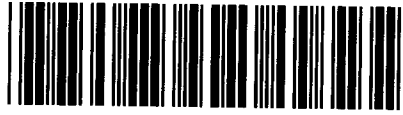


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# ERCOT STANDARD GENERATION INTERCONNECTION AGREEMENT

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## **ERCOT STANDARD GENERATION INTERCONNECTION AGREEMENT**

This Standard Generation Interconnection Agreement (“Agreement”) is made and entered into this 15<sup>th</sup> day of August, 2013, between Brazos Electric Power Cooperative, Inc. (“Brazos Electric” or “Transmission Service Provider” or “TSP”) and Windthorst-2, LLC (“Generator” or “Windthorst-2”), 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 an electric cooperative that owns and operates facilities for the transmission and distribution of electricity. Generator represents that it will own and operate or cause to be operated the Plant. 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 this Agreement.

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

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” as revised and 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 Exhibit “C”;
- F. The notice requirements attached hereto as Exhibit “D”; and
- G. The Security Arrangement Details attached hereto as Exhibits “E”, “E-1”, and “E-2”.

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

Brazos Electric Power Cooperative, Inc.

Windthorst-2, LLC

By: Clifton Karnei

By: Robert L. Crowell

Name: Clifton Karnei  
DA

Name: Robert Crowell

Title: Executive Vice President  
and General Manager

Title: Authorized Representative

Date: 8/15/2013 (BIS) 91

Date: August 15, 2013

## 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 "CCN" shall mean a Certificate of Convenience and Necessity issued by the PUCT.
- 1.2 "Commercial Operation" shall mean the date on which Generator declares that the construction of the Plant has been substantially completed, Trial Operation of the Plant has been completed, and the Plant is ready for dispatch.
- 1.3 "ERCOT" shall mean the Electric Reliability Council of Texas, Inc., or its successor in function.
- 1.4 "ERCOT Requirements" shall mean ERCOT operating guides and protocols, ERCOT Generation Interconnection Procedures as well as any other documents adopted by ERCOT and approved by the PUCT relating to the interconnection and operation of generators and transmission systems in ERCOT in effect and 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.
- 1.5 "Facilities Study" shall have the meaning as described in PUCT Rule 25.198(d) or its successor.

- 1.6 "Facilities Study Agreement" shall mean an agreement, if any, executed by the Parties relating to the performance of the Facilities Study.
- 1.7 "GIF" shall mean Generator's interconnection facilities as described in Exhibit "C."
- 1.8 "Good Utility Practice" shall have the meaning described in PUCT Rule 25.5(56) or its successor. Good Utility Practice shall include, but not be limited to, conformance with the applicable and consistently applied reliability criteria, standards and operating guides of ERCOT and the NERC, or successor organization(s).
- 1.9 "Governmental Authority(ies)" shall mean any federal, state, local or municipal body having jurisdiction over a Party.
- 1.10 "In-Service Date" shall be the date, as reflected in Exhibit "B," that the TIF will be ready to connect to the GIF.
- 1.11 "NERC" shall mean the North American Electric Reliability Corporation or successor.
- 1.12 "Plant" shall mean the electric generation facility owned and operated by the Generator, as specified in Exhibit "C."
- 1.13 "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" of this Agreement.
- 1.14 "PUCT" shall mean the Public Utility Commission of Texas.
- 1.15 "PUCT Rules" shall mean the Substantive Rules of the PUCT.
- 1.16 "Reasonable Efforts" shall mean the use of Good Utility Practice and the exercise of due diligence (pursuant to PUCT Rule 25.198(e)).
- 1.17 "RUS" shall mean the Rural Utilities Services or successor.
- 1.18 "System Protection Equipment" shall mean those facilities located within the TIF and the GIF as described in Section 5.6 and Exhibit "C."

- 1.19 “System Security Study” shall have the meaning as described in PUCT Rule 25.198(c)(6) or its successor.
- 1.20 “TCOS” shall mean the TSP’s transmission cost of service as allowed by the applicable Governmental Authority.
- 1.21 “TIF” shall mean the TSP’s interconnection facilities as described in Exhibit “C” to this Agreement.
- 1.22 “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.
- 1.23 “TSP” shall mean the Transmission Service Provider.
- 1.24 “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.

### **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 and approvals by the RUS.

### **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 the 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. 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 Facilities 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 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.

## **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, 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 or the Plant, 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 metering, telemetry and communications equipment to be installed and data to be telemetered are described in Exhibit "C."

B. At the Point of Interconnection, the metering 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 is 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 metering equipment, 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 metering, 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 metering equipment 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 meters, telemetry equipment, voltage transformers, current transformers, and associated panels, hardware, conduit and cable, that 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 metering, 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.

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. Each Party shall be responsible for protection of its facilities consistent with ERCOT Requirements and Good Utility Practice.

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 a Party believes, in accordance with Good Utility Practice, may endanger persons or property. 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 Land Rights and Easements. 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.

6.3 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.

6.4 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."

6.5 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.

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

6.7 Blackstart Operations. If the Plant is capable of blackstart operations, Generator will coordinate individual Plant start-up procedures consistent with ERCOT Requirements. Any blackstart operations shall be conducted in accordance with the blackstart criteria included in the ERCOT Requirements and the TSP Blackstart Plan on file with ERCOT. Notwithstanding this section, the Generator is not required to have blackstart capability by virtue of this Agreement.

