



## **Filing Receipt**

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**Control Number - 35077**

**Item Number - 1935**



September 24, 2024

Filing Clerk

Public Utility Commission of Texas

1701 Congress Ave.

Austin, TX 78711-3326

Re: Project No. 35077 – Informational Filing of ERCOT Interconnection Agreements  
Pursuant to Subst. R. §25.195(e)/Cross Texas Transmission, LLC ERCOT  
Standard Generation Interconnection Agreement

Please find attached the ERCOT Standard Generation Interconnection Agreement (the “Agreement”) between Cross Texas Transmission, LLC (“Cross Texas”) and Black Mountain Energy Storage II, LLC (“Generator”), dated August 23, 2024, for filing with the Public Utility Commission of Texas (“Commission”) pursuant to P.U.C. SUBST. R. 25.195(e). Pursuant to this rule, Cross Texas has prepared this letter describing the changes made by the parties to the Commission’s Standard Generation Interconnection Agreement (“SGIA”).

**Description of Changes from the SGIA<sup>1</sup>**

**Agreement:**

- Cover: Removed cover sheet and table of contents.
- Page 1:
  - Inserted “ERCOT” before “Standard Generation Interconnection Agreement” in the first paragraph.
  - Inserted “(as defined herein)” after “Plant” in the second paragraph.
  - Replaced “Facilities Study Agreement” with “Full Interconnection Study (“FIS”) Agreement” in the second paragraph.
  - Replaced “Exhibit “C”” with “Exhibits “C” and “C-1”” in the third paragraph.
  - Replaced “on \_\_\_\_\_” with “upon execution” in the fourth paragraph.
  - Replaced “Exhibit “C”” with “Exhibits “C” and “C-1”” in row E.
- Page 2: Added “to be effective as of the Effective Date” after “Agreement” in the first sentence.

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<sup>1</sup> Referenced section, page, paragraph, or line numbers refer to the location of the change in the Agreement.

## **Exhibit “A”:**

- Page 3:
  - Added new definition of “Affiliate,” “Agreement,” and “Applicable Laws and Regulations” and renumbered definitions accordingly.
  - Revised definition of “Commercial Operation” by substituting “stage of completion where” for “date on which Generator declares that,” inserted two additional conditions to meet the definition, i.e., “ERCOT has approved the Generator’s Resource Commissioning Date” and “the Generator notifies the TSP that requirements (i) through (iv) have been achieved,” and numbered all five conditions for clarity.
- Page 4:
  - Changed the rule reference in the definition of “Control Area” from “PUCT Rule 25.5(8)” to “PUCT Rule 25.5(19).”
  - Added a new definition of “EPS Metering Facilities” in Section 1.7 and renumbered definitions accordingly.
  - Revised the definition of “ERCOT Requirements” in Section 1.9 by adding “Nodal” before “Operating Guides” in the first line, changing “ISO” to “ERCOT” in the first line, adding “, ERCOT Nodal Protocols,” after “Procedures” in the second line, deleting “the ISO or” in the third line, and adding “, including NERC Reliability Standards,” after “ERCOT” in the third line.
  - Changed the rule reference in the definition of “Facilities Study” from “PUCT Rule 25.198(g)” to “PUCT Rule 25.198(d).”
  - Added a new definition of “Full Interconnection Study or “FIS”” in Section 1.11 and renumbered definitions accordingly.
  - Revised defined term “Facilities Study Agreement” to “Full Interconnection Study Agreement” and adjusted definition by replacing “Facilities” with “Full Interconnection.”
- Page 5:
  - Changed the rule reference in the definition of “Good Utility Practice” from “PUCT Rule 25.5(23)” to “PUCT Rule 25.5(57).”
  - Added new definition of “NERC,” “NERC Reliability Standards,” “Resource Commissioning Date,” and “Security Screening Study,” and renumbered definitions accordingly.
  - Added “or energy storage system (as defined in the ERCOT Nodal Protocols)” after “facility” in the definition of “Plant.”
  - Replaced “Exhibit “C”” with “Exhibit C-1” in the definition of “Point of Interconnection.”

- Changed the rule reference in the definition of “Reasonable Efforts” from “PUCT Rule 25.196(e)” to “PUCT Rule 25.191(d)(3).”
  - Deleted the definition of “Security Screening Study.”
- Page 6: Capitalized “scheduled” and “date” in the third line of Section 2.1B so that it reads “Scheduled Commercial Operation Date.”
- Page 7:
  - Added “in accordance with Good Utility Practice and all Applicable Laws and Regulations” after “TIF” in Section 2.3.
  - Substituted “ISO” with “ERCOT” in Section 3.2.
- Page 8:
  - Substituted “applicable laws and regulations” with “Applicable Laws and Regulations” in Section 4.1.A to rely upon the newly defined term in Section 1.3.
  - Substituted “ISO” with “ERCOT” in Section 4.1.B.
- Page 9: Capitalized “section” in the seventh line of Section 4.1.B(iii).
- Page 11:
  - Substituted “Facilities Study Agreement” with “Full Interconnection Study Agreement” in Section 4.2.A.
  - Inserted “and Exhibit “E”” after “Section 8.3” in Section 4.3.D.
- Page 12:
  - Added the phrase “, and the Scheduled Commercial Operation Date and In-Service Date identified in Exhibit “B” shall be extended accordingly” at the end of Section 4.5.
  - Substituted “Generator” with “Plant” in the ninth line of Section 5.2 and added the following phrase at the end of Section 5.2 “and the impedance of any transmission voltage lines that are part of the GIF.”
- Page 13:
  - Substituted each instance of “metering” for “EPS Metering Facilities” in Sections 5.5.A, 5.5.B, 5.5.D, and 5.5.E.
  - Replaced “the Control Area(s) in which the Plant and the TSP are located” with “ERCOT” in Section 5.5.E.
- Page 14:
  - Substituted each instance of “metering” for “EPS Metering Facilities” in Sections 5.5.F, 5.5.G and 5.5.H.
  - Added the following phrase at the end of Section 5.5.H “If any EPS Metering Facilities are found to be not in compliance with the accuracy standards required by ERCOT Requirements, any erroneous EPS Metering Facilities readings for

the time period since the meter was last tested, but not exceeding a time period of six (6) months, shall be corrected, and adjusted invoices shall be rendered.”

- Page 15: Substituted “applicable laws and regulations” with “Applicable Laws and Regulations” in the third line of Section 6.1. to rely upon the newly defined term in Section 1.3.
- Page 16:
  - Replaced “ISO” with “ERCOT” in the fourth line of Section 6.1.
  - Revised the third sentence of Section 6.1 to add two conditions under which outages would not need mutually agreeable times so that the text of this sentence reads as follows: “Such outages shall be scheduled at mutually agreeable times, unless conditions exist which (i) a Party believes, in accordance with Good Utility Practice, may endanger persons or property, (ii) an outage is needed to maintain and ensure secure and reliable operation of the TSP System, or (iii) with at least three (3) months’ notice provided by the TSP, an outage is required to complete improvements to the TSP System. Each Party shall use commercially reasonable efforts to minimize the frequency and duration of any outages.”
  - Substituted “ERCOT” for “the Control Area(s) in which the Plant and the TSP are located” in the second to last line of Section 6.1.
  - Amended Section 6.2 to read as follows: “Control Area Notification. The Control Area within ERCOT is a single Control Area with ERCOT assuming authority as the Control Area operator in accordance with the ERCOT Requirements” because the identity of the Control Area was known.
  - Replaced “Terms” with “Unless otherwise agreed by the Parties, the terms” in the first line of Section 6.3.
- Page 17:
  - Replaced each instance of “blackstart” with “black start” in Section 6.8.
  - Substituted “TSP Blackstart Pan” with “TSP’s Black Start Plan” in the fourth line of Section 6.8.
  - Replaced “the ISO” with “ERCOT” in the fourth line of Section 6.8.
  - Capitalized “section” in the fifth line of Section 6.8 so that it reads “Section.”
- Page 18:
  - Replaced each instance of “ISO” with “ERCOT” in Section 7.3.
  - Replaced “System Security Study” with “Security Screening Study” in Section 7.3.
- Page 19:
  - Replaced “ISO” with “ERCOT” in the last sentence of Section 7.4.
  - Substituted “are” for “shall be” in the second sentence of Section 8.3.

- Inserted “(5)” after “five in the third sentence of Section 8.3.
- Inserted “TSP has received notice from the Generator that the” before “Plant” in Section 8.3.
- Replaced “achieves” with “has achieved” in the third sentence of Section 8.3.
- Inserted “and the TSP has verified the same with ERCOT” after “Operation” in the third sentence of Section 8.3.
- Substituted “deposit” for “deposit(s)” in the third sentence of Section 8.3.
- Page 20:
  - Amended the fifth sentence of Section 8.3 to read as follows: “If the Plant has not achieved Commercial Operation within one year after the Scheduled Commercial Operation Date identified in Exhibit “B” or if the Generator terminates this Agreement in accordance with Section 2.1 and the TIF are not required, (i) the TSP may, subject to the provisions of Section 2.2, retain as much of the deposit or security as is required to cover the costs it incurred in planning, licensing, procuring equipment and materials, and constructing the TIF, and (ii) within a reasonable period of time after the TSP has determined that it has drawn as much of the security as is required to cover the costs it incurred in planning, licensing, procuring equipment and materials, and constructing the TIF, the TSP shall release or return the remaining security to Generator.”
  - Removed the parenthetical phrase “(including coverage for the contractual indemnification)” from Section 9.1.B.
- Page 21:
  - Added “Umbrella or” before “Excess” in the first line of Section 9.1.D.
  - Replaced “Excess Public Liability Insurance policies” with “Umbrella/Excess Public Liability Insurance policies” in Section 9.1.E.
  - Substituted “and” with “. Each Party shall” in the sixth line of Section 9.1.E.
  - Deleted “anniversary date of” in the last sentence of Section 9.1.E.
  - Added “Umbrella/” before “Excess Public Liability Insurance” in second line of Section 9.1.F.
- Page 22:
  - Added the phrase “non-contributory for any liability arising out of that Party’s negligence, and” after “primary and” in Section 9.1.F.
  - Added “Umbrella/” before “Excess Public Liability Insurance” in second line of Section 9.1.G.
  - Added “, or letter of self-insurance executed by the Party’s authorized representative” at the end of Section 9.1.I.

