEC rules for financial reporting purposes, subject to Buyer's agreement to maintain the confidentiality and prevent the disclosure of such information.

15. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing, as set forth in the Confirmation.

16. WAIVER AND MODIFICATION

These Governing Terms may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of these Governing Terms shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of these Governing Terms shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine whether any amendment or waiver of the provisions of these Governing Terms shall require NHPUC review of the same for conformity with RSA 362-H, and if Buyer determines that such NHPUC review is required for any amendment or waiver of the provisions of these Governing Terms, then such amendment or waiver shall not become effective unless and until such NHPUC review is obtained.

17. INTERPRETATION

17.1 Choice of Law. Interpretation and performance of these Governing Terms shall be in accordance with, and shall be controlled by, the laws of the State of New Hampshire (without regard to its principles of conflicts of law).

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of these Governing Terms. The words "hereof" and "hereunder" shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

17.3 Change in ISO-NE Rules and Practices. These Governing Terms are subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of these Governing Terms, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Buyer shall modify these Governing Terms and submit the modified document to the NHPUC for its review for conformity with RSA 362-H. The intent is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to these Governing Terms, or (ii) the Price.

17.4 Change in Law or Buyer's Accounting Treatment. If, during the Term of these Governing Terms, there is a change in Law or accounting standards or rules or a change in the interpretation of applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with these Governing Terms or the amounts paid for Products purchased hereunder, the Buyer shall amend or clarify these Governing Terms to avoid or significantly mitigate such impacts and submit such amendments or clarifications to the NHPUC for review for conformity with RSA 362-H .

18. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of the Form of Confirmation may be executed, and each shall have the same force and effect as an original. Facsimile signatures on any notice or other instrument delivered under these Governing Terms shall have the same force and effect as original signatures.

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

If any term or provision of these Governing Terms or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of these Governing Terms and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law.

21. INDEPENDENT CONTRACTOR

Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be

the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

These Governing Terms and the Confirmation shall govern the entire relationship between the Parties hereto relating to the mandates set forth in NH RSA Chapter 362-H and shall supersede all prior agreements and communications.

EXHIBIT 17

From: [Jillian Keller](#)
To: [White, Frederick](#); [Bersak, Robert A](#); [Errichetti, David A](#)
Cc: [Steven Gordon](#); [Timothy J. McLaughlin](#)
Subject: RE: Bridgewater Power Company, L.P. (Transaction Confirmation and Governing Terms)
Date: Friday, February 01, 2019 11:20:56 AM
Attachments: [Governing Terms.docx](#)
[Confirmation.docx](#)

Mr. White,

Attached please find the requested word.doc versions of the Confirmation and Governing Terms.

Jillian

From: White, Frederick <rick.white@eversource.com>
Sent: Thursday, January 31, 2019 3:16 PM
To: Jillian Keller <jkeller@shaheengordon.com>; Bersak, Robert A <robert.bersak@eversource.com>; Errichetti, David A <david.errichetti@eversource.com>
Cc: Steven Gordon <sgordon@Shaheengordon.com>; Timothy J. McLaughlin <tmclaughlin@Shaheengordon.com>
Subject: RE: Bridgewater Power Company, L.P. (Transaction Confirmation and Governing Terms)

Please provide Word versions of the Confirmation and Governing Terms documents, for comparison purposes.

In addition, with regard to your section 5.5 of the Governing Terms, here is draft language PSNH has been working on to effectuate an escrow arrangement, for you to consider:

Escrow Provision: PSNH will waive the condition for delaying effectiveness of this Transaction until receipt of approval by PSNH from the NHPUC authorizing cost recovery of the difference ("Difference") between the adjusted energy purchase price and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory if Seller agrees to an escrowing of the Difference. Under this escrow process, PSNH shall pay the "Market Energy Clearing Price" to Seller per the terms set-forth herein and shall account for the Difference, either positive or negative, until such time as the NHPUC approves or rejects recovery of the total Difference from retail customers by PSNH through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. If the NHPUC approves recovery of the Difference from customers by PSNH, the total Difference amount accounted for in the escrow shall be released and paid as follows: If the total escrowed Difference is negative, i.e. the overall adjusted energy prices to such date were less than the Market Energy Clearing Price, such negative amount will be recovered by PSNH on behalf of customers by netting that Difference against the next payment due Seller under the Payment Schedule. Correspondingly, if the total escrowed Difference is positive, i.e. the overall adjusted energy prices to such date were greater than the Market Energy Clearing Prices, such positive amount will be paid by PSNH to Seller by adding that amount to the next payment due Seller under the Payment Schedule. If PSNH is not allowed to recovery of the Difference from its customers as a result of a determination that the

pricing provision of RSA 362-H is unenforceable, then the escrow account shall be terminated without any payments to or from Seller.

Thanks.

Rick

Rick White
Eversource Energy - Electric Supply
Berlin, CT - 860-665-2572
Cell - 860-712-3780
rick.white@eversource.com

From: Jillian Keller <jkeller@shaheengordon.com>
Sent: Thursday, January 31, 2019 2:39 PM
To: Bersak, Robert A <robert.bersak@eversource.com>; White, Frederick <rick.white@eversource.com>; Errichetti, David A <david.errichetti@eversource.com>
Cc: Steven Gordon <sgordon@Shaheengordon.com>; Timothy J. McLaughlin <tmclaughlin@Shaheengordon.com>
Subject: Bridgewater Power Company, L.P. (Transaction Confirmation and Governing Terms)

EVERSOURCE IT NOTICE – EXTERNAL EMAIL SENDER ** Don't be quick to click! ******

Do not click on links or attachments if sender is unknown or if the email is unexpected from someone you know, and never provide a user ID or password. Report suspicious emails by selecting 'Report Phishing' or forwarding to SPAMFEEDBACK@EVERSOURCE.COM for analysis by our cyber security team.

Dear Messrs. Bersak, White and Errichetti,

Attached please find a letter on behalf of Bridgewater Power Company, L.P. attaching its Transaction Confirmation and Governing Terms.

