MASTER POWER SUPPLY AGREEMENT

DATED AS OF \_\_\_\_\_\_\_\_\_\_\_, 202\_

BY AND BETWEEN

NSTAR ELECTRIC COMPANY

AND

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**table of contents**

**ARTICLE 1. BASIC UNDERSTANDINGS 4**

**ARTICLE 2. DEFINITIONS 4**

**ARTICLE 3. TERM AND SERVICE PROVISIONS 14**

Section 3.1 Term 14

Section 3.2 Conditions Precedent 15

**ARTICLE 4. SALE AND PURCHASE 16**

Section 4.1 Default Supply Service 16

Section 4.2 NE-GIS Certificates 16

**ARTICLE 5. Monthly payment amount AND BILLING 16**

Section 5.1 Monthly Payment Amount 16

Section 5.2 Billing and Payment 16

Section 5.3 Payment Netting 18

Section 5.4 Taxes, Fees and Levies 18

**ARTICLE 6. DELIVERY, LOSSES, AND DETERMINATION AND REPORTING OF HOURLY LOADS 18**

Section 6.1 Delivery 18

Section 6.2 Losses 19

Section 6.3 Determination and Reporting of Hourly Loads 19

Section 6.4 NEPOOL Market System 19

**ARTICLE 7. SECURITY 20**

Section 7.1 Supplier/Guarantor 20

Section 7.2 Letter of Credit Changes 20

Section 7.3 Unsecured Credit Limit 20

Section 7.4 Performance Assurance 21

Section 7.5 Supplier Downgrade Event 22

Section 7.6 Grant of Security Interest 22

Section 7.7 Multiple Default Service Agreements/ Transactions 23

**ARTICLE 8. DEFAULT AND REMEDIES 23**

Section 8.1 Events of Default 23

Section 8.2 Right of Early Termination Upon Event of Default 25

Section 8.3 Remedies Upon an Event of Default; Settlement Amount 25

Section 8.4 Notice of Payment of Settlement Amount 26

Section 8.5 Obligations Following Expiration or Termination 26

**ARTICLE 9. NOTICES, REPRESENTATIVES OF THE PARTIES 27**

Section 9.1 Notices 27

Section 9.2 Authority of Representative 28

**ARTICLE 10. LIABILITY, INDEMNIFICATION, AND RELATIONSHIP OF PARTIES 28**

Section 10.1 Limitation on Consequential, Incidental and Indirect Damages 28

Section 10.2 Indemnification 29

Section 10.3 Independent Contractor Status 30

Section 10.4 Title; Risk of Loss 30

**ARTICLE 11. ASSIGNMENT 30**

Section 11.1 General Prohibition Against Assignments 30

Section 11.2 Exceptions to Prohibition Against Assignments 30

**ARTICLE 12. SUCCESSORS AND ASSIGNS 30**

**ARTICLE 13. WAIVERS 31**

**ARTICLE 14. REGULATION 31**

Section 14.1 Laws and Regulations 31

Section 14.2 NEPOOL Requirements 31

Section 14.3 Uniform Disclosure Requirements 32

Section 14.4 Competitive Affiliates of Supplier 32

Section 14.5 Sales Tariffs 32

**ARTICLE 15. INTERPRETATION 32**

**ARTICLE 16. SEVERABILITY 32**

**ARTICLE 17. MODIFICATIONS 33**

**ARTICLE 18. REPRESENTATIONS AND WARRANTIES 33**

**ARTICLE 19. COUNTERPARTS 34**

**ARTICLE 20. HEADINGS; CONSTRUCTION 34**

**ARTICLE 21. CONFIDENTIALITY 35**

**ARTICLE 22. AUDIT 35**

**ARTICLE 24. DISPUTE RESOLUTION 36**

**ARTICLE 25. NO THIRD PARTY BENEFICIARIES 38**

**ARTICLE 26. CONSENTS AND APPROVALS 38**

**APPENDIX A MASTER POWER SUPPLY AGREEMENT FORM OF CONFIRMATION 41**

**APPENDIX b FORM OF GUARANTEE 44**

**Appendix c SETTLEMENT PROCESS…………………………………………………48**

**MASTER POWER SUPPLY AGREEMENT**

This **MASTER** **POWER SUPPLY AGREEMENT** (“Agreement”) is dated as of [date] and is by and between NSTAR Electric Company d/b/a Eversource Energy (“NSTAR Electric”), with a principal place of business at 800 Boylston Street, Boston, MA 02199 and  (“Supplier”) with a principal place of business at .

**ARTICLE 1. BASIC UNDERSTANDINGS**

 Supplier and NSTAR Electric have agreed to execute this Agreement in order to establish the terms of Supplier’s provision and sale of, and NSTAR Electric’s acceptance and purchase of Default Supply Service in accordance with the applicable Confirmation. Supplier and NSTAR Electric are collectively referred to as the “Parties”, and individually as a “Party” to this Agreement.

This Agreement, together with the Appendices and any written supplements hereto, and any designated Confirmation, or collateral, credit support or margin agreement or similar arrangement between the Parties regarding the Transactions, shall constitute the entire agreement between the Parties relating to the subject matter hereof and supersede any other agreements, written or oral, between the Parties concerning such Transactions.

**ARTICLE 2. DEFINITIONS**

The following words and terms shall be understood to have the following meanings when used in this Agreement. This Agreement includes certain capitalized terms that are not explicitly defined herein. Such capitalized terms shall have the meanings specified in the NEPOOL Agreement and NEPOOL Rules or such successor agreement and rules including those adopted by the RTO, as the same are in effect from time to time, which meanings are incorporated herein by reference and made a part hereof. In the event of any inconsistency between a definition contained herein and a definition contained in either the NEPOOL Agreement or the NEPOOL Rules or such successor agreement and rules, the definition in this Agreement shall control for purposes of this Agreement.

**Affiliate** – With respect to any Party, a person or entity that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such Party. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having voting power.

**All Hours Forward Market Price** means a calculation that weights the Average On-Peak Forward Market Price and the Average Off-Peak Forward Market Price using the ratio of peak and off-peak hours in the applicable month of the Service Term(s). The calculation is expressed as follows: (Average On-Peak Forward Market Price) x (peak hours in the month/total hours in the month) + (Average Off-Peak Forward Market Price) x (off-peak hours in the month/total hours in the month).

**All Hours Initial Market Price** means a calculation that weights the Average On-Peak Initial Market Price and the Average Off-Peak Initial Market Price using the ratio of peak and off-peak hours in the applicable month of the Service Term(s). The calculation is expressed as follows: (Average On-Peak Initial Market Price) multiplied by (peak hours in the month/total hours in the month) plus (Average Off-Peak Initial Market Price) multiplied by (off-peak hours in the month/total hours in the month).

**Average On-Peak Initial Market Price** means the arithmetic average between the bid and ask Market Prices for on-peak energy for each month during the Service Term(s) as of the Date of Execution of the applicable Confirmation.

**Average Off-Peak Initial Market Price** means the arithmetic average between the bid and ask Market Prices for off-peak energy for each month during the Service Terms(s) as of the Date of Execution of the applicable Confirmation.

**Average On-Peak Forward Market Price** means the arithmetic average between the future bid and ask Market Prices for on-peak energy for each month remaining in the Service Term(s).

**Average Off-Peak Forward Market Price** means the arithmetic average between the future bid and ask Market Prices for off-peak energy for each month remaining in the Service Terms(s).

**Business Day** – A day ending at 5:00 p.m. Eastern Prevailing Time, other than Saturday, Sunday and any day which is a legal holiday or a day designated as a holiday by the NERC or any successor organization thereto; provided, that, with respect to any payment due hereunder, a “Business Day” shall mean a day ending at 5:00 p.m. Eastern Prevailing Time, other than Saturday, Sunday and any day which is a legal holiday or a day on which banking institutions in Boston, Massachusetts or New York, New York are authorized by law or other governmental action to close; and, provided, further, that with respect to any document to be delivered pursuant to Section 3.2 or Section 6.3 hereof, a “Business Day” shall be a day other than Saturday, Sunday and any day which is a legal holiday or a day designated as a holiday by ISO-NE.

**Buyer’s Exposure** means any positive difference between (1) Market Exposure and (2) the sum of (i) any payment due from NSTAR Electric to Supplier pursuant to the Agreement which has not yet been made, and (ii) any Performance Assurance provided pursuant to Article 7.

**Claims** – All third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity under this Agreement, and the resulting losses, damages, expenses, reasonable attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

**Commercial Customer Group** – NSTAR Electric’s small and medium sized commercial and industrial customers in the following retail rate classes: G1, G2, S1 – S3 for load assets 1484 and 8122; and G0, G1, G4 – G7, S1, S2 for load assets 1487 and 1490, each as in effect as of the date hereof and under a successor or new rate schedule, if any, available to customers meeting the eligibility characteristics of the predecessor rate schedule. The Commercial Customer Group shall not include any customer that is added to any of the foregoing rate classes during the applicable Delivery Term as a result of a reclassification of customers, merger, acquisition or divestiture by NSTAR Electric or its Affiliates.

**Commission** – Federal Energy Regulatory Commission or its successor.

**Competitive Affiliate** is defined in Section 14.4.

**Confidential Information** – The terms of any Confirmations executed by the Parties, any information regarding individual NSTAR Electric customers, the terms of any security instrument provided by a Party hereto, and such other terms as the Parties agree shall remain confidential. Notwithstanding the foregoing, the following shall not constitute Confidential Information:

1. Information which was already in a Party’s possession prior to its receipt from another Party and not known to be subject to a requirement of confidentiality;

1. Information which is obtained from a third person who, insofar as is known to the receiving Party, is not prohibited from transmitting the information to the receiving Party by a contractual, legal or fiduciary obligation to the receiving Party; and

1. Information which is or becomes publicly available through no fault of the Party.

**Confirmation** – A confirmation that is mutually agreed to and executed by the Parties, substantially in the form set forth in Appendix A or in a form otherwise agreed to by the Parties, such document to serve as a supplement or modification of this Agreement with respect to a specific Transaction.

**Confirmation Effective Date**  - means as defined in Section 3.2.

**Contract Rate** – The price or prices to be paid by NSTAR Electric to Supplier for purchase of the Default Supply Service, as specified in the applicable Confirmation.