- Amended the first sentence of Section 9.1.J for self-insurance by adding minimum ratings for Standard & Poor's, Moody's Investor's Service, and Fitch Ratings such that the amended portion reads as follows: "... provided that, such Party's senior secured debt is rated at least "BBB-" by Standard & Poor's, "Baa3" by Moody's Investor's Service, or "BBB" by Fitch Ratings."
- Amended the second sentence of Section 9.1.J to add Moody's Investor's Service and Fitch Ratings and substituting the term "long-term" for the term "secured," such that the amended portions read as follows: "For any period of time that a Party's senior long-term debt is unrated by Standard & Poor's, Moody's Investor's Service or Fitch Ratings, or is rated at less than the stated minimum ratings, ...."
- Page 23: Added new Section 9.1.L pertaining to Party contractors and subcontractors maintaining similar insurance requirements.
- Page 24:
  - Replaced "Facilities Study Agreement" with "Full Interconnection Study Agreement" in last two lines of Section 10.3.
  - Replaced "fax" with "electronic mail with read receipt" in Section 10.4.
  - Deleted "or number" after "address" in Section 10.4.
  - Inserted "(5)" after "five" in Section 10.4.
- Page 25:
  - Added "pandemic," after "national emergency" in Section 10.5.A.
  - Inserted "The term "Force Majeure" also includes any outage scheduling delays and scheduled outage cancellations caused by ERCOT that prevent or delay the TSP's TIF construction activities." as the last sentence of Section 10.5.A.
  - Inserted "The In-Service Date will be extended by one (1) day for each day that the TIF construction is delayed due to Force Majeure." as the last sentence in Section 10.5.B.
- Page 26:
  - Replaced each instance of "30" with "thirty (30)" in Section 10.6.A.
  - Replaced "90" with "ninety (90)" in Section 10.6.A.
  - Inserted "Default" before notice in the last line of Section 10.6.A.
- Page 29: Replaced "affiliate" with "Affiliate" in the third line of Section 10.17.
- Page 31:
  - Replaced "the ISO" with "ERCOT" at the end of the first sentence in Section 10.21.A.

- Added “(iv) made in connection with any potential or actual debt or equity financing of Generator or its affiliates” before “or” and after the (iii) condition, and renumbered condition “(iv)” to “(v)” in Section 10.21.A,
- Inserted new Section 10.22 pertaining to the Lone Star Infrastructure Protection Act.

#### **Exhibit “B”:**

- Page 33:
  - Added the following text as the third paragraph in this Exhibit: “Dates by which Generator must provide applicable security, so that TSP may maintain schedule to meet the In-Service Date: **as specified in Exhibit “E”**”
  - Deleted “and provide security” from the fourth paragraph in this Exhibit.
  - Added the following text as the fifth paragraph in this Exhibit: “Date by which Generator will provide to TSP site drawings showing the proposed routes of all transmission lines, distribution lines, collector lines and roads planned to be constructed by Generator: **01 October 2024**”
  - Added the following text as the sixth paragraph in this Exhibit: “Date by which deed or easement(s) referenced in Exhibit “C” must be conveyed by Generator (or another third party at Generator’s direction) to TSP so that TSP may maintain schedule to meet the In-Service Date: **01 March 2025**”
  - Modified the text of the seventh paragraph of this Exhibit so it reads as follows: “Date by which Generator must provide notice to proceed with construction, as specified in Section 4.3, so that TSP may maintain schedule to meet the In-Service Date: **01 May 2025**”
  - Deleted parenthetical beginning with “Notes” in this Exhibit.
  - Added the following text as the ninth paragraph in this Exhibit: “Scheduled Trial Operation Date” the following sentence: “Generator (i) acknowledges that ERCOT may impose transmission line outage restrictions on the TSP (“Outage Restrictions”) during the months of May through September of any given calendar year due to summer load peaks (an “Outage Restriction Period”) and (ii) agrees that if the In-Service Date falls on a date during an Outage Restriction Period, the TSP may delay the In-Service Date to a date no earlier than the end of that Outage Restriction Period.”
  - Added the following text as the twelfth paragraph in this Exhibit: “Date by which Generator’s dead-end structure at the Point of Interconnection will be installed and ready for TSP’s transmission line termination: **01 February 2026**”
  - Added the following text at the end of the last paragraph in this Exhibit: “The Parties acknowledge and agree that the Generator’s failure to meet the milestone



dates set forth above (i) may cause the need for additional or revised studies to be performed or other reasonably related conditions or obligations to be fulfilled, and (ii) will result in adjustments to the Scheduled Trial Operation Date, Scheduled Commercial Operation Date, and In-Service Date, which adjustments shall be determined by the TSP in its reasonable discretion. The Parties further acknowledge and agree that ERCOT may require additional studies at any time due to changing system conditions or otherwise and that this Agreement is subject to revision as necessary based on the outcome of any such additional studies.”

**Exhibit “C-1”:**

- Page 43: Inserted a new Exhibit “C-1,” which is a conceptual one-line diagram of the interconnection facilities.

**Exhibit “E”:**

- Pages 45-46: Added mutually agreed upon security arrangements in this Exhibit.

**Exhibit “E-1”:**

- Pages 47-48: Added a form of irrevocable standby letter of credit as Exhibit “E-1.”

Respectfully submitted,

*Blake R. Urban*

Blake R. Urban  
Senior Regulatory Counsel  
LS Power Development, LLC  
16150 Main Circle Drive  
Suite 310  
Chesterfield, MO 63017  
Tel: 636-231-0475  
Fax: 636-532-2250  
burban@lspower.com

*Attorney for Cross Texas Transmission, LLC*

Enclosure

## **ERCOT STANDARD GENERATION INTERCONNECTION AGREEMENT**

This ERCOT Standard Generation Interconnection Agreement is made and entered into this 23rd day of August, 2024, between Cross Texas Transmission, LLC, a Delaware limited liability company (“Transmission Service Provider”) and Black Mountain Energy Storage II, LLC, a Texas limited liability company (“Generator”), hereinafter individually referred to as “Party,” and collectively referred to as “Parties.” In consideration of the mutual covenants and agreements herein contained, the Parties hereto agree as follows:

Transmission Service Provider represents that it is a public utility that owns and operates facilities for the transmission and distribution of electricity. Generator represents that it will own and operate the Plant (as defined herein). Pursuant to the terms and conditions of this Agreement, Transmission Service Provider shall interconnect Generator’s Plant with Transmission Service Provider’s System consistent with the Full Interconnection Study (“FIS”) Agreement executed between the Parties on December 14, 2022.

This Agreement applies only to the Plant and the Parties’ interconnection facilities as identified in Exhibits “C” and “C-1.”

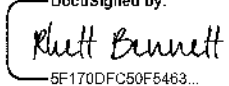
This Agreement shall become effective upon execution, subject to Governmental Authority approval, if required, and shall continue in full force and effect until terminated in accordance with Exhibit “A.”

This Agreement will be subject to the following, all of which are incorporated herein:

- A. The “Terms and Conditions of the ERCOT Standard Generation Interconnection Agreement” attached hereto as Exhibit “A”;
- B. The ERCOT Requirements (unless expressly stated herein, where the ERCOT Requirements are in conflict with this Agreement, the ERCOT Requirements shall prevail);
- C. The PUCT Rules (where the PUCT Rules are in conflict with this Agreement, the PUCT Rules shall prevail);
- D. The Time Schedule attached hereto as Exhibit “B”;
- E. The Interconnection Details attached hereto as Exhibits “C” and “C-1”;
- F. The notice requirements attached hereto as Exhibit “D”; and
- G. The Security Arrangement Details attached hereto as Exhibit “E.”

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the Effective Date in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

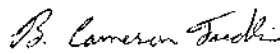
BLACK MOUNTAIN ENERGY STORAGE  
II, LLC

By:  \_\_\_\_\_  
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Title: CEO

Date: 8/19/2024

CROSS TEXAS TRANSMISSION, LLC

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

Title: Chief Operating Officer

Date: 08/23/2024

## **Exhibit “A”**

### **Terms and Conditions of the ERCOT Standard Generation Interconnection Agreement**

#### **ARTICLE 1. DEFINITIONS**

Capitalized terms shall have the meanings as set forth below, except as otherwise specified in the Agreement:

1.1 “Affiliate” shall mean any person or entity that controls, is controlled by, or is under common control with the Party in question. For purposes of this definition, “control” shall mean direct or indirect ownership or control of a majority of the voting interests of an entity.

1.2 “Agreement” shall mean this ERCOT Standard Generation Interconnection Agreement with all its Exhibits, as it may be amended, supplemented, or otherwise modified from time to time.

1.3 “Applicable Laws and Regulations” shall mean all applicable federal, state, and local laws, ordinances, rules, and regulations, and all duly promulgated orders and other duly authorized actions of any Governmental Authority having jurisdiction over the Parties and/or their respective facilities. Notwithstanding the foregoing, each Party shall have the right at its sole expense to contest the application of any Applicable Laws and Regulations to such Party before the appropriate authorities.

1.4 “CCN” shall mean a Certificate of Convenience and Necessity issued by the PUCT.

1.5 “Commercial Operation” shall mean the stage of completion where (i) the construction of the Plant has been substantially completed, (ii) Trial Operation of the Plant has been completed, (iii) the Plant is ready for dispatch, (iv) ERCOT has approved the Generator’s Resource Commissioning Date, and (v) the Generator notifies the TSP that requirements (i) through (iv) have been achieved.

1.6 “Control Area” shall have the meaning ascribed thereto in PUCT Rule 25.5(19) or its successor.

1.7 “EPS Metering Facilities” means any meter polled directly by ERCOT for use in the settlement of the ERCOT market.

1.8 “ERCOT” shall mean the Electric Reliability Council of Texas, Inc.

1.9 “ERCOT Requirements” means the ERCOT Nodal Operating Guides, ERCOT Generation Interconnection Procedures, ERCOT Nodal Protocols, as well as any other documents adopted by ERCOT, including NERC Reliability Standards, relating to the interconnection and operation of generators and transmission systems in ERCOT as amended from time to time, and any successors thereto. Any requirement in the foregoing documents imposed upon generation entities or generation facilities shall become the responsibility of the Generator, and any requirements imposed on transmission providers or transmission facilities shall become the responsibility of the TSP.

1.10 “Facilities Study” shall have the meaning as described in PUCT Rule 25.198(d) or its successor.

1.11 “Full Interconnection Study” or “FIS” shall mean the set of studies conducted by the TSP under the Full Interconnection Study Agreement consisting of the Steady-State and Transfer Analysis, System Protection (Short-Circuit) Analysis, Dynamic and Transient Stability Analysis, and Facilities Study.

1.12 “Full Interconnection Study Agreement” shall mean an agreement executed by the Parties relating to the performance of the Full Interconnection Study.

1.13 “GIF” shall mean Generator’s interconnection facilities as described in Exhibit “C.”

- 1.14 “Good Utility Practice” shall have the meaning described in PUCT Rule 25.5(57) or its successor.
- 1.15 “Governmental Authority(ies)” shall mean any federal, state, local or municipal body having jurisdiction over a Party.
- 1.16 “In-Service Date” shall be the date, as reflected in Exhibit “B,” that the TIF will be ready to connect to the GIF.
- 1.17 “ISO” shall mean the ERCOT Independent System Operator.
- 1.18 “NERC” shall mean the North American Electric Reliability Corporation.
- 1.19 “NERC Reliability Standards” shall mean the mandatory reliability standards established by NERC for the United States and subject to enforcement.
- 1.20 “Plant” shall mean the electric generation facility or energy storage system (as defined in the ERCOT Nodal Protocols) owned and operated by the Generator, as specified in Exhibit “C.”
- 1.21 “Point of Interconnection” shall mean the location(s) where the GIF connects to the TIF as negotiated and defined by the Parties and as shown on Exhibit “C-1” of this Agreement.
- 1.22 “PUCT” shall mean the Public Utility Commission of Texas.
- 1.23 “PUCT Rules” shall mean the Substantive Rules of the PUCT.
- 1.24 “Reasonable Efforts” shall mean the use of Good Utility Practice and the exercise of due diligence (pursuant to PUCT Rule 25.191(d)(3) or its successor).
- 1.25 “Resource Commissioning Date” is defined as set forth in the ERCOT Nodal Protocols.
- 1.26 “Security Screening Study” shall have the meaning as described in PUCT Rule 25.198(c) or its successor.
- 1.27 “System Protection Equipment” shall mean those facilities located within the TIF and the GIF as described in Section 5.6 and Exhibit “C.”