Sincerely,
Jillian

Jillian P. Keller
Legal Assistant
Shaheen & Gordon, P.A.
107 Storrs Street
P.O. Box 2703, Concord, NH, 03302
Main: 603-225-7262
Fax: 603-225-5112



Website: www.ShaheenGordon.com

Twitter: @ShaheenGordon

Facebook: Shaheen & Gordon, PA

STATEMENT OF CONFIDENTIALITY

This e-mail, and any attachments, is intended only for use by the addressee and may contain legally privileged or confidential information. If you are not the intended recipient of this e-mail, any dissemination, distribution or copying of this e-mail, and any attachments, is prohibited. If you have received this e-mail in error, please immediately notify me by telephone, permanently delete the original and any copy of the e-mail.

This electronic message contains information from Eversource Energy or its affiliates that may be confidential, proprietary or otherwise protected from disclosure. The information is intended to be used solely by the recipient(s) named. Any views or opinions expressed in this message are not necessarily those of Eversource Energy or its affiliates. Any disclosure, copying or distribution of this message or the taking of any action based on its contents, other than by the intended recipient for its intended purpose, is strictly prohibited. If you have received this e-mail in error, please notify the sender immediately and delete it from your system. Email transmission cannot be guaranteed to be error-free or secure or free from viruses, and Eversource Energy disclaims all liability for any resulting damage, errors, or omissions.

TRANSACTION CONFIRMATION

This Transaction Confirmation (“Confirmation”) relates to the sale of energy by Bridgewater Power Company, L.P. (“Seller”) to Public Service Company of New Hampshire (“PSNH”). This Confirmation is for the sale of Unit Contingent Energy (as defined below) from Seller’s Eligible Facility to PSNH (the “Transaction”).

PSNH notes that this Transaction is mandated by force of law and is not a voluntarily act of PSNH. This Transaction is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362-H:1,V,(a), located in its service territory at a statutory, non-negotiated “Adjusted Energy Price” as defined by RSA 362-H:1, I.

PSNH’s performance under this Confirmation is expressly subject to and conditioned by the terms herein and in Attachment A and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H and, subject to waiver by PSNH, authorizing PSNH to full recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customers in PSNH’s service territory.

Buyer: Public Service Company of New Hampshire
780 N. Commercial Street
P. O. Box 330
Manchester, NH 03105-0330
A New Hampshire corporation

Seller: **Bridgewater Power Company, L.P.**
Legal Name

P.O. Box 678, Ashland, NH 03217

Address

603-968-9602

Telephone

Limited Partnership -NH

Entity Type and State of Formation

Eligible Facility: Seller's 15.7 MW biomass fired generating facility which is located in Bridgewater, New Hampshire, identified in the ISO-NE market settlement system with the Asset name Bridgewater and ID # 357.

Product: Unit Contingent Energy

Delivery Period and Term: The Term begins on the later of the date of the "NHPUC Order" or February 1, 2019 and continues through July 31, 2019.

Energy Price: PSNH will compensate Seller for Unit Contingent Energy delivered to the Delivery Point at the statutory "Adjusted Energy Price" as defined in RSA 362-H:1, I of \$77.68/MWh for the Delivery Period.

Payment Schedule: The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer, Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by Eligible Facility remaining Lead Market Participant – Asset and Lead Market Participant - Resource. Payment will equal Delivered Energy times the difference between the Energy Price and the "Market Energy Clearing Price," including any and all resettlements. Seller shall provide Purchaser sufficient ISO-NE settlement detail to verify Delivered Energy and "Market Energy Clearing Price".

Audit Rights: Buyer and Seller shall each have the right throughout the Term and for a period of six (6) months following when the ISO-NE energy market settlement is final, upon reasonable prior notice, to audit relevant records of the other party to the limited extent necessary to verify the basis for payments.

Delivery Point: The Delivery Point shall be at the interconnection between the Eligible Facility and Buyer's facilities as specified in Seller's existing Interconnection Agreement.

Scheduling: Seller will remain the designated Lead Market Participant – Asset and Lead Market Participant – Resource responsible for scheduling in accordance with ISO-NE rules and procedures.

Conditions:

This Confirmation and the transactions contemplated hereunder are subject to the following conditions:

- An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H,
- PSNH's requirement to comply with the terms of RSA 362-H arise solely from RSA 362-H.
- The Facility shall maintain its status as an "Eligible facility" per RSA 362-H throughout the Term.
- Receipt of approval by PSNH from the NHPUC authorizing cost recovery of the difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. PSNH will waive this condition upon Seller's agreement to the security provision in section 5.5 of Attachment A.

Cost Recovery:

As provided in RSA 362-H:2, V PSNH is eligible to recover the Transaction's difference between its energy purchase costs and the "Market Energy Clearing Price" through a nonbypassable delivery services charge applicable to all customers in PSNH's service territory. The charge may include reasonable costs incurred by PSNH, and the charges shall be allocated using the customer class allocation percentages approved in NHPUC docket DE 14-238, Order 25,920.

Definitions:

"Day-Ahead Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Real-Time Locational Marginal Price" shall be given the meaning given it in ISO NE Market Rule 1.

"Market Energy Clearing Price" means either the Day-Ahead Locational Marginal Price or Real-Time Locational Marginal Price at the Pricing Node that is applicable to the asset in the ISO-NE energy market settlement for commitments in the day-ahead energy market or deviations in the real-time energy market, respectively.

"Unit Contingent" means, with respect to this Confirmation, that delivery or receipt of the Product from the Facility may be interrupted for any reason or for no reason by Seller, without liability on the part of either Party. However, Buyer shall be entitled to 100% of the output from the Facility during the Term of this Agreement.

"NHPUC Order" means receipt of a final decision from the New Hampshire Public Utilities Commission, stating that it has reviewed this Confirmation and its Attachment A and finds they are in conformity with RSA 362-H, and, subject to waiver by PSNH upon Seller's agreement to the security provision in section 5.5 of Attachment A, authorizes PSNH to full

recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customers in PSNH’s service territory.

“Delivered Energy” is the generation in MWh reported by ISO-NE for the Eligible Facility in the energy market settlement at the price node identified below:

Eligible Facility Generator Name	Asset ID #	Lead Participant	Price Node
BRIDGEWATER	357	Bridgewater Power Company, L.P.	UN.ASHLAND 34.5BRID

Governing Terms: All other terms and conditions not specified herein shall be in accordance with, and subject to, the attached Governing Terms which are incorporated by reference and made a part hereof. In the event of any inconsistency between the Governing Terms and the terms of a Confirmation, the terms of the Confirmation will govern for the Transaction.

