MASTER CERTIFICATE PURCHASE AGREEMENT

DATED AS OF \_\_\_\_\_\_\_\_\_\_\_, 2023

BY AND BETWEEN NSTAR ELECTRIC COMPANY

D/B/A EVERSOURCE ENERGY

 AND

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



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**MASTER CERTIFICATE PURCHASE AGREEMENT**

 This **MASTER CERTIFICATE PURCHASE AGREEMENT** (“Agreement”) is dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and is by and between **NSTAR ELECTRIC COMPANY D/B/A EVERSOURCE ENERGY** (“Buyer”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_a \_\_\_\_\_\_\_\_\_\_\_\_\_ (“Seller”). This Agreement provides for the sale by Seller of NEPOOL-GIS Certificates, as defined herein, to Buyer. The Buyer and Seller are referred to herein individually as a “Party” and collectively as the “Parties.”

**ARTICLE 1** **BASIC UNDERSTANDINGS**

Seller and Buyer have agreed to execute this Master Agreement in order to establish the terms of Seller’s provision and sale of, and Buyer’s acceptance and purchase of NEPOOL-GIS Certificates to meet a portion of the Buyer’s requirements to comply with the applicable RPS, APS or CPS Regulations, as defined herein. This Agreement sets forth the terms under which Seller shall sell and deliver and the Buyer shall purchase and receive NEPOOL-GIS Certificates.

**ARTICLE 2 DEFINITIONS**

As used in this Agreement, the following terms shall have the meanings specified in this Article. In addition, except as otherwise expressly provided, terms with initial capitalization used in this Agreement and not defined herein shall have the meaning as defined in the NEPOOL Rules.

**Affiliate** means, with respect to any Party, any entity (other than a person) that, directly or indirectly, controls, or is controlled by or is under common control with such Party at any time during the Term of this Agreement. 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 ordinary voting power.

**Alternative Compliance Payment Rate** meansthe value as stated in the (i) RPS Regulations, as of the date of this Agreement, for each of the RPS Class I RECs, RPS Class II RECs, and RPS Class II Waste to Energy RECs, and (ii) APS Regulations, as of the date of this Agreement for APS Certificates.

**APS Regulations** means the Alternative Energy Portfolio Standard regulations (found as of the date of this Agreement at 225 CMR 16.00) promulgated pursuant to M.G.L. c. 25A, § 11F1/2 that requires all retail electricity Sellers in Massachusetts to provide a minimum percentage of electricity from certain alternative generating resources as amended, modified, superseded and supplemented from time to time.

**APS Alternative Generation Unit**  shall be as defined in the APS Regulations.

**APS Certificate** means the Generation Attribute associated with an APS Alternative Energy Unit as defined in the APS Regulations.

**Business Day** means a 24-hour period ending at 5:00 p.m. EPT, other than Saturday, Sunday and any day which is a legal holiday or a day on which banking institutions in Boston, MA are authorized by law or other governmental action to close.

**Buyer** means Eversource Energy, and its successors and assigns.

**CES Regulations** means the Clean Energy Standard (CES) regulations 310 CMR 7.75 requiring utilities and competitive suppliers of electricity to procure increasing amounts of clean energy as amended, modified, superseded and supplemented from time to time.

**CES-E Certificate** means a NEPOOL-GIS Certificate from a resource that represents Clean Existing Generation Attributes.

**Clean Existing Generation Attribute** shall be as defined in the CES Regulations.

**Commission** means the Federal Energy Regulatory Commission, or its successor.

Confidential Information means the information the parties agree to keep confidential as referenced in Article 22.

Confirmation means 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, to a memorialize a specific Transaction.

**Confirmation Effective Date** shall have the meaning set forth in Appendix A.

**Clean Peak Energy Certificate** means a credit received for each megawatt hour of energy or energy reserves at NEPOOL GIS that is adjusted by applicable Clean Peak Energy Certificate Multipliers and provided during a Seasonal Peak Period that represents a compliance mechanism.

**CPS Regulations** means Clean Peak Energy Standard regulations 225 CMR 21.00, as promulgated pursuant to M.G.L. c. 25A, § 17(c), that requires all retail electricity Sellers in Massachusetts to include a minimum percentage of electrical energy sales with Clean Peak Energy Certificates, as amended, modified, superseded and supplemented from time to time.

**DPU** means the Massachusetts Department of Public Utilities, or its successor.

**Effective Date** means the date of this Agreement.

**EPT** means Eastern Prevailing Time.

**Generation Attribute** shall be as defined in the applicable RPS Regulations or APS Regulations.

**Generating Unit** means a specific generating resource qualified according to the applicable RPS, APS, CES or CPS Regulations and specified in the applicable Confirmation, from which Buyer will purchase certain NEPOOL-GIS Certificates.

**Governing Documents** means, with respect to any particular entity, (a) if a corporation, the (i) articles of organization, articles of incorporation or certificate of incorporation and (ii) the bylaws; (b) if a general partnership, the partnership agreement and any statement of partnership; (c) if a limited partnership, the limited partnership agreement and the certificate of limited partnership; (d) if a limited liability company, the articles or certificate of organization or formation and operating agreement; (e) if another type of entity, any other charter or similar document adopted or filed in connection with the creation, formation or organization of such entity; (f) all equity holders’ agreements, voting agreements, voting trust agreements, joint venture agreements, registration rights agreements or other agreements or documents relating to the organization, management or operation of any entity or relating to the rights, duties and obligations of the equity holders of any entity; and (g) any amendment or supplement to any of the foregoing.