1.28 “TCOS” shall mean the TSP’s transmission cost of service as allowed by the applicable Governmental Authority.

1.29 “TIF” shall mean the TSP’s interconnection facilities as described in Exhibit “C” to this Agreement.

1.30 “Trial Operation” shall mean the process by which the Generator is engaged in on-site test operations and commissioning of the Plant prior to Commercial Operation.

1.31 “TSP” shall mean the Transmission Service Provider.

1.32 “TSP System” shall mean the electric transmission facilities, including the TIF, and all associated equipment and facilities owned and/or operated by the TSP.

## **ARTICLE 2. TERMINATION**

2.1 Termination Procedures. This Agreement may be terminated as follows:

A. the Generator may terminate this Agreement after giving the TSP thirty (30) days advance written notice; or

B. the TSP may terminate this Agreement (subject to Governmental Authority approval, if required) on written notice to the Generator if the Generator’s Plant has not achieved Commercial Operation within one year after the Scheduled Commercial Operation Date reflected in Exhibit “B”; or

C. either Party may terminate this Agreement in accordance with Section 10.6.

2.2 Termination Costs. If a Party elects to terminate the Agreement pursuant to Section 2.1 above, the Generator shall pay all costs incurred (or committed to be incurred) by TSP, as of the date of the other Party’s receipt of such notice of termination, that are the responsibility of the Generator under this Agreement. In the event of termination by either Party, both Parties shall use commercially reasonable efforts to mitigate the damages and charges that they may incur as a

consequence of termination. The provisions of the Sections 2.2 and 2.3 shall survive termination of the Agreement.

2.3 Disconnection. Upon termination of this Agreement, the Parties will disconnect the GIF from the TIF in accordance with Good Utility Practice and all Applicable Laws and Regulations.

### **ARTICLE 3. REGULATORY FILINGS**

3.1 Filing. The TSP shall file this executed Agreement with the appropriate Governmental Authority, if required. Any portions of this Agreement asserted by Generator to contain competitively sensitive commercial or financial information shall be filed by the TSP identified as “confidential” under seal stating, for the TSP’s showing of good cause, that Generator asserts such information is confidential information and has requested such filing under seal. If requested by the TSP, Generator shall provide the TSP, in writing, with the Generator’s basis for asserting that the information referred to in this Section 3.1 is competitively sensitive information, and the TSP may disclose such writing to the appropriate Governmental Authority.

3.2 Regulatory Approvals. Unless exempt, the TSP shall timely request ERCOT and all regulatory approvals necessary for it to carry out its responsibilities under this Agreement. Such approvals shall include any CCN required for the construction of the TIF.

### **ARTICLE 4. INTERCONNECTION FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION**

4.1 Options. The Generator shall select one of the following options (subsection A or subsection B) and include the selected option in Exhibit “B” for completion of the TIF:

A. The TSP shall design, procure, and construct the TIF, using Reasonable Efforts to complete the TIF by the In-Service Date reflected in Exhibit “B.” The TSP will utilize its own resources and will contract for additional resources, as reasonably necessary, to meet the In-Service Date. Such resources shall include, as the TSP believes is reasonable, use of other contractors,



other equipment suppliers, other material suppliers, additional contract personnel, additional payments to contractors for expedited work, and premiums paid to equipment and material suppliers for expedited delivery. The TSP shall not be required to undertake any initiative which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, Applicable Laws and Regulations, and ERCOT Requirements. In the event the TSP reasonably expects that it will not be able to complete the TIF by the In-Service Date, the TSP will promptly provide written notice to the Generator and will undertake Reasonable Efforts to meet the earliest date thereafter.

B. (i) The TSP shall design, procure, and construct the TIF by the In-Service Date reflected in Exhibit "B." The Parties acknowledge that the In-Service Date was either agreed upon through good faith negotiations or designated by the Generator upon failure of the Parties to agree. In the process of negotiating the In-Service Date, Generator will request a date upon which it reasonably expects it will be ready to begin use of the TIF and upon which it reasonably expects to begin doing so. Any date designated by the Generator shall in no event be less than fifteen months from the date that all conditions of Sections 4.2 and 4.3 have been satisfied. The designated In-Service Date will be extended day for day for each day that ERCOT refuses to grant clearances to install equipment. If the TSP fails to complete the TIF by the In-Service Date reflected in Exhibit "B," the TSP shall pay the Generator liquidated damages in accordance with this Section 4.1.B.

(ii) The Parties agree that actual damages to the Generator, in the event the TIF are not completed by the In-Service Date, may include Generator's fixed operation and maintenance costs and lost opportunity costs. Such actual damages are uncertain and impossible to determine at this time. The Parties agree that, because of such uncertainty, any liquidated damages paid by the TSP to the Generator shall be an amount equal to  $\frac{1}{2}$  of 1% of the actual cost of the TIF, per day.

However, in no event shall the total liquidated damages exceed 20% of the actual cost of the TIF. The Parties agree that such liquidated damages are less than the Generator's actual damages. The Parties agree that the foregoing payments will be made by the TSP to the Generator as just compensation for the damages caused to the Generator, which actual damages are uncertain and impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a method to secure performance of this Agreement.

(iii) The TSP shall apply to have the full costs of the TIF included in TCOS. If the PUCT issues a final, appealable order excluding from TCOS any portion of the TIF costs, including higher contractor and vendor costs due to liquidated damage provisions in those contracts and insurance costs to cover liquidated damages, which costs may have been reasonably incurred but which the PUCT finds should not be recovered through TCOS, the Generator shall reimburse the TSP for such costs in an amount not to exceed the difference between the TSP's estimate of the cost of the TIF under Section 4.1.A and the TSP's estimate of the cost of the TIF under Section 4.1.B as reflected in Exhibit "C." Such costs shall be estimated using Good Utility Practice.

(iv) No liquidated damages shall be paid to Generator if the Generator is not ready to commence use of the TIF for the delivery of power to the Plant for Trial Operation or export of power from the Plant on the In-Service Date, unless the Generator would have been able to commence use of the TIF for the delivery of power to the Plant for Trial Operation or export of power from the Plant but for TSP's delay.

(v) If the In-Service Date has been designated by the Generator upon a failure of the Parties to agree on the In-Service Date, the TSP may, at its option, require the Generator to subcontract with the TSP for all or part of the design, procurement and construction of the TIF in accordance with the TSP's standard subcontractor agreements. In such event, the TSP shall be

subject to the payment of liquidated damages to the Generator only if the In-Service Date is not met solely due to the TSP's failure to complete the portion of the TIF for which the TSP has retained responsibility. It is the intent of this subsection to give the TSP full control of the contents and quality of the TIF. To the extent the Generator acts as a subcontractor to the TSP, the following will apply: 1) The Generator shall engineer, procure equipment, and construct the TIF (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by the TSP; 2) In its engineering, procurement and construction of the TIF, the Generator shall comply with all requirements of law to which the TSP would be subject in the engineering, procurement or construction of the TIF; 3) The TSP shall review and approve the engineering design, acceptance tests of equipment, and the construction of the TIF; 4) The TSP shall have the right to approve and accept for operation the TIF in accordance with the standards and specifications provided in advance by the TSP, such approval and acceptance shall not be unreasonably withheld, conditioned, or delayed; 5) Should any phase of the engineering, equipment procurement, or construction of the TIF, including selection of subcontractors, not meet the standards and specifications provided by the TSP, and therefore be deemed unacceptable, then the Generator shall be obligated to remedy that portion of the TIF or selection of subcontractors that is deemed unacceptable, the TSP's approval of the Generator's selection of subcontractors will not be unreasonably withheld, conditioned or delayed; and 6) Once the TIF is accepted for operation by the TSP, then the TSP shall reimburse the Generator for the reasonable and necessary costs incurred by the Generator to complete the TIF, not to exceed the amount specified in the subcontract. Such reimbursement shall be made within thirty days after receipt of the invoice, unless otherwise agreed to by the Parties.

4.2 Equipment Procurement. If responsibility for construction of the TIF is borne by the TSP, then the TSP shall commence design of the TIF and procure necessary equipment within a reasonable time after all of the following conditions are satisfied:

A. The TSP has completed the Facilities Study pursuant to the Full Interconnection Study Agreement;

B. The TSP has received written authorization to proceed with design and procurement from the Generator by the date specified in Exhibit “B”; and

C. The Generator has provided security to the TSP in accordance with Section 8.3 by the dates specified in Exhibit “B.”

4.3 Construction Commencement. The TSP shall commence construction of the TIF as soon as practicable after the following additional conditions are satisfied:

A. Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;

B. Necessary real property rights, if any, have been obtained;

C. The TSP has received written authorization to proceed with construction from the Generator by the date specified in Exhibit “B”; and

D. The Generator has provided security to the TSP in accordance with Section 8.3 and Exhibit “E” by the dates specified in Exhibit “B.”

4.4 Work Progress. The Parties will keep each other advised periodically as to the progress of their respective design, procurement and construction efforts. If, at any time, the Generator becomes aware that the completion of the TIF will not be required until after the specified In-Service Date, the Generator will promptly provide written notice to the TSP of a new, later In-Service Date.

4.5 Conditions Precedent Delay. To the extent this Agreement incorporates a specified In-Service Date and the Generator fails to satisfy conditions precedent under Sections 4.2 and 4.3 so that the TSP may meet the In-Service Date, the Parties will negotiate in good faith to establish a new schedule for completion of the TIF, and the Scheduled Commercial Operation Date and In-Service Date identified in Exhibit “B” shall be extended accordingly.

## **ARTICLE 5. FACILITIES AND EQUIPMENT**

5.1 Information Exchange. The Parties shall exchange information and mutually agree upon the design and compatibility of the Parties’ interconnection facilities. The Parties shall work diligently and in good faith to make any necessary design changes to ensure compatibility of the GIF to the TSP System.

5.2 GIF Construction. Generator agrees to cause the GIF to be designed and constructed in accordance with Good Utility Practice, ERCOT Requirements and the National Electrical Safety Code in effect at the time of construction. Within one-hundred and twenty (120) days after Commercial Operation, unless the Parties agree on another mutually acceptable deadline, the Generator shall deliver to the TSP the following “as-built” drawings, information and documents for the GIF: a one-line diagram, a site plan showing the Plant and the GIF, plan and elevation drawings showing the layout of the GIF, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with the Generator’s main-power transformers, the facilities connecting the Plant to the main power transformers and the GIF, and the impedances (determined by factory tests) for the associated main power transformers and the generators and the impedance of any transmission voltage lines that are part of the GIF.

5.3 TIF Construction. The TSP agrees to cause the TIF to be designed and constructed in accordance with Good Utility Practice, ERCOT Requirements and the National Electrical Safety Code in effect at the time of construction.

5.4 Equipment Changes. For facilities not described in Exhibit “C,” if either Party makes equipment changes to the Plant, the GIF, the TIF or the TSP System which it knows will affect the operation or performance of the other Party’s interconnection facilities, the Parties agree to notify the other Party, in writing, of such changes. Such changes shall be made in accordance with ERCOT Requirements and coordinated between the Parties.