Notices: Any notice or communication shall be provided to the following:

If to Buyer:

Primary Contact for PSNH:

Rick White
860-665-2572 (phone)
860-665-4583 (fax)
rick.white@eversource.com

Secondary Contact for PSNH:

David Errichetti
860-665-4519 (phone)
860-665-4583 (fax)
david.errichetti@eversource.com

If to Seller:

Primary Contact:

Michael O'Leary (name)
603-968-9602 ex. 11 (phone)
603-968-9605 (fax)
moleary@bridgewater-os.com (email)

Secondary Contact:

Sean Lane (name)
973-753-0181 (phone)
973-254-3619 (fax)
slane@olympuspower.com (email)

BRIDGEWATER POWER COMPANY, L.P.

BY

Name:

Title:

Date

PSNH d/b/a EVERSOURCE ENERGY

BY

Name:

Title:

Date

ATTACHMENT A
GOVERNING TERMS

**GOVERNING TERMS
FOR THE PURCHASE OF ENERGY BY
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY
PURSUANT TO THE LEGAL MANDATE CONTAINED IN
NEW HAMPSHIRE RSA CHAPTER 362-H**

This document sets forth the Governing Terms for purchases by Public Service Company of New Hampshire d/b/a Eversource Energy (“Buyer”) pursuant to the legal mandate set forth in New Hampshire RSA Chapter 362-H.

Each Transaction (as defined below) is subject to the signed Form of Confirmation and these Governing Terms, is mandated by force of law, is not a voluntary act of PSNH, and further is not a “Negotiated Rate or Term” as described in 18 CFR 292.301(b). New Hampshire RSA Chapter 362-H, which took effect on September 13, 2018 due to the Legislature’s override of the Governor’s veto, mandates that PSNH purchase the net energy output of any “Eligible Facility” as defined by RSA 362- H:1,V,(a), located in its service territory, including the facility owned by Seller as set forth in the Confirmation (the “Facility”).

PSNH’s performance hereunder is expressly subject to and conditioned upon the terms herein and in the Confirmation, and an order from the New Hampshire Public Utilities Commission (“NHPUC”) reviewing the Confirmation and Governing Terms and finding that the provisions contained therein are in conformity with RSA 362-H and, subject to waiver by PSNH (as stated in the Confirmation), authorizing PSNH to full recovery of the difference between its energy purchase costs and the “Market Energy Clearing Price” through a nonbypassable delivery services charge applicable to all customer's in PSNH's service territory.

1. DEFINITIONS

In addition to terms defined in the recitals hereto, the following terms shall have the meanings set forth below. Any capitalized terms used in these Governing Terms and not defined herein shall have the same meaning as ascribed to such terms under, first NH RSA Chapter 362-H, then by the ISO-NE Practices and ISO-NE Rules.

“**Affiliate**” shall mean, with respect to any Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with, such first Person.

“**Business Day**” means a day on which Federal Reserve member banks in New York, New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

“**Buyer**” shall mean Public Service Company of New Hampshire.

“**Day-Ahead Energy Market**” shall have the meaning set forth in the ISO-NE

Rules.

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

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

“Deliver” or **“Delivery”** shall mean the supply of Energy into Buyer’s ISO-NE account in accordance with the terms of these Governing Terms, the applicable Confirmation and the ISO-NE Rules.

“Delivery Failure” shall have the meaning set forth in Section 4.3 hereof.

“Delivery Point” shall mean the point of interconnection between the Eligible Facility and Buyer’s facilities as specified in Seller’s existing Interconnection Agreement.

“Commission” shall mean the New Hampshire Public Utilities Commission, or NHPUC.

“Delivery Period” shall have the meaning as set forth in the Confirmation.

“Dispute” shall have the meaning set forth in Section 10.1 hereof.

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

“Energy” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time at the Buyer’s meter used for billing and revenue determination.

“Energy Price” shall have the meaning as set forth in the Confirmation.

“Event of Default” shall have the meaning set forth in Section 9.1 hereof and shall include the events and conditions described in Section 9.1 and Section 9.2 hereof.

“Eligible Facility” shall have the meaning set forth in the Confirmation.

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

“Force Majeure” shall have the meaning set forth in Section 10.1(a) hereof.

“Good Utility Practice” shall mean compliance with all applicable laws, codes and regulations, all ISO NE Rules and ISO NE Practices, and any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is

made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

“Governmental Entity” shall mean any federal, state or local governmental agency, authority, department, instrumentality or regulatory body, and any court or tribunal, with jurisdiction over Seller, Buyer or the Facility.

“Interconnecting Utility” shall mean the utility (which may be Buyer or an Affiliate of Buyer) providing interconnection service for the Facility to the transmission system of that utility.

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

“Interconnection Point” shall mean the point of interconnection set forth in the Interconnection Agreement.

“ISO” or **“ISO-NE”** shall mean ISO New England Inc., the independent system operator established in accordance with the RTO arrangements for New England, or its successor.

“ISO-NE Practices” shall mean the ISO-NE practices and procedures for delivery and transmission of energy in effect from time to time and shall include, without limitation, applicable requirements of the NEPOOL Participants Agreement, and any applicable successor practices and procedures.

“ISO-NE Rules” shall mean all rules and procedures adopted by NEPOOL, ISO-NE or the RTO, and governing wholesale power markets and transmission in New England, as such rules may be amended from time to time, including but not limited to, the ISO-NE Tariff, the ISO-NE Operating Procedures (as defined in the ISO-NE Tariff), the ISO-NE Planning Procedures (as defined in the ISO-NE Tariff), the Transmission Operating Agreement (as defined in the ISO-NE Tariff), the NEPOOL Participants Agreement, the manuals, procedures and business process documents published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL participants and/or NEPOOL committees, as amended, superseded or restated from time to time.

“ISO-NE Tariff” shall mean ISO-NE’s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended from time to time.

“ISO Settlement Market System” shall have the meaning as set forth in the ISO-NE Tariff.

“Late Payment Rate” shall have the meaning set forth in Section 5.3.

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

“Locational Marginal Price” or “LMP” shall have the meaning set forth in the ISO-NE Tariff for the New Hampshire load zone.

“Market Energy Clearing Price” shall have the meaning as set forth in the Confirmation.

“Meters” shall have the meaning set forth in Section 4.6(a) hereof.

“MW” shall mean a megawatt.