If the Generator will have blackstart capability, then Generator shall provide and maintain an emergency communication system that will interface with the TSP during a blackstart condition.

6.8 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 System Security 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 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 that 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 shall be specified in Exhibit "E." Within five business days after the Plant achieves Commercial Operation, the TSP shall return the deposit 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, 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. 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 (including coverage for the contractual indemnification) 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. 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 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 and provide thirty (30) days advance written notice to Other Party Group prior to cancellation or any material change in coverage or condition with the exception of 10 days for the non-payment of premium.

F. The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies shall contain provisions that specify that the policies are primary 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 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. At least ten (10) days before Generator commences earth moving in connection with the foundations and principal roads comprising the GIF, and as soon as practicable 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.

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 investment grade, or better, by Standard & Poor's. For any period of time that a Party's senior secured debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, 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 constituting grievous bodily harm, including death, and any property damage loss in excess of the greater of (i) \$150,000 and (ii) the property loss deductible on such Parties' property insurance, related to and arising out of this Agreement.

## 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 Facilities 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 fax to the address or number identified on Exhibit "D" attached to this

Agreement. Either Party may change the notice information on Exhibit "D" by giving five 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, or restraint by any Governmental Authority.

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.

#### 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 30 days, the defaulting Party shall commence such cure within 30 days after notice and continuously and diligently complete such cure within 90 days from receipt of the Default notice; and, if cured within such time, the Default specified in such 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) as may be reasonably required by any potential lender to, or tax or other equity investor in, the Generator under a proposed financing 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 such potential lender or tax or equity investor. 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, which consent will not be unreasonably withheld or delayed; 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.

Notwithstanding anything to the contrary in this Agreement, TSP, without approval of Generator, may assign, transfer, mortgage or pledge this Agreement to create a security interest for the benefit of the United States of America, acting through the Administrator of the RUS or its successor or for the benefit of the National Rural Utilities Cooperative Finance Corporation ("CFC") or its successor, or other secured party (directly or through an indenture trustee or other collateral agent), each, including such indenture trustee or other collateral agent, a "Secured Party". Thereafter, a Secured Party, without the approval of Generator, may (a) cause this Agreement (and all obligations hereunder) to be sold, assigned, transferred or otherwise disposed of to a third party pursuant to the terms governing such security interest, or (b) if the RUS or CFC first acquires this Agreement pursuant to 7 U.S.C. §907, or any other Secured Party otherwise first acquires this Agreement, sell, assign, transfer or otherwise dispose of this Agreement (and all obligations hereunder) to a third party; provided, however, that in either case (1) TSP is in default of its obligations that are secured by such security interest and that the applicable Secured Party has given Generator written notice of such default, and (2) the applicable Secured Party has given Generator thirty (30) calendar days' prior written notice of its intention to sell, assign, transfer or otherwise dispose of this Agreement (and all obligations



hereunder) indicating the identity of the intended third-party assignee or purchaser; provided, further, however, that any such third-party must have the legal authority and operational ability to satisfy TSP's obligations under this Agreement, and for avoidance of doubt, any such sale, assignment, transfer or other disposition to a third party shall not relieve TSP of its obligations under this Agreement.

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 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).

**Exhibit "B"**  
**Time Schedule**

Interconnection Option chosen by Generator (check one):  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.

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

August 22, 2013

Date by which Generator must provide notice to commence construction and provide security, as specified in Section 4.3, so that TSP may maintain schedule to meet the In-Service Date:

August 22, 2013

In - Service Date(s):

August 8, 2014

(Notes: (1) In the event that it is not necessary for all facilities associated with the TIF to be completed on the same date, this entry may consist of multiple dates to reflect the staged completion of the TIF to meet those needs. (2) In-Service Date(s) can be expressed as either a specific date or expressed as a defined number of months after all conditions under Sections 4.2 and 4.3 have been satisfied.)

Scheduled Trial Operation Date:

August 15, 2014

Scheduled Commercial Operation Date:

August 31, 2014

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.

## **Exhibit “C” Interconnection Details**

1. **Name:** Loftin
2. **Point of Interconnection location:** The point at which the GIF interfaces with the TIF in Brazos Electric’s Loftin Substation (“Station”), as shown in the attached one-line diagram. The Station is located approximately 7 miles southwest of Windthorst on Loftin road in Archer County, Texas, as shown in the attached vicinity map. Such point will be the location at which Brazos Electric’s jumpers from the TIF connect to the GIF at the deadend tower located in the Station.
3. **Delivery Voltage:** 69 kV
4. **Plant Capacity Output:**  
Nominal 64.4 MW total Plant capacity comprised of multiple wind turbines.
5. **Type of Generating Unit:**  
Siemens Wind Turbine
6. **Metering and telemetry equipment:** Metering (voltage, location, losses adjustment due to metering location, and other), telemetry, and communications circuits:
  - a) TSP shall, in accordance with ERCOT Requirements and Good Utility Practice, procure, install, own, operate, inspect, test, calibrate and maintain 69 kV metering accuracy potential and current transformers and associated metering and telemetry equipment (including an RTU) located in the Station, as indicated in the one-line diagram attached to this Exhibit “C”.
  - b) Generator shall, in accordance with ERCOT Requirements and Good Utility Practice, procure, install, own, operate, inspect, test, calibrate and maintain the metering and telemetry equipment (including an RTU or other equipment acceptable to TSP) to supply all electrical parameters of the Generator’s Plant and GIF, as specified in this Exhibit “C”, to TSP in accordance with item (c) below.
  - c) Generator shall, in accordance with ERCOT Requirements and Good Utility Practice, provide communications facilities that are, or may in the future be, necessary for the effective operation of the Generator’s Plant and the Transmission System. Generator will directly make arrangements to procure and will bear the procurement, installation, maintenance, and ongoing costs of such facilities.
7. **Generator Interconnection Facilities:** The GIF shall be installed, owned and operated by the Generator at the Generator’s expense and consist of the facilities shown in the attached one-line diagram, including the following:

Switchyard Equipment - the following list of major switchyard equipment will be necessary for the operation of the 69 kV switchyard at the Generator’s Plant:

- (1 ea.) Circuit breaker, 69 kV, 1200 amperes, 20 kA duty rating with 2 sets of 2000/5, C800 MRCTs for line current differential relaying.

- (1 ea.) Switches, air break, 138 kV, 1200, amperes, gang operated, 3 phase.
- (3 ea.) CCVTs, 69 kV, dual secondary windings as required for Generator metering and relaying
- (1 ea.) Step-up unit transformer to convert generator voltage to 69 kV
- (1 ea.) Supervisory equipment, SCADA RTU
- (Lot) Metering, telemetry, and communications equipment
- (2 ea.) Relay panels (differential and line)
- (Lot) 150 feet (approximate) 138 kV insulated, 69 kV operated single circuit transmission line with a single circuit in place from the Generator's 69 kV switchyard to the Station.
- (Lot) Associated structures, including deadend, buswork, conductor, connectors, grounding, conduit, control cable, foundation work, perimeter fencing, grading/dirt work and any appurtenances necessary for construction of the GIF.

The above list is not intended to be a complete list of all facilities that are part of the GIF.

8. **Transmission Service Provider Interconnection Facilities:** The TIF shall be installed, owned and operated by the TSP at the TSP's expense and include the facilities shown in the attached one-line diagram and shall consist of the following:

Station

- (3 ea.) Circuit breaker, 69 kV, 2000 amperes, 20 kA duty rating
- (9 ea.) Switch, air break, 138 kV, 2000 amperes, HMVB gang operated, 3 phase
- (7 ea.) CCVT, 69 kV, dual secondary windings for relaying
- (2 ea.) 69kv, 50kVA oil filled station service potential transformer, dual winding for station service and relay indication
- (3 ea.) Oil filled metering accuracy PT, 69 kV, dual secondary windings for EPS metering/relays.
- (3 ea.) Oil filled extended range metering accuracy CT, 69 kV for EPS metering.
- (1 lot) EPS metering including current and potential transformers for metering and relaying as specified above
- (1 ea.) Supervisory equipment, SCADA RTU
- (3 ea.) Transmission line protective relay panels
- (2 ea.) Transmission line breaker control relay panels
- (1 ea.) Control house w/ battery set and associated indoor accessories
- (1 lot) All galvanized steel structures, including deadend, switch stands, metering structures, surge arrester supports, CCVT supports, PT supports, static masts, and bus supports necessary for construction and operation of the Station
- (1 lot) Associated buswork, conductor, connectors, grounding, conduit, control cable, foundation work, perimeter fencing, grading/dirt work and any appurtenances necessary for operation of the transmission facilities

Property as needed to accommodate the Station.

Note: Generator will work with TSP to make available the necessary portion for the TIF.

The TIF will interconnect with Brazos Electric's existing 14-mile TXU Cottonwood Road Switching Station to Bridwell 69 kV transmission line ("Existing Line"). TIF may include any transmission modifications necessary to terminate such Existing Line into the Station.

The above list is not intended to be a complete list of all facilities that are part of the TIF.

**9. Communications Facilities:**

- a) The TSP shall provide to the Station a phone circuit for the EPS meter data acquisition, a communications circuit for TSP's SCADA RTU, and, if required, a phone circuit for TSP's protective relaying.
- b) The Generator shall provide necessary communications facilities at Generator's expense, for the effective operation of its facilities as required in Items 6-b) and 6-c) above

**10. System Protection Equipment: Refer to Section 5.6 and the following:**

- a) The Generator's Plant and GIF shall be designed to isolate any fault, or to correct or isolate any abnormality that would negatively affect the ERCOT System. Generator shall be responsible for protection of its facilities.
- b) The Generator's Plant and GIF shall have protective relaying that is consistent with the protective relaying criteria as described in ERCOT Requirements and NERC standards. If requested by 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.
- c) Generator shall install sufficient digital fault recording equipment to thoroughly analyze all system disturbances of the ERCOT System in the immediate area in accordance with the ERCOT Requirements.
- d) Prior to modifying any relay protection system design or relay setting involving the GIF that may impact the TIF, the Generator shall submit the proposed changes to 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 System.
- e) TSP shall determine requirements for protection of the Point of Interconnection and the zone of protection around the Point of Interconnection 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 and TSP shall consider Generator's comments when determining such requirements. TSP shall coordinate the relay system protection between Generator and the ERCOT System.
- f) If the GIF facilitate the interconnection of any of the generators at the Plant to the SPP (or any other reliability council other than ERCOT), Generator will utilize open circuit breakers and air-break switches (which provide visible open indication) as a means of isolating such generators from ERCOT facilities or as may be required under PUCT Rules and ERCOT Requirements.
- g) Generator will design, construct, and operate its electrical facilities such that all unit auxiliary power sources will come from the same reliability council as the unit output is connected.
- h) The wind turbines will have low voltage ride through capability in accordance with the ERCOT Requirements.