5.5 Metering, Telemetry and Communications Requirements.

A. Metering and telemetry of data will be accomplished in accordance with ERCOT Requirements. The specific EPS Metering Facilities, telemetry and communications equipment to be installed and data to be telemetered are described in Exhibit “C.”

B. At the Point of Interconnection, the EPS Metering Facilities and telemetry equipment shall be owned by the TSP. However, the TSP shall provide the Generator with metering and telemetry values in accordance with ERCOT Requirements.

C. A minimum set of inputs to the telemetry equipment are specified in Exhibit “C.” Additional sets of inputs may be subsequently mutually agreed upon.

D. The TSP will notify the Generator at least five (5) working days in advance of any planned maintenance, inspection, testing, or calibration of the EPS Metering Facilities, unless otherwise agreed to in writing. The Generator, or its designated representative, shall have the right to be present for these activities and to receive copies of any documents related to the procedures and results.

E. Prior to the connection of the GIF to the TIF, acceptance tests will be performed by the owning Party to ensure the proper functioning of all EPS Metering Facilities, telemetry and communications equipment associated with the Point of Interconnection and both Parties’ interconnection facilities, and to verify the accuracy of data being received by the TSP, ERCOT, and the Generator. All acceptance tests will be performed consistent with ERCOT Requirements.

F. The TSP shall, in accordance with Good Utility Practice and ERCOT Requirements, specify communications facilities, including those necessary to transmit data from the EPS Metering Facilities to the TSP, that are necessary for the effective operation of the Plant and the GIF with the TSP System. Such communication facilities shall be included in Exhibit "C." The Generator shall make arrangements to procure and bear the cost of such facilities.

G. Any changes to the EPS Metering Facilities, telemetry equipment, voltage transformers, current transformers, and associated panels, hardware, conduit and cable, which will affect the data being received by the other Party must be mutually agreed to by the Parties.

H. Each Party will promptly advise the other Party if it detects or otherwise learns of any EPS Metering Facilities, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by the other Party. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible in accordance with ERCOT Requirements. If any EPS Metering Facilities are found to be not in compliance with the accuracy standards required by ERCOT Requirements, any erroneous EPS Metering Facilities readings for the time period since the meter was last tested, but not exceeding a time period of six (6) months, shall be corrected, and adjusted invoices shall be rendered.

#### 5.6 System Protection and Other Controls Requirements.

A. Each Party's facilities shall be designed to isolate any fault, or to correct or isolate any abnormality, that would negatively affect the other Party's system or other entities connected to the TSP System.

B. The Generator shall be responsible for protection of its facilities consistent with ERCOT Requirements.

C. Each Party's protective relay design shall incorporate the necessary test switches to perform the tests required in Section 5.6.F. The required test switches will be placed such that they

allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and tripping the Generator's units.

D. Recording equipment shall be installed to analyze all system disturbances in accordance with ERCOT Requirements.

E. Each Party will test, operate and maintain System Protection Equipment in accordance with ERCOT Requirements. Each Party will provide reasonable notice to the other Party of any testing of its System Protection Equipment allowing such other Party the opportunity to have representatives present during testing of its System Protection Equipment.

F. Prior to the In-Service Date, and again prior to Commercial Operation, each Party or its agent shall perform a complete calibration test and functional trip test of the System Protection Equipment. At intervals suggested by Good Utility Practice or at intervals described in the ERCOT Requirements if so defined therein, and following any apparent malfunction of the System Protection Equipment, each Party shall perform both calibration and functional trip tests of its System Protection Equipment. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

5.7 No Annexation. Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Parties.

## **ARTICLE 6. OPERATION AND MAINTENANCE**

6.1 Operation and Maintenance of Interconnection Facilities. The Parties agree to operate and maintain their systems in accordance with Good Utility Practice, National Electrical Safety Code, the ERCOT Requirements, PUCT Rules and all Applicable Laws and Regulations. Subject to any



necessary ERCOT approval, each Party shall provide necessary equipment outages to allow the other Party to perform periodic maintenance, repair or replacement of its facilities. Such outages shall be scheduled at mutually agreeable times, unless conditions exist which (i) a Party believes, in accordance with Good Utility Practice, may endanger persons or property, (ii) an outage is needed to maintain and ensure secure and reliable operation of the TSP System, or (iii) with at least three (3) months' notice provided by the TSP, an outage is required to complete improvements to the TSP System. Each Party shall use commercially reasonable efforts to minimize the frequency and duration of any outages. No changes will be made in the normal operation of the Point of Interconnection without the mutual agreement of the Parties except as otherwise provided herein. All testing of the Plant that affects the operation of the Point of Interconnection shall be coordinated between the TSP, ERCOT, and the Generator, and will be conducted in accordance with ERCOT Requirements.

6.2 Control Area Notification. The Control Area within ERCOT is a single Control Area with ERCOT assuming authority as the Control Area operator in accordance with the ERCOT Requirements.

6.3 Land Rights and Easements. Unless otherwise agreed by the Parties, terms and conditions addressing the rights of the TSP and the Generator regarding any facilities located on the other Party's property shall be addressed in a separate, duly executed and recorded easement agreement between the Parties. Prior to Commercial Operation, the Parties will mutually agree upon procedures to govern access to each other's property as necessary for the Parties to fulfill their obligations hereunder.

6.4 Service Interruption. The Parties recognize that the interruption of service provisions of the PUCT Rules give TSP the right to disconnect the TSP System from the Plant under the conditions

specified therein. The Generator will promptly disconnect the Plant from the TSP System when required by and in accordance with the PUCT Rules and ERCOT Requirements.

6.5 Switching and Clearance.

A. Any switching or clearances needed on the TIF or the GIF will be done in accordance with ERCOT Requirements.

B. Any switching and clearance procedure necessary to comply with Good Utility Practice or ERCOT Requirements that may have specific application to the Plant shall be addressed in Exhibit "C."

6.6 Start-Up and Synchronization. Consistent with ERCOT Requirements and the Parties' mutually acceptable procedure, the Generator is responsible for the proper synchronization of the Plant to the TSP System.

6.7 Routine Operational Communications. On a timely basis, the Parties shall exchange all information necessary to comply with ERCOT Requirements.

6.8 Black Start Operations. If the Plant is capable of black start operations, Generator will coordinate individual Plant start-up procedures consistent with ERCOT Requirements. Any black start operations shall be conducted in accordance with the black start criteria included in the ERCOT Requirements and the TSP's Black Start Plan on file with ERCOT. Notwithstanding this Section, the Generator is not required to have black start capability by virtue of this Agreement. If the Generator will have black start capability, then Generator shall provide and maintain an emergency communication system that will interface with the TSP during a black start condition.

6.9 Power System Stabilizers. The Generator shall procure, install, maintain and operate power system stabilizers if required to meet ERCOT Requirements and as described in Exhibit "C."

## **ARTICLE 7. DATA REQUIREMENTS**

7.1 Data Acquisition. The acquisition of data to realistically simulate the electrical behavior of system components is a fundamental requirement for the development of a reliable interconnected transmission system. Therefore, the TSP and the Generator shall be required to submit specific information regarding the electrical characteristics of their respective facilities to each other as described below in accordance with ERCOT Requirements.

7.2 Initial Data Submission by TSP. The initial data submission by the TSP shall occur no later than 120 days prior to Trial Operation and shall include transmission system data necessary to allow the Generator to select equipment and meet any system protection and stability requirements.

7.3 Initial Data Submission by Generator. The initial data submission by the Generator, including manufacturer data, shall occur no later than 90 days prior to the Trial Operation and shall include a completed copy of the following forms contained in ERCOT's Generation Interconnection Procedure: (1) Plant Description/Data and (2) Generation Stability Data. It shall also include any additional data provided to ERCOT for the Security Screening Study. Data in the initial submissions shall be the most current Plant design or expected performance data. Data submitted for stability models shall be compatible with the ERCOT standard models. If there is no compatible model, the Generator will work with an ERCOT designated consultant to develop and supply a standard model and associated data.

7.4 Data Supplementation. Prior to Commercial Operation, the Parties shall supplement their initial data submissions with any and all "as-built" Plant data or "as-tested" performance data which differs from the initial submissions or, alternatively, written confirmation that no such differences exist. Subsequent to Commercial Operation, the Generator shall provide the TSP any data changes due to equipment replacement, repair, or adjustment. The TSP shall provide the Generator any data changes due to equipment replacement, repair, or adjustment in the directly

connected substation or any adjacent TSP-owned substation that may affect the GIF equipment ratings, protection or operating requirements. The Parties shall provide such data no later than 30 days after the date of the actual change in equipment characteristics. Also, the Parties shall provide to each other a copy of any additional data later required by ERCOT concerning these facilities.

7.5 Data Exchange. Each Party shall furnish to the other Party real-time and forecasted data as required by ERCOT Requirements. The Parties will cooperate with one another in the analysis of disturbances to either the Plant or the TSP's System by gathering and providing access to any information relating to any disturbance, including information from oscillography, protective relay targets, breaker operations and sequence of events records.

## **ARTICLE 8. PERFORMANCE OBLIGATION**

8.1 Generator's Cost Responsibility. The Generator will acquire, construct, operate, test, maintain and own the Plant and the GIF at its sole expense. In addition, the Generator may be required to make a contribution in aid of construction in the amount set out in and for the facilities described in Exhibit "C," if any, in accordance with PUCT Rules.

8.2 TSP's Cost Responsibility. The TSP will acquire, own, operate, test, and maintain the TIF at its sole expense, subject to the provisions of Section 4.1.B and the contribution in aid of construction provisions of Section 8.1 of this Agreement.

8.3 Financial Security Arrangements. The TSP may require the Generator to pay a reasonable deposit or provide another means of security, to cover the costs of planning, licensing, procuring equipment and materials, and constructing the TIF. The required security arrangements are specified in Exhibit "E." Within five (5) business days after the TSP has received notice from the Generator that the Plant has achieved Commercial Operation and the TSP has verified the same with ERCOT, the TSP shall return the deposit(s) or security to the Generator. However, the TSP may retain an amount to cover the incremental difference between the TSP's actual out of pocket

costs associated with the choice of Section 4.1.B over Section 4.1.A, pending a final PUCT Order as contemplated in Section 4.1.B(iii). If the Plant has not achieved Commercial Operation within one year after the Scheduled Commercial Operation Date identified in Exhibit "B" or if the Generator terminates this Agreement in accordance with Section 2.1 and the TIF are not required, (i) the TSP may, subject to the provisions of Section 2.2, retain as much of the deposit or security as is required to cover the costs it incurred in planning, licensing, procuring equipment and materials, and constructing the TIF, and (ii) within a reasonable period of time after the TSP has determined that it has drawn as much of the security as is required to cover the costs it incurred in planning, licensing, procuring equipment and materials, and constructing the TIF, the TSP shall release or return the remaining security to the Generator. If a cash deposit is made pursuant to Exhibit "E," any repayment of such cash deposit shall include interest at a rate applicable to customer deposits as established from time to time by the PUCT or other Governmental Authority.