**Interest Rate** means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under “Money Rates” on such day (or if not published on such day, on the most recent preceding day on which published), plus one percent (1%) and (b) the maximum rate permitted by applicable law.

**ISO** means ISO New England Inc., authorized by the Commission to exercise for New England the functions required pursuant to the Commission’s Order No. 2000 (and its progeny) and the Commission’s regulations, and any successor organization (including, but not limited to, a Regional Transmission Organization).

**ISO New England Operating Documents** means the ISO Tariff and the ISO New England Operating Procedures, as amended, modified, superseded and supplemented from time to time.

**ISO Tariff** means the ISO New England Inc. Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, as amended, modified, superseded and supplemented from time to time, and including the Market Rules and Procedures.

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

**MA RPS/APS/CPS ID Number** means the identification number issued by MA DOER to a generation unit qualified under the applicable RPS, APS or CPS Regulations.

**Market Rules and Procedures** means the Market Rules, Manuals and Procedures adopted by the ISO and/or NEPOOL, as may be amended from time to time, and as administered by the ISO to govern the operation of the NEPOOL markets.

**Material Adverse Effect** means, with respect to a Party, any change in or effect on such Party after the date of this Agreement that is materially adverse to the transactions contemplated hereby, excluding any change or effect resulting from (a) changes in the international, national, regional or local wholesale or retail markets for electric power; (b) changes in the international, national, regional or local markets for any fuel; (c) changes in the North American, national, regional or local electric transmission or distribution systems; and (d) any action or inaction by a governmental authority, but in any such case not affecting the Parties or the transactions contemplated hereby in any manner or degree significantly different from others in the industry as a whole.

**MWh** means Megawatt-hour.

**NEPOOL-GIS** means the NEPOOL 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.

**NEPOOL-GIS** **Asset ID** means the alphanumeric identification code for a specific generation unit in NEPOOL-GIS.

**NEPOOL-GIS Certificates** means an electronic record produced by the NEPOOL-GIS that identifies the relevant generation attributes of each MWh accounted for in the NEPOOL-GIS that complies with the applicable RPS, APS, CES or CPS Regulations.

**NEPOOL-GIS Certificate Purchase Price** means the price to be paid by Buyer to Seller for each NEPOOL-GIS Certificate purchased under this Agreement, as specified in the applicable Confirmation.

**NEPOOL-GIS Certificate Quantity** means the number of NEPOOL-GIS Certificates to be purchased by Buyer from Seller, as specified in the applicable Confirmation.

**NEPOOL-GIS Certificate Trading Period** means the period for the trading of a NEPOOL-GIS Certificate as specified in the NEPOOL GIS Operating Rules.

**NEPOOL GIS Certificate Type** means the classification of NEPOOL GIS Certificates as specified in the applicable Confirmation and which complies with the applicable RPS or APS Regulations.

**NEPOOL Agreement** means the Second Restated New England Power Pool Agreement dated as of February 1, 2005, as amended or accepted by the Commission and as may be amended, modified, superseded, supplemented and/or restated from time to time.

**NEPOOL GIS Operating Rules** means the New England Power Pool Generation Information System Operating Rules as may be amended from time to time pursuant to the NEPOOL Agreement.

**NEPOOL Rules** means allrules adopted by NEPOOL or the ISO, as such rules may be amended, modified, supplemented or superseded and restated from time to time, including but not limited to, the NEPOOL Agreement, the ISO Tariff, the ISO New England Operating Documents, the Transmission Operating Agreement, the Participants Agreement, the NEPOOL Manuals, and the NEPOOL Operating Procedures, as amended, superseded or restated from time to time.

**RPS Class I REC** means the Generation Attribute associated with a RPS Class I Renewable Generation Unit.

**RPS Class I Renewable Generation Unit** shall be as defined in the RPS Regulations.

**RPS Class I Solar Carve-Out REC** means the Generation Attribute associated with a Solar Carve-Out Renewable Generation Unit.

**RPS Class I Solar Carve-Out II REC** means the Generation Attribute associated with a Solar Carve-Out II Renewable Generation Unit.

**RPS Class II REC** means the Generation Attribute associated with a RPS Class II Renewable Generation Unit.

**RPS Class II Renewable Generation Unit** shall be as defined in the RPS Regulations.

**RPS Class II Waste to Energy REC** means the Generation Attribute associated with a Waste Energy Generation Unit.

**RPS Regulations** means the Renewable Energy Portfolio Standard regulations (found as of the date of this Agreement at 225 CMR 14.00 (Class I) and 225 CMR 15.00 (Class II), respectively), promulgated pursuant to M.G.L. c. 25A, § 11F, that requires all retail electricity Sellers in Massachusetts to provide a minimum percentage of electricity from certain Class I and Class II renewable energy generating resources, as amended, modified, superseded and supplemented from time to time.

**Solar Carve-Out Renewable Generation Unit** shall be as defined in the RPS Regulations.

**Solar Carve-Out II Renewable Generation Unit** shall be as defined in the RPS Regulations.

**Transaction** means the purchase and sale of NEPOOL GIS Certificates as specified in a Confirmation.

**Unit Contingent** means that the NEPOOL-GIS Certificate Quantity shall be a fixed amount, or a variable amount equal to a specified percentage of NEPOOL-GIS Certificates, produced by a Generating Unit within a specified period, as specified in the applicable Confirmation.