**Credit Rating** means the rating then assigned to Supplier’s or Guarantor’s or any referenced third party’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if Supplier or Guarantor or such third party does not have a rating for its senior unsecured long-term debt, then one rating notch below the rating then assigned to Supplier or Guarantor or such third party as an issuer and/or corporate credit rating by a Rating Agency. In the event of an inconsistency in the ratings (a “split rating”), the lowest of the Credit Ratings shall control.

**Customer Groups** – NSTAR Electric’s customers who are to receive the Default Supply Service in the Commercial Customer Group, the Industrial Customer Group and/or the Residential Customer Group in each Load Zone corresponding to each of the foregoing Customer Groups as specified on the Confirmation for the applicable Transaction.

**Customers** – Those customers receiving Default Service that comprise the Customer Groups, as specified on the Confirmation for the applicable Transaction.

**Default Service** – Default Supply Service supplied to Customers under the Default Service Tariff.

 **Default Service Tariff** – NSTAR Electric’s Tariff for Default Service as in effect from time to time and approved by the Department.

**Default Supply Service** – The Products to be sold and supplied by Supplier and purchased and received by NSTAR Electric as may be modified in the applicable Confirmation.

**Defaulting Party** is defined in Section 8.1.

**Delivered Energy** – The quantity of Energy, expressed in MWhs, provided by Supplier pursuant to a Transaction measured at the Delivery Points. This quantity shall be the quantity of Energy reported to ISO-NE by NSTAR Electric and/or its agent for each Load Asset, with such quantity being determined in accordance with Section 6.3 hereof.

**Delivery Points** – The delivery points with respect to the delivery of Delivered Energy and provision of Products, the point or points of interconnection of the PTF with the NSTAR Metering Domains within the appropriate Load Zone or, if different, the point applicable to the relevant Product designated by ISO-NE to provide the Default Service. These point(s) represent the locations at which the ISO-NE Settlement Power System Model establishes the load obligation and where the physical loads of the Customers exist. The point of interconnection of the PTF with the NSTAR Metering Domains are currently: “BECO – NEMA Node, Metering Domain ID 6, in Load Zone 4008, .Z.NEMASSBOST”; “COMELEC – SEMA NODE, Metering Domain ID 10, in Load Zone 4006, .Z.SEMASS”; “BECO – SEMA NODE, Metering Domain ID 8001, in Load Zone 4006, .Z.SEMASS”; “COMELEC – NEMA NODE, Metering Domain ID 8002, in Load Zone 4008, .Z.NEMASSBOST”. In the event nodal pricing for load is implemented for the New England market by ISO-NE, the Delivery Point(s) for the delivery of Energy and provision of Products hereunder shall mean the point or points of interconnection of the PTF with the NSTAR Metering Domains within the appropriate Load Zone. Under nodal pricing, these point(s) represent the nodes at which the ISO-NE Settlement Power System Model establishes the load obligation and where the physical loads of the Customers exist and at which point(s) or individual nodes, NSTAR Electric’s Default Service load withdraws from the PTF. In the event that market changes result in restructuring the existing Load Zone into more zones, Supplier’s delivery obligation will be unchanged and the Parties will make any modifications to this Agreement necessary to reflect the Parties’ intent that delivery of Energy and provision of Products should occur at the Delivery Point(s).

**Delivery Term** – The period(s) set forth on a Confirmation for a specific Transaction for the respective Default Supply Service designations set forth therein.

**Department** – Massachusetts Department of Public Utilities, or its successor.

**Department Action** – means as defined in Section 3.2.

**Disclosing Party** is defined in Article 21.

**Downgrade Event** means an event where Supplier’s or, if applicable, Guarantor’s Credit Rating falls below an Investment Grade Rating, or Supplier or, if applicable, Guarantor ceases to have a Credit Rating.

**Early Termination Date** is defined in Section 8.2.

**Energy** shall mean electric “energy,” as such term is defined in the ISO-NE Tariff.

 **Energy Quantity** means the monthly estimation of megawatt hours for any applicable Service Term(s). The values of the Energy Quantity are provided in Table 1 to the applicable Confirmation(s), Market Exposure Calculation.

**Effective Date** means \_\_\_\_\_\_\_\_, 202\_.

**Event of Default** is defined in Section 8.1.

**Estimation Process** is defined in Section 6.3.

**Federal Funds Effective Rate** means the interest rate as set forth in the weekly statistical release designated as H.15(519), or any successor publication, published by the Board of Governors of the Federal Reserve System.

**Fitch** means Fitch Investor’s Service, Inc. or its successor.

**Fixed Amount** means the applicable dollar amounts set forth in Section 7.3 under the column heading “Fixed Amount”.

**Guarantor** means \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, its successors and permitted assigns (or such other guarantor acceptable to NSTAR Electric) under a guaranty delivered to NSTAR Electric in accordance with Section 7.1.

**Guaranty** means the guaranty of Seller’s obligations under this Agreement in a form consistent with Exhibit B hereto or such other form acceptable to NSTAR Electric, and amount acceptable to NSTAR Electric, delivered to NSTAR Electric in accordance with Section 7.1.

**Guaranty Amount** means the aggregate liability of the Guarantor as set forth in the Guaranty delivered by Supplier pursuant to this Agreement.

**ICAP Energy** means ICAP Energy LLC, or its successor.

**ICE** means Intercontinental Exchange, Inc., or its successor.

**Indemnifying Party** is defined in Section 10.2.

**Industrial Customer Group** – means NSTAR Electric’s large commercial and industrial customers in the following retail classes: G3, T2 for load assets 1485 and 8123; and G2, G3 for load assets 1491 and 1488, each as in effect as of the date hereof and under a successor or new rate schedule, if any, available to customers meeting the eligibility characteristics of the predecessor rate schedule. The Industrial Customer Group shall not include any customer that is added to any of the foregoing rate classes during the applicable Delivery Term as a result of a reclassification of customers, merger, acquisition or divestiture by NSTAR Electric or its Affiliates.

**Intangible Assets** include goodwill, patents, copyrights, trademarks, trade names, organization costs, capitalized development costs and software, franchises, licenses, property rights, and intangible portion of prepaid pensions.

**Investment Grade Rating** means a Credit Rating of “Baa3” or better from Moody’s, “BBB-” or better from S&P or Fitch, or an equivalent Credit Rating by another Rating Agency. In the event of an inconsistency in the ratings (a “split rating”), the lowest of the Credit Ratings shall control.

**ISO / ISO-NE**  – The independent system operator established in accordance with the NEPOOL Agreement and the Interim Independent System Operator Agreement as amended, superseded or restated from time to time, or the RTO.

**ISO-NE Tariff** shall mean ISO-NE’s Transmission, Markets and Services Tariff, as amended from time to time.

**KWh** – Kilowatt-hour.

**Letter(s) of Credit** means one or more irrevocable, non-transferable standby letters of credit issued by a Qualified Institution. Costs of a Letter of Credit shall be borne by the Supplier.

**Load Asset(s)** means as defined in the ISO- NE Tariff.

**Load Asset Registration Form**  means as defined in Section 6.4.

**Load Zone** – reliability regions resulting from implementation of Market Rule 1.

**Locational Forward Reserves** – any methodology or system, whether implemented in the form of a charge assessed upon, or a product required to be supplied by, an owner of a Load Asset in association with the non-energy locational value of forward reserves within the NEPOOL region.

**MA DOER** means the Massachusetts Department of Energy Resources and its successors.

**MDPU** means the Massachusetts Department of Public Utilities and its successors.

**Market Exposure** means the summation of the Monthly Exposures for each full month remaining in the applicable Service Term(s). The format for calculating the Market Exposure is provided in Table 1 to the applicable Confirmation(s), Market Exposure Calculation.

**Market Price** means prices for energy at the Massachusetts Hub as quoted by ICE and/or ICAP Energy (using both sources to the extent quoted by both). In the event that monthly bid and ask prices are not quoted by either ICE or ICAP Energy, then quarterly bid and ask prices shall be used to the extent quoted by ICE and/or ICAP Energy (using both sources to the extent such quarterly prices are quoted by both). In the event that quarterly bid and ask prices are not quoted by either ICE or ICAP Energy, then seasonal bid and ask prices shall be used to the extent quoted by ICE and/or ICAP Energy (using both sources to the extent such seasonal prices are quoted by both). In the event that seasonal bid and ask prices are not quoted by either ICE or ICAP Energy, then annual bid and ask prices shall be used to the extent quoted by ICE and/or ICAP Energy (using both sources to the extent such annual prices are quoted by both).

**Metering Domain** - is as stated in the definition of “Delivery Point.”

**Market Rules and Procedures** **–**means any tariffs, market rules, manuals or procedures adopted by ISO or the RTO for the administration of electric Energy, capacity and Ancillary Services markets in New England, or successor or replacement tariffs, rules, manuals or procedures, on file at the FERC and in effect from time to time.

**Monthly Exposure** is the All Hours Forward Market Price minus the All Hours Initial Market price, multiplied by the Energy Quantity.

**Monthly Payment Amount –** The total amount payable each calendar month by NSTAR Electric as set forth in Section 5.1.

**Moody’s** – Moody's Investors Service, Inc. or its successor.

**MWh –** Megawatt-hour.

**NE-GIS** – The New England Generation Information System, which includes a generation information database and certificate system, operated by NEPOOL, its designee or successor entity, that accounts for generation attributes of electricity consumed within New England.

**NE-GIS Certificates** – An electronic record produced by the NE-GIS that identifies the relevant generation attributes of each MWh accounted for in the NE-GIS from a new renewable generation unit that complies with the Renewable Energy Portfolio Standards promulgated at 225 CMR 14.00 et seq., or any successor regulation thereto.

**NEPOOL** – The New England Power Pool and any successor organization, including the RTO.

**NEPOOL Agreement** – The Second Amended and Restated New England Power Pool Agreement dated as of February 1, 2005, as amended and/or restated from time to time.

**NEPOOL GIS**  means as defined in the ISO- NE Tariff.

**NEPOOL Rules** – All rules, tariffs, and procedures adopted by NEPOOL, ISO-NE, or the RTO, as such rules may be amended from time to time, including but not limited to, the Market Rules and Procedures, the NEPOOL Operating Procedures, the NEPOOL Agreement and the Interim Independent System Operator Agreement between NEPOOL and ISO-NE and all notices, Procedures or Administrative Procedures published by ISO-NE via its web site and/or by its e-mail distribution to appropriate NEPOOL Participants and/or NEPOOL Functional Committees, as amended, superseded or restated from time to time.