## **ARTICLE 9. INSURANCE**

9.1 Each Party shall, at its own expense, maintain in force throughout the period of this Agreement, and until released by the other Party, the following minimum insurance coverages, with insurers authorized to do business in Texas:

A. Employers Liability and Worker's Compensation Insurance providing statutory benefits in accordance with the laws and regulations of the State of Texas. The minimum limits for the Employer's Liability insurance shall be One Million Dollars (\$1,000,000) each accident bodily injury by accident, One Million Dollars (\$1,000,000) each employee bodily injury by disease, and One Million Dollars (\$1,000,000) policy limit bodily injury by disease.

B. Commercial General Liability Insurance including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage, products and completed operations coverage, coverage for explosion, collapse and underground

hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of One Million Dollars (\$1,000,000) per occurrence/One Million Dollars (\$1,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.

C. Comprehensive Automobile Liability Insurance for coverage of owned, non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.

D. Umbrella or Excess Public Liability Insurance over and above the Employer's Liability, Commercial General Liability and Comprehensive Automobile Liability Insurance coverage, with a minimum combined single limit of Twenty Million Dollars (\$20,000,000) per occurrence/Twenty Million Dollars (\$20,000,000) aggregate.

E. The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance, and Umbrella/Excess Public Liability Insurance policies shall name the other Party, its parent, associated and affiliated companies and their respective directors, officers, agents, servants and employees ("Other Party Group") as additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this Agreement against the Other Party Group. Each Party shall provide thirty (30) days advance written notice to Other Party Group prior to cancellation or any material change in coverage or condition.

F. The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Umbrella/Excess Public Liability Insurance policies shall contain

provisions that specify that the policies are primary and non-contributory for any liability arising out of that Party's negligence, and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Party shall be responsible for its respective deductibles or retentions.

G. The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Umbrella/Excess Public Liability Insurance policies, if written on a Claims First Made basis, shall be maintained in full force and effect for two (2) years after termination of this Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Parties.

H. The requirements contained herein as to the types and limits of all insurance to be maintained by the Parties are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Parties under this Agreement.

I. Within ten (10) days following execution of this Agreement, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) days thereafter, each Party shall provide certification of all insurance required in this Agreement, executed by each insurer or by an authorized representative of each insurer, or letter of self-insurance executed by the Party's authorized representative.

J. Notwithstanding the foregoing, each Party may self-insure to the extent it maintains a self-insurance program; provided that, such Party's senior secured debt is rated at least "BBB-" by Standard & Poor's, "Baa3" by Moody's Investor's Service, or "BBB" by Fitch Ratings. For any period of time that a Party's senior long-term debt is unrated by Standard & Poor's, Moody's

Investor's Service or Fitch Ratings, or is rated at less than the stated minimum ratings, such Party shall comply with the insurance requirements applicable to it under Sections 9.1.A through 9.1.I. In the event that a Party is permitted to self-insure pursuant to this Section 9.1.J, it shall not be required to comply with the insurance requirements applicable to it under Sections 9.1.A through 9.1.I.

K. The Parties agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this Agreement.

L. Each Party's contractors and subcontractors, if any, shall also provide and maintain during the term of their respective agreements similar insurance coverages specified herein with limits that are adequate in relation to the scope of work that the contractors and subcontractors are performing on behalf of the Party.

## **ARTICLE 10. MISCELLANEOUS**

### **10.1 Governing Law and Applicable Tariffs.**

A. This Agreement for all purposes shall be construed in accordance with and governed by the laws of the State of Texas, excluding conflicts of law principles that would refer to the laws of another jurisdiction. The Parties submit to the jurisdiction of the federal and state courts in the State of Texas.

B. This Agreement is subject to all valid, applicable rules, regulations and orders of, and tariffs approved by, duly constituted Governmental Authorities.

C. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

10.2 **No Other Services.** This Agreement is applicable only to the interconnection of the Plant to the TSP System at the Point of Interconnection and does not obligate either Party to provide, or



entitle either Party to receive, any service not expressly provided for herein. Each Party is responsible for making the arrangements necessary for it to receive any other service that it may desire from the other Party or any third party. This Agreement does not address the sale or purchase of any electric energy, transmission service or ancillary services by either Party, either before or after Commercial Operation.

10.3 Entire Agreement. This Agreement, including all Exhibits, Attachments and Schedules attached hereto, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement. Notwithstanding the other provisions of this Section, the Full Interconnection Study Agreement, if any, is unaffected by this Agreement.

10.4 Notices. Except as otherwise provided in Exhibit "D," any formal notice, demand or request provided for in this Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person, or sent by either registered or certified mail, postage prepaid, overnight mail or electronic mail with read receipt to the address identified on Exhibit "D" attached to this Agreement. Either Party may change the notice information on Exhibit "D" by giving five (5) business days written notice prior to the effective date of the change.

10.5 Force Majeure.

A. The term "Force Majeure" as used herein shall mean any cause beyond the reasonable control of the Party claiming Force Majeure, and without the fault or negligence of such Party, which materially prevents or impairs the performance of such Party's obligations hereunder, including but not limited to, storm, flood, lightning, earthquake, fire, explosion, failure

or imminent threat of failure of facilities, civil disturbance, strike or other labor disturbance, sabotage, war, national emergency, pandemic, or restraint by any Governmental Authority. The term “Force Majeure” also includes any outage scheduling delays and scheduled outage cancellations caused by ERCOT that prevent or delay the TSP’s TIF construction activities.

B. Neither Party shall be considered to be in Default (as hereinafter defined) with respect to any obligation hereunder (including obligations under Article 4), other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this Section shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance. The In-Service Date will be extended by one (1) day for each day that the TIF construction is delayed due to Force Majeure.

#### 10.6 Default.

A. The term “Default” shall mean the failure of either Party to perform any obligation in the time or manner provided in this Agreement. No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this Agreement or the result of an act or omission of the other Party. Upon a Default, the non-

defaulting Party shall give written notice of such Default to the defaulting Party. Except as provided in Section 10.6.B, the defaulting Party shall have thirty (30) days from receipt of the Default notice within which to cure such Default; provided however, if such Default is not capable of cure within thirty (30) days, the defaulting Party shall commence such cure within thirty (30) days after Default notice and continuously and diligently complete such cure within ninety (90) days from receipt of the Default notice; and, if cured within such time, the Default specified in such Default notice shall cease to exist.

B. If a Default is not cured as provided in this Section, or if a Default is not capable of being cured within the period provided for herein, the non-defaulting Party shall have the right to terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Section will survive termination of this Agreement.

10.7 Intrastate Operation. The operation of the Plant by Generator shall not cause there to be a synchronous or an asynchronous interconnection between ERCOT and any other transmission facilities operated outside of ERCOT unless ordered by the Federal Energy Regulatory Commission under Section 210 of the Federal Power Act. The Parties recognize and agree that any such interconnection will constitute an adverse condition giving the TSP the right to immediately disconnect the TIF from the GIF, until such interconnection has been disconnected. The Generator will not be prohibited by this Section from interconnecting the Plant with facilities operated by the Comision Federal de Electricidad of Mexico, unless such interconnection would cause ERCOT

utilities that are not “public utilities” under the Federal Power Act to become subject to the plenary jurisdiction of the Federal Energy Regulatory Commission.

10.8 No Third Party Beneficiaries. This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

10.9 No Waiver. The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of obligations, rights, or duties imposed upon the Parties. Termination or Default of this Agreement for any reason by the Generator shall not constitute a waiver of the Generator’s legal rights to obtain an interconnection from the TSP under a new interconnection agreement.

10.10 Headings. The descriptive headings of the various articles and sections of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement.

10.11 Multiple Counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

10.12 Amendment. This Agreement may be amended only upon mutual agreement of the Parties, which amendment will not be effective until reduced to writing and executed by the Parties.

10.13 No Partnership. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

10.14 Further Assurances. The Parties agree to (i) furnish upon request to each other such further information, (ii) execute and deliver to each other such other documents, and (iii) do such other acts and things, all as the other Party may reasonably request for the purpose of carrying out the intent of this Agreement and the documents referred to in this Agreement. Without limiting the generality of the foregoing, the TSP shall, at the Generator's expense, when reasonably requested to do so by the Generator at any time after the execution of this Agreement, prepare and provide such information in connection with this Agreement (including, if available, resolutions, certificates, opinions of counsel or other documents relating to the TSP's corporate authorization to enter into this Agreement and to undertake the obligations set out herein) as may be reasonably required by any potential lender to the Generator under a proposed loan agreement. The TSP will use commercially reasonable efforts to obtain any opinion of counsel reasonably requested by Generator, but the TSP shall not be in Default of any obligation under this Agreement if the TSP is unable to provide an opinion of counsel that will satisfy any potential lender to the Generator. Specifically, upon the written request of one Party, the other Party shall provide the requesting Party with a letter stating whether or not, up to the date of the letter, that Party is satisfied with the performance of the requesting Party under this Agreement.

10.15 Indemnification and Liability. The indemnification and liability provisions of the PUCT Rule 25.202(b)(2) or its successor shall govern this Agreement.

10.16 Consequential Damages. OTHER THAN THE LIQUIDATED DAMAGES HERETOFORE DESCRIBED, IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER ANY PROVISION OF THIS AGREEMENT FOR ANY LOSSES, DAMAGES, COSTS OR EXPENSES FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT OR

REVENUE, LOSS OF THE USE OF EQUIPMENT, COST OF CAPITAL, COST OF TEMPORARY EQUIPMENT OR SERVICES, WHETHER BASED IN WHOLE OR IN PART IN CONTRACT, IN TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY; PROVIDED, HOWEVER, THAT DAMAGES FOR WHICH A PARTY MAY BE LIABLE TO THE OTHER PARTY UNDER ANOTHER AGREEMENT WILL NOT BE CONSIDERED TO BE SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES HEREUNDER.

10.17 Assignment. This Agreement may be assigned by either Party only with the written consent of the other; provided that either Party may assign this Agreement without the consent of the other Party to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement; and provided further that the Generator shall have the right to assign this Agreement, without the consent of the TSP, for collateral security purposes to aid in providing financing for the Plant, provided that the Generator will require any secured party, trustee or mortgagee to notify the TSP of any such assignment. Any financing arrangement entered into by the Generator pursuant to this Section will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the TSP of the date and particulars of any such exercise of assignment right(s). Any attempted assignment that violates this Section is void and ineffective. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

10.18 Severability. If any provision in this Agreement is finally determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this Agreement; provided that if the Generator (or any third-party, but only if such third-party is not acting at the direction of the TSP) seeks and obtains such a final determination with respect to any provision of Section 4.1.B, then none of the provisions of Section 4.1.B. shall thereafter have any force or effect and the Parties' rights and obligations shall be governed solely by Section 4.1.A.

10.19 Comparability. The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

10.20 Invoicing and Payment. Unless the Parties otherwise agree (in a manner permitted by applicable PUCT Rules and as specified in writing in an Exhibit "E" attached hereto), invoicing and payment rights and obligations under this Agreement shall be governed by PUCT Rules or applicable Governmental Authority. Invoices shall be rendered to the paying Party at the address specified on, and payments shall be made in accordance with the requirements of, Exhibit "D."

10.21 Confidentiality.

A. Subject to the exception in Section 10.21.B, any information that a Party claims is competitively sensitive, commercial or financial information under this Agreement ("Confidential Information") shall not be disclosed by the other Party to any person not employed or retained by the other Party, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this Agreement or as a transmission service provider or a Control Area operator including

disclosing the Confidential Information to ERCOT. The Party asserting confidentiality shall notify the other Party in writing of the information it claims is confidential. Prior to any disclosures of the other Party's Confidential Information under this subsection, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subsection, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

B. This provision shall not apply to any information that was or is hereafter in the public domain (except as a result of a breach of this provision).