**Vintage** means the calendar year that a NEPOOL-GIS Certificate represents as the relevant generation attributes for an energy resource.

**Waste Energy Generation Unit** shall be as defined in the RPS Regulations.

**ARTICLE 3 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.

**ARTICLE 4 SALE AND PURCHASE**

Section 4.1 Provision Delivery and Receipt

 Seller shall sell and deliver and the Buyer shall purchase and receive those NEPOOL-GIS Certificates specified in the applicable Confirmation. Seller shall utilize the NEPOOL-GIS to transfer the number of NEPOOL-GIS Certificates required to be transferred hereunder for each Trading Period to the account within the NEPOOL-GIS designated by the Buyer on or before the 10th Business Day prior to the close of the applicable NEPOOL-GIS Trading Period. Buyer shall confirm all transfers of NEPOOL-GIS Certificates within ten (10) Business Days after the transfer by Seller.

Section 4.2 Seller Representations and Warranties:

Seller represents, warrants, and agrees that:

1. The NEPOOL-GIS Certificates sold and delivered to the Buyer’s account under this Agreement are and shall be free and clear of any liens, encumbrances and title defects;
2. Seller has obtained, and will maintain, all necessary regulatory approvals required to enable it to provide the NEPOOL-GIS Certificates as required by this Agreement and the NEPOOL-GIS Certificates sold hereunder are and will be compliant with the RPS or APS Regulations (as applicable) through the date of transfer to Buyer;
3. The NEPOOL-GIS Certificates sold hereunder have not been, and shall not be, sold, retired, claimed or represented as part of electricity output or sales, or used to satisfy obligations in any other jurisdiction; and
4. The contents, statements, certifications and representations contained in Seller’s proposal for the sale of NEPOOL GIS Certificates are true and accurate in all material respects.

**ARTICLE 5 AMOUNT, BILLING and PAYMENT**

Section 5.1 Amount

 The amount payable by Buyer to Seller for NEPOOL-GIS Certificates shall be the product of (a) the number of NEPOOL-GIS Certificates transferred and confirmed during a Trading Period and (b) the NEPOOL-GIS Certificate Purchase Price for the applicable Vintage in such Trading Period. The Purchase Price and quantity of NEPOOL-GIS Certificates to be transferred and confirmed for each Vintage in a Trading Period shall be as specified in the applicable Confirmation.

Section 5.2 Billing and Payment

(a) After each NEPOOL-GIS Certificate transfer has been confirmed, the Seller shall calculate the amount due and payable to Seller pursuant to this Article and provide an invoice ("Invoice") for such amount. For any Unit Contingent transaction, Seller shall include with the invoice a copy of the screen shot from the NEPOOL GIS System documenting the production of the Unit during the applicable Trading Period. The Invoice shall be provided to the Buyer and shall include sufficient detail for the Buyer to verify its formulation and computation.

(b) The Buyer shall pay Seller the amount due and owing in accordance with Section 5.1 within fifteen (15) Business Days after receiving the Invoice (the "Due Date"). If all or any part of such amount remains unpaid after the Due Date, interest shall accrue after but not including the Due Date and be payable to Seller on such unpaid amount up to the date of payment at a rate per annum equal to the Interest Rate in effect on the Due Date.

(c) Each Party shall notify the other Party upon becoming aware of any error in an Invoice (whether the amount is paid or not) and Seller shall promptly issue a corrected Invoice. Overpayments shall be refunded or credited (as directed by the Party entitled to the refund), with interest accrued at the Interest Rate in effect on the Due Date from the date of the receipt of the overpayment until the date paid or credited.

Section 5.3 Challenge to Invoices

 Unless otherwise agreed by the Parties in writing: (i) either Party may challenge, in writing, the accuracy of Invoices no later than thirty-six (36) months after the Due Date of the Invoice in which the disputed charges are contained; (ii) if a Party does not challenge the Invoice within such thirty-six (36) month period, such Invoice shall be final and shall not be subject to challenge or adjustment. If an Invoice is paid and thereafter the payment or the Invoice on which the payment was based is disputed, upon notice of dispute, the Party receiving payment shall hold the amount in dispute in escrow for the benefit of the prevailing Party until the resolution of such dispute. The other Party shall provide such information and documentation as the challenging Party shall request regarding any disputed charges. If any amount in dispute is ultimately determined to be due to the other Party, it shall be paid or returned (as the case may be) to the other Party within three (3) Business Days of such determination along with interest accrued at the Interest Rate from the (i) Invoice due date until the date paid or (ii) if the amount was paid and is to be refunded, from the date paid, until the date refunded.

Section 5.4 Taxes, Fees and Levies

Seller shall be obligated to pay all present and future taxes, fees and levies (“Taxes”) which may be assessed by any entity upon the Seller's delivery or sale of NEPOOL-GIS Certificates to the Buyer.