“MWh” shall mean a megawatt-hour (one MWh shall equal 1,000 kilowatt-hours).

“NEPOOL” shall mean the New England Power Pool and any successor organization.

“NEPOOL Participants Agreement” shall mean the Second Restated New England Power Pool Agreement dated as of August 31, 2011, as amended and/or restated from time to time.

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

“New England Control Area” shall have the meaning as set forth in the ISO-NE Tariff.

“Party” and **“Parties”** shall mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

“Permits” shall mean any permit, authorization, license, order, consent, waiver, exception, exemption, variance or other approval by or from, and any filing, report, certification, declaration, notice or submission to or with, any Governmental Entity required to authorize action, including any of the foregoing relating to the ownership, siting, construction, operation, use or maintenance of the Facility under any applicable Law.

“Person” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated organization, or a government authority or agency or political subdivision thereof.

“Pool Transmission Facilities” has the meaning given that term in the ISO-NE Rules.

“Price” shall mean the purchase price(s) for Products referenced in Section 5.1 hereof and set forth in the Confirmation.

“Products” shall mean Energy only.

“Real-Time Energy Market” shall have the meaning as set forth in the ISO-NE Rules.

“Regulatory Approval” shall mean the “NHPUC Order” as set forth in the Confirmation.

“RTO” shall mean ISO-NE and any successor organization or entity to ISO-NE, as authorized by FERC to exercise the functions pursuant to FERC’s Order No. 2000 and FERC’s corresponding regulations, or any successor organization, or any other entity authorized to exercise comparable functions in subsequent orders or regulations of FERC.

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

“Seller” shall have the meaning as set forth in the Confirmation.

“Term” shall have the meaning set forth in the Confirmation.

“Transaction” means the sale of Energy produced by the Facility by Seller to Buyer as set forth in the Confirmation.

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

“Unit Contingent” shall mean that the Products are to be supplied only from the Facility and only to the extent that the Facility is generating energy, and as further defined in the Confirmation.

2. EFFECTIVE DATE; TERM

2.1 Effective Date. These Governing Terms are effective for the Term.

2.2 Term. The Term of the Transaction is the period set forth in the Confirmation.

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with: (i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all

practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC and any applicable regional reliability entities, as applicable.

(b) Permits. Seller shall maintain in full force and effect all Permits necessary for it to perform its obligations under these Governing Terms, including all Permits necessary to operate and maintain the Facility.

(c) Maintenance and Operation of Facility. Seller shall, at all times during the Term, maintain and operate the Facility in accordance with Good Utility Practice and Seller shall bear all costs related thereto. Seller may contract with other Persons to provide discrete operation and maintenance functions, so long as Seller maintains overall control over the operation and maintenance of the Facility throughout the Term.

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

(e) ISO-NE Status. Seller shall, at all times during the Term, either: (i) be an ISO-NE "Market Participant" pursuant to the ISO-NE Rules; or (ii) have entered into an agreement with a Market Participant that shall perform all of Seller's ISO-NE- related obligations in connection with the Facility and these Governing Terms.

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend "certificate is not evidence of coverage" or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

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

(h) Compliance with Law. Without limiting the generality of any other provision of these Governing Terms, Seller shall be responsible for complying with all applicable requirements of Law, including all applicable rules, procedures, operating policies,

criteria, guidelines and requirements imposed by FERC and any other Governmental Entity, whether imposed pursuant to existing Law or procedures or pursuant to changes enacted or implemented during the Term, including all risks of environmental matters relating to the Facility or the Facility site. Seller shall indemnify Buyer against any and all claims arising out of or related to such environmental matters and against any costs imposed on Buyer as a result of Seller's violation of any applicable Law, or ISO-NE or NERC requirements. For the avoidance of doubt, Seller shall be responsible for procuring, at its expense, all Permits and governmental approvals required for the construction and operation of the Facility in compliance with Law. Upon Buyer's request, Seller shall provide Buyer information pertaining to Facility emissions, fuel and operations, and information requested by Buyer to comply with Buyer's disclosure obligations. To the extent Buyer is subject to any other certification or reporting requirement with respect to the Products, Seller shall promptly provide such information to Buyer.

(i) FERC Status. Seller shall obtain and maintain any requisite authority to sell the output of the Facility under applicable law.

(j) Emissions. Seller shall be responsible for all costs associated with the Facility's emissions, including the cost of procuring emission reductions, offsets, allowances or similar items associated with the Facility's emissions, to the extent required to operate the Facility. Without limiting the generality of the foregoing, failure or inability of Seller to procure emission reductions, offsets, allowances or similar items associated with the Facility's emissions shall not constitute a Force Majeure.

3.2 Interconnection and Delivery Services.

(a) Seller shall be responsible for all costs associated with interconnection of the Facility at the Interconnection Point, consistent with all standards and requirements set forth by FERC, ISO-NE, any other applicable Governmental Entity and the Interconnecting Utility.

(b) Seller shall defend, indemnify and hold Buyer harmless against any liability arising due to Seller's performance or failure to perform under the Interconnection Agreement.

4. **DELIVERY OF PRODUCTS**

4.1 Obligation to Sell and Purchase Products.

(a) Throughout the Term, Seller shall sell and Deliver, and Buyer shall purchase and receive, the Products in accordance with the terms and conditions of these Governing Terms and the Confirmation. The aforementioned obligations for Seller to sell and Deliver the Products and for Buyer to purchase and receive the same are Unit Contingent. Seller agrees that Seller will not curtail or otherwise reduce deliveries of the Products in order to sell such Products to other purchasers during the Term.

(b) Throughout the Term, Seller shall not enter into any agreement or arrangement under which such Products can be claimed by any Person other than Buyer. Buyer shall have the exclusive right to resell or convey the Products in its sole discretion.

4.2 Scheduling and Delivery.

(a) During the Term, Seller shall Schedule Deliveries of Energy hereunder with ISO-NE within the defined Operational Limitations of the Facility and in accordance with these Governing Terms, all ISO-NE Practices and ISO-NE Rules, as applicable.

(b) The Parties agree to use commercially reasonable efforts to comply with all applicable ISO-NE Rules and ISO-NE Practices in connection with the Scheduling and Delivery of Energy hereunder. Penalties or similar charges assessed by a Transmission Provider and caused by Seller's noncompliance with the Scheduling obligations set forth in this Section 4.2 shall be the responsibility of Seller.