10.22 Representations and Restrictions on Certain Foreign Ownership and Affiliation. Generator represents and warrants that, during the term of this Agreement, (1) Generator shall comply with the prohibitions pursuant to, including the ownership, control, or headquarters criteria set forth in, the Lone Star Infrastructure Protection Act, Chapter 113 of the Texas Business & Commerce Code, as added by the Act of June 18, 2021, 87th Leg., R.S., Ch. 975 (S.B. 2116) (as may be amended from time to time, the "LSIPA") (relating to China, Iran, North Korea, Russia, and any other country designated by the Texas governor as a threat to critical infrastructure), and (2) by entering into this Agreement (and any other agreement related to the interconnection that is the subject matter of this Agreement), the TSP will not be in violation of the LSIPA as a result of ownership, control, or headquarter locations of Generator or any of its Affiliates. By entering into this Agreement, the Generator acknowledges that the TSP is relying on the foregoing representations and warranties in order to ensure the TSP's compliance with LSIPA, and the Generator further agrees to fully defend, indemnify, and hold harmless the TSP from and against any and all



demands, claims, actions, causes of action, proceedings, fines and penalties, costs and expenses (including reasonable attorneys' fees and expenses) arising from or related to any breach of the foregoing representations and warranties.

## Exhibit “B” Time Schedule

Interconnection Option chosen by Generator (check one):   X   Section 4.1.A. or        Section 4.1.B.

If Section 4.1.B is chosen by Generator, the In-Service Date(s) was determined by (check one):  
(1)                    good faith negotiations, or (2)                    designated by Generator upon failure to agree.

Dates by which Generator must provide applicable security, so that TSP may maintain schedule to meet the In-Service Date: **as specified in Exhibit “E”**

Date by which Generator must provide notice to proceed with design and procurement, as specified in Section 4.2, so that TSP may maintain schedule to meet the In-Service Date: **21 March 2024**

Date by which Generator will provide to TSP site drawings showing the proposed routes of all transmission lines, distribution lines, collector lines and roads planned to be constructed by Generator: **01 October 2024**

Date by which deed or easement(s) referenced in Exhibit “C” must be conveyed by Generator (or another third party at Generator’s direction) to TSP so that TSP may maintain schedule to meet the In-Service Date: **01 March 2025**

Date by which Generator must provide notice to proceed with construction, as specified in Section 4.3, so that TSP may maintain schedule to meet the In-Service Date: **01 May 2025**

In-Service Date(s): **01 September 2026**

Generator (i) acknowledges that ERCOT may impose transmission line outage restrictions on the TSP (“Outage Restrictions”) during the months of May through September of any given calendar year due to summer load peaks (an “Outage Restriction Period”) and (ii) agrees that if the In-Service Date falls on a date during an Outage Restriction Period, the TSP may delay the In-Service Date to a date no earlier than the end of that Outage Restriction Period.

Scheduled Trial Operation Date: **01 October 2026**

Scheduled Commercial Operation Date: **20 December 2026**

Date by which Generator’s dead-end structure at the Point of Interconnection will be installed and ready for TSP’s transmission line termination: **01 February 2026**

Due to the nature of the subject of this Agreement, the Parties may mutually agree to change the dates and times of this Exhibit “B.” The Parties acknowledge and agree that the Generator’s failure to meet the milestone dates set forth above (i) may cause the need for additional or revised studies to be performed or other reasonably related conditions or obligations to be fulfilled, and (ii) will result in adjustments to the Scheduled Trial Operation Date, Scheduled Commercial Operation Date, and In-Service Date, which adjustments shall be determined by the TSP in its reasonable discretion. The Parties further acknowledge and agree that ERCOT may require additional studies

at any time due to changing system conditions or otherwise and that this Agreement is subject to revision as necessary based on the outcome of any such additional studies.

## **Exhibit “C”**

### **Interconnection Details**

1. Name: Black Mountain Energy Storage II, LLC (GIN 25INR230)
2. Point of Interconnection location: The Point of Interconnection (“POI”) is located in Leon County, at Cross Texas Transmission’s (“CTT”) new Iron Horse 345 KV substation (“TSP Substation”). The POI shall be defined as the point where the Generator’s 345 kV transmission line, originating from the Generator’s substation, terminates the phase conductors and associated equipment on a TSP’s dead-end structure located at the TSP Substation. Exhibit “C-1” shows the location of the POI on the one-line.
3. Delivery Voltage: 345 kV
4. Number and size of Generating Units: 89 PE PCSM FP4200 units, 3.45 MW each (307.14 MW)
5. Type of Generating Unit: PE PCSM FP4200

The Parties will amend this Exhibit “C” as necessary to reflect any changes Generator makes to the manufacturer, model, or type of generating units.

6. Metering and Telemetry Equipment:
  - a) ERCOT Polled Settlement (“EPS”) primary and backup meters required for measuring the output of the Plant’s generation will be located at the TSP Substation. The metering equipment described below will be procured, paid for, owned, and installed by the TSP inside the TSP Substation. This metering equipment shall include:
    - i) one (1) 345 kV meter panel with one (1) primary meter and one (1) back up meter; and
    - ii) three (3) 345 kV billing accuracy metering units comprised of potential transformers and current transformers. The metering will be a three-phase, four-wire system.

Note: If the EPS metering described in Section 6.a above and the POI are not at the same location, the metering will be compensated for power losses from the EPS metering location to the POI.

- b) Generator acknowledges that the Plant will engage in wholesale energy storage in accordance with the PUCT Rules and ERCOT Requirements for a Wholesale Storage Load (“WSL”). In addition to the metering equipment identified in Section 6.a of this Exhibit “C,” Generator will, in accordance with Good Utility Practice, procure, pay for, install, own, operate, inspect, test, calibrate, and maintain the necessary metering potential and current transformers and associated metering and telemetry equipment in the GIF and/or Plant, or at a TSP-approved location inside the TSP Substation, to satisfy the ERCOT Requirements and ERCOT’s meter design approval for the provision of metering data by Generator’s “Qualified Scheduling Entity” or required metering as a retail load.

- c) Multi-ported RTU (remote terminal unit) will be furnished by the TSP at the TSP Substation as part of the TIF and will have dedicated communication port available to provide breaker status, energy and other telemetered data to the Generator's monitoring and control systems. The Generator is responsible for determining and providing all their RTU communications needs.
- d) Multi-ported RTU(s) will be furnished by the Generator at the Generator's substation(s) as part of the GIF and will have dedicated communication port(s) available to provide breaker status, energy and other telemetered data to the TSP's monitoring and control system to meet the TSP's needs. The Generator will provide communication path(s) for the TSP's port(s) as described in Section 9 below.
- e) All other metering and telemetry requirements shall be finalized at a later date, upon completing design requirements and coordination efforts with Generator.

7. Generator Interconnection Facilities:

The following lists are not intended to be complete lists of all facilities that are part of the GIF.

- a) Generator to design and construct a new 345 kV transmission line from the Generator's substation site approximately 100 yards in length to the TSP Substation.
- b) A full tension, dead-end 345 kV line structure located near the TSP Substation property line (Generator shall coordinate the height of this structure, the arrangement of the phases and the location of the structure with TSP).
- c) 345 kV slack span line from the Generator's full tension dead-end to the TSP's dead-end structure, the POI.
- d) Generator's substation including 345 kV step-up transformer(s), transformer protection package(s), 345 kV circuit breaker(s), 345 kV disconnect switch(es) and protective relaying panels for the Generator's 345 kV line that will coordinate with the TSP's line panels at the TSP Substation for the Generator line protection. Each step up, standby and auxiliary transformer connected at Delivery Voltage will have a circuit breaker for isolation from the TIF.
- e) Multi-ported RTU(s) to provide breaker status, telemetry and energy data from the Generator's substation to the Plant controller, the TSP and ERCOT.
- f) Associated structures, bus work, conductor, connectors, grounding, conduit, control cable, foundation work, perimeter fencing, grading/dirt work and any other related materials necessary for construction and operation of the GIF.
- g) The communication equipment is described in Section 9 below.
- h) All other GIF shall be finalized at a later date, upon completing design requirements and coordination efforts with Generator.

8. Transmission Service Provider Interconnection Facilities:

The following lists are not intended to be complete lists of all facilities that are part of the TIF.

- a) The interconnection will require the addition of a new 345 kV switching station, Iron Horse, to be located in Leon County, Texas. Iron Horse be designed to terminate the GIF transmission line(s) and the west/east circuit of the 345kV transmission line between Limestone and Gibbons Creek substations. Iron Horse will be designed to allow for expansion.
- b) The protection and control systems design for the TSP's 345 kV terminals at the TSP Substation will be coordinated with the Generator.
- c) EPS metering to be designed and installed at the TSP Substation.
- d) All other TIF shall be finalized at a later date, upon completing design requirements and coordination efforts with Generator.

9. Communications Facilities:

The Generator shall, in accordance with ERCOT Requirements and Good Utility Practices ("GUP"), provide communications facilities that are, or may in the future be, necessary for effective interconnected operation of the Plant and GIF with the transmission system. The Generator shall own, and be responsible for the installation, operation, and maintenance of:

- a) One dedicated telephone circuit whereby the TSP's Austin, Texas dispatch center can communicate with the Generator's on-site control room or the Generator's off-site dispatch center twenty-four (24) hours per day and seven (7) days per week.
- b) OPGW communication facilities between Generator's substation and the TSP Substation.
- c) The Generator will provide the dedicated channels or fiber pairs for necessary items including the Generator's 345 kV line protective relaying, RTU ports for TSP, telemetry, voice and other communication needs.
- d) One (1) RTU communications circuit between the Generator's substation and TSP's master SCADA system at TSP's dispatch office.
- e) A telephone company interface box at the Generator's substation for demarcation of telephone company circuits.
- f) High voltage isolation equipment for all telephone company circuits at the Generator's substation.
- g) Any other facilities, equipment or communications facilities necessary to transmit information/data from or to the TSP which may be reasonably required or requested by the TSP.

All other communication facilities shall be finalized at a later date, upon completing design requirements and coordination efforts with Generator.