**11. Inputs to Telemetry Equipment:**

Each 69 kV breaker: Status indication, three phase megawatts and three phase megavars.  
Each 69 kV bus: A, B, C phase voltages

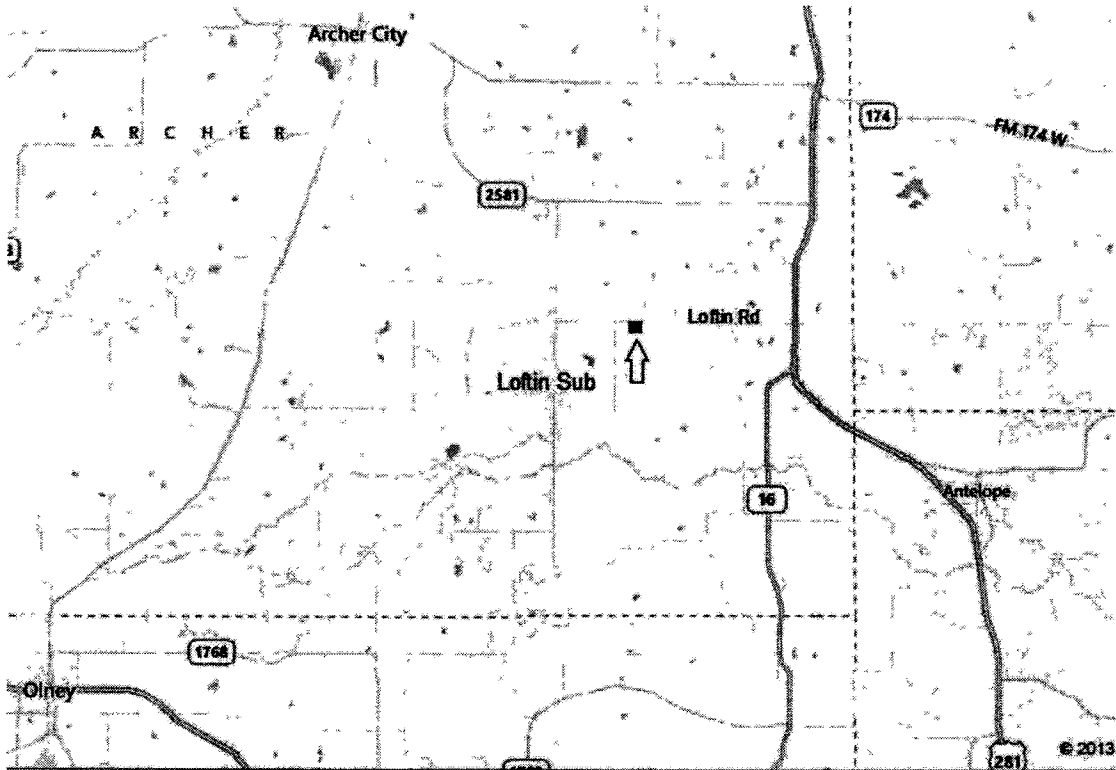
**12. Supplemental Terms and Conditions:**

- a) Generator's approximately 150 feet transmission circuit route may come near, or cross, and require modifications to other TSP's transmission line(s) and/or other distribution service provider's distribution line(s). The Generator will be responsible for the cost of such crossings and/or modifications.
- b) Notwithstanding any provision in the Agreement to the contrary, if the PUCT issues a final, appealable order excluding from TCOS any portion of the transmission costs incurred by Brazos Electric for the TIF which the PUCT (i) finds may otherwise have been reasonably incurred but should not be recovered through transmission rates or (ii) the PUCT disallows because they were incurred as a direct result of meeting the In-Service Date of the requested interconnection, the Generator shall bear and reimburse such costs to Brazos Electric within ninety (90) days from the date of such PUCT order. In the event and to the extent that such order is modified and such costs are included in TCOS, Brazos Electric will reimburse such included costs, with interest, to the Generator within ninety (90) days after the order allowing such costs to be included in TCOS becomes final and unappealable, where such interest shall accrue until the day the refund is received by the Generator and be calculated as simple interest equal to the U.S. Prime Rate as quoted in the Money Rates section of *The Wall Street Journal* plus 2% per annum, provided however, such simple interest shall never exceed the maximum rate allowed by applicable law.
- c) Metering equipment and telemetry shall at all times be in accordance with ERCOT requirements. Temporary exemptions shall not be allowed.

13. **Special Operating Conditions:**

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 the 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 Scheme may be necessary. This Agreement will be amended to document such arrangement.