Section 5.5Netting and Setoff

 All payments under this Agreement shall be netted, and the Party owing the greater aggregate amount shall pay to the other Party any difference between the amounts owed. Each Party reserves all rights, setoffs, counterclaims and other remedies and defenses (to the extent not expressly herein or therein waived or denied) that such Party has or to which such Party may be entitled arising from or out of this Agreement or such other written agreement. Further, if the Buyer incurs any costs or charges that are the responsibility of Seller under this Agreement, such costs or charges may, at the Buyer’s election, be netted against any amount due to Seller under this Agreement. All outstanding obligations to make payment under this Agreement may be netted against each other, set off or recouped therefrom.

Section 5.6 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. In addition, a Party shall provide to the other Party documents evidencing the delivery and receipt of NEPOOL-GIS Certificates hereunder. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid.

Section 5.7 Delivery Shortfall

If Seller has not transferred all or part of the NEPOOL-GIS Certificates as required pursuant to Section 4.1 above (a “Shortfall”), Seller agrees to pay Buyer an amount equal to the product of (i) the number of NEPOOL-GIS Certificates which constitute the Shortfall, and (ii) the positive difference, if any, of the applicable Alternative Compliance Rate set forth in the applicable RPS, APS or CPS Regulations less the applicable NEPOOL-GIS Certificate Purchase Price the Buyer would have paid to Seller under this Agreement for each Undelivered Certificate if the same had actually been delivered hereunder as and when required.

**ARTICLE 6 DEFAULT AND TERMINATION**

Section 6.1 Events of Default

(a) Any one or more of the following events shall constitute an "Event of Default" hereunder with respect to the Buyer:

1. Failure of the Buyer

(A) in any material respect to comply with, observe or perform any covenant, warranty or obligation under this Agreement (but excluding events that are otherwise specifically covered in this Section as a separate Event of Default and except to the extent attributable to Seller's wrongful act or failure to act in breach of this Agreement), but only if:

(B) After receipt of written notice from Seller such failure continues for a period of five (5) Business Days, or, if such failure cannot be reasonably cured within such five (5) Business Day period, such further period as shall reasonably be required to effect such cure (but in no event longer than thirty (30) days), provided that the Buyer (x) commences within such five (5) Business Day period to effect a cure and at all times thereafter proceeds diligently to complete the cure as quickly as possible and (y) provides to Seller written documentation of its efforts and plan to cure and estimated time for completion of the cure.

(b) Any one or more of the following events shall constitute an "Event of Default" hereunder with respect to Seller:

1. Failure of Seller

(A) in any material respect to comply with, observe, or perform any covenant, warranty or obligation under this Agreement (but excluding events that are otherwise specifically covered in this Section as a separate Event of Default and except to the extent attributable to the Buyer’s wrongful act or wrongful failure to act in breach of this Agreement), but only if

(B) after receipt of written notice from the Buyer such failure continues for a period of five (5) Business Days, or, if such failure cannot be reasonably cured within such five (5) Business Day period, such further period as shall reasonably be required to effect a cure (but in no event longer than thirty (30) days), provided that Seller (x) commences within such five (5) Business Day period to effect such cure and at all times thereafter proceeds diligently to complete the cure as quickly as possible and (y) provides to Buyer written documentation of its efforts and plan to cure and estimated time for completion of the cure;

1. Failure of Seller to transfer NEPOOL-GIS Certificates in the amounts and/or at the times required by, and otherwise in accordance with, Article 4; or
2. Failure of Seller to provide and maintain the financial security required pursuant to Article 22 hereof.

 (c) Any one or more of the following events with respect to either Party shall constitute an "Event of Default" hereunder with respect to such Party:

1. The entry by a court having jurisdiction in the premises of (A) a decree or order for relief in respect of such Party in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law, or (B) a decree or order adjudging such Party as bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of such Party under any applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of such Party or of any substantial part of its property, or ordering the winding up or liquidation of its affairs;
2. The commencement by such Party of a voluntary case or proceeding, or any filing by a third party of an involuntary case or proceeding against a Party that is not dismissed within thirty (30) days of such third party’s filing, under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law, or of any other case or proceeding to be adjudicated as bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of such Party in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable federal or state law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of a Party or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by such Party in furtherance of any such action; and
3. Any representation or warranty made by a Party is or becomes false or misleading in any material respect.

Section 6.2 Remedies Upon Default

The Parties shall have the following remedies available to them with respect to the occurrence of an Event of Default with respect to the other Party hereunder:

(a) Upon the occurrence of an Event of Default, the non-defaulting Party shall have the right to (i) continue performance under this Agreement and exercise such rights and remedies as it may have at law, in equity or under this Agreement and seek remedies as may be necessary or desirable to enforce performance and observation of any obligations and covenants under this Agreement, so long as such rights and remedies are not duplicative of any other rights and remedies hereof, and do not otherwise enable the non-defaulting Party to obtain performance or payments in excess of the performance and payments to which it is otherwise entitled pursuant to this Agreement, or (ii) at its option, give such defaulting Party a written notice (a "Termination Notice"). Termination shall be effective on the date set forth in the Termination Notice. Termination of this Agreement shall in no way limit or restrict any Party’s right to pursue any legal or equitable remedies available to it arising from an Event of Default.

(b) Notwithstanding any other provision of this Agreement, the cure of an Event of Default or failure to comply with, observe or perform any covenant, warranty or obligation under this Agreement within the period provided therefor in this Agreement shall not release such defaulting Party from its liability to indemnify, save harmless and defend the non-defaulting Party for any claims, demands, suits, losses, liabilities, damages, obligations, payments, costs and expenses (including the costs and expenses of any and all actions, suits, proceedings, assessments, judgments, settlements and compromises relating thereto and reasonable attorneys' fees and reasonable disbursements in connection therewith) relating to, arising out of or resulting from such Event of Default or any failure to comply with, observe or perform any covenant, warranty or obligation under this Agreement.