10. System Protection Equipment:

- a) Generator will be responsible for the proper synchronization of its facilities with the CTT transmission system, in accordance with ERCOT guidelines.
- b) The Plant and the GIF shall be designed to isolate any fault, or to disconnect from or isolate any abnormality that would negatively affect the ERCOT system. The Generator shall be responsible for protection of its facilities. In particular, Generator shall provide relays, circuit breakers, and all other devices necessary to promptly remove any fault contribution of the generation equipment to any short circuit occurring on the TSP system. Such protective equipment shall include, without limitation, a disconnect device or switch with the appropriate interrupting capability to be located within the GIF. In addition to faults within the Plant and the GIF, Generator shall be responsible for protection of such facilities from such conditions as negative sequence currents, over or under frequency, sudden load rejection, over or under voltage, generator loss of field, inadvertent energization (reverse power) and uncleared transmission system faults.
- c) The Plant and the GIF shall have protective relaying that is consistent with the protective relaying criteria described in the ERCOT Requirements and NERC standards. If reasonably requested by the TSP, Generator shall, at its expense, provide corrections or additions to existing control and protective equipment required to protect the ERCOT system or to comply with government, industry regulations, or standard changes.
- d) The Generator's protective relay design shall incorporate the necessary test switches to enable complete functional testing. The required test switches will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and tripping generator units.
- e) Generator shall install sufficient disturbance and fault monitoring equipment to thoroughly analyze all system disturbances of the generation system. This equipment shall monitor the voltages at major nodes of the system, current at major branches, breaker and switch positions, and enough of the dc logic in the relay control scheme to analyze a system disturbance. The disturbance and fault monitoring for both Generator and TSP shall be consistent with the disturbance monitoring requirements described in the ERCOT Requirements and NERC standard.
- f) Prior to modifying any relay protection system design or relay setting involving the connecting facilities between the two Parties, Generator shall submit the proposed changes to the TSP for review and approval. TSP's review and approval shall be for the limited purpose of determining whether such proposed changes are compatible with the ERCOT transmission system.
- g) In accordance with GUP and ERCOT and NERC standards, the TSP shall determine requirements for protection of the POI and the zone of protection around the POI and shall specify and implement protection and control schemes as necessary to meet such requirements. Generator shall have the right to review and comment on the necessary

protection requirements. The TSP shall coordinate the relay system protection between Generator and the ERCOT system.

- h) Additionally, the Generator shall provide in PSSE or Aspen One-Liner format the short circuit model for the GIF, the generators and collector facilities prior to the protective relays settings being calculated and in no case later than 60 days prior to the initial actual in-service date. Generator data submitted in accordance with Section 7.3 of Exhibit "A" shall include if applicable, but not be limited to, (1) a detailed one-line diagram of the proposed Plant and GIF showing the collector buses and their voltages, (2) conductor types and lengths of all lines connecting the collector buses to the TSP Substation, (3) the total number of solar panels to be served by each collector bus, (4) size, make and model of individual panels, (5) capacitor bank sizes, locations (electrical) and control settings(if applicable), and (6) the impedance and rating data of each transmission voltage line, GSU and/or autotransformer that will be installed to get power from the Plant and onto the transmission grid.
- i) All other TSP System Protection Equipment requirements shall be finalized at a later date, upon completing design requirements and coordination efforts with Generator.

11. Inputs to Telemetry Equipment:

- a) A generation-specific RTU is required at the Plant or GIF for TSP's generation-specific SCADA. A specific RTU points list will be developed by the TSP as a part of each generation project's electrical configuration. For such purpose, Generator shall be responsible for providing TSP with metering and relaying one-line diagrams of the generation and the Generator's substation facilities. Generator shall provide TSP with station communication drawings, which is to include RTU point sources (IEDs and contacts supplying required data), interface devices, and connections to the RTU.
- b) All other Inputs to Telemetry Equipment requirements shall be finalized at a later date, upon completing design requirements and coordination efforts with Generator.

12. Supplemental Terms and Conditions:

- a) Device Numbers, Switching and Clearance:
  - i) Generator shall obtain prior approval of the TSP before operating any transmission voltage circuit switching apparatus (e.g., switches, circuit breakers, etc.) at the GIF, whether for testing or for operations of the Plant, which approval shall not be unreasonably withheld, conditioned or delayed.
  - ii) The TSP shall coordinate switching at the POI. Each Party shall be responsible for operations of their facilities.
  - iii) Generator and TSP will collaborate and reach mutual agreement on the establishment of:



- (1) Unique name(s) for the Generator's substation, unit main transformers and switching station(s) connected at transmission voltage;
  - (2) Device numbers for all transmission voltage switches and breakers which will be owned by Generator; and
  - (3) Unique names for Generator's generating units, in accordance with ERCOT Requirements. Generator will submit to TSP, within thirty (30) days after execution of this Agreement, its proposed name(s), as referenced in this paragraph. Generator will register the name(s) of the facilities specified in this paragraph and Generator-owned device numbers at ERCOT, in accordance with ERCOT Requirements, and such names and device numbers will be consistent with the names and numbers mutually agreed upon pursuant to this paragraph. Generator will not change any of the names or device numbers, established pursuant to this paragraph, without written approval of TSP. Generator will label the devices, referenced in item (ii) above, with the numbers assigned to such devices.
- iv) Each Party will keep records of maintenance and switching operations of control and protective equipment associated with this interconnection and will allow the other Party reasonable access to inspect such records.
- b) No Retail Sale of Electricity to Generator by TSP: TSP considers the energy and power that the Plant and GIF may from time to time consume from the 345 kV ERCOT grid through the POI to be a retail transaction and as such, the TSP does not intend to be the provider of this retail service. Generator shall make necessary arrangements, including all required metering or other necessary system equipment, with the appropriate retail service supplier for the energy and power that the Plant and GIF may consume from the 345 kV ERCOT grid through the POI.
- c) Notification:
- i) Upon written request from TSP, Generator shall notify the TSP in writing as to which ERCOT Qualified Scheduling Entity the Plant will be scheduling through.
  - ii) Upon written request from TSP, Generator shall supply notification to the TSP identifying their retail service provider one-hundred twenty (120) days prior to the In-Service Date and Generator shall supply notification to the TSP sixty (60) days prior to any changes in retail service provider, thereafter.
- d) Sub-Synchronous Resonance ("SSR") and Sub-Synchronous Interaction ("SSI"): Induction generation placed near series capacitor banks on the TSP system may be susceptible to SSR. Wind turbine control systems may be a source of synchronous oscillations near series capacitor banks resulting in SSI. Generator will provide studies to ERCOT and TSP that document that SSR or SSI issues have been addressed prior to commercial operation. TSP will work with Generator and their selected turbine manufacturer on any system data required for such studies.

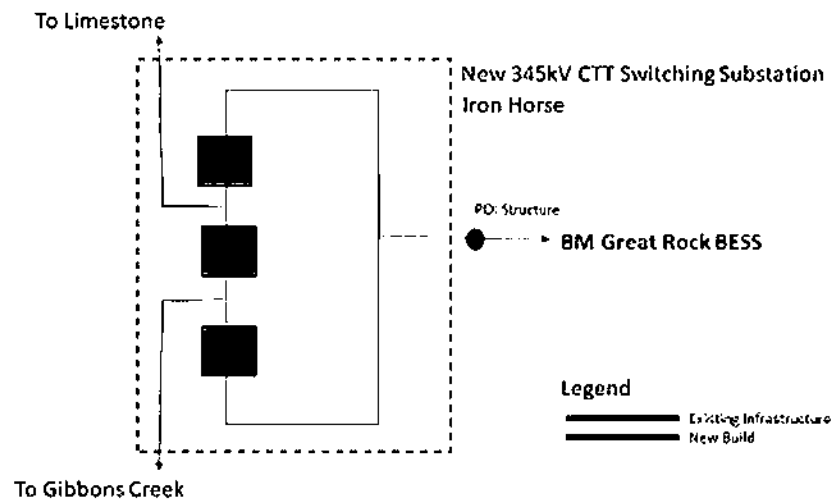
- e) Generator shall deliver at no cost to the TSP the acquisition of all necessary land rights, including but not limited to, fee ownership, easements, and access agreements, in a written form acceptable to the TSP, the general form of which can be supplied upon request. Terms in the general form may only be changed or altered at the discretion of the TSP. Additionally, Generator shall secure and maintain access agreements for the TSP on all lands for which land rights will be acquired from the effective date of this Agreement until the In-Service Date. Failure of Generator to provide the aforementioned grant of rights that results in a delay for the TSP to perform its work under this Agreement may impact the milestone timelines described in Exhibit "B."
- f) Generator shall provide on its property access road(s) to the TIF, and all access roads will be maintained by Generator in such a manner and condition to allow passage of heavy utility vehicles per TSP's specifications. Failure of Generator to provide on its property access road(s) to the TIF or the granting of property rights to the TSP for access road(s) to the TIF in order for the TSP to perform its work as required under this Agreement may impact the milestone timelines described in Exhibit "B."
- g) All other Supplemental Terms and Conditions shall be finalized at a later date, upon completing design requirements and coordination efforts with Generator.

13. Special Operating Conditions:

- a) **Quality of Power.** Generator shall provide a quality of power into the TSP system consistent with the applicable ERCOT Requirements and NERC guidelines.
- b) **Harmonics.** The Generator's alternating current generating system must have a frequency of 60 Hz, be designed for balanced three-phase operation, not cause unreasonable imbalance on the ERCOT system or the TSP Substation equipment and adhere to the recommendations in Institute of Electrical and Electronic Engineers Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems (IEEE 519), or its successor.
- c) **Voltage, Frequency and Reactive Support.**
  - i) Generator, at all times during the Term of this Agreement, shall comply with all applicable requirements contained in the ERCOT Requirements, including but not limited to requirements concerning the voltage and reactive capability, primary frequency response, governors (including governor droop characteristics and governor dead-band settings), performance/disturbance/compliance analysis, generator protection and relay requirements, the system voltage profile, and voltage support.
  - ii) Generator shall be able to remain online during voltage disturbances up to the time periods and associated voltage levels set forth in the ERCOT Requirements, including but not limited to requirements for Low Voltage Ride Through (LVRT) capability.

- iii) The Plant shall be equipped with both frequency and voltage controls and shall be operated in synchronism with the TSP's system with such controls in service. Generator shall notify the TSP at any such time that such controls are out of service.
  - d) ERCOT Operating Arrangements. A special ERCOT-approved operating arrangement such as a Remedial Action Plan or Special Protection System may be required either prior to, or after, Commercial Operation. The terms "Remedial Action Plan" and "Special Protection System" shall have the meanings as set forth in the ERCOT Requirements. TSP and ERCOT will examine the need and feasibility of these arrangements in cooperation with the Generator. In the event that ERCOT determines that such an arrangement is required, then TSP, ERCOT, and Generator will cooperate to design and install the necessary facilities, to be operational for the duration of the period where such Remedial Action Plan or Special Protection System may be necessary.
  - e) Back-up Power during POI Outage. The Generator acknowledges that this POI may not always be available due to maintenance or other outage activities and at these times of unavailability the loss of both generator output and power delivery to the Generator will not be the responsibility of the TSP. The Generator is responsible for providing any back-up power sources that it may require due to the unavailability of this Point of Interconnection for any period of time.
  - f) All other Special Operating Conditions shall be finalized at a later date, upon completing design requirements and coordination efforts with Generator.
  - g) For battery storage resources greater than 5 MW, in addition to Generator's obligations set forth in Section 11 of Exhibit "C" to this Agreement, Generator shall supply to TSP information including, but not limited to, the following: (i) indication of battery charging and discharging conditions; (ii) battery charge available; (iii) time remaining at the present discharge rate; (iv) maximum available power; (v) voltage regulation set point; and (vi) battery automatic voltage regulation (AVR) status. Generator shall supply such information to TSP in a format satisfactory to TSP.
14. The difference between the estimated cost of the TIF under 4.1.A (\$ ) and the estimated cost of the TIF under 4.1.B (\$ ) is: N/A, if applicable.