Vicinity Map







**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 Brazos Electric

Brazos Electric Power Cooperative, Inc.  
Attn: Tony Kroskey  
Address: 2404 LaSalle Ave PO Box 2585  
City, State, Zip: Waco, TX 76702-2585  
Operational/Confirmation Fax: (254) 750-6288  
24 Hour Telephone: (254) 750-6260  
E-mail: tkroskey@brazoselectric.com

If to Windthorst-2

Windthorst-2, LLC  
Attn: Robert Crowell  
Address: 45 Main Street, Suite 536  
City, State, Zip: Brooklyn, NY 11201  
Operational/Confirmation Fax: (646) 607-4482  
24 Hour Telephone: (646) 898-3690  
E-mail: Robert.crowell@ownenergy.net

(b) Notices of an administrative nature:

If to Brazos Electric

Brazos Electric Power Cooperative, Inc.  
Attn: David Albers  
Address: 2404 LaSalle Ave PO Box 2585  
City, State, Zip: Waco, TX 76702-2585  
Fax: (254) 750-6340  
Phone: (254) 750-6358  
E-mail: dalbers@brazoselectric.com

If to Windthorst-2

Windthorst-2, LLC  
Attn: Robert Crowell  
Address: 45 Main Street, Suite 536  
City, State, Zip: Brooklyn, NY 11201  
Fax: (646) 607-4482  
Phone: (646) 898-3690  
E-mail: Robert.crowell@ownenergy.net

(c) Notice for statement and billing purposes:

If to Brazos Electric

Brazos Electric Power Cooperative, Inc.  
Attn: Brent Fox  
Address: 2404 LaSalle Ave. PO Box 2585  
City, State, Zip: Waco, TX 76702-2585  
Phone: 254-750-6240  
E-mail: bfox@brazoselectric.com

If to Windthorst-2

Windthorst-2, LLC  
Attn: Robert Crowell  
Address: 45 Main Street, Suite 536  
City, State, Zip: Brooklyn, NY 11201  
Phone: (646) 898-3690  
E-mail: Robert.crowell@ownenergy.net

(d) Information concerning Electronic Funds Transfers:

If to Brazos Electric:

Bank Name: Bank of America  
City, State: Dallas, TX  
  
Account Name: Brazos Electric Power  
Cooperative, Inc.  
ABA Routing Number: 026009593  
Account Number: 004770496398

If to Windthorst-2

Bank Name: JP Morgan Chase  
Bank Address: 500 Stanton Christiana Road, 1/OPS3,  
Newark, DE 19713  
Account Name: Windthorst 2 LLC  
ABA Routing Number: 021000021  
Account Number: 849160015

**Exhibit "E"**  
**Security Arrangement Details**

1. Notwithstanding any provisions in the Agreement to the contrary, effective no later than two (2) business days after the date of execution of this Agreement ("LOC Date"), Generator shall cause to be established, and shall at all times through 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) forty-five (45) days after the termination of the Agreement in accordance with its terms (the earlier of which shall be the "Final Expiration Date"), cause to be maintained in full force and effect: (a) an "Irrevocable Standby Letter of Credit" for the benefit of TSP in a commercially acceptable form consistent with this Exhibit "E" (substantially in the form shown in Exhibit "E-1" hereto) and otherwise acceptable to TSP, which acceptance shall not be unreasonably withheld, in the amounts and as of the effective dates set forth below; or (b) any of the Alternate Security as defined in Section 3 of this Exhibit "E" below (together with an Irrevocable Letter of Credit, "Acceptable Security").

2. The Irrevocable Standby Letter of Credit may consist of one or more consecutive terms (each a "Term"), the first of which shall have an effective date of the LOC Date, and the last of which shall expire on the Final Expiration Date; provided, that, the Irrevocable Standby Letter of Credit shall automatically renew from Term to Term without amendment such that there shall be no interruption of surety provided by the Irrevocable Standby Letter of Credit from the LOC Date through the Final Expiration Date. Except to the extent that the Bank, as defined below, has the unilateral right not to renew the Irrevocable Standby Letter of Credit for a successive Term, as described below, the Irrevocable Standby Letter of Credit issued in connection herewith shall have no provision for termination by the Bank or Generator.

The Irrevocable Standby Letter of Credit shall provide surety to TSP in the amounts and effective dates as shown below. In the event that Generator does not deliver to TSP an Irrevocable Standby Letter of Credit in the amounts and on the effective dates as shown below, TSP shall have the right to draw under any then outstanding Irrevocable Letter of Credit to cover the costs incurred in the design of facilities associated with the TIF, and TSP shall have the right to terminate this Agreement. Failure to deliver the Irrevocable Standby Letter of Credit in the specified amounts within the time periods specified below shall be deemed a Default under Section 10.6 of the Agreement, notwithstanding any cure period otherwise provided for in Section 10.6.