1. In the event Seller causes or suffers an Event of Default, and the Buyer elects to terminate this Agreement, then, on or before five (5) Business Days following issuance of a Termination Notice by Buyer, Seller shall pay the Buyer an amount equal to the positive amount, if any, equal to the product of (i) the number of NEPOOL-GIS Certificates to be transferred to Buyer under this Agreement during the Term that have not been so transferred (“Undelivered Certificates”), and (ii) the positive difference, if any, of the applicable Alternative Compliance Payment rate or rates determined in accordance with the applicable RPS, APS or CPS Regulations less the applicable NEPOOL-GIS Certificate PurchasePrice the Buyer would have had to pay Seller for each Undelivered Certificate if the same had actually been delivered hereunder as and when required. Seller and Buyer agree that the foregoing provision is intended to reflect a mutually acceptable measure of damages for such Event of Default.
2. In the event the Buyer causes or suffers an Event of Default, and Seller elects to terminate this Agreement, then, on or before five (5) Business Days following issuance of the Termination Notice by Seller, the Buyer shall pay Seller the positive amount, if any, equal to the product of (i) the number of NEPOOL-GIS Certificates required to be transferred by Seller under this Agreement during the Term that have not been so transferred (“Untransferred Certificates”) and (ii) the positive difference, if any, of the NEPOOL-GIS Certificate Purchase Price less the average market price as of the date of issuance of such Termination Notice for the number of Untransferred Certificates of a vintage equivalent to the calendar year in which such Untransferred Certificates were to be delivered hereunder as specified in Article 4. Such average market price is to be determined based upon the average of prices quoted by three independent third party brokerage services selected by Seller and reasonably acceptable to the Buyer. Seller and Buyer agree that the foregoing provision is intended to reflect a mutually acceptable measure of damages for such Event of Default.

Section 6.3 Forward Contract.

 The parties understand and agree that all transaction(s) under this Agreement constitute "forward contracts" within the meaning of title 11 of the United States Bankruptcy Code (the "Bankruptcy Code"); (ii) each of the parties is a “forward contract merchant” within the meaning of the Bankruptcy Code with respect to any transactions that constitute “forward contracts”; (iii) all payments made or to be made by one party to the other party pursuant to this Agreement constitute "settlement payments" within the meaning of the Bankruptcy Code; (iv) all transfers of credit support by one party to the other party under this Agreement constitute "margin payments" within the meaning of the Bankruptcy Code; (v) each party’s rights to liquidate any transactions hereunder constitute a “contractual right to liquidate” the transactions within the meaning of Section 556 of the Bankruptcy Code, and (vi) this Agreement constitutes a “master netting agreement” within the meaning of the Bankruptcy Code and, each party is deemed as a “master netting agreement participant” within the meaning of the Bankruptcy Code.

**ARTICLE 7 NOTICES, REPRESENTATIVES OF THE PARTIES**

Section 7.1 Notices

Any notice, demand, or request permitted or required under this Agreement shall be delivered in person, email, (provided a confirmatory notice is sent by courier, personally delivered (including overnight delivery service) or mailed, postage prepaid, to the representative of the other Party designated in accordance with this Article), or by prepaid overnight United States mail or by overnight courier service, return receipt requested, to a Party at the applicable address set forth below:

Notices and other communications by Seller to the Buyer shall be addressed to:

Company: Eversource Energy

Attn: Energy Supply, Renewable Energy

Address: 107 Selden Street, Berlin, CT 06037

Phone: 860-665-4772

Email: RECtransactions@eversource.com

 With a copy to:

 General Counsel

Eversource Energy Service Company

P.O. Box 270

Hartford, CT 06141-0270

 Notices and other communications by the Buyer to Seller shall be addressed to:

**[Name]**

**[Company]**

**[Address]**

**[City, State & Zip]**

**[Phone]**

**[Email]**

Any Party may change its representative or address for notices by written notice to the other Party; however such notice shall not be effective until it is received by the other Party.

Section 7.2 Authority of Representative

The Parties’ representatives shall have full authority to act for their respective Party in all matters relating to the performance of this Agreement. Notwithstanding the foregoing, a Party's representative shall not have the authority to amend, modify, or waive any provision of this Agreement unless they are duly authorized officers of their respective entities and such amendment, modification or waiver is made in accordance with Article 15.

**ARTICLE 8 LIABILITY; INDEMNIFICATION; RELATIONSHIP OF PARTIES**

Section 8.1 Limitation on Consequential, Incidental and Indirect Damages

except TO THE EXTENT RELATING TO INDEMNIFICATION OBLIGATIONS AS STATED in section 8.2, To the fullest extent permissible by law, neither THE BUYER Nor Seller, Nor their respective officers, directors, 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, agents, employees, successors or assigns, for claims, suits, actions or causes of action for incidental, indirect, special, punitive, multiple or consequential damages (including attorney’s fees or litigation costs ) 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, or any other theory of recovery. The provisions of this Section shall apply regardless of fault and shall survive termination, cancellation, suspension, completion or expiration of this Agreement.