**NERC** – The North American Electric Reliability Council.

**Non-Defaulting Party** - as defined in Section 8.2.

 **Party(ies)** – NSTAR Electric or Supplier or any of them, as the context requires.

**Performance Assurance** means collateral in the form of cash, Letter(s) of Credit, or other security acceptable to NSTAR Electric. Cash collateral may be held by NSTAR Electric provided that NSTAR Electric has an Investment Grade Rating, but shall be held by a Qualified Institution if NSTAR Electric does not have such a rating. Cash collateral shall earn interest at the Federal Funds Effective Rate, with such interest to be remitted to Supplier on a monthly basis. The Qualified Institution shall hold the cash collateral in a segregated, safekeeping or custody account within the Qualified Institution with the title of such account indicating that the property contained therein is being held as Performance Assurance for the ownership of Supplier, subject to the security interest of NSTAR Electric. In addition, Performance Assurance shall be deemed, for all legal purposes, to mean adequate assurance as such term is used in the Uniform Commercial Code ("UCC") and the Bankruptcy Code and amendments thereto. The Parties specifically recognize that the use of Performance Assurance throughout this Agreement shall not limit any legal right, action or remedy that would have otherwise been available to the aggrieved Party under either the UCC or Bankruptcy Code.

**Prime Rate** – The lesser of (i) the rate published from time to time in The Wall Street Journal, as the prime-lending rate, and (ii) the maximum rate permitted by applicable law.

**Product** – means any capacity, Energy, all ancillary services (including regulation and frequency response service and operating reserves), locational capacity and/or deliverability requirements, forward reserves and locational forward reserves,as specifically discussed in the Market Rules and Procedures, and any other product, service, obligation, or ancillary service that is or may be required by the Market Rules and Procedures to serve load subsequent to the Effective Date. The term “Product” also includes any and all additional obligations or other costs associated with ownership of the Load Asset during the Term resulting from any change in the Market Rules and Procedures that may be implemented or in effect during the Term relating to the wholesale markets administered by ISO that impose or assess additional obligations or other costs on the owner of the Load Asset.

**PTF** – Facilities categorized as Pool Transmission Facilities under the Market Rules and Procedures.

**Qualified Institution** – A U.S. financial institution or the U.S. branch office of a foreign financial institution with (i) a Credit Rating of at least (a) “A-” by S&P, “A-” by Fitch and “A3” by Moody’s, if such entity is rated by S&P, Fitch and Moody’s or (b) “A-” by S&P or “A-” by Fitch or “A3” by Moody's, if such entity is rated by either S&P, Fitch or Moody’s but not all three, and (ii) having assets of at least USD ten billion ($10,000,000,000).

**Rating Agency** means S&P, Moody’s, Fitch or an equivalent organization acceptable to NSTAR Electric.

**Renewable Energy Portfolio Standards** – The regulations (found as of the date of this Agreement at 225 CMR 14.00) promulgated pursuant to M.G.L. c. 25A, § 11F that requires all retail electricity suppliers in Massachusetts to provide a minimum percentage of electricity from certain renewable energy generating resources.

**Residential Customer Group** – NSTAR Electric’s residential customers in the following retail rate classes: R1 – R6, each as in effect as of the date hereof and under a successor or new rate schedule, if any, available to customers meeting the eligibility characteristic of the predecessor rate schedule. The Residential Customer Group shall not include any customer that is added to any of the foregoing rate classes during the applicable Delivery Term as a result of a reclassification of customers, merger, acquisition or divestiture by NSTAR Electric or its Affiliates**.**

**RMR Agreement** – The form of agreement set forth in the NEPOOL Rules.

**RPS Requirement** – NE-GIS Certificates representing the number of MWhs calculated as the product of (a) Delivered Energy (grossed up for PTF losses) to the applicable Customer Group and Load Zone for a specific Transaction during the applicable Delivery Term, and (b) the rate set forth in the Confirmation for a specific Transaction. However, in no event shall the RPS Requirement exceed the amount of NE-GIS Certificates required for NSTAR Electric to satisfy its requirements under the Renewable Energy Portfolio Standards for the portion of Default Supply Service being served under a Transaction.

**RTO** - for the purposes of this Agreement the RTO is deemed to be any successor organization to ISO-NE, as authorized by the Commission to exercise for New England the functions pursuant to the Commission’s Order No. 2000 and the Commission’s corresponding regulations or any subsequent orders or regulations of the Commission, or any successor organization.

**S&P** – Standard & Poor's Financial Services LLC, or its successor.

**Service Term(s)** means the period(s) during which Supplier is obligated to supply Default Supply Service pursuant to the applicable Confirmation(s).

**Settlement Amount** is defined in Section 8.3

**Supplier’s Tariff** is defined in Section 14.5.

**Tangible Net Worth** or **TNW** of Supplier, or if applicable, Guarantor, means total assets, minus total liabilities, minus Intangible Assets as reported on Supplier’s or, if Supplier has a Guarantor, Guarantor’s most recent balance sheet, prepared in accordance with generally acceptable principles.

**Term** is defined in Section 3.1.

**Transaction** means a particular transaction agreed to by NSTAR Electric and the Supplier relating to the purchase and sale of Default Supply Service pursuant to this Agreement, as evidenced by the execution of a written Confirmation by NSTAR Electric and the Supplier setting forth the specific terms and conditions thereof.

**Unsecured Credit Limit** means the lesser of Supplier’s or Guarantor’s % Tangible Net Worth or the Fixed Amount, each as adjusted by Supplier’s or Guarantor’s Credit Rating pursuant to Section 7.3.

**ARTICLE 3. TERM AND SERVICE PROVISIONS**

**Section 3.1 Term**

The term of this Agreement (the “Term”) shall commence on the Effective Date and shall remain in effect until terminated by either Party upon (thirty) 30 days’ prior written notice unless earlier terminated in accordance with the provisions hereof; provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Agreement that by its terms survives any such termination and, provided further, that this Agreement and any other documents executed and delivered hereunder shall remain in effect with respect to the Transaction(s) entered into prior to the effective date of such termination until both Parties have fulfilled all of their obligations with respect to such Transaction(s), or such Transaction(s) have been terminated under Section 8.2 of this Agreement. The applicable provisions of this Agreement shall continue in effect in accordance with Section 23 and to the extent necessary to provide for final accounting, final billing, billing adjustments, resolution of any billing disputes, settlement of obligations related to Renewable Energy Portfolio Standards, realization or liquidation of any collateral or other security, set-off, final payments, payments pertaining to liability and indemnification obligations arising from acts or events that occurred while this Agreement was in effect, or other such provisions that by their terms or operation survive the termination of this Agreement.

**Section 3.2 Conditions Precedent**

Each Confirmation shall be binding on the Parties upon execution by all Parties (such date the “Confirmation Effective Date”). Promptly after execution by both Parties, NSTAR Electric shall submit each Confirmation to the Massachusetts Department of Public Utilities (the “Department”) in connection with the Department’s review of the results of NSTAR Electric’s solicitation for Default Service pursuant to D.T.E. 99-60-C. Each Party’s performance under the Confirmation is subject to the occurrence, on or before the fifth Business Day after (but not including) the NSTAR Electric’s submission of the Confirmation to the Department (the “Fifth Day”), of either (a) approval by the Department of the results of NSTAR Electric’s solicitation for Default Service, without condition or amendment, or (b) the Department taking no action on the NSTAR Electric’s request for approval of the results of its solicitation for Default Service. If the Department issues an order opening an investigation regarding NSTAR Electric’s solicitation, or disapproving or rejecting the results of NSTAR Electric’s solicitation for Default Service (including by way of an order) using terms of similar effect to signify its disapproval, rejection or approval with condition(s), or requiring amendment(s) of the Confirmation not acceptable to each Party, on or before the Fifth Day (a “Department Action”), then that Confirmation shall be null and void and of no further force and effect, and neither Party shall have any obligation whatsoever to the other Party, and such a voiding of the Confirmation and the Department Action shall not be a default or constitute an Event of Default by either Party.

**ARTICLE 4. SALE AND PURCHASE**

**Section 4.1 Default Supply Service**

With respect to each Transaction, Supplier shall sell and deliver to the applicable Delivery Points and NSTAR Electric shall purchase the applicable Default Supply Service during the applicable Delivery Term in accordance with this Agreement. Supplier understands that the Default Supply Service load requirements may change from time to time. Supplier’s obligation to supply Default Supply Service requires Supplier to meet the hourly, daily and seasonal electricity load fluctuations associated with customer demand changes. Supplier will be responsible for forecasting its Default Supply Service load obligations on an hourly, daily, and monthly basis. Supplier is responsible for Default Supply Service regardless of changes in customer demand for any reason, including, but not limited to, daily load fluctuations, increased or decreased usage, demand-side management activities, extreme weather and similar events. Supplier’s obligation hereunder to sell and provide the Default Supply Service shall not be conditioned upon the availability of any particular electric generating facilities, transmission facilities outside the PTF or power supply arrangements, whether owned by Supplier or third parties.

**Section 4.2 NE-GIS Certificates**

The Supplier shall not be required to satisfy NSTAR Electric’s renewable energy obligations under the Massachusetts Renewable Energy Portfolio Standards promulgated at 225 CMR 14.00 and 15.00 et seq., or the Alternative Energy Portfolio Standard promulgated at 225 CMR 16.00 et seq., or the Clean Energy Standard promulgated at 310 CMR 7.75 et seq. These requirements will be managed separately by NSTAR Electric.

**ARTICLE 5. Monthly payment amount AND BILLING**

**Section 5.1 Monthly Payment Amount**

The Monthly Payment Amount for Default Supply Service payable by NSTAR Electric to Supplier in respect of each month during the Delivery Term shall be the sum of the product of: (A) the total Delivered Energy for each Customer Group, and Load Zone during such month, and (B) the Contract Rate applicable to such Customer Group, and Load Zone of NSTAR Electric for such month.