To the extent that the Bank has the unilateral right not to renew the Irrevocable Standby Letter of Credit for a successive Term, the Bank shall give notice to TSP and Generator in writing by certified mail, return receipt requested or via courier service, of the exercise of its right not to renew the Irrevocable Standby Letter of Credit for a successive Term (an "Expiring Term") not less than sixty (60) days prior to the expiration date of any Expiring Term. Generator hereby agrees that in the event that the Bank gives such notice and Generator does not provide TSP with a substitute Irrevocable Standby Letter of Credit in substantially the same form as the expiring Irrevocable Standby Letter of Credit within thirty

(30) days after the date of such notice, TSP shall have the right to retain as much security from the expiring Irrevocable Standby Letter of Credit as is required to cover the costs incurred (or committed to be incurred) by TSP as of the date of retention of such security in planning, licensing, procuring equipment and materials for, and constructing the TIF, and TSP shall have the right to terminate this Agreement. The substitute Irrevocable Standby Letter of Credit shall meet the requirements of this Exhibit "E" and be otherwise acceptable to TSP, which acceptance shall not be unreasonably withheld. Failure to provide a substitute Irrevocable Standby Letter of Credit within the time period specified above shall be deemed a Default under Section 10.6 of the Agreement, notwithstanding any cure period otherwise provided for in Section 10.6.

"Irrevocable Standby Letter of Credit" shall mean an irrevocable, transferable letter of credit, issued by a Generator-selected and TSP-approved (which approval shall not be unreasonably withheld), major U.S. commercial bank or a major foreign commercial bank with a U.S. branch office with a credit rating of at least "A-" by Standard & Poors or "A3" by Moody's Investor Service ("Bank").

If at any time during the term of this Agreement, the TSP-approved Bank ("Issuing Bank"), which has issued the then current Irrevocable Standby Letter of Credit, suffers a credit rating reduction to less than "A-" by Standard & Poor's or "A3" by Moody's Investor Service, Generator shall replace that Irrevocable Standby Letter of Credit with another Irrevocable Standby Letter of Credit of the same amount and with the same beneficiary from another TSP-approved Bank of Generator's choice within fifteen (15) business days of the date of such reduction in rating. Failure to deliver a replacement Irrevocable Standby Letter of Credit within fifteen (15) days of the date of a reduction in rating shall be deemed a Default under Section 10.6 of the Agreement, notwithstanding any cure period otherwise provided for in Section 10.6.

The Irrevocable Standby Letter of Credit shall provide surety to TSP (for recovery of its engineering, design and equipment procurement costs) on the LOC Date in the amount of **\$2,900,000.00**.

3. Instead of an Irrevocable Standby Letter of Credit, Generator may elect to provide TSP with a cash deposit, corporate guaranty from a creditworthy entity approved by TSP, or other form of collateral security acceptable to TSP in its sole discretion in the amount of **\$2,900,000.00** made payable to the TSP, or made effective, no later than two (2) business days after the date of execution of this Agreement (the "Alternate Security"). Any Alternate Security will be refunded to the Generator as per Section 8.3 of the Agreement. If Generator elects to provide a corporate guaranty, such corporate guaranty shall be in the same form and substance as the guaranty attached hereto as Exhibit "E-2". In the event that Generator delivers to TSP an Acceptable Security with a request to replace the Accepted Security previously posted with TSP, TSP shall return to Generator the Accepted Security requested to be replaced.

EXHIBIT "E-1"

FORM OF IRREVOCABLE STANDBY LETTER OF CREDIT FORMAT  
DATE OF ISSUANCE:

Beneficiary:

Brazos Electric Power Cooperative, Inc.  
2404 LaSalle Avenue  
Waco, Texas 76702-2585  
Attn: Ms. Khaki Bordovsky

Re: Letter of Credit No. \_\_\_\_\_

We hereby establish our Irrevocable Transferable Standby Letter of Credit ("Letter of Credit") in your favor for the account of Windthorst-2, LLC (the "Account Party"), located at 45 Main Street, Suite 536, Brooklyn, NY 11201, for the aggregate amount not exceeding Two Million Nine Hundred Thousand United States Dollars (\$2,900,000), available to you at sight upon demand at our counters at JPMORGAN CHASE BANK, N.A., C/O JPMORGAN TREASURY SERVICES, 10420 HIGHLAND MANOR DRIVE 4TH FLOOR, TAMPA, FLORIDA 33610, ATTENTION: STANDBY LETTER OF CREDIT DEPARTMENT on or before the expiration hereof against presentation to us of the following statements, dated and signed by a representative of the beneficiary:

"The Account Party has not performed in accordance with the ERCOT Standard Interconnection Agreement ("Interconnection Agreement") with us dated \_\_\_\_\_, 2013, and as a result of such non-performance, in accordance with the terms of the Interconnection Agreement, the Beneficiary is entitled to draw against JP Morgan Chase Bank, N.A., Letter of Credit No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_. Therefore, the undersigned does hereby demand payment of \$ \_\_\_\_\_ USD. [Beneficiary fills in the amount not to exceed the full value of the letter of credit], against JP Morgan Chase Bank, N.A., Letter of Credit No. \_\_\_\_\_."

This Letter of Credit shall expire on \_\_\_\_\_.

The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid through the Issuing Bank referencing this Letter of Credit No. \_\_\_\_\_. Partial drawings are permitted hereunder. All commissions, expenses and charges incurred with this Letter of Credit are for the account of the Account Party.