Section 8.2 Indemnification

 (a) Seller agrees to defend, indemnify and save the Buyer, its officers, directors, employees, agents, successors, assigns, and Affiliates and their officers, directors, employees and agents harmless from and against any and all third-party claims, suits, actions or causes of action and any resulting losses, damages, charges, costs or expenses, (including reasonable attorneys' fees and court costs), arising from or in connection with any (a) breach of a representation or warranty or failure to perform any covenant or agreement in this Agreement by Seller, (b) any violation of applicable law, regulation or order by Seller, (c) any act or omission by Seller with respect to this Agreement, first arising, occurring or existing during the term of this Agreement, 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, except to the extent caused by an act of gross negligence or willful misconduct by an officer, director, agent, employee, or Affiliate of the Buyer or its respective successors or assigns.

(b) The Buyer agrees to defend, indemnify and save Seller, its officers, directors, employees, agents, successors, assigns, and Affiliates and their officers, directors, employees and agents harmless from and against any and all third-party claims, suits, actions or causes of action and any resulting losses, damages, charges, costs or expenses, (including reasonable attorneys' fees and court costs), arising from or in connection with any (a) breach of representation or warranty or failure to perform any covenant or agreement in this Agreement by said Buyer, (b) any violation of applicable law, regulation or order by Buyer, (c) any act or omission by the Buyer, with respect to this Agreement first arising, occurring or existing during the term of this Agreement, 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, except to the extent caused by an act of gross negligence or willful misconduct by an officer, director, agent, employee or Affiliate of Seller or its respective successors or assigns.

(c) If any Party intends to seek indemnification under this Section from the other Party with respect to any action or claim, the Party seeking indemnification shall give the other Party notice of such claim or action within thirty (30) days of the later of the commencement of, or actual knowledge of, such claim or action; provided, however, that in the event such notice is delivered more than thirty (30) days after the Party seeking indemnification knows of such claim or action, the indemnifying Party shall be relieved of its indemnity hereunder only if and to the extent such indemnifying Party was actually prejudiced by such delay. The Party seeking indemnification shall have the right, at its sole cost and expense, to participate in the defense of any such claim or action. The Party seeking indemnification shall not compromise or settle any such claim or action without the prior consent of the other Party, which consent shall not be unreasonably withheld.

Section 8.3 No Partnership or Joint Venture

Nothing in this Agreement shall be construed or interpreted as creating any partnership, joint venture or similar relationship between the Buyer and Seller or any agency or representative capacity, and neither Party is authorized to bind the other Party to any contract, agreement or understanding.

Section 8.4 No Third Party Beneficiaries

There are no third party beneficiaries to this Agreement.

**ARTICLE 9 ASSIGNMENT**

Section 9.1 General Prohibition Against Assignments

Except as provided in Section 9.2, 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 9.2 Exceptions to Prohibition Against Assignments

Either Party may, upon written notice, assign its rights and obligations hereunder, or transfer such rights and obligations by operation of law, to any entity with which or into which such Party shall merge or consolidate or to which such Party shall transfer all or substantially all of its assets or to an Affiliate, provided that such other entity agrees to be bound by the terms hereof and has the ability to satisfy the assigning Party’s obligations.

**ARTICLE 10 SUCCESSORS AND ASSIGNS**

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

**ARTICLE 11 WAIVERS**

No delay or omission in the exercise of any right under this Agreement shall impair any such right or shall be taken, construed or considered as a waiver or relinquishment thereof, but any such right may be exercised from time to time and as often as may be deemed expedient. The waiver of any single breach or default of any term or condition of this Agreement shall not be deemed to constitute the waiver of any other prior or subsequent breach or default of the Agreement or any other term or condition.

**ARTICLE 12 LAWS AND REGULATIONS**

Section 12.2 Applicable Laws

This Agreement and all rights, obligations, and performances of the Parties hereunder, are subject to all applicable federal and state laws, and to all duly promulgated orders and other duly authorized action of governmental authorities having jurisdiction hereof.

Section 12.2 Laws and Regulations

 Each Party shall perform its obligations hereunder in accordance with applicable law, rules and regulations.

Section 12.3 NEPOOL Requirements

This Agreement is subject to all NEPOOL Rules, and each Party shall perform its obligations hereunder in accordance with NEPOOL Rules.

Section 12.4 Competitive Affiliates of Seller

If a Competitive Affiliate who is an Affiliate of Seller exists during the Term, Seller shall not disclose any information received from Eversource Energy pursuant to this Agreement, or regarding the service provided under this Agreement, nor shall Seller assign any interest hereunder, to any such Competitive Affiliate. The term “Competitive Affiliate” shall be as defined in 220 C.M.R 12 as of the date of this Agreement, and shall refer to an entity that is engaged in the sale of electricity to retail customers in Massachusetts.

Section 12.5 Sales Tariffs

No Party’s sales tariff shall apply to any Transaction unless specifically so stated in the Confirmation. In the event that the Confirmation stipulates that a tariff applies, each Party agrees that it shall not amend any such tariff in any way that may adversely affect the rights or obligations of the other Party, without the prior written consent of the other Party, and each Party further agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement.

**ARTICLE 13 INTERPRETATION, DISPUTE RESOLUTION**

Section 13.1 Governing Law

The Agreement shall be governed by and construed and performed in accordance with the laws of the Commonwealth of Massachusetts, without giving effect to its conflict of laws principles.