**Section 5.2** **Billing and Payment**

1. On or before the tenth (10th) day of each month during the Term (or if such day is not a Business Day, the next succeeding Business Day) of this Agreement, Supplier shall calculate the amount due and payable to Supplier pursuant to this Article 5 with respect to the immediately preceding month, and shall forward to NSTAR Electric an invoice, including such calculation, with sufficient detail for NSTAR Electric to verify the calculation and the total amount due and payable for the previous month. Because quantities determined under Section 6.3 are estimated, and subject to the reconciliation process described in Appendix C, quantities used in calculations under this paragraph (a) shall be subject to adjustment, whether positive or negative, in subsequent invoices by application of the applicable Contract Rate to any such adjusted quantities. In the calculation referenced herein, Supplier agrees to utilize the load responsibility information provided by NSTAR Electric to ISO-NE, a copy of which shall be provided to Supplier.
2. NSTAR Electric shall pay Supplier any amounts due and payable hereunder on or before the twentieth (20th) day after receipt of such invoice. All invoices shall be paid by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the payee thereof. If all or any part of any amount due and payable pursuant to paragraph (a) shall remain unpaid thereafter, interest shall thereafter accrue and be payable to Supplier on such unpaid amount at a rate per annum equal to the Prime Rate per annum in effect as of the date of such invoice; provided, however, that no interest shall accrue in respect of adjustment amounts calculated in accordance with Appendix C.

(c) If a Party, in good faith, disputes an invoice, the disputing Party shall immediately notify the other Party of the basis for the dispute and pay the undisputed portion of such invoice no later than the due date. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Prime Rate per annum from and including the due date but excluding the date paid. Any overpayments shall be returned by the receiving Party upon request or deducted by the receiving Party from subsequent payments with interest accrued at the Prime Rate until the date paid or deducted from and including the date of such overpayment to (but excluding) the date repaid or deducted by the Party receiving such overpayment. The Parties shall only be entitled to dispute an invoice within twenty-four (24) calendar months from the date of issuance of such invoice.

**Section 5.3 Payment Netting**

 If on any date, properly documented and established amounts would otherwise be payable to or by a Party to the other Party, then, on such date, each such Party’s obligation to make payment of any such amount shall be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one Party exceeds the aggregate amount that would otherwise have been payable by such other Party, then such obligation shall be replaced by an obligation of the Party owing the larger aggregate amount, which obligation shall be equal to the difference between the larger aggregate and the smaller aggregate amount. Any invoice pursuant to which a net payment is required to be made shall include sufficient detail to enable the Party required to make such payment to verify the calculation of such net payment.

**Section 5.****4 Taxes, Fees and Levies**

 Supplier shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with delivery of the Default Supply Service up to the Delivery Points. NSTAR Electric shall be obligated to pay all present and future taxes, fees and levies, imposed on or associated with such Default Supply Service at and from the Delivery Points. NSTAR Electric shall provide Supplier with any certificate reasonably required by Supplier to evidence such sales for resale. NSTAR Electric shall have the right to all credits, deductions and other benefits associated with taxes paid by NSTAR Electric or reimbursed to Supplier by NSTAR Electric as described herein.

**ARTICLE 6. DELIVERY, LOSSES, AND DETERMINATION AND REPORTING OF HOURLY LOADS**

**Section 6.1 Delivery**

(a) The Energy component of Default Supply Service shall be delivered to NSTAR Electric in the form of three-phase sixty-hertz alternating current at the applicable Delivery Points. Supplier shall be responsible for all transmission and distribution costs associated with the use of transmission systems outside of NEPOOL and any local point-to-point charges and distribution charges needed to deliver the energy to the applicable Delivery Points. Supplier and NSTAR Electric shall enter into, and file with ISO-NE, all necessary load asset documents described in Section 6.4.

1. NSTAR Electric will make arrangements for the transmission and distribution services necessary to deliver, at NSTAR Electric’s expense, the Default Supply Service from the Delivery Point to each Customer Group and Load Zone, including NEPOOL Regional Network Service, which provides for transmission over PTF, and local network service from any applicable local transmission provider(s), which provides for transmission over non-PTF. NSTAR Electric will be billed by NEPOOL and the applicable local transmission provider(s) for these services. Supplier may use such Regional Network Service to deliver Default Supply Service to the applicable Delivery Point, and NSTAR Electric shall pay the associated Regional Network Service costs.

**Section 6.2 Losses**

Supplier shall be responsible for all transmission and distribution losses and costs associated with the Default Supply Service load that are incurred from the Delivery Point(s) to the Customer’s meters. Supplier shall supply Energy and other Products in such quantities to cover such losses and costs.

**Section 6.3 Determination and Reporting of Hourly Loads**

 (a) In accordance and compliance with the NEPOOL Rules, NSTAR Electric or its agent, will determine the total hourly load and capacity responsibility for the Default Supply Service provided by Supplier pursuant to this Agreement, for each Customer Group in each Metering Domain. The load settlement process is described in Appendix C, ’Settlement Process’. NSTAR Electric reserves the right to modify the Settlement Process in the future, provided that any such modification shall be designed to enhance the overall Settlement Process.

(b) In accordance with NEPOOL Rules, NSTAR Electric or its agent will report to ISO-NE the Supplier’s hourly load and capacity responsibility for each Load Asset for which Supplier is providing the Default Supply Service for a Transaction. NSTAR Electric, or its agent, shall report load and capacity data for each Load Asset to ISO-NE, according to Market Rules and Procedures. Files of this data will also be provided to each Supplier.

(c) Upon request by NSTAR Electric, Supplier shall provide NSTAR Electric with any and all ISO-generated reports and/or other data received by Supplier related to the Default Supply Service. Such information shall be provided electronically and at substantially the same frequency as received from ISO-NE.

**Section 6.4 NEPOOL Market System**

 Supplier represents and warrants that it has a valid Market Participant Service Agreement with ISO-NE and it will continue to be valid throughout the Term. As soon as possible prior to the start of the Delivery Term for a Transaction, and as required throughout such Delivery Term, NSTAR Electric in cooperation with the Supplier shall complete Load Asset Registration Form(s), as required in the NEPOOL Rules and submit to ISO to be entered into ISO Settlement System Power Model, and the Parties agree to undertake any additional activities, submittals and filings necessary to accomplish the Load Asset transfers contemplated in this Agreement. In the Load Asset Registration Form(s) NSTAR Electric shall assign to Supplier applicable Load Asset Ownership Percentage Shares for the applicable Default Supply for the applicable Delivery Term as specified in the Transaction Confirmation. NSTAR Electric and Supplier further agree to promptly deliver to each other copies of all correspondence with ISO-NE or NEPOOL related to this Agreement, the Load Assets, and/or the Default Supply Service provided hereunder.

**ARTICLE 7. SECURITY**

**Section 7.1** **Supplier/Guarantor**

Supplier shall deliver the guaranty with supporting documentation demonstrating the authority of the signatory(ies) to execute and deliver that guaranty (collectively, the “Guaranty”) within two (2) Business Days of the date of this Agreement. In addition, Supplier shall, when requested, provide NSTAR Electric with its or its Guarantor’s fiscal year-end annual reports containing audited consolidated financial statements and its or its Guarantor’s quarterly reports containing unaudited consolidated financial statements, if such annual and/or quarterly reports are not available on EDGAR or at Guarantor’s internet site.

**Section 7.2 Letter of Credit Changes**

If the Credit Rating of a bank or other financial institution from which Supplier has obtained a Letter of Credit fails to satisfy the standards of a Qualified Institution, Supplier shall have two (2) Business Days following written notice by NSTAR Electric to provide a suitable Letter of Credit from another bank or other financial institution that meets those standards.

**Section 7.3 Unsecured Credit Limit**

The Unsecured Credit Limit is provided in the table below:

| **Credit Rating** **(Supplier or Guarantor)** | **Unsecured Credit Limit** **(the lesser of)** |
| --- | --- |
| **S&P** | **Moody’s** | **Fitch** | **% Tangible Net Worth** | **Guaranty Amount** | **Fixed Amount** |
| AA- or higher | Aa3 or higher | AA- or higher | 12% TNW | Per Article 2 | $60 million |
| A+, A | A1, A2 | A+, A | 10% TNW | Per Article 2 | $50 million |
| A- | A3 | A- | 8% TNW | Per Article 2 | $40 million |
| BBB+ | Baa1 | BBB+ | 6% TNW | Per Article 2 | $30 million |
| BBB | Baa2 | BBB | 4% TNW | Per Article 2 | $20 million |
| BBB- | Baa3 | BBB- | 2% TNW | Per Article 2 | $10 million |
| Below BBB- or unrated  | Below Baa3 or unrated | Below BBB- or unrated  | 0% TNW | Per Article 2 | $0 |

**Section 7.4 Performance Assurance**

As of the Effective Date and at any time following the Effective Date and from time to time during the Term of this Agreement, if Buyer’s Exposure exceeds Supplier’s Unsecured Credit Limit pursuant to Section 7.3, NSTAR Electric may demand that Supplier provide Performance Assurance in an amount equal to the amount by which the Unsecured Credit Limit is exceeded rounded up to the nearest $250,000.00. If Supplier fails to provide such Performance Assurance or Guaranty as applicable to NSTAR Electric within two (2) Business Days of receipt of notice, then an Event of Default under Section 8.1 shall be deemed to have occurred and NSTAR Electric will be entitled to the remedies set forth in Sections 8.2 and 8.3 of the Agreement. If Supplier disputes the amount of Performance Assurance requested by NSTAR Electric and such dispute relates to the amount of Market Exposure claimed by NSTAR Electric, then Supplier shall (i) provide the full amount of Performance Assurance demanded by NSTAR Electric and (ii) notify NSTAR Electric of the existence and nature of the dispute not later than one (1) Business Day following the date that the demand for Performance Assurance is made. The Parties thereafter shall promptly consult with each other in order to reconcile the two conflicting amounts. If the Parties have not been able to resolve their dispute on or before the second Business Day following the date that the notification is made by Supplier, then Market Exposure shall be recalculated by NSTAR Electric using the arithmetic average of one quotation from a recognized market-maker provided by Supplier and one quotation from a recognized market-maker provided by NSTAR Electric. Performance Assurance shall be posted or returned in accordance with such recalculation. When the Amount of Performance Assurance held by NSTAR Electric is greater than the amount by which Buyer’s Exposure exceeds Supplier’s Unsecured Credit Limit, then upon request of Supplier, NSTAR Electric shall return the excess Performance Assurance, rounded down to the nearest $250,000.00 to Supplier within two (2) Business Days of receipt of such request. If NSTAR Electric disputes the amount of Performance Assurance requested by Supplier to be returned, then NSTAR Electric shall notify the Supplier of the existence and nature of the dispute not later than one (1) Business Day following the date that the request for the return of Performance Assurance is made. The Parties thereafter shall promptly consult with each other in order to reconcile the two conflicting amounts. If the Parties have not been able to resolve their dispute on or before the second Business Day following the date that the notification is made by the NSTAR Electric, then Market Exposure shall be recalculated by NSTAR Electric using the arithmetic average of one quotation from a recognized market-maker provided by Supplier and one quotation from a recognized market-maker provided by NSTAR Electric. Performance Assurance shall be posted or returned in accordance with such recalculation within two (2) Business Days from the date of such recalculation.