(c) Without limiting the generality of this Section 4.2, Seller or the party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the "Lead Market Participant" (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.3 Delivery Point.

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

(b) Seller shall be responsible for all applicable charges associated with transmission interconnection, service and delivery charges, including all related ISO-NE administrative fees and other FERC-approved charges in connection with the Delivery of Energy to the Delivery Point. Seller shall also be responsible for all charges, fees and losses required for Delivery of Energy from the Facility to the Delivery Point, including but not limited to (1) all non-PTF and/or distribution system losses, (2) all transmission and/or distribution interconnection charges associated with the Facility, and (3) the cost of Delivery of the Products to the Delivery Point, including all related administrative fees and non-PTF and/or distribution wheeling charges. Seller shall also apply for and schedule all such services.

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-

NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.4 Metering.

(a) Metering. All electric metering associated with the Facility, including the Facility meter and any other real-time meters, billing meters and back-up meters (collectively, the “Meters”), shall be installed, operated, maintained and tested at Seller’s expense in accordance with Good Utility Practice and any applicable requirements and standards issued by NERC, the Interconnecting Utility, and ISO-NE; provided that each Meter shall be tested at Seller’s expense at least once each Contract Year. All Meters used to provide data for the computation of payments shall be sealed and Seller shall break the seal only when such Meters are to be inspected and tested (or adjusted) in accordance with this Section 4.6. Seller shall provide Buyer with a copy of all metering and calibration information and documents regarding the Meters promptly following receipt thereof by Seller.

(b) Measurements. Readings of the Meters at the Facility by the Interconnecting Utility in whose territory the Facility is located (or an independent Person mutually acceptable to the Parties) shall be conclusive as to the amount of Energy generated by the Facility; provided however, that Seller, upon request of Buyer and at Buyer’s expense (if more frequently than annually as provided for in Section 4.6(a)), shall cause the Meters to be tested by the Interconnecting Utility in whose territory the Facility is located, and if any Meter is out of service or is determined to be registering inaccurately by more than one percent (1%), (i) the measurement of Energy produced by the Facility shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, in accordance with the filed tariff of such Interconnecting Utility, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder and (ii) Seller shall reimburse Buyer for the cost of such test of the Meters. Meter readings shall be adjusted to take into account the losses to Deliver the Energy to the Delivery Point. Seller shall make recorded meter data available monthly to the Buyer at no cost.

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

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

(e) Notice of Malfunction. Seller shall provide Buyer with prompt notice of any malfunction or other failure of the Meters or other telemetry equipment necessary to accurately report the quantity of Energy being produced by the Facility. If any Meter is found to be inaccurate by more than one percent (1%), the meter readings shall be adjusted as far back as can reasonably be ascertained, but in no event shall such period exceed six (6) months from the date that such inaccuracy was discovered, and any adjustment shall be reflected in the next invoice provided by Seller to Buyer hereunder.

(f) Telemetry. The meter used by Buyer (or its Affiliate) for billing and revenue purposes shall be capable of sending meter telemetry data, and Seller shall provide Buyer with simultaneous access to such data at no additional cost to Buyer. This provision is in addition to Seller's requirements under ISO-NE Rules and Practices, including ISO-NE Operating Procedure No. 18.

5. PRICE AND PAYMENTS FOR PRODUCTS

5.1 Purchase Cost for Products. All Products Delivered to Buyer in accordance with these Governing Terms shall be purchased as specified in the Confirmation.

5.2 Payment and Netting

(a) Billing Period. The calendar month shall be the standard period for all payments under these Governing Terms. On or before the twenty-first (21st) day following the end of each month, Seller shall render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month, based on the Energy Delivered in the preceding month. Such invoice shall contain supporting detail for all charges reflected on the invoice, and Seller shall provide Buyer with additional supporting documentation and information as Buyer may request.

(b) Timeliness of Payment. All undisputed charges shall be due and payable in accordance with each Party's invoice instructions on or before the later of (x) fifteen (15) days after receipt of the applicable invoice or (y) the last day of the calendar month in which the applicable invoice was received (or in either event the next Business Day if such day is not a Business Day). Each Party shall make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Late Payment Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

(c) Disputes and Adjustments of Invoices

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

- (ii) in this Section 5.2.A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

(d) Netting of Payments. The Parties hereby agree that they may discharge mutual debts and payment obligations due and owing to each other under these Governing Terms on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under these Governing Terms, including any related damages calculated pursuant to these Governing Terms, interest, and payments or credits, may be netted so that only the excess amount remaining due shall be paid by the Party who owes it. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, such Party shall pay such sum in full when due. The Parties agree to provide each other with reasonable detail of such net payment or net payment request.

5.3 Interest on Late Payment or Refund. A late payment charge shall accrue on any late payment or refund as specified above at the lesser of (a) the prime rate specified in the “Money Rates” section of The Wall Street Journal (or, if such rate is not published therein, in a successor index mutually selected by the Parties), and (b) the maximum rate permitted by applicable Law in transactions involving entities having the same characteristics as the Parties (the “Late Payment Rate”).

5.4 Taxes, Fees and Levies.

(a) Seller shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with the Facility or delivery or sale of the Products (“**Seller’s Taxes**”). Buyer shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Products after Delivery of such Products to Buyer or imposed on or associated with the purchase of such Products (other than ad valorem, franchise or income taxes which are related to the sale of the Products and are, therefore, the responsibility of Seller) (“**Buyer’s Taxes**”). In the event Seller shall be required by law or regulation to remit or pay any Buyer’s Taxes, Buyer shall reimburse Seller for such payment. In the event Buyer shall be required by law or regulation to remit or pay any Seller’s Taxes, Seller shall reimburse Buyer for such payment, and Buyer may deduct any of the amount of any such Seller’s Taxes from the amount due to Seller under Section 5.2. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein. Nothing shall obligate or cause a Party to pay or be liable to pay any taxes, fees and levies for which it is exempt under law.

(b) Seller shall bear all risks, financial and otherwise, throughout the Term, associated with Seller’s or the Facility’s eligibility to receive any federal or state tax credits, to qualify for accelerated depreciation for Seller’s accounting, reporting or tax purposes, or to receive any other grant or subsidy from a Governmental Entity or other Person. The obligation of the Parties hereunder, including those obligations set forth herein regarding the purchase and Price for and Seller’s obligation to deliver the Products, shall be effective regardless of whether the production and/or sale of the Products from the Facility is eligible for, or receives, any federal or state tax credits, grants or other subsidies or any particular accounting, reporting or tax treatment during the Term.