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 IS TRANSFERABLE, BUT ONLY IN ITS ENTIRETY, AND MAY BE SUCCESSIVELY TRANSFERRED. TRANSFER OF THIS LETTER OF CREDIT SHALL BE EFFECTED BY US UPON YOUR SUBMISSION OF THIS ORIGINAL LETTER OF CREDIT, INCLUDING ALL AMENDMENTS, IF ANY, ACCOMPANIED BY OUR TRANSFER REQUEST FORM DULY COMPLETED AND SIGNED, WITH THE SIGNATURE THEREON AUTHENTICATED BY YOUR BANK. IF YOU WISH TO TRANSFER THE LETTER OF CREDIT, PLEASE CONTACT US FOR THE FORM WHICH WE SHALL PROVIDE TO YOU UPON YOUR REQUEST. IN ANY EVENT, THIS LETTER OF CREDIT MAY NOT BE TRANSFERRED TO ANY PERSON OR ENTITY LISTED IN OR OTHERWISE SUBJECT TO, ANY SANCTION OR

EMBARGO UNDER ANY APPLICABLE RESTRICTIONS. CHARGES AND FEES RELATED TO SUCH TRANSFER WILL BE FOR THE ACCOUNT OF THE APPLICANT.

PLEASE ADDRESS ALL CORRESPONDENCE REGARDING THIS LETTER OF CREDIT TO JPMORGAN CHASE BANK, N.A., C/O JPMORGAN TREASURY SERVICES, 10420 HIGHLAND MANOR DRIVE 4TH FLOOR, TAMPA, FLORIDA 33610, ATTENTION: STANDBY LETTER OF CREDIT DEPARTMENT, INCLUDE THE LETTER OF CREDIT NUMBER MENTIONED ABOVE. FOR TELEPHONE ASSISTANCE, PLEASE CONTACT THE STANDBY CLIENT SERVICE UNIT AT 1-800-634-1969, SELECT OPTION 1, AND HAVE THIS LETTER OF CREDIT NUMBER AVAILABLE.

Except as far as otherwise expressly stated herein, this Letter of Credit is subject to the International Standby Practices ("ISP98"), International Chamber of Commerce Publication No. 590, and as to matter not governed by the ISP98, shall be governed by and construed in accordance with the laws of the State of New York and applicable U.S. federal law.

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 expiry 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.

[BANK SIGNATURE]

## EXHIBIT "E-2"

### FORM OF GUARANTY

This GUARANTY dated \_\_\_\_\_, 20\_\_ (the "Effective Date"), is made by \_\_\_\_\_ [INSERT NAME OF GUARANTOR], a \_\_\_\_\_ corporation (the "Guarantor") [REVISE DESCRIPTION AS NEEDED.], to and in favor of Brazos Electric Power Cooperative, Inc., a Texas corporation ("Counterparty"). Reference is made to Section 1 below for the definitions of certain capitalized terms used herein and not otherwise defined.

The Guarantor derives and expects to derive substantial direct and indirect benefits from the entry by Windthorst-2, LLC ("Generator") into the Agreement. In consideration of, and in order to induce, the execution and delivery of the Agreement by the Counterparty, the Guarantor hereby agrees with and for the benefit of Counterparty as follows:

1. Definitions. As used in this Guaranty:

"Agreement" means the ERCOT Standard Generation Agreement, dated as of \_\_\_\_\_, by and between Generator and Counterparty, as the same may be amended, supplemented, modified and/or restated from time to time.

"Business Day" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.

"Collection Expenses" means all costs and expenses (including reasonable attorneys' fees and expenses) incurred by Counterparty in enforcing any rights under this Guaranty or in collecting any amounts due under this Guaranty.

"Generator" means Windthorst-2, LLC, a Delaware limited liability company.

"Obligations" means, collectively, all amounts owing or which hereafter may be or become owing by Generator to Counterparty under, by reason of or otherwise in respect of the Agreement, whether now existing or hereafter arising, whether evidenced by a note or other writing, whether allowed in any bankruptcy, insolvency or similar proceeding, however arising, and whether direct or indirect, absolute or contingent, due or to become due, primary or secondary, or joint or several.

2. Guaranty.

(a) The Guarantor hereby absolutely, unconditionally and irrevocably guarantees to Counterparty the punctual payment when due of all Obligations. Any amounts that would be owed by Generator to Counterparty by reason of being included in the Obligations, but that are unenforceable or not allowable against Generator because it is the subject of a bankruptcy, liquidation, reorganization or similar case or proceeding, shall nonetheless be and continue to be Obligations for all purposes of this Guaranty. Counterparty shall not be obligated to file any claim relating to the Obligations in the event Generator becomes subject to a bankruptcy,

liquidation, reorganization or similar case or proceeding, and the failure by Counterparty so to file shall not affect the Guarantor's obligations hereunder.

(b) This Guaranty is a guarantee of payment when due and not of collection. The guarantee and obligations of the Guarantor under this Guaranty are those of a primary obligor and not merely as a surety or secondary obligor. The Guarantor agrees that Counterparty may resort to the Guarantor for payment of any of the Obligations, whether or not Counterparty has attempted to realize against or apply any property provided by Generator or any other person or entity as collateral security or other credit support for the Obligations (such property and credit support collectively, "Security") or has proceeded or attempted to proceed against Generator or any other person or entity primarily or secondarily obligated with respect to the Obligations.