**Section 7.5 Supplier Downgrade Event**

If at any time there shall occur a Downgrade Event in respect of Supplier or, if applicable, of Guarantor, Supplier’s Unsecured Credit Limit shall automatically be zero. Supplier shall then provide Performance Assurance in an amount equal to Buyer’s Exposure. If Supplier fails to provide such Performance Assurance within two (2) Business Days of receipt of written notice, then an Event of Default under Section 8.1 shall be deemed to have occurred and NSTAR Electric will be entitled to the remedies set forth in Sections 8.2 and 8.3 of the Agreement. When a Downgrade Event no longer exists, then, upon request of Supplier, NSTAR Electric shall return the excess Performance Assurance to Supplier within two (2) Business Days of receipt of notice from Supplier.

**Section 7.6 Grant of Security Interest**

To secure its obligations under this Agreement and to the extent and so long as Supplier delivers Performance Assurance hereunder, Supplier hereby grants to NSTAR Electric a present and continuing security interest in, and lien on, and assignment of, all Performance Assurance and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, NSTAR Electric. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default by the Supplier, NSTAR Electric may do any one or more of the following: (i) exercise any of the rights and remedies of NSTAR Electric with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of Supplier in possession of NSTAR Electric or its agent; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of NSTAR Electric free from any claim or right of any nature whatsoever of the Supplier. NSTAR Electric shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Supplier’s obligations under the Agreement (the Supplier remaining liable for any amounts owing to NSTAR Electric after such application), subject to NSTAR Electric’s obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

**Section 7.7 Multiple Default Service Agreements/ Transactions**

It is the intention of NSTAR Electric and Supplier that if Supplier is a party to other agreements with NSTAR Electric for the provision of electric supply, a single Buyer’s Exposure and a single Unsecured Credit Limit as each is described and set forth in Section 7.3 and all related provisions shall apply to this Agreement and all other such agreements, regardless of whether similar language is included in any other agreements unless expressly stated otherwise in such other agreement, and all such agreements shall be deemed to be amended in accordance with these provisions for the purposes of calculating Performance Assurance as described herein.

**ARTICLE 8. DEFAULT AND REMEDIES**

**Section 8.1 Events of Default**

Any one or more of the following shall constitute an “Event of Default” hereunder with respect to NSTAR Electric, the Supplier or the Guarantor (the “Defaulting Party”):

(a) The failure to make, when due, any undisputed payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after written notice;

(b) Any representation or warranty made by such Defaulting Party herein is false or misleading in any material respect when made or when deemed made or repeated;

1. The failure of either Party to satisfy any material obligation, including but not limited to failure to provide Products, failure to satisfy any material obligation under the NEPOOL Agreement, the ISO-NE Tariff, the Market Rules and Procedures and associated Manuals, or ISO-NE Administrative Procedures, or any RTO agreement, if applicable, failure to satisfy any material ISO or NEPOOL financial assurance policies or failure to remain a member of NEPOOL or the RTO, as the case may be, throughout the Term, or the failure to satisfy any material obligation with respect to ISO-NE or NEPOOL that affects the right or ability to engage in transactions at the ISO;
2. The failure to provide or maintain the Guaranty or the Performance Assurance required pursuant to Article 7 of this Agreement;
3. The failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default as specified above) if such failure is not remedied within three (3) Business Days after written notice;
4. Such Party or, with respect to Supplier, the Guarantor: (i) files a voluntary petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, , (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced) (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due;
5. The failure of such Party or the Guarantor to satisfy the creditworthiness or financial security requirements as set forth in this Agreement;
6. A Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;
7. The failure of the Guarantor to make any payment required or to perform any other material covenant or obligation in any guaranty made in connection with this Agreement and such failure shall not be remedied within three (3) Business Days after written notice; or
8. the Guarantor repudiates, disaffirms, disclaims or rejects, in whole or in part, or challenges the validity of, its Guaranty.

**Section 8.2 Right of Early Termination Upon Event of Default**

If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (the “Non-Defaulting Party”) shall have the right to designate a day, no earlier than the day such notice is effective and no later than twenty (20) days after such notice is effective, as an early termination date (“Early Termination Date”). The amount payable in respect of an Event of Default and any Early Termination of this Agreement shall be determined pursuant to Section 8.3.

**Section 8.3 Remedies Upon an Event of Default; Settlement Amount**

(a) Upon the occurrence of an Event of Default, the Non-Defaulting Party shall calculate a Settlement Amount. In the case where NSTAR Electric is the Non-Defaulting Party, the “Settlement Amount” shall be an amount equal to the “Performance Assurance” calculated by the Non-Defaulting Party in accordance with Section 7.4 hereof plus, without duplication, its total losses and costs in connection with such default, including losses and costs associated with an early termination of this Agreement, any loss of bargain, cost of funding or, at the election of such Non-Defaulting Party but without duplication and consistent with such Non-Defaulting Party’s obligation to mitigate such losses and costs, losses or costs (including employee and consultant costs and reasonable attorneys’ fees) incurred as a result of its obtaining, terminating, establishing or reestablishing any contract, hedge or other agreement in connection with such transactions or the replacement of such transactions, and any losses and costs in respect of performance (or failure to perform) under the Agreement up to the effective date of the termination. In the case where the Supplier is the Non-Defaulting Party, the Settlement Amount shall be equivalent to the total losses and costs in connection with such default, including losses and costs associated with an early termination of this Agreement, any loss of bargain, cost of funding or, at the election of such Non-Defaulting Party but without duplication and consistent with such Non-Defaulting Party’s obligation to mitigate such losses and costs, losses or costs (including employee and consultant costs and reasonable attorneys’ fees) incurred as a result of its obtaining, terminating, establishing or reestablishing any contract, hedge or other agreement in connection with such transactions or the replacement of such transactions, and any losses and costs in respect of performance (or failure to perform) under the Agreement up to the effective date of the termination. For purposes of determining the Settlement Amount pursuant to this Section 8.3(a), the applicable quantity of Default Supply Service shall be determined by the Non-Defaulting Party in a commercially reasonable manner, adjusted for known changes in load. The Non-Defaulting Party shall also have the right to pursue specific performance with respect to an Event of Default.

1. The Non-Defaulting Party shall be entitled to accelerate all amounts owing by the Defaulting Party under this Agreement (whether or not then due) and shall be entitled to withhold and set off any amounts owed by the Non-Defaulting Party to the Defaulting Party against any such accelerated payments and any other amounts owed by the Defaulting Party to the Non-Defaulting Party, including any Settlement Amount payable as a result of any early termination of this Agreement.
2. If not remedied within any applicable cure period, the failure of either Party to satisfy any material obligation, including but not limited to failure to provide Products, failure to satisfy any material obligation under the NEPOOL Agreement, the ISO-NE Tariff, the Market Rules and Procedures and associated Manuals, or ISO-NE Administrative Procedures, or any RTO agreement, if applicable, failure to satisfy any material ISO or NEPOOL financial assurance policies or failure to remain a member of NEPOOL or the RTO, as the case may be, throughout the Term, or the failure to satisfy any material obligation with respect to ISO-NE or NEPOOL that affects the  right or ability to engage in transactions at the ISO;

(d) The Non-Defaulting Party shall have the right to elect to suspend receipt or delivery (as applicable) of Default Supply Service under this Agreement upon the occurrence of an Event of Default.

**Section 8.4 Notice of Payment of Settlement Amount**

As soon as practicable after an Early Termination Date, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Settlement Amount. The notice shall include a written statement explaining in reasonable detail the calculation of such amount and shall indicate the underlying assumptions, quotations, prices and forecasts, used to calculate the same. The Settlement Amount shall be paid in full by the Party owing such amount within two (2) Business Days after such notice.

**Section 8.5 Obligations Following Expiration or Termination**

 Upon the termination or expiration of this Agreement, in addition to such rights and obligations enumerated elsewhere in this Agreement, the grant of any and all right and interest to Supplier to the Load Assets or otherwise associated with the Default Supply Service shall cease, and NSTAR Electric and Supplier shall immediately make all necessary filings with NEPOOL and ISO-NE and perform all other acts necessary to transfer all such rights and interests back to NSTAR Electric.

**ARTICLE 9. NOTICES, REPRESENTATIVES OF THE PARTIES**

**Section 9.1**  **Notices**

Any notice, demand, or request required or authorized by this Agreement to be given by one Party to another Party shall be in writing. Such notice shall be sent by facsimile (confirmed by telephone), courier, personally delivered or mailed, postage prepaid, to the representative of the other Party designated in this Article 9. Any such notice, demand, or request shall be deemed to be given (i) when sent by facsimile, (ii) when actually received if delivered by courier, overnight mail or personal delivery, or (iii) three (3) days after deposit in the United States mail, if sent by first class mail.

**Notices and other communications by Supplier to NSTAR Electric shall be addressed to:**

James R. Shuckerow

Director, Electric Supply

Eversource Energy Service Company

107 Selden Street

Berlin, Connecticut 06037

Phone: (860) 665-4572

Fax: (860) 665-4583

With a copy to:

Eversource Energy Service Company

56 Prospect Street

Hartford, Connecticut 06103

Attention: Office of the General Counsel

Phone: Fax: (860) 728-4581

**Notices and other communications by NSTAR Electric to Supplier shall be addressed to:**

[\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]

**With a copy to:**

[\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]

Any Party may change its representative by written notice to the other Parties.

**Section 9.2**  **Authority of Representative**

The Parties’ representatives designated in Section 9.1 shall have full authority to act for their respective principals in all technical matters relating to the performance of this Agreement. The Parties’ representatives shall not, however, have the authority to amend, modify, or waive any provision of this Agreement unless they are authorized officers of their respective entities and such amendment, modification or waiver is made pursuant to Article 17.