5.5 **Security.** Upon Buyer’s written request, Seller shall provide Buyer with collateral in the form of cash, letter(s) of credit, suitable guaranty, or other type of reasonable security mutually acceptable to the parties in an amount equal to the estimated difference between Buyer’s Energy Price and the Market Energy Clearing Price within ten (10) business days following receipt of such written request. Such security may only be exercised in the event that Buyer is required through a final and non-appealable order of the NHPUC to refund to its ratepayers the amount Buyer paid to the Seller above the Market Energy Clearing Price. The collateral would remain in place for the earlier of the Term or the date that the FERC issues a determination in Docket No. EL19-10 on the constitutional validity of RSA Chapter 362-H.

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

6.1 **Representations and Warranties of Buyer.** Buyer hereby represents and warrants to Seller as follows:

(a) **Organization and Good Standing; Power and Authority.** Buyer is a corporation duly incorporated, validly existing and in good standing under the laws of New Hampshire. Subject to the receipt of the Regulatory Approval, Buyer has all requisite power to perform its obligations under these Governing Terms.

(b) **Due Authorization; No Conflicts.** Performance by Buyer of these

Governing Terms, and the performance by Buyer of its obligations hereunder are mandated by New Hampshire law and subject to the receipt of the Regulatory Approval.

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

(a) Organization and Good Standing; Power and Authority. Seller is duly formed, validly existing and in good standing under the laws of the state of its formation and is authorized to do business in the State of New Hampshire. Seller has all requisite power and authority to execute, deliver, and perform its obligations under these Governing Terms.

(b) Authority. Seller (i) has the power and authority to own and operate its businesses and properties, to own or lease the property it occupies and to conduct the business in which it is currently engaged; (ii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification; and (iii) holds all rights and entitlements necessary to own and operate the Facility and to deliver the Products to the Buyer in accordance with these Governing Terms.

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii) conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

(d) Binding Agreement. These Governing Terms has been duly executed and delivered on behalf of Seller and, assuming the due execution hereof and performance hereunder by Seller constitutes a legal, valid and binding obligation of Seller, enforceable against it in accordance with its terms, except as such enforceability may be limited by law or principles of equity.

(e) Consents and Approvals. The execution, delivery and performance by Seller of its obligations under these Governing Terms do not and, under existing facts and Law, shall not, require any Permit or any other action by, any Person which has not been duly obtained, made or taken, and all such approvals, consents, permits, licenses, authorizations, filings, registrations and actions are in full force and effect, and final.

Title to Products. Seller has and shall have good and marketable title to all Products sold and Delivered to Buyer under these Governing Terms, free and clear of all liens, charges and encumbrances. Seller has not sold and shall not sell any such Products to any other Person, and no Person other than Seller can claim an interest in any Product to be sold to Buyer under these Governing Terms. The Buyer shall not assume risk of loss with respect to any Products or services generated, delivered, or sold by the Facility.

(f)

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

(h) No Default. No Default or Event of Default has occurred and no Default or Event of Default shall occur as a result of the performance by Seller of its obligations under these Governing Terms.

6.3 Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section 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 Article 7 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 the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

(b) Payment Obligations. Any undisputed payment due and payable hereunder is not made on the date due, and such failure continues for more than ten (10) Business Days after notice thereof is given by the Non-Defaulting Party to the Defaulting Party; or

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

(d) Permit Compliance. Such Party fails to obtain and maintain in full force and effect any Permit (other than the Regulatory Approval) necessary for such Party to perform its obligations under these Governing Terms.

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE Rules or ISO-NE Practices or any other material obligation with respect to ISO-NE, and such failure has a material adverse effect on the Facility or Seller's ability to perform its obligations under these Governing Terms or on Buyer or Buyer's ability to receive the benefits under these Governing Terms, provided that if Seller's failure to satisfy any material obligation under the ISO-NE Rules or ISO-NE Practices does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(c) Failure to Maintain Material Contracts. The failure of Seller to maintain in effect any material agreements required to Deliver the Energy committed to Buyer hereunder to the Delivery Point, including the Interconnection Agreement, provided that if Seller's failure does not have a material adverse effect on Buyer or Buyer's ability to receive the benefits under these Governing Terms, Seller may cure such failure within thirty (30) days of its occurrence; or

(d) Abandonment. On or after the Commercial Operation date, the permanent relinquishment by Seller of all of its possession and control of the Facility, other than a sale or transfer of the Facility; or

(e) Assignment. The assignment of these Governing Terms by Seller, except as permitted in accordance with Article 12; or

(f) Failure to Deliver. Seller's failure to deliver Products to Buyer in accordance with these Governing Terms and the applicable Confirmation.

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing

Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

(b) Termination. Upon the occurrence of an Event of Default, a Non-Defaulting Party may terminate these Governing Terms at its sole discretion by providing written notice of such termination to the Defaulting Party. Such termination shall be with a full reservation of the Non-Defaulting Party's rights and remedies under law and equity.

(c) Limitation of Remedies, Liability and Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THESE GOVERNING TERMS SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

9. FORCE MAJEURE

9.1 Force Majeure.

(a) The term "**Force Majeure**" means an unusual, unexpected and significant event: (i) that was not within the control of the Party claiming its occurrence; (ii) that could not have been prevented or avoided by such Party through the exercise of reasonable diligence; and (iii) that directly prohibits or prevents such Party from performing its obligations under these Governing Terms. Under no circumstances shall Force Majeure include (v) any full or partial

curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

(b) If either Party is unable, wholly or in part, by Force Majeure to perform obligations under these Governing Terms, such performance (other than the obligation to make payment of amounts due and payable under these Governing Terms) shall be excused and suspended so long as the circumstances that give rise to such inability exist, but for no longer period. The Party whose performance is affected shall give prompt notice thereof; such notice may be given orally or in writing but, if given orally, it shall be promptly confirmed in writing, providing details regarding the nature, extent and expected duration of the Force Majeure, its anticipated effect on the ability of such Party to perform obligations under these Governing Terms, and the estimated duration of any interruption in service or other adverse effects resulting from such Force Majeure, and shall be updated or supplemented to keep the other Party advised of the effect and remedial measures being undertaken to overcome the Force Majeure. Such inability shall be promptly corrected to the extent it may be corrected through the exercise of due diligence. Neither party shall be liable for any losses or damages arising out of a suspension of performance that occurs because of Force Majeure.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Energy to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 10.1(a) has occurred.