Exhibit “C-1”  
One-Line Diagram



# **Exhibit "D"** **Notice and EFT Information of the ERCOT Standard Generation Interconnection Agreement**

- (a) All notices of an operational nature shall be in writing and/or may be sent between the Parties via electronic means including facsimile as follows:

If to Generator:

Company Name: Black Mountain Energy Storage II  
Attn: Prashanth Buyanni  
Address: 425 Houston St, Suite 400  
City, State, Zip: Fort Worth, TX, 76102  
Operational/Confirmation Fax: ( ) -  
24 Hour Telephone: (817) 698-9901  
Email: prashanth.buyanni@blackmtn.com

If to Cross Texas Transmission, LLC:

Company Name: Cross Texas Transmission, LLC  
Attn: Operations Center  
Address: 1122 South Capital of Texas Hwy, Suite 100  
City, State, Zip: Austin, TX, 78746  
Operational/Confirmation Fax: (512) 982-5714  
24 Hour Telephone: (512) 982-5800  
Email: dl\_ctt\_systemops@lspower.com

- (b) Notices of an administrative nature:

If to Generator:

Company Name: Black Mountain Energy Storage II  
Attn: Prashanth Buyanni  
Address: 425 Houston St, Suite 400  
City, State, Zip: Fort Worth, TX, 76102  
Operational/Confirmation Fax: ( ) -  
24 Hour Telephone: (817) 698-9901  
Email: prashanth.buyanni@blackmtn.com

If to Cross Texas Transmission, LLC:

Company Name: Cross Texas Transmission, LLC  
Attn: Transmission Regulatory  
Address: 1122 South Capital of Texas Hwy, Suite 100  
City, State, Zip: Austin, TX, 78746  
Operational/Confirmation Fax: N/A  
24 Hour Telephone: (512) 982-5710  
Email: rmechler@lspower.com

- (c) Notice for statement and billing purposes:

If to Generator: Black Mountain Energy Storage II

Company Name:  
Attn: Prashanth Buyanni  
Address: 425 Houston St, Suite 400  
City, State, Zip: Fort Worth, TX, 76102  
Operational/Confirmation Fax: ( ) -  
24 Hour Telephone: (817) 698-9901  
Email: prashanth.buyanni@blackmtn.com

If to Cross Texas Transmission, LLC:

Company Name: Cross Texas Transmission, LLC  
Attn: Accounts Payable  
Address: 1122 South Capital of Texas Hwy, Suite 100  
City, State, Zip: Austin, TX, 78746  
Operational/Confirmation Fax: N/A  
24 Hour Telephone: (512) 982-5710  
Email: Accountspayable@crosstexas.com

- (d) Information concerning Electronic Funds Transfers:

If to Generator: Black Mountain Energy Storage II

Bank Name: To be provided separately upon request  
Address:  
City, State:  
ABA:  
for credit to Black Mountain Energy Storage II, LLC  
Account No.:

If to Cross Texas Transmission, LLC:

Bank Name: To be provided separately upon request  
Address:  
City, State:  
ABA:  
for credit to Cross Texas Transmission, LLC  
Account No.:

## Exhibit “E” Security Arrangement Details

“Bank” means a major U.S. commercial bank, or a U.S. branch office of a major foreign commercial bank, with a credit rating of at least two of the three listed major rating agencies: “A-” by Standard & Poor’s, “A3” by Moody’s Investor Service, or “A-” by Fitch Ratings Inc.

“Business Days” means any day other than a Saturday, a Sunday, or a holiday on which national banking associations in the State of Texas are permitted or required to be closed.

“Final Expiration Date” means the earlier of (i) five (5) Business Days after the date upon which TSP receives written notification from Generator that Commercial Operation has been achieved or (ii) ninety (90) days after the termination of this Agreement in accordance with its terms.

“Letter of Credit” means an irrevocable, transferable standby letter of credit issued by a Bank substantially in the form attached hereto as Exhibit “E-1” with such changes that are acceptable to TSP, which acceptance shall not be unreasonably withheld.

“Required Security Amount” means, as of any date of measurement, the amount of Security then required to have been provided by Generator to TSP in accordance with this Exhibit “E.”

“Security” means one (1) or more Letters of Credit or a cash deposit, or a combination thereof, for the benefit of TSP, or other security arrangements that are acceptable to the TSP.

“Security Effective Date” means the Effective Date of this Agreement.

As a condition to TSP’s obligation to plan, license, engineer, design, procure equipment and material, and construct the TIF described in Exhibit “C,” Generator shall provide Security in an amount totaling \$25,000,000, as required pursuant to Section 8.3 of Exhibit “A.” In accordance with a Discretionary Service Agreement entered into by the Parties on March 21, 2024 (“DSA”), Generator provided a cash security in the amount of \$1,500,000 to TSP. Pursuant to Exhibit A, Section 10 of the DSA, Generator hereby elects to apply the DSA cash security in the amount of \$1,500,000 towards the \$25,000,000 Security of this Agreement, effective as of the Effective Date of this Agreement. Through this election, Generator acknowledges Generator shall not be entitled to receive the return of such cash security pursuant to the terms of the DSA; rather, any such return of the DSA cash security shall be governed hereinafter in accordance with the provisions of Section 8.3 of Exhibit “A” to this Agreement. Generator shall provide the remaining Security to TSP according to the following schedule:

- Date by which Generator must provide TSP with additional Security in the amount of \$500,000 (for an aggregate of \$2,000,000 of Security): **10/01/2024**
- Date by which Generator must provide TSP with additional Security in the amount of \$3,500,000 (for an aggregate of \$5,500,000 of Security): **01/03/2025**
- Date by which Generator must provide TSP with additional Security in the amount of \$10,500,000 (for an aggregate of \$16,000,000 of Security): **06/06/2025**

- Date by which Generator must provide TSP with additional Security in the amount of \$9,000,000 (for an aggregate of \$25,000,000 of Security): **10/06/2025**

In accordance with Section 8.3 of Exhibit “A,” any repayment or return of Security provided to TSP as a cash deposit shall include interest at a rate applicable to customer deposits as established from time to time by the PUCT.

From the Security Effective Date, Generator shall cause to be established and at all times through the Final Expiration Date cause to be maintained in full force and effect Security consistent with this Exhibit “E” and acceptable to TSP. Generator’s failure to deliver or maintain the Security in the amount and within the time period set forth within this Agreement and Exhibit “E” shall be deemed a Default under Section 10.6 of this Agreement and this Agreement may be terminated immediately if Generator fails to cure same within the cure period provided for in Section 10.6.

If at any time the credit rating of the issuing Bank is reduced for any reason to less than “A-” by Standard & Poor’s, “A3” by Moody’s Investor Service, or “A-” by Fitch Ratings, Inc., such that the Bank no longer is supported by a credit rating by at least two of the three listed major rating agencies, Generator shall replace the affected Letter of Credit with another Letter of Credit in a form acceptable to TSP of the same amount and with the same beneficiary from another Bank within fifteen (15) Business Days of the date of such event. If Generator fails to provide an acceptable substitute Letter of Credit within the time period specified above, TSP may draw upon the existing Letter of Credit and retain the proceeds as Security.

In the event a Letter of Credit is set to expire on a date prior to the Final Expiration Date and Generator has not provided to TSP a substitute Letter of Credit at least thirty (30) days in advance of such expiration, TSP shall have the right to draw upon the expiring Letter of Credit and retain as security the full amount of the expiring Letter of Credit. The substitute Letter of Credit shall be in a form acceptable to TSP of the same amount and with the same beneficiary.

TSP may by written notice to Generator require Generator to increase the Security from time to time if TSP determines in its reasonable discretion that the remaining Security is not adequate to cover the costs that TSP then reasonably estimates could become payable pursuant to this Agreement. Together with such notice, TSP will provide Generator with relevant documentation supporting TSP’s determinations regarding the need for additional Security. Generator shall tender any such increase to TSP within thirty (30) days of such notice. Failure to deliver the increase in Security in the amount and within the period set forth within this Agreement and this Exhibit “E” shall be deemed a Default under Section 10.6 of this Agreement, and this Agreement may be terminated immediately if Generator fails to cure same within the cure period provided for in Section 10.6.

# **Exhibit “E-1”** **Form of Irrevocable Standby Letter of Credit**

DATE OF ISSUANCE: \_\_\_\_\_

[Address]

RE: Credit No. \_\_\_\_\_

We hereby establish our Irrevocable Standby Letter of Credit in favor of Cross Texas Transmission, LLC (“Beneficiary”) for the account of \_\_\_\_\_ (the “Account Party”), for the aggregate amount not exceeding \_\_\_\_\_ United States Dollars (\$ \_\_\_\_\_), available to you for payment at sight upon demand at our counters at [Location] on or before the expiration hereof against presentation to us of a written demand, dated and signed by a representative of the Beneficiary, containing the following statement:

“Pursuant to that certain ERCOT Standard Generation Interconnection Agreement, dated \_\_\_\_\_, 2024, between Cross Texas Transmission, LLC (“Beneficiary”) and \_\_\_\_\_ (“Generator”) (as amended, supplemented or otherwise modified from time to time, the “Generation Interconnection Agreement”), an event has occurred entitling Beneficiary to draw on Irrevocable Letter of Credit No. [\_\_\_\_\_]. Accordingly, Beneficiary hereby demands payment of \$ \_\_\_\_\_.” [Amount shall not exceed the stated amount of the letter of credit.]

Partial and multiple drawings are permitted hereunder. We hereby agree with you that documents drawn under and in compliance with the terms of this Letter of Credit shall be duly honored upon presentation as specified. This Letter of Credit shall be governed by the laws of the State of New York, and the Uniform Customs and Practice for Documentary Credits, 2007 Revision, International Chamber of Commerce Publication No. 600 (the “UCP”), except to the extent that the terms hereof are inconsistent with the provisions of the UCP, including but not limited to Articles 14(b) and 36 of the UCP, in which case the terms of this Letter of Credit shall govern. With respect to Article 14(b) of the UCP, the Issuing Bank shall have a reasonable amount of time, not to exceed three (3) banking days following the date of its receipt of documents from the Beneficiary, to examine the documents and determine whether to take up or refuse the documents and to inform the Beneficiary thereof accordingly. Any disputes arising from or in connection with this Letter of Credit shall be subject to the exclusive jurisdiction of United States District Court for the Southern District of New York sitting in the Borough of Manhattan.

In the event of an Act of God, riot, civil commotion, insurrection, war, or any other cause beyond our control that interrupts our business (collectively, an “Interruption Event”) and causes the place for presentation of this Letter of Credit to be closed for business on the last day for presentation, the expiration date of this Letter of Credit will be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business.



It is a condition of this Letter of Credit that it will be automatically extended without amendment for one (1) year from the expiration date hereof or any future expiration date, unless at least ninety (90) days prior to any expiration date we notify you at the above address by registered mail or hand delivered courier that we elect not to consider this Letter of Credit renewed for any such period.

All commissions, expenses, fees, charges, and other costs associated with the issuance of and drawing against this Letter of Credit will be borne by the Account Party and will not reduce the amount payable to Beneficiary under this Letter of Credit.

The Beneficiary shall not be deemed to have waived any rights under this Letter of Credit unless an authorized representative of the Beneficiary has signed a written waiver. No such waiver, unless expressly so stated therein, shall be effective as to any transaction that occurs subsequent to the date of the waiver, nor as to any continuance of a breach after the waiver.

{ Note: Must note the Expiration Date in the format }

[BANK SIGNATURE]