**ARTICLE 10. LIABILITY, INDEMNIFICATION, AND RELATIONSHIP OF PARTIES**

**Section 10.1 Limitation on Consequential, Incidental and Indirect Damages**

 TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER NSTAR ELECTRIC NOR SUPPLIER, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, TRUSTEES, AGENTS, EMPLOYEES, PARENT OR AFFILIATES, SUCCESSOR OR ASSIGNS, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, OR EMPLOYEES, SUCCESSORS OR ASSIGNS, SHALL BE LIABLE TO THE OTHER PARTY OR ITS PARENT, SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, TRUSTEES, AGENTS, EMPLOYEES, SUCCESSORS OR ASSIGNS, FOR CLAIMS, SUITS, ACTIONS OR CAUSES OF ACTION FOR INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, MULTIPLE OR CONSEQUENTIAL DAMAGES CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, OR ANY ACTIONS UNDERTAKEN IN CONNECTION WITH OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY SUCH DAMAGES WHICH ARE BASED UPON CAUSES OF ACTION FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND MISREPRESENTATION), BREACH OF WARRANTY, STRICT LIABILITY, STATUTE, OPERATION OF LAW, UNDER ANY INDEMNITY PROVISION OR ANY OTHER THEORY OF RECOVERY. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, UNLESS OTHERWISE SPECIFIED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND THE PARTY’S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. 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. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE PARTY’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. THE PROVISIONS OF THIS SECTION 10.1 SHALL APPLY REGARDLESS OF FAULT AND SHALL SURVIVE TERMINATION, CANCELLATION, SUSPENSION, COMPLETION OR EXPIRATION OF THIS AGREEMENT.

**Section 10.2 Indemnification**

(a) Each Party shall indemnify, defend and hold harmless the other Party from and against any Claims arising from or out of (i) the negligence or willful misconduct of such Party, or (ii) any failure to satisfy any obligation pursuant to this Agreement, or (iii) any event, circumstance, act or incident occurring or existing during the period when control and title to Product is vested in such Party as provided in Section 10.4, except to the extent such Claims are attributable to the other Party’s negligence or willful misconduct.

(b) If any Party intends to seek indemnification under this Article 10 from the other Party with respect to any Claims, the Party seeking indemnification shall give the other Party notice of such Claims by the latter of the commencement of, or actual notice of, such Claims. Such Party seeking indemnification shall have the right, at its sole cost and expense, to participate in the defense of any such Claims. The Party seeking indemnification shall not compromise or settle any such Claims without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

**Section 10.3 Independent Contractor Status**

Nothing in this Agreement shall be construed as creating any relationship between NSTAR Electric and Supplier other than that of Supplier as independent contractor for the sale of Default Supply Service, and NSTAR Electric as principal and purchaser of such Default Supply Service. Neither Party shall be deemed to be the agent of the other Party for any purpose by reason of this Agreement, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

**Section 10.4 Title; Risk of Loss**

Title to and risk of loss related to the Default Supply Service shall transfer from Supplier to NSTAR Electric at the Delivery Point. Supplier warrants that it will deliver to NSTAR Electric the Default Supply Service free and clear of all Claims or any interest therein or thereto by any person or entity arising prior to the Delivery Point.

**ARTICLE 11. ASSIGNMENT**

**Section 11.1 General Prohibition Against Assignments**

Except as provided in Section 11.2 below, neither Party shall assign, pledge or otherwise transfer this Agreement or any right or obligation under this Agreement without first obtaining the other Party’s written consent, which consent shall not be unreasonably withheld.

**Section 11.2 Exceptions to Prohibition Against Assignments**

 A Party may, without the other Party’s prior written consent: (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, provided that such Party shall not be relieved of any obligation hereunder; (ii) transfer or assign this Agreement to an Affiliate of such Party (which Affiliate shall own or control the resources necessary to satisfy the assigning Party’s obligations hereunder, and shall have a net worth and creditworthiness equal to or higher than that of such assigning Party); or (iii) transfer or assign this Agreement to any person or entity succeeding by merger or by acquisition to all or substantially all of the assets of the assigning Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof.

**ARTICLE 12. SUCCESSORS AND ASSIGNS**

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

**ARTICLE 13. WAIVERS**

The failure of either Party to insist in any one or more instance upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights under this Agreement shall not be construed as a general waiver of any such provision or the relinquishment of any such right, except to the extent such waiver is in writing and signed by an authorized representative of such Party.

**ARTICLE 14. REGULATION**

**Section 14.1 Laws and Regulations**

 Each Party shall perform its obligations hereunder in accordance with applicable law, rules and regulations. The rates, charges, terms and conditions contained in this Agreement are not subject to change under Sections 205 or 206 of the Federal Power Act, as either section may be amended or superseded, absent the mutual written agreement of the Parties. It is the intent of this Section that, to the maximum extent permitted by law, the rates, charges, terms and conditions of this Agreement shall not be subject to such change. Absent the agreement of the Parties to the proposed change, the standard of review for changes to the rates, terms, and/or conditions of service of this Agreement proposed by a Party, a non-Party, or the Commission, acting sua sponte, shall be the “public interest” standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) (the “Mobile-Sierra” doctrine).

**Section 14.2 NEPOOL Requirements**

This Agreement is subject to all NEPOOL Rules. If, during the term of any Transaction, a NEPOOL Rule is  terminated, modified or amended in a manner that would eliminate or materially alter a material right or obligation of a Party hereunder, the Parties agree to negotiate in good faith in an attempt to amend this Agreement to embody the Parties’ original intent and economic effect. The intent of the Parties is that any such amendment reflect, as closely as possible, the intent, substance and effect of the NEPOOL Rule being replaced, modified or amended as such NEPOOL Rule was in effect prior to such termination, modification or amendment, provided that there shall be no obligation to alter: (i) the obligations of the Parties pursuant to Article 4 or 5 of this Agreement, or (ii) the Contract Rate.

**Section 14.3 Uniform Disclosure Requirements**

In addition to the reporting required of Supplier pursuant the NEPOOL GIS, Supplier upon request shall provide NSTAR Electric information pertaining to power plant emissions, fuel types, labor information and any other information to the extent required by NSTAR Electric to comply with the uniform disclosure requirements contained in 220 CMR 11.00 and any other such disclosure regulations which may be imposed upon NSTAR Electric during the Term.

**Section 14.4 Competitive Affiliates of Supplier**

If a Competitive Affiliate of Supplier exists during the Term, Supplier shall not disclose any information received from NSTAR Electric regarding the terms of this Agreement, service provided hereunder, or the customers served under this Agreement, nor shall Supplier assign any interest hereunder, to any such Competitive Affiliate. The term “Competitive Affiliate” shall refer to an entity that is engaged in the sale of electricity to retail customers in Massachusetts.

**Section 14.5 Sales Tariffs**

Supplier’s provision and sale of Default Supply Service shall be pursuant to Supplier’s tariff on file with FERC (“Supplier’s Tariff”); provided, however, that in the event of any inconsistency between the provisions of this Agreement and the provisions of Supplier’s Tariff, the provisions of this Agreement shall apply to the extent permissible by law. Supplier agrees if it seeks to amend Supplier’s Tariff during the Term of Agreement, such amendment will not in any way affect the terms and conditions of this Agreement or the provision of services under this Agreement without the prior written consent of NSTAR Electric. Supplier further agrees that it will not assert, or defend itself, on the basis that Supplier’s Tariff or any applicable tariff is inconsistent with this Agreement.

**ARTICLE 15. INTERPRETATION**

The interpretation and performance of this Agreement shall be in accordance with and controlled by the laws of the Commonwealth of Massachusetts, without giving effect to its conflict of laws provisions. Each party irrevocably waives any right to trial by jury in any judicial proceeding related to this Agreement.

**ARTICLE 16. SEVERABILITY**

If any provision or provisions of this Agreement shall be held invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired thereby; and the Parties hereby agree to effect such modifications to this Agreement as shall be reasonably necessary in order to give effect to the original intention of the Parties.

**ARTICLE 17. MODIFICATIONS**

No modification to this Agreement will be binding on any Party unless it is in writing and signed by all Parties.

**ARTICLE 18. REPRESENTATIONS AND WARRANTIES**

Supplier and NSTAR Electric each represent and warrant to the other that:

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

(b) It has all regulatory, NEPOOL and ISO authorizations, approvals and status necessary for it to legally perform its obligations under this Agreement, subject only to the provisions of Section 3.2 of this Agreement;

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

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

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

(f) There is not pending or, to its knowledge, threatened against it any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

(g) Each Party is a “forward contract merchant” and this Agreement and each Transaction is a “forward contract” as such terms are defined in the United States Bankruptcy Code.

(h)It has full power and authority to enter into this Agreement and each Confirmation and perform its obligations hereunder. The execution, delivery and performance of this Agreement and each Confirmation have been duly authorized by all necessary corporate or other action(s) and do not and will not contravene its organizational documents or conflict with, result in a breach of, or entitle any Party (with due notice or lapse of time or both) to terminate, accelerate or declare a default under any agreement or instrument to which it is a party or by which it is bound. The execution, delivery and performance by it of this Agreement and each Confirmation will not result in any violation by it of any law, rule or regulation applicable to it. It is not a party to, nor subject to or bound by, any judgment, injunction or decree of any court or other governmental entity which may restrict or interfere with the performance of this Agreement or any Confirmation by it. This Agreement and each Confirmation is its valid and binding obligation, enforceable against it in accordance with its terms, except as (i) such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors’ rights generally and (ii) the remedy of specific performance and injunctive relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefore may be brought.

(i) It is an “eligible commercial entity” within the meaning of Section 1a(17) of the Commodity Exchange Act, as amended by the Commodity Futures Modernization Act of 2000 (the “Commodity Exchange Act”);

(j) It is an “eligible contract participant” within the meaning of Section 1a(18) of the Commodity Exchange Act.

(k) It has entered into this Agreement and will enter into each Confirmation in connection with the conduct of its business.

(l) It acknowledges and agrees that (i) all transfers of Performance Assurance by one Party to the other Party under this Agreement are "margin payments" within the meaning of the Bankruptcy Code and (ii) that the Settlement Amount constitutes a “settlement payment” and/or a “transfer” under the Bankruptcy Code.