Section 13.2 Dispute Resolution

 In the event of any dispute among the Parties arising out of or relating to this Agreement, the Parties shall refer the matter to their duly authorized officers for resolution. Should such officers fail to resolve the dispute within five (5) days after such referral, either Party may seek such further legal recourse as such Party sees fit, provided that for the purposes of any litigation of such disputes the Parties agree to submit to the exclusive jurisdiction of the federal and state courts in the Commonwealth of Massachusetts.

Section 13.3 Venue; Waiver of Jury Trial

Each Party hereto irrevocably (i) submits to the exclusive jurisdiction of the federal and state courts located in the Commonwealth of Massachusetts; (ii) waives any objection which it may have to the laying of venue of any proceedings brought in any such court; and (iii) waives any claim that such proceedings have been brought in an inconvenient forum. 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 RELATING TO THIS AGREEMENT.

**ARTICLE 14 SEVERABILITY**

Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change will not otherwise affect the remaining provisions and lawful obligations that arise under this Agreement. If any provision of this Agreement, or the application thereof to any Party or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefore in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision, and (b) the remainder of this Agreement and the application of such provision or circumstances shall not be affected by such invalidity or unenforceability.

**ARTICLE 15 MODIFICATIONS**

No modification or amendment of this Agreement will be binding on any Party unless it is in writing and signed by both Parties.

**ARTICLE 16 ENTIRE AGREEMENT**

This Master Certificate Purchase 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 be referred to as the “Agreement” and constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes any other agreements, written or oral, between the Parties concerning such Transactions. There are no restrictions, promises, representations, warranties, covenants or undertakings, other than those expressly set forth or referred to in the Agreement.

**ARTICLE 17 COUNTERPARTS**

This Agreement may be executed in counterparts, all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to Agreement by facsimile or electronic means shall be effective as delivery of a manually executed counterpart of this Agreement. Electronic or fax copies of executed original copies of this Agreement shall be sufficient and admissible evidence of the content and existence of this Agreement to the same extent as the originally executed copy or copies (if executed in counterpart), and neither Party shall object to the admissibility of same on the basis that such were not originated or maintained in documentary form under the hearsay rule, the best evidence rule or other rule of evidence

**ARTICLE 18 INTERPRETATION; CONSTRUCTION**

The section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the Parties and shall not in any way affect the meaning or interpretation of this Agreement. For purposes of this Agreement, the term "including" shall mean "including, without limitation". The Parties acknowledge that, each Party and its counsel have reviewed and or revised this Agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement, and it is the result of joint discussion and negotiation.

**ARTICLE 19 REPRESENTATIONS; WARRANTIES AND COVENANTS**

Each Party represents to the other Party, upon execution and continuing throughout the term of this Agreement, as follows:

(a) It is duly organized in the form of business entity set forth in the first paragraph of this Agreement, validly existing and in good standing under the laws of its state of its organization and has all requisite power and authority to carry on its business as is now being conducted, including all regulatory authorizations as necessary for it to legally perform its obligations hereunder.

(b) It has full power and authority to execute and deliver this Agreement and to consummate and perform the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by it, and, assuming that this Agreement constitutes a valid and binding agreement of the other Party, constitutes its valid and binding agreement, enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

(c) Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, or the terms of any note, bond, mortgage, indenture, deed of trust, license, franchise, permit, concession, contract, lease or other instrument to which it is bound, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets.

(d) No declaration, filing with, notice to, or authorization, permit, consent or approval of any governmental authority is required for the execution and delivery of this Agreement by it or the performance by it of its obligations hereunder, other than such declarations, filings, registrations, notices, authorizations, permits, consents or approvals which, if not obtained or made, will not, in the aggregate, have a Material Adverse Effect.

(e) Neither the execution and delivery of this Agreement by it will nor the performance by it of its obligations under this Agreement will or does (i) conflict with or result in any breach of any provision of its Governing Documents, (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, license, agreement or other instrument or obligation to which it or any of its subsidiaries is a party or by which it or any of its subsidiaries is bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained or which, in the aggregate, would not have a Material Adverse Effect; or (iii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to it, which violation would have a Material Adverse Effect.

(f) There are no claims, actions, proceedings or investigations pending or, to its knowledge, threatened against or relating to it before any governmental authority acting in an adjudicative capacity relating to the transactions contemplated hereby that could have a Material Adverse Effect. It is not subject to any outstanding judgment, rule, order, writ, injunction or decree of any court or governmental authority which, individually or in the aggregate, would create a Material Adverse Effect.

1. There are no bankruptcy, insolvency, reorganization, receivership or other similar proceedings pending or being contemplated by it, or of its knowledge threatened against it.
2. It is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party hereto, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement.
3. It is (i) is a producer, processor, commercial user, or merchant handling NEPOOL-GIS Certificates, (ii) is entering into each Transaction solely in connection with its business as such, and (ii) intends to physically settle each Transaction.

**ARTICLE 20 CONSENTS AND APPROVALS**

 The Parties shall cooperate in a reasonable manner so that each Party may take such actions as necessary and required for the other Party to effectuate and comply with this Agreement including to (i) promptly prepare and file all necessary documentation, (ii) effect all necessary applications, notices, petitions and filings and execute all agreements and documents, and (iii) obtain all necessary consents, approvals and authorizations of all other entities, in the case of each of the foregoing clauses (i), (ii) and (iii), necessary or advisable to consummate the transactions contemplated by this Agreement. The Buyer shall have the right to review and approve in advance all characterizations of the information relating to the transactions contemplated by this Agreement which appear in any filing, press release or public announcement made in connection with the transactions contemplated hereby.