10. DISPUTE RESOLUTION

10.1 Dispute Resolution. In the event of any dispute, controversy or claim between the Parties arising out of or relating to these Governing Terms (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within fifteen (15) days after such referral to the senior

management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC and/or the FERC depending on the nature of the Dispute.

11. INDEMNIFICATION

11.1 Seller shall indemnify, defend and hold Buyer and its partners, shareholders, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from and against all liabilities, damages, losses, penalties, claims, demands, suits and proceedings of any nature whatsoever arising from or related to Seller's execution, delivery or performance of these Governing Terms, or Seller's negligence, gross negligence, or willful misconduct, or Seller's failure to satisfy any obligation or liability under these Governing Terms.

11.2 Failure to Defend. If Seller fails to assume the defense of a claim meriting indemnification, Buyer may at the expense of the Seller contest, settle or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of such indemnifying Party or, absent such consent, written consent of Buyer's counsel that such claim is meritorious or warrants settlement

12. ASSIGNMENT AND CHANGE OF CONTROL

The Transaction governed by these Governing Terms may not be assigned by either party except to the extent associated with a merger or consolidation of a Party or in connection with Seller's sale or transfer of its interest (or any part thereof) in the Facility.

13. TITLE; RISK OF LOSS

Title to and risk of loss related to the Delivered Product shall transfer from Seller to Buyer at the Delivery Point. Title and risk of loss related to Seller warrants that it shall deliver to Buyer the Products free and clear of all liens and claims therein or thereto by any Person.

14. AUDIT

14.1 Audit. Each Party shall have the right, upon reasonable advance notice, and at its sole expense (unless the other Party has defaulted under these Governing Terms, in which case the Defaulting Party shall bear the expense) and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to these Governing Terms. If requested, a Party shall provide to the other Party statements evidencing the quantities of Products delivered or provided hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment

or underpayment was made until paid.

14.2 Consolidation of Financial Information. Generally accepted accounting principles and SEC rules may, from time to time, and in accordance with such accounting principles and rules change throughout the Term, requiring Buyer to have access to Seller's financial records and personnel. Seller shall provide to Buyer within fifteen (15) days of receipt of Buyer's reasonable written request, any and all listed financial information and statements then available to Seller as well as access to financial personnel, to the extent that Buyer needs such information in order to comply with generally accepted accounting principles and SEC rules for financial reporting purposes, subject to Buyer's agreement to maintain the confidentiality and prevent the disclosure of such information.

15. NOTICES

Any notice or communication given pursuant hereto shall be in writing and (1) delivered personally (personally delivered notices shall be deemed given upon written acknowledgment of receipt after delivery to the address specified or upon refusal of receipt); (2) mailed by registered or certified mail, postage prepaid (mailed notices shall be deemed given on the actual date of delivery, as set forth in the return receipt, or upon refusal of receipt); or (3) by reputable overnight courier; in each case addressed as follows or to such other addresses as may hereafter be designated by either Party to the other in writing, as set forth in the Confirmation.

16. WAIVER AND MODIFICATION

These Governing Terms may be amended and its provisions and the effects thereof waived only by a writing executed by the Parties, and no subsequent conduct of any Party or course of dealings between the Parties shall effect or be deemed to effect any such amendment or waiver. No waiver of any of the provisions of these Governing Terms shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. The failure of either Party to enforce any provision of these Governing Terms shall not be construed as a waiver of or acquiescence in or to such provision. Buyer shall determine whether any amendment or waiver of the provisions of these Governing Terms shall require NHPUC review of the same for conformity with RSA 362-H, and if Buyer determines that such NHPUC review is required for any amendment or waiver of the provisions of these Governing Terms, then such amendment or waiver shall not become effective unless and until such NHPUC review is obtained.

17. INTERPRETATION

17.1 Choice of Law. Interpretation and performance of these Governing Terms shall be in accordance with, and shall be controlled by, the laws of the State of New Hampshire (without regard to its principles of conflicts of law).

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles, sections and exhibits of these Governing Terms. The words "hereof" and "hereunder" shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

17.3 Change in ISO-NE Rules and Practices. These Governing Terms are subject to the ISO-NE Rules and ISO-NE Practices. If, during the Term of these Governing Terms, any ISO-NE Rule or ISO-NE Practice is terminated, modified or amended or is otherwise no longer applicable, resulting in a material alteration of a material right or obligation of a Party hereunder, the Buyer shall modify these Governing Terms and submit the modified document to the NHPUC for its review for conformity with RSA 362-H. The intent is that any such amendment or clarification reflect, as closely as possible, the intent, substance and effect of the ISO-NE Rule or ISO-NE Practice being replaced, modified, amended or made inapplicable as such ISO-NE Rule or ISO-NE Practice was in effect prior to such termination, modification, amendment, or inapplicability, provided that such amendment or clarification shall not in any event alter (i) the purchase and sale obligations of the Parties pursuant to these Governing Terms, or (ii) the Price.

17.4 Change in Law or Buyer's Accounting Treatment. If, during the Term of these Governing Terms, there is a change in Law or accounting standards or rules or a change in the interpretation of applicability thereof that would result in adverse balance sheet or creditworthiness impacts on Buyer associated with these Governing Terms or the amounts paid for Products purchased hereunder, the Buyer shall amend or clarify these Governing Terms to avoid or significantly mitigate such impacts and submit such amendments or clarifications to the NHPUC for review for conformity with RSA 362-H .

18. COUNTERPARTS; FACSIMILE SIGNATURES

Any number of counterparts of the Form of Confirmation may be executed, and each shall have the same force and effect as an original. Facsimile signatures on any notice or other instrument delivered under these Governing Terms shall have the same force and effect as original signatures.

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

If any term or provision of these Governing Terms or the interpretation or application of any term or provision to any prior circumstance is held to be unenforceable, illegal or invalid by a court or agency of competent jurisdiction, the remainder of these Governing Terms and the interpretation or application of all other terms or provisions to Persons or circumstances other than those which are unenforceable, illegal or invalid shall not be affected thereby, and each term and provision shall be valid and be enforced to the fullest extent permitted by law.