**ARTICLE 19. COUNTERPARTS**

This Agreement (and any Confirmations relating to specific Transactions hereunder) may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument.

**ARTICLE 20. HEADINGS; CONSTRUCTION**

Article and Section headings used throughout this Agreement are for the convenience of the Parties only and are not to be construed as part of this Agreement. For purposes of this Agreement, the term "including" shall mean "including, without limitation" and the terms “herein”, “hereunder”, “herewith” and “hereof” are references to this Agreement, taken as a whole. The Parties acknowledge that this Agreement is the result of joint discussion and negotiation. Each Party contributed to the substantive provisions hereof and no Party can be identified as the sole drafter hereof.

**ARTICLE 21. CONFIDENTIALITY**

 All Confidential Information shall be held and treated by the Parties and their agents in confidence, used solely in connection with this Agreement, and shall not, except as hereinafter provided, be disclosed without the other Party’s prior written consent. Notwithstanding the foregoing, this Agreement may be disclosed to a third party: (a) for the purpose of effectuating the supply, transmission and/or distribution of Energy or any other product or service to be delivered pursuant to this Agreement, (b) to regulatory authorities of competent jurisdiction, or as otherwise required by applicable law, regulation or order, and (c) to third parties in connection with a merger, acquisition/disposition and financing transactions, or audit, provided that any such third party shall have signed a confidentiality agreement with the disclosing party containing customary terms and conditions that protect against the disclosure of the Confidential Information, that strictly limit the recipient’s use of such information only for the purpose of the subject transaction and that provide for remedies for non-compliance. In the event that either Party (“Disclosing Party”) is requested or required to disclose any Confidential Information pursuant to subsection (a) above, the Disclosing Party shall provide the other Party with prompt written notice of any such request or requirement, so that the other Party may seek an appropriate protective order, other confidentiality arrangement or waive compliance with the provisions of this Agreement. In the event that the Disclosing Party is requested or required to disclose Confidential Information pursuant to subsection (b) above, the Disclosing Party shall seek confidential treatment of such information in order to protect such information from further disclosure. If, failing the entry of a protective order, other confidentiality arrangement or the receipt of a waiver hereunder, the Disclosing Party, in the opinion of counsel, is compelled to disclose Confidential Information, the Disclosing Party may disclose that portion of the Confidential Information which the Disclosing Party’s counsel advises that the Disclosing Party is compelled to disclose; provided, that any such disclosure includes a request for confidential treatment of this Agreement and the request for redaction of the Confidential Information from the copies of this Agreement which are placed in the public record or otherwise made available. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. In addition, to the foregoing, the disclosing Party shall indemnify, defend and hold harmless the other Party from and against any Claims, threatened or filed, and any losses, damages, expenses, attorneys’ fees or court costs incurred by such Party in connection with or arising directly or indirectly from or out of the disclosing Party’s disclosure of the Confidential Information to third parties except as permitted by subsections (a), (b) or (c) above.

**ARTICLE 22. AUDIT**

 Each Party has the right, upon reasonable advance notice and at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party statements evidencing the quantities of Energy delivered at the Delivery Points. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Prime Rate from the date the overpayment or underpayment was made until paid.

**ARTICLE 23. SURVIVAL**

 The provisions of Article 5, Sections 8.3 and 8.4, Article 10, Section 14.4, and Articles 21, 22 and 24 hereof, and any other provision of this Agreement that contemplates by its terms that it survives termination, shall survive the termination or expiration of this Agreement.

**ARTICLE 24. DISPUTE RESOLUTION**

 **Section** **24.1 Negotiation Between Executives**

 With the exception of disputes relating to (i) a Settlement Amount or adjustment thereto, or (ii) the calculation of the Buyer’s Exposure or the Market Exposure, the Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this contract. Any Party may give the other Party written notice of any dispute not resolved in the normal course of business. Such notice shall include: (a) a statement of that Party’s position and a summary of arguments supporting that position; and (b) the name and title of the executive who will be representing that Party and of any other person who will accompany the executive (“Initial Notice”). Within five (5) Business Days after delivery of the Initial Notice, the receiving Party shall respond with: (a) a statement of that Party’s position and a summary of arguments supporting that position; and (b) the name and title of the executive who will represent that Party and of any other person who will accompany the executive. Within fifteen (15) Days after delivery of the Initial Notice, the executives of both Parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one Party to the other will be honored. All negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

 **Section 24.2 Mediation**

 If the dispute has not been resolved by negotiation within thirty (30) Days of the disputing Party’s Initial Notice, or if the Parties failed to meet within fifteen (15) Days of the delivery of the Initial Notice, the Parties shall endeavor to settle the dispute by mediation under the then current International Institute for Conflict Prevention & Resolution (“CPR”) Mediation Procedure; however, in the case of disputes that are subject to FERC jurisdiction, then either Party may elect to proceed with the mediation through the FERC's Dispute Resolution Service; provided, however, that if one Party fails to participate in the negotiations as provided in Section 24.1, the other Party can initiate mediation prior to the expiration of the thirty (30) Days. Unless otherwise agreed, the Parties will select a mediator from the CPR Panels of Distinguished Neutrals or the FERC panel, as appropriate.

**Section 24.3 Arbitration**

 Any dispute arising out of or relating to this Agreement, including the breach, termination or validity thereof (with the exception of disputes relating to calculation of any Settlement Amount and/or of Market Exposure), which has not been resolved by one of the non-binding procedures set forth in Sections 0 and 0 within thirty (30) Days of the delivery of the Initial Notice, shall be finally resolved by arbitration in accordance with the then current CPR Rules for Non-Administered Arbitration (the “Rules”) by a sole arbitrator, for disputes involving amounts in the aggregate under three million dollars ($3,000,000), or three arbitrators, for disputes involving amounts in the aggregate equal to or greater than three million dollars ($3,000,000), of whom each Party shall designate one in accordance with the “screened” appointment procedure provided in Rule 5.4; however, in the case of disputes that are or may be subject to FERC's jurisdiction over wholesale power contracts, then either Party may elect to proceed with binding arbitration through the FERC's Dispute Resolution Service; provided, however, that if either Party does not participate in one of the non-binding procedures set forth in Sections 24.1 and 24.2, then the other may initiate binding arbitration under this Section 24.3 prior to the expiration of the fifty (50) Day period. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16, and judgment upon the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof. The place of arbitration shall be Boston, Massachusetts. The arbitrator(s) are not empowered to award damages in excess of compensatory damages and each Party expressly waives and foregoes any right to punitive, exemplary or similar damages unless a statute requires that compensatory damages be increased in a specified manner. Notwithstanding anything to the contrary in the Rules, the arbitrators may only appoint a neutral expert with the prior written consent of all the Parties.

 The fees and expenses associated with mediation and arbitration, including the costs of arbitrators, shall be divided equally between the Parties. Each Party shall be responsible for its own legal fees, including but not limited to attorney fees. The Parties may, by written agreement signed by both Parties, alter any time deadline, location(s) for meeting(s), or procedure outlined herein or in the CPR Rules. The procedure specified herein shall be the sole and exclusive procedure for the resolution of disputes arising out of or related to this Agreement. To the fullest extent permitted by law, any mediation or arbitration proceeding and the settlement or arbitrator’s award shall be maintained in confidence by the Parties.

 **Section 24.4 WAIVER OF JURY TRIAL**

 EACH PARTY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF, RESULTING FROM OR IN ANY WAY RELATING TO THIS AGREEMENT.

**ARTICLE 25. NO THIRD PARTY BENEFICIARIES**

 There are no third party beneficiaries to this Agreement.

**ARTICLE 26. CONSENTS AND APPROVALS**

 Each Party shall prepare, execute and deliver to the other Party any documents reasonably required to implement any provision hereof.

THIS SPACE IS LEFT INTENTIONALLY BLANK.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Agreement on their behalf as of the date first above written.

NSTAR ELECTRIC COMPANY

dba Eversource Energy

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: James G. Daly

Title: Vice President, Energy Supply

[SUPPLIER]

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

**APPENDIX A**

**MASTER POWER SUPPLY AGREEMENT** **FORM OF CONFIRMATION**

 This Transaction Confirmation agreed to on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ among NSTAR Electric Company, dba Eversource Energy (“NSTAR Electric”) and . (“Supplier”) regarding the sale/purchase of the Default Supply Service specified herein under the terms and conditions under the Master Power Supply Agreement, dated \_\_\_\_\_\_\_\_\_\_\_, 2014 (the “Master Agreement”), between NSTAR Electric and Supplier, as specified and modified herein:

**1. Default Supply Service Matrix:**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Award Block** | **Customer Group** | **Load Zone** | **Load Responsibility** | **Commencement Date** | **Conclusion Date** |
| TBD | TBD | TBD | TBD | TBD | TBD |

**2. Contract Rate(s):**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Award Block** | **Customer Group** | **Load Zone** | **TBD** | **TBD** | **TBD** | **TBD** | **TBD** | **TBD** |
| TBD | TBD | TBD | TBD | TBD | TBD | TBD | TBD | TBD |

**3. Delivery Point(s):**

The point or points on the PTF within the following Load Zones, as appropriate for delivery to each Customer in each Customer Group in each Load Zone taking service pursuant to the Default Service Tariff:

|  |  |
| --- | --- |
| **Load Zone** | **Location ID** |
|  |  |
|  |  |

**4. Security: [To be determined for each Transaction.]**

**5. Governing Terms**

 This Transaction is governed by and constitutes a part of and is subject to the terms and provisions of the Master Agreement. The terms, conditions, covenants, agreements, warranties and representations contained in the Master Agreement are in all respects ratified, confirmed and remade as of the date hereof and, except as amended or waived hereby, shall continue in full force and effect. In the event of any inconsistency between the terms of this Confirmation and the terms of the Master Agreement, the terms of this Confirmation shall control for the purposes of this Transaction.

**6. Counterparts.**

 This confirmation letter may be executed in counterparts, all of which together shall constitute one and the same instrument.

**7. Defined Terms.**

 Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement.

NSTAR ELECTRIC COMPANY

dba Eversource Energy

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: James G. Daly

Title: Vice President, Energy Supply

[SUPPLIER]

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

**Exhibit 1**

**Form of Table 1 to Form of Confirmation**

**Market Exposure Calculation**

[To be added upon finalization of the applicable Confirmation.]