(c) This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Obligations is rescinded, avoided, recovered or must otherwise be returned by Counterparty upon or as a result of the insolvency, bankruptcy, liquidation or reorganization of Generator, or any other person or entity, or otherwise, all as though such payment had not been made.

(d) Notwithstanding anything to the contrary contained in this Guaranty, the aggregate amount payable by the Guarantor under this Guaranty shall in no event exceed the aggregate amount of (i) \_\_\_\_\_ (\$\_\_\_\_\_) ("Maximum Amount"), *plus* (ii) the total amount of the Collection Expenses. Guarantor acknowledges and agrees that such amount shall not be reduced by any amount paid to or received by Counterparty with respect to the Obligations from or attributable to Generator, any other person or entity other than the Guarantor or Generator, or the proceeds of any Security, and that each payment made upon the Obligations shall be deemed to have been paid by Generator, or a person or entity other than Guarantor, unless (i) such payment is in fact made directly by the Guarantor or Generator to Counterparty from funds owned by Guarantor or Generator and (ii) notice in writing is given by the Guarantor to Counterparty at the time of such payment by the Guarantor that it has been paid by the Guarantor.

### 3. Guaranty Absolute.

The Guarantor guarantees that the Obligations will be paid strictly in accordance with the terms and provisions of the Agreement (and, to the extent applicable, this Guaranty), regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such provisions or the rights of Counterparty with respect thereto. The liability of the Guarantor under this Guaranty shall be irrevocable, absolute and unconditional irrespective of, and the Guarantor hereby irrevocably waives, any defenses it may now or hereafter have (including any defense based on the failure to provide notice to or obtain the consent of the Guarantor) in any way relating to, any or all of the following:

(a) any lack of validity or enforceability of, or any amendment or supplement to, or any modification of, the Agreement, or any agreement or instrument executed in connection therewith or otherwise related thereto;



(b) any indulgence, concession, waiver or consent given by Counterparty to or for the benefit of Generator, or any other changes in the amount of, time, manner or place of payment of, or in any other term of, any or all of the Obligations;

(c) any taking, exchange, release, non-perfection, realization or application of or on any Security;

(d) any taking, release, amendment, consent or waiver of or in respect of any other guarantee for any or all of the Obligations;

(e) any change, restructuring or termination in or of the corporate structure or existence of Generator; or

(f) any other circumstance (including, without limitation, any statute of limitations) that might otherwise constitute a defense available to, or a discharge of, Generator, the Guarantor or any other guarantor or surety.

#### 4. Waivers and Acknowledgements.

(a) Except for notices required by this Guaranty in accordance with Section 9, the Guarantor hereby waives promptness, diligence, demand for performance, acceptance, presentment, protest, non-performance, default, acceleration, early termination, or dishonor, any and all notices with respect to any of the foregoing, any other notice with respect to any of the Obligations and this Guaranty, and any requirement that Counterparty protect, secure, perfect or insure any Security or exhaust any right or take any action against Generator or any other entity or Security.

(b) The Guarantor hereby waives any right to revoke this Guaranty, and, subject to Guarantor's right to terminate this Guaranty, acknowledges that this Guaranty is continuing in nature and applies to all Obligations, whether existing now or in the future.

(c) The Guarantor hereby waives (i) any defense arising by reason of any claim or defense based upon an election of remedies by the Counterparty which in any manner impairs, reduces, releases or otherwise adversely affects the Guarantor's subrogation, reimbursement, exoneration, contribution or indemnification rights or other rights to proceed against Generator, any other guarantor, any other entity or any Security, and (ii) any defense based on any right of set-off or counterclaim against or in respect of the Guarantor's obligations hereunder.

(d) No failure on the part of Counterparty to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Counterparty of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power. Each and every right, remedy and power hereby granted to Counterparty and allowed it by law or other agreement shall be cumulative and not exclusive of any other, and may be exercised by Counterparty from time to time.

#### 5. Subrogation.

The Guarantor will not exercise any rights that it may now have or hereafter acquire against Generator or any other guarantor that arise from the existence, payment, performance or enforcement of the Guarantor's obligations under this Guaranty, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of Counterparty against Generator, any other guarantor or any Security, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including, without limitation, the right to take or receive from Generator or any other guarantor, directly or indirectly, in cash or other property, by set-off or in any other manner, payment or security on account of such claim, remedy or right, unless and until all of the Obligations shall have been finally and irrevocably paid in full in cash.

6. Representations.

The Guarantor hereby makes to Counterparty the representations set forth below:

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

(b) it has the power to execute, deliver and perform its obligations under this Guaranty, and it has taken all necessary action to authorize such execution, delivery and performance;

(c) such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;

(d) all governmental and other consents that are required to have been obtained by it with respect to this Guaranty have been obtained and are in full force and effect and all conditions of any such consents have been complied with;

(e) its obligations under this Guaranty constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)); or

(f) there is not pending, or, to its knowledge, threatened against it, any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Guaranty.

7. Payment.

In the event of default by Generator in payment of any indebtedness or any part thereof for the Obligations, Counterparty shall make a demand to Guarantor (a "Demand Letter"), and Guarantor shall pay all Obligations then due and owing in freely transferable, cleared and immediately available funds (US Dollars) to Creditor within five (5) Business Days of receipt of