21. INDEPENDENT CONTRACTOR

Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be

the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

These Governing Terms and the Confirmation shall govern the entire relationship between the Parties hereto relating to the mandates set forth in NH RSA Chapter 362-H and shall supersede all prior agreements and communications.

EXHIBIT 18



780 N. Commercial Street
P.O. Box 330
Manchester, NH 03105-0330

Robert A. Bersak
Chief Regulatory Counsel

603-634-3355
robert.bersak@eversource.com

February 6, 2019
Via e-mail and U.S. Mail

Timothy J. McLaughlin, Esq.
Shaheen & Gordon, P.A.
107 Storrs Street
P. O. Box 2703
Concord, New Hampshire 03301

Re: NHPUC Docket No. DE 18-002, Implementation of N.H. Senate Bill 365 (2018)

Dear Attorney McLaughlin:

Thank you for your January 31 responses from the five Wood IPPs regarding implementation of 2018's N.H. Senate Bill 365 which created RSA Chapter 362-H. As I noted in my previous letters to you (dated January 14 and January 23) there is a fundamental "roadblock" to implementation of SB 365 – the roadblock created by the question of the Constitutionality of that law under the Supremacy Clause in Article VI of the U.S. Constitution; i.e., is the law preempted by the Federal Power Act. The New Hampshire Public Utilities Commission's ("NHPUC" or "Commission") decision in its Order No. 26,208 (the "Order") held that Eversource "cannot" be assured of recovery of over-market costs that purchases under SB 365 will create until the Constitutionality of that law is decided. The roadblock remains; indeed, as discussed below, the NHPUC has recently ratified that roadblock. Your responses fail to fully address the roadblock.

In your January 31 letters, you cite to the provisions of RSA 362-H and state:

As you know, Eversource "shall select all proposals from eligible facilities that conform to the requirements of this section." *See* RSA 362-H:2, III (emphasis added). Because this re-submitted proposal conforms to the provisions of RSA 362-H as further clarified by the Order, we expect that Eversource will select it as the mandated power purchase agreement, and that it will submit this "eligible facility agreement[]" to the commission" for its review. *See* RSA 362-H:2, III.

Unless and until the roadblock is completely addressed, there can be no "agreements" for Eversource to select or submit to the NHPUC for review. A material provision of RSA Chapter 362-H is that "The electric distribution company shall recover the difference between its energy

purchase costs and the market energy clearing price... .” RSA 362-H:2, V (emphasis added). In Order No. 26,208, the Commission held:

[I]n the circumstance that the statute is found unconstitutional after Eversource has made over-market payments to eligible facilities, the very authority for a Commission order authorizing recovery of those charges from customers would be invalidated. Until the constitutionality of the statute [sic] is determined, and the authority for recovery of over-market charges from customers is upheld, the Commission cannot order rate recovery of over-market costs associated with compliance with the statute. Therefore, we are unable to provide the assurance requested by Eversource regarding stranded cost recovery until the constitutionality of RSA 362-H is fully resolved.

Thus, despite the statutory provision requiring that the Commission shall provide for the recovery by Eversource of the over-market costs that would result from implementation of SB 365, the Commission specifically ruled that due to the pending legal challenge to the statute that is pending before the Federal Energy Regulatory Commission (“FERC”) it “cannot order” such cost recovery and was “unable to provide” Eversource with assurance of such recovery.

Eversource sought Commission assurance of SB 365’s over-market costs in its Petition to the NHPUC of December 4, 2018 in NHPUC Docket No. DE 18-002. Eversource went one step further than just seeking assurance of recovery of the over-market costs that implementation of SB 365 would create. In NHPUC Docket No. DE 18-182, “Petition for Adjustment to Stranded Cost Recovery Charge Rate,” Eversource requested actual recovery of the forecast \$23.348 million in over-market costs that purchases under SB 365 would create over the first year. The NHPUC has also rejected that request: “We find that excluding the SB 365 costs from the calculation of the SCRC at this time results in just and reasonable rates.” Order No. 26,215, January 28, 2019 at 7. The Commission determined that, “In the event that Eversource and the eligible facilities enter into agreements under SB 365, we will use an expedited process to review and determine whether and how to update the SCRC rate.” *Id.* at 8 (emphasis added).

Thus, the Commission as recently as January 28th continues to take the position that recovery of over-market costs of SB 365 by Eversource is not assured. The pending legal challenge at the federal level to the Constitutionality of the law must be decided. The NHPUC’s express denial in Order No. 26,215 of Eversource’s request to recover the forecast over-market costs of SB 365 through the nonbypassable Stranded Cost Recovery Charge applicable to all customers in Eversource’s service territory makes the Constitutional roadblock of Order No. 26,208 even more formidable.

Therefore, the “roadblock” remains. The path forward requires either removal of the roadblock or going around the roadblock. Removal of the roadblock would require a decision on the Constitutional issue, followed by an order from the NHPUC assuring Eversource of its entitlement to recovery of all over-market costs. Going around the roadblock would be enabled

by institution of a so-called “customer protection” mechanism (see Order No. 26,208) that secures re-payment of all over-market costs created by implementation of SB 365 “[u]ntil the constitutionality of the statu[t]e is determined” (Order No. 26,208 at 24) and the NHPUC authorizes Eversource to recover all such over-market costs “through a nonbypassable delivery services charge applicable to all customers in the utility’s service territory.” (RSA 362-H:2, V).

The security mechanism set forth in Section 5.5 of the Governing Terms in your January 31 responses is unacceptable to Eversource in both form and duration. In my January 14 and January 23 letters to you, I set forth Eversource’s willingness to move forward with SB 365 if there was agreement to establish an escrow mechanism to receive the above-market costs until the Constitutional issue is decided and the NHPUC is in a position to rule on cost recovery of those over-market amounts. On January 31, Eversource’s Rick White sent you language acceptable to Eversource for establishment of such an escrow arrangement.

If the Wood IPPs wish to move forward with implementation of SB 365 prior to a final, unappealable decision regarding the Constitutionality of the statute and an order from the NHPUC allowing recovery of all over-market costs by Eversource, they must agree to the escrow security provision that Eversource has supplied.

Sincerely,



Robert A. Bersak
Chief Regulatory Counsel

cc: Service List, NHPUC Docket No. DE 18-002 (via e-mail)