**APPENDIX b**

**MASTER POWER SUPPLY AGREEMENT** **FORM OF GUARANTEE**

 THIS GUARANTY is executed as of the \_\_\_ day of \_\_\_\_\_\_, 20\_\_ by ***[Guarantor name]***, a corporation organized under the laws of the state of \_\_\_\_\_\_\_\_\_\_\_\_ (the “Guarantor”) for the benefit of ***[counterparty***], a [\_\_\_\_\_\_\_\_\_] corporation (the “Counterparty”).

 1. Guaranty of Payment. The Guarantor hereby irrevocably and unconditionally guarantees the due and prompt payment of any and all present and future payment obligations of ***[guaranteed party]*** (the “Company”) to the Counterparty pursuant to [***Describe Agreement***] (the “Agreement”), (collectively, the “Guaranteed Obligations”), subject to the limits set forth herein. Upon any failure by the Company to pay any of the Guaranteed Obligations when due and payable, and after cure periods contained in the Agreement, the Guarantor agrees that it will forthwith on demand from Counterparty, pay to the Counterparty any Guaranteed Obligations which the Company has failed to so timely pay, at the place and in the manner specified in the Agreement(s), provided the liability of the Guarantor under this Guaranty shall be limited to \_\_\_\_\_\_\_\_\_\_ Dollars (U.S. $ ), in addition to all reasonable costs and expenses including reasonable fees and disbursements of counsel incurred by the Counterparty in connection with collection or other enforcement proceedings against the Guarantor under this Guaranty, provided that Guarantor shall not be liable for such costs and expenses if Counterparty is not successful against Guarantor in its collection efforts. This guaranty is a guaranty of payment and not merely a guaranty of collection. The Guarantor agrees that the Counterparty may resort to the Guarantor for payment of any of the Guaranteed Obligations, whether or not the Counterparty shall have resorted to any collateral security, or shall have proceeded against any other obligor principally or secondarily obligated with respect to any of the Guaranteed Obligations.

 2. Guaranty Unconditional and Absolute. The obligations of the Guarantor hereunder shall be unconditional and absolute and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by:

 (i) any extension, renewal, settlement, compromise, waiver, discharge or release in respect of any Guaranteed Obligations of the Company;

 (ii) the existence, or extent of any release, exchange, surrender, non-perfection or invalidity of any direct or indirect security for any of the Guaranteed Obligations;

 (iii) any modification, amendment, waiver, extension of or supplement to any of the Agreement(s) or the Guaranteed Obligations agreed to from time to time by the Company and the Counterparty, provided that Guarantor shall receive prompt notice of such modification, amendment, waiver, extension or supplement.

 (iv) any change in the corporate existence (including its constitution, laws, rules, regulations or powers), structure or ownership of the Company or the Guarantor, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Company or its assets, or any other guarantor of any of the Guaranteed Obligations;

 (v) the existence of any claim, set-off or other rights which the Guarantor may have at any time against the Company, the Counterparty or any other corporation or person, in connection herewith; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim;

 (vi) the invalidity or unenforceability in whole or in part of the Agreement(s) or any Guaranteed Obligations or any instrument evidencing any Guaranteed Obligations.

 (vii) any other act or omission to act or delay of any kind of the Company, any other guarantor, or any other corporation or person or any other event, occurrence or circumstance whatsoever which might, but for the provisions of this paragraph, constitute a legal or equitable discharge of the Guarantor's obligations hereunder.

 3. Term; Reinstatement in Certain Circumstances. This Guaranty shall remain in full force and effect until the earlier of (i) ***[expiration date]***, and (ii) ***[xx]*** days after written notice of termination is provided by Guarantor to Counterparty. Such termination shall not release Guarantor from liability for any Guaranteed Obligations arising prior to the effective date of such termination. If at any time any payment of any of the Guaranteed Obligations is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of the Company or otherwise, the Guarantor's obligations hereunder with respect to such payment shall be reinstated at such time as though such payment had not been made.

 4. Waiver by the Guarantor. The Guarantor irrevocably waives acceptance hereof, diligence, presentment, demand, protest, notice of dishonor, notice of any sale of collateral and any notice not provided for herein, and any requirement that at any time any person exhaust any right to take any action against the Company or its assets or any other guarantor or person.

 5. Subrogation. Upon making any payment hereunder, the Guarantor shall be subrogated to the rights of the Counterparty against the Company with respect to such payment; provided that the Guarantor shall not enforce any such right or receive any payment by way of subrogation until all of the Guaranteed Obligations then due shall have been paid in full. Counterparty agrees to take at Guarantor's expense such steps as the Guarantor may reasonably request to implement such subrogation.

 6. Stay of Acceleration Ineffective with Respect to Guarantor. In the event that acceleration of the time for payment of any amount payable by the Company under the Agreement(s) is stayed upon the insolvency, bankruptcy or reorganization of the Company, all such amounts otherwise subject to acceleration or required to be paid upon an early termination pursuant to the terms of the Agreement(s) shall nonetheless be payable by the Guarantor hereunder forthwith on demand by the Counterparty.

 7. Assignment; Successors and Assigns. The Guaranty shall be binding upon and inure to the benefit of the Guarantor and its successors and assigns and the Counterparty and its successors and assigns. Guarantor may not assign its rights and obligations hereunder without the prior written consent of the Counterparty, and any such purported assignment without such written consent will be void. The Counterparty may, at any time and from time to time, assign, in whole or in part, its rights hereunder, to a third party, provided that the Counterparty shall give Guarantor written notice of such assignment no less than ten (10) days prior to such assignment.

 8. Amendments and Waivers. No provision of this Guaranty may be amended, supplemented or modified nor any of the terms and conditions hereof waived, except by a written instrument executed by the Guarantor and the Counterparty.

 9. Remedies Cumulative. The rights, powers, remedies and privileges provided in this Guaranty are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law and any other agreement.

 10. Representations and Warranties. Guarantor hereby represents and warranties the following:

 (A) The Guarantor is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has full power, corporate or otherwise, to execute, deliver and perform this Guaranty.

 (B) The execution, delivery and performance of the Guaranty have been and remain duly authorized by all necessary corporate action and do not contravene any provision of law or of the Guarantor's constitutional documents or any contractual restriction binding on the Guarantor or its assets.

 (C) All consents, authorizations and approvals of, and registrations and declarations with, any governmental authority necessary for the due execution, delivery and performance of this Guaranty, if any, have been obtained and remain in full force and effect and all conditions thereof have been duly complied with, and no other action by and no notice to or filing with, any governmental authority is required in connection with the execution, delivery or performance of this Guaranty.

 (D) This Guaranty constitutes the legal, valid and binding obligation of the Guarantor enforceable against the Guarantor in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general equity principles.

 12. Notices. All notices or communications to the Guarantor shall be in writing and shall be directed by registered or certified mail or overnight delivery service to:

 ***[company name& address]***

or such other address as the Guarantor shall from time to time specify to Counterparty.

 13. GOVERNING LAW. THIS GUARANTY WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CONNECTICUT, WITHOUT REFERENCE TO CHOICE OF LAW DOCTRINE. THE GUARANTOR AND COUNTERPARTY JOINTLY AND SEVERALLY AGREE TO THE EXCLUSIVE JURISDICTION OF STATE AND FEDERAL COURTS LOCATED IN THE STATE OF CONNECTICUT OVER ANY DISPUTES ARISING OR RELATING TO THIS GUARANTY AND WAIVE ANY OBJECTIONS TO VENUE OR INCONVENIENT FORUM. THE GUARANTOR AND COUNTERPARTY EACH HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHTS TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY.

 14. Third Party Beneficiaries. This Guaranty shall not be construed to create any third party beneficiary relationship as to or with any person or entity other than the Counterparty.

 IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be duly executed as of the date first above written.

 Guarantor:

 By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Name:

Title:

**Appendix c**

**SETTLEMENT PROCESS**

OVERVIEW

NSTAR Electric (the “Company”), or its agent, will perform a Load Settlement process to determine the total Delivered Energy (“Load”) for each hour, for each Metering Domain, and the corresponding Delivered Energy for each hour, for each Load Asset, in each Metering Domain. The estimation process, and subsequent reporting of the results to ISO-NE, is performed according to Market Rules and Procedures and State regulation. Industry recognized software is utilized to perform the processes that consist of a Preliminary Load Settlement for each Operating Day, an hourly Resettlement of each month, and, if necessary, a Requested Billing Adjustment (“RBA”) settlement.

Load settlement is performed using a combination of estimated customer load, based on class average load profiles developed from statistically designed samples and individual customer usage history, and individual customer actual hourly interval metered values.

All settlement, resettlement and RBA settlement data is reported, for each Load Assets, to ISO-NE, according to Market Rules and Procedures. Files of this data will also be provided to each Supplier.

PRELIMINARY LOAD SETTLEMENT

The total of all Load Asset load reported to ISO-NE for each hour or each Operating Day for each Metering Domain must equal the sum of the corresponding hourly Metering Domain load. This value is determined as the sum of the Generation in the Metering Domain and the sum of the Tie Lines of the Metering Domain. The sum of the Generation and Tie Line values for each hour are reduced by shared transmission loss values (LV PTF – OI\_Losses). These losses are estimated by and provided for each Operating Day by ISO.

The Load Settlement software contains information necessary to calculate hourly loads for each customer, and map it to the appropriate Load Assets. The database is updated each Business Day with associated customer information from the Company’s billing system, including, but not limited to, billed usage, supplier changes, rate updates and any available hourly interval data. Individual customer load is summed by Load Asset for each hour. Any residual between the sum of the estimated loads and the Metering Domain load is allocated back to the Load Assets that have a portion of the estimated data, on a pro-rata basis

LOAD RESETTLEMENT

A Load Resettlement will be performed and reported to ISO-NE in accordance with the Market Rules and Procedures. This process will include any Generation or Tie Line meter reading changes submitted to or changed by ISO-NE during the period as well as updated customer information that changed since the Preliminary Load Settlement.

REQUESTED BILLING ADJUSTMENT

 The Market Rules and Procedures provide for a Requested Billing Adjustment (“RBA”). If necessary, the Company will perform an RBA settlement, and report revised Load values to ISO-NE in accordance with ISO-NE Market Rules. This process will include any Generation or Tie Line meter reading changes submitted to or changed by ISO during the period as well as updated customer information that changed since the Load Resettlement.