**ARTICLE 21 SURVIVAL**

 As of the expiration or termination of this Agreement, the Parties shall no longer be bound by the terms and provisions hereof, except (a) to the extent necessary to enforce the rights and obligations of the Parties arising under this Agreement (including any Confirmation) before such expiration or termination, (b) the obligations of the Parties hereunder with respect to indemnification and defense of claims, and (c) to the extent necessary to provide for final accounting, final billing, billing adjustments, resolution of any billing disputes, settlement of obligations, 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.

**ARTICLE 22 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, Confidential Information may be disclosed to a third party: (a) to the extent necessary 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 againstthedisclosureof the Confidential Information, that strictly limit the recipient’suse 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 (b) above, the Disclosing Party shall, to the extent legally permissible, 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. 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 ConfidentialInformation 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**.**

**ARTICLE 23 FINANCIAL SECURITY**

If requested by the Buyer, within five (5) Business Days of the Confirmation Effective Date, as security for Seller’s obligations under this Agreement, Seller shall provide Buyer (i) with a written payment guarantee in a form and amount acceptable to Buyer properly executed by a guarantor acceptable to Buyer, or (ii) an irrevocable letter of credit issued by an issuer and a form and amount in each case acceptable to Buyer. Such security instruments shall be maintained throughout the Term of this Agreement and shall be supplemented or replaced from time to time to secure all of the Seller’s obligations relating to Transactions then in effect.

Section 23.1 Amount

 The amount of payment guarantee (if requested) shall be equal to the lesser of (a) the cumulative product of the NEPOOL-GIS Certificate Quantity and the difference between the NEPOOL-GIS Certificate Purchase Price and the Alternative Compliance Payment Rate for the applicable NEPOOL-GIS Certificate Type and Vintage, or (b) the product of the NEPOOL-GIS Certificate Quantity and the NEPOOL-GIS Certificate Purchase Price, multiplied by 0.3.

***[Remainder of Page Intentionally Left 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**

Name (print):

Title:

**[SELLER]**

Name (print):

Title:

**APPENDIX A**

MASTER CERTIFICATE PURCHASE AGREEMENT

FORM OF CONFIRMATION

 This Transaction Confirmation agreed to on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ among NSTAR Electric Company d/b/a Eversource Energy (“Buyer”) and (“Supplier”) regarding the sale/purchase of NEPOOL-GIS Certificates specified herein under the terms and conditions under the Master Certificate Purchase Agreement, dated \_\_\_\_\_\_\_\_\_\_\_, 2022 (the “Master Agreement”), between Eversource Energy and Supplier, as follows:

**1. Confirmation Effective Date; Term**

This Confirmation shall be binding on the Parties upon execution by all Parties (such date the “Confirmation Effective Date”).

**2. NEPOOL-GIS Certificate Purchase Matrix:**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Vintage** | **NEPOOL-GIS CERTIFICATE TYPE** | **NEPOOL-GIS CERTIFICATE PURCHASE PRICE ($/CERTIFICATE)** | **NEPOOL-GIS CERTIFICATE TRADING PERIOD** | **NEPOOL-GIS CERTIFICATEQUANTITY** | **UNIT contingent** **(y/n)** |
| TBD | TBD | TBD | TBD | TBD | TBD |
| TBD | TBD | TBD | TBD | TBD | TBD |
| TBD | TBD | TBD | TBD | TBD | TBD |
| TBD | TBD | TBD | TBD | TBD | TBD |
| TBD | TBD | TBD | TBD | TBD | TBD |
| TBD | TBD | TBD | TBD | TBD | TBD |

**3. Generating Unit(s) (for Unit Contingent purchases only):**

|  |  |  |
| --- | --- | --- |
| **GENERATION UNIT NAME** | **MA RPS/APS ID NUMBER** | **NEPOOL-GIS ASSET ID** |
| TBD | TBD | TBD |
| TBD | TBD | TBD |
| TBD | TBD | TBD |
| TBD | TBD | TBD |
| TBD | TBD | TBD |
| TBD | TBD | TBD |

**4. Security: [Including Guaranty / Additional 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 shall continue in full force and effect.

**6. Counterparts.**

 This confirmation letter may be executed in counterparts, all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Confirmation by facsimile or electronic means shall be effective as delivery of a manually executed counterpart of this Confirmation. Electronic or fax copies of executed original copies of this Confirmation shall be sufficient and admissible evidence of the content and existence of this Confirmation to the same extent as the originally executed copy or copies (if executed in counterpart), and neither Party shall object to the admissibility of same on the basis that such were not originated or maintained in documentary form under the hearsay rule, the best evidence rule or other rule of evidence.

**7. Defined Terms.**

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

NSTAR ELECTRIC COMPANY

D/B/A EVERSOURCE ENERGY

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

Name:

Title:

[SUPPLIER]

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

Name:

Title:

**APPENDIX B**

**MASTER CERTIFICATE PURCHASE 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 COMMONWEALTH OF MASSACHUSETTS, 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 COMMONWEALTH OF MASSACHUSETTS 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: