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

FORM OF CONFIRMATION

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

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

PSNH’s performance under this Confirmation is expressly subject to and conditioned ~~upon the review and approval of this Confirmation by the New Hampshire Public Utilities Commission (“NHPUC”), an Order from the NHPUC directing PSNH to make the purchases described herein, and an Order providing for full recovery by PSNH from its retail customers of all costs relating to these purchases as required by RSA 362-H:2,V. PSNH’s requirement to comply with the terms of this Confirmation arise solely from appropriate Orders issued by the NHPUC by the terms herein and in Attachment A and an order from the NHPUC reviewing this Confirmation and its Attachment A and finding that they are in conformity with RSA 362-H.~~

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

~~Seller:~~ _____

Seller:

PINETREE POWER TAMWORTH LLC

Legal Name

69 Plains Rd. Tamworth, NH 03890

Address

~~603-323-8187~~
Telephone

Limited Liability Company - NH

Entity Type and State of Formation

Eligible Facility: Seller's 20.5 MW biomass fired generating facility which is located in Tamworth, New Hampshire, identified in the ISO-NE market settlement system with the Asset name Tamworth and ID # -592.

Product: ~~Unit~~
~~Contingent Energy~~

Unit Contingent Energy

Delivery Period and Term:

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

Energy Price:

Energy Price: Effective during the Term, PSNH will compensate Seller for Unit Contingent Energy received at the Delivery Point in accordance with the pricing provisions set forth below. All prices for Unit Contingent Energy are expressed in terms of \$/MWh.

Payment Schedule:

~~PSNH will pay the "adjusted energy rate" defined by New Hampshire RSA 362-H:1, I as established and approved for the Delivery Period by the New Hampshire Public Utilities Commission ("NHPUC"). However, should there be any administrative or judicial challenge regarding the legality or enforceability of any part of NH RSA Chapter 362-H, then, during the pendency of any and all such challenges PSNH will pay the rate set forth in its Tariff for Electric Delivery Service - NHPUC No. 9, set forth in Section 33, "Rates for Purchases from Qualifying Facilities," for Product until such time as all challenges to NH RSA Chapter 362-H are finally resolved and not subject to further appeal. For the Delivery Period, PSNH will pay the "adjusted energy rate" defined by New Hampshire RSA 362-H:1, I, which will be either: (i) 80% of the difference between the competitively determined default energy rate, and the rate component for compliance with RSA 362-F, if included in the default energy rate, or (ii) 80% of the competitively determined default energy rate if the rate component for compliance with RSA 362-F is not included in the default energy rate.~~

Payment Schedule: ~~The payment schedule shall be on a calendar month basis with approved invoices paid in accordance with the Governing Terms. If any portion of an invoice is disputed by Buyer (other than Buyer's reluctance to pay the adjusted energy rate for this energy), Buyer shall pay the undisputed portion in full and Buyer and Seller shall seek to resolve the disputed portion as promptly as possible.~~

Payment Terms: Notwithstanding anything in this Confirmation or Governing Terms to the contrary, this Transaction will be effectuated by ~~giving designating~~ PSNH, ID 50094, ~~a 100% ownership share in the asset in the~~ the Asset Owner for ISO-NE energy market billing and settlement purposes. Payment will equal Delivered Energy times the Energy Price adjusted for any revenues or expenses readily identifiable in the ISO-NE bill resulting from ownership not included in "Market Energy Clearing Price," including any and all resettlements. All other revenue that PSNH receives from ISO-NE shall be credited to Seller by the 21st day of the next month.

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

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

| Scheduling: Seller will remain the designated Lead Market Participant ~~—~~ Asset

and Lead Market Participant ~~—~~ Resource in accordance with ISO-NE rules and procedures. [PSNH needs to explain how this clause conforms with previous clause requesting that PSNH be the Asset (Owner fear ISO-NE billing and settlement purposes.)

Conditions:

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

- ~~Approval of this Confirmation, including all ancillary documents, by NHPUC Order. Should such NHPUC Order be altered or amended in any way not acceptable to PSNH, this Confirmation and any transactions contemplated hereunder shall terminate. Issuance of an NHPUC Order directing PSNH to make the purchases described herein. Issuance of an NHPUC Order providing for full recovery by PSNH from its retail customers of all costs relating to these purchases as required by RSA 362-H:2, V. An order of the NHPUC reviewing this Confirmation and its Attachment A and finding them to be in conformity with RSA 362-H.~~

Cost Recovery:

~~« PSNH's requirement to comply with the terms of this Confirmation RSA 362-H arise solely from an NHPUC Order RSA 362-H.~~

Definitions:

~~» The Facility shall maintain its status as an "Eligible facility" per NH SB 365 and a "qualifying facility" pursuant to 18 C.F.R. Part 292 prior to the Term of this Agreement and maintain such status RSA 362-H throughout such Term.~~

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

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

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

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

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

100% of the output from the Facility during the Term of this Agreement.

“NHPUC Order” means receipt of a final, ~~non-appealable~~ decision from the New Hampshire Public Utilities Commission, ~~approving~~ stating that it has reviewed this Confirmation, ~~including all ancillary documents, as submitted without alteration, modification or condition, and allowing for full cost recovery of the rates, terms and conditions of this Agreement by the Buyer pursuant to RSA 362— and its Attachment A and finds they are in conformity with RSA 362-~~ H:2,V.

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

Eligible Facility Generator Name	Asset ID #	Lead Participant		Price Node
BETHLEHEM	337	Engie Energy Marketing NA, Inc		UN.WHITFLD34.5BETH
BRIDGEWATER	357	Bridgewater Power Company, L.P		UN.ASHLAND 34.5BRID
HEMPHILL 1	436	Springfield Power, LLC		UN.NORTH_RD34.5HEMP
TAMWORTH Tamworth	592	Engie Energy Marketing NA, Inc.		UN.TAMWORTH115 TAMW
DG-WHITEFIELD, LLC	618	Springfield Power, LLC		UN.WHITFLD34.5 WFPL
INDECK ALEXANDRIA	14211	Indeck Energy Alexandria, L.L.C.		UN.PEMIGWAS34.5 ALEX

Governing Terms:

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

Notices:

Notices: — Any notice or communication shall be provided to the following:-
If to Buyer:

If to Buyer:

~~Primary Contact for PSNH: Frederick White 860-665-5272 (phone)-
 860-665-4583 (fax)rick.white@eversource.com~~

Primary Contact for PSNH:
Frederick White
860-665-5272 (phone)
860-665-4583 (fax)
rick.white@eversource.com

~~Secondary Contact~~Secondary Contact for PSNH: David Errichetti 860-665-4519 (phone) 860-665-4583 (fax)
david.errichetti@eversource.com
dnvid.en'icliettifd,eversource.com

If to Seller:

Primary Contact:

Robert Lussier (name) 603-323-8187 (phone) 603-323-7501 (fax)
Robert.liissiera@enue.com (email)

Secondary Contact: Alonzo Ramirez (name) 713-636-1237 (phone) 713-636-1858 (fax)

Alonzo.ramirez@engie.com (email)

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

Seller			
	PINETREE POWER TAMWORTH LLC		

BY

[Signature]
~~BY Name: Title: Date~~

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

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

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

PSNH’s performance hereunder is expressly subject to and conditioned upon the ~~review and approval of terms herein and in the Confirmation and an order from~~ the New Hampshire Public Utilities Commission (“NHPUC”), ~~an Order from the NHPUC directing PSNH to make the purchases described herein, and an Order providing for full recovery by PSNH from its retail customers of all costs relating to these purchases as required by RSA 362-H:2,V. All such Orders must be in a form acceptable to the Buyer and must be final and not subject to appeal or rehearing. PSNH’s requirement to comply with these Governing Terms arises solely from the police power of the State of New Hampshire as expressed in RSA Chapter 362-H and/or an appropriate Order issued by the NHPUC~~ reviewing the Confirmation and Governing Terms and finding that provisions addressed by RSA 362-H and contained herein are in conformity with RSA 362-H.

1. DEFINITIONS

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

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

“**Business Day**” means a day on which Federal Reserve member banks in New York,

New York are open for business; and a Business Day shall start at 8:00 a.m. and end at 5:00 p.m. Eastern Prevailing Time.

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

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

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

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

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

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

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

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

“**Delivery Period**” shall have the meaning as set forth in ~~Exhibit A~~ the Confirmation.

“**Dispute**” shall have the meaning set forth in Section 11.1 hereof.

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

“**Energy**” shall mean electric “energy,” as such term is defined in the ISO-NE Tariff, generated by the Facility as measured in MWh in Eastern Prevailing Time, ~~less such Facility’s station service use, generator lead losses and transformer losses, which quantity for purposes of these Governing Terms will never be less than zero~~ at the Buyer’s meter used for billing and revenue determination.

“**Energy Price**” shall have the meaning as set forth in ~~Exhibit A~~ the Confirmation.

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

“**Eligible Facility**” shall have the meaning set forth in ~~Exhibit A~~ the Confirmation.

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

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

“**Good Utility Practice**” shall mean ~~compliance with all applicable laws, codes and regulations, all ISO-NE Rules and ISO-NE Practices, and~~ any practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in New England during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is intended to include acceptable practices, methods and acts generally accepted in the electric utility industry in New England.

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

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

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

“**Interconnection Point**” shall ~~have~~mean the meaning point of interconnection set forth in the Interconnection Agreement.

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

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

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

NEPOOL committees, as amended, superseded or restated from time to time.

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

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

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

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

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

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

“MW” shall mean a megawatt.

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

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

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

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

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

“Party” and **“Parties”** shall ~~have the meaning set forth in the first paragraph of these Governing Terms~~ mean the Buyer as defined herein and/or Seller, as defined in the Confirmation.

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

“Person” shall mean an individual, partnership, corporation, limited liability company, limited liability partnership, limited partnership, association, trust, unincorporated

organization, or a government authority or agency or political subdivision thereof.

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

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

“**Products**” shall mean Energy only.

~~“**QF**” shall mean a cogeneration or small power production facility recognized by FERC as a qualifying facility as defined in Title 18 of the Code of Federal Regulations, Part 292, subpart B, as amended from time to time.~~

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

“**Regulatory Approval**” shall mean the NHPUC’s ~~approval of this Transaction, including the authorization for recovery by Buyer of all costs incurred under, or in connection with, this Transaction for the entire Term of this Transaction, which approval is acceptable in form and substance to Buyer,~~ order reviewing the Governing Terms and the Confirmation and finding that they are in conformity with RSA 362-H, provided that such order does not include any conditions or modifications that ~~Buyer deems to be unacceptable, includes a legal mandate ordering Buyer to perform, and is final and not subject to appeal or rehearing~~ are inconsistent with RSA 362-H.

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

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

“**Seller**” shall have the meaning as set forth in ~~Exhibit A~~ the Confirmation.

“**Term**” shall have the meaning set forth in ~~Exhibit A~~ the Confirmation.

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

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

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

2. EFFECTIVE DATE; TERM

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

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

3. OPERATION OF THE FACILITY.

3.1 Compliance.

(a) General. Seller shall comply with, and cause the Facility to comply with:

(i) Good Utility Practice; and (ii) all applicable rules, procedures, operating policies, criteria, guidelines and requirements imposed by ISO-NE, any Transmission Provider, any Interconnecting Utility, NERC and/or any regional reliability entity, including, in each case, all practices, requirements, rules, procedures and standards related to Seller's construction, ownership, operation and maintenance of the Facility and its performance of its obligations under these Governing Terms, including obligations related to the generation, Scheduling, interconnection, and transmission of Energy whether such requirements were imposed prior to or after the Term. Seller shall be solely responsible for registering as the "Generator Owner" and "Generator Operator" of the Facility with NERC (if applicable) and any applicable regional reliability entities, ~~as applicable~~.

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

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

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

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

(f) Insurance. Throughout the Term, and without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage required under the Facility's existing Interconnection Agreement and with the deductibles that are customary for a generating

facility of the type and size of the Facility and as otherwise legally required. Within thirty (30) days prior to the start of ~~each Contract Year~~ the initial sale under the Confirmation, Seller shall provide Buyer with a certificate of insurance which (i) shall include Buyer as an additional insured on each policy, (ii) shall not include the legend “certificate is not evidence of coverage” or any statement with similar effect, (iii) shall evidence a firm obligation of the insurer to provide Buyer with thirty (30) days prior written notice of coverage modifications, and (iv) shall be endorsed by a Person who has authority to bind the insurer. If any coverage is written on a “claims-made” basis, the certification accompanying the policy shall conspicuously state that the policy is “claims made.”

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

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

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

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

(i) FERC Status. Seller ~~shall maintain the Facility’s status as a QF throughout the Term and~~ shall obtain and maintain any requisite authority to sell the output of the Facility ~~at market based rates~~ under applicable law.

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

3.2 Interconnection and Delivery Services.

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

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

4. DELIVERY OF PRODUCTS

4.1 Obligation to Sell and Purchase Products.

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

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

(c) Scheduling and Delivery. ⁷ ~~4.2 Scheduling and Delivery~~

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

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

(f) ~~(c)~~ Without limiting the generality of this Section 4.2, Seller or the

party with whom Seller contracts pursuant to Section 3.5(e) shall at all times during the Term be designated as the “Lead Market Participant” (or any successor designation) for the Facility and shall be solely responsible for any obligations and liabilities imposed by ISO-NE or under the ISO-NE Rules and ISO-NE Practices with respect to the Facility, including all charges, penalties, financial assurance obligations, losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred. To the extent Buyer incurs such costs, charges, penalties or losses which are the responsibility of Seller, the same shall be paid by Seller to Buyer.

4.2 Delivery Point. ~~4.3 Delivery Point~~

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

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

(c) Buyer shall be responsible, if appropriated assessed, for all losses, transmission charges, ancillary service charges, line losses, congestion charges and other ISO-NE or applicable system costs or charges associated with transmission incurred, in each case, in connection with the transmission of Energy delivered under these Governing Terms from and after the Delivery Point.

4.3 Metering. ~~4.4 Metering~~

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

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

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

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

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

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

5. PRICE AND PAYMENTS FOR PRODUCTS

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

5.2 Payment and Netting.

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

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

(c) Disputes and Adjustments of Invoices.

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

(ii) A Party may, in good faith, dispute the accuracy of any invoice or any adjustment to an invoice rendered under these Governing Terms, or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the dispute given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any

required payment or refund shall be made within ten (10) days of such resolution along with interest accrued at the Late Payment Rate from and including the due date (or in the case of a refund, the payment date) but excluding the date paid. Inadvertent overpayments shall be reimbursed or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Late Payment Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment, as directed by the other Party. Any dispute with respect to an invoice or claim to additional payment is waived unless the other Party is notified in accordance with this Section 5.2 within the referenced twelve (12) month period.

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

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

5.4 Taxes, Fees and Levies.

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

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

6. REPRESENTATIONS, WARRANTIES, COVENANTS AND ACKNOWLEDGEMENTS

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

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

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

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

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

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

(c) Due Authorization; No Conflicts. The execution and delivery by Seller of these Governing Terms, and the performance by Seller of its obligations hereunder, have been duly authorized by all necessary actions on the part of Seller and do not and, under existing facts and Law, shall not: (i) contravene any of its governing documents; (ii)

conflict with, result in a breach of, or constitute a default under any note, bond, mortgage, indenture, deed of trust, license, contract or other agreement to which it is a party or by which any of its properties may be bound or affected; (iii) violate any order, writ, injunction, decree, judgment, award, statute, law, rule, regulation or ordinance of any Governmental Entity or agency applicable to it or any of its properties; or (iv) result in the creation of any lien, charge or encumbrance upon any of its properties pursuant to any of the foregoing.

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

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

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

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

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

(i) Continuing Nature of Representations and Warranties. The representations and warranties set forth in this Section are made as of the Effective Date and deemed made continually throughout the Term. If at any time during the Term, any Party obtains actual knowledge of any event or information which causes any of the representations and warranties in this Article 7 to be materially untrue or misleading, such Party shall provide the other Party with written notice of the event or information, the representations and warranties affected, and the action, if any, which such Party intends to take to make the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

7. REGULATORY APPROVAL.

The obligations of the Parties to perform these Governing Terms are conditioned upon and

shall not become effective or binding until the receipt of the Regulatory Approval.

8. BREACHES; REMEDIES

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

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

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

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

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

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

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

(b) Failure to Satisfy ISO-NE Obligations. The failure of Seller to satisfy, or cause to be satisfied (other than by Buyer), any material obligation under the ISO-NE

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

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

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

(e) Assignment. The assignment of these Governing Terms by Seller, ~~or Seller's sale or transfer of its interest (or any part thereof) in the Facility,~~ except as permitted in accordance with Article ~~14.12.~~

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

8.3 Remedies.

(a) Suspension of Performance and Remedies at Law. Upon the occurrence and during the continuance of an Event of Default, the Non-Defaulting Party shall have the right, but not the obligation, to (i) withhold any payments due the Defaulting Party under these General Terms, (ii) suspend its performance hereunder, and (iii) exercise such other remedies as provided for in these Governing Terms or, to the extent not inconsistent with the terms of these Governing Terms, at law, including, without limitation, the termination right set forth in Section 8.3(b). In addition to the foregoing, the Non-Defaulting Party shall retain its right of specific performance to enforce the Defaulting Party's obligations under these Governing Terms.

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

~~(c) Disqualification. Upon the occurrence of an Event of Default by Seller, both Seller and the Facility shall be disqualified from future participation in the program~~

~~established by NH RSA Chapter 362-H.~~

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

9. FORCE MAJEURE

9.1 Force Majeure.

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

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curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws, unless such curtailment or mishap is caused by one of the following: acts of God, sudden actions of the elements, including floods, hurricanes or tornados; sabotage; terrorism; war; riots; and emergency orders issued by a Governmental Entity, (w) any occurrence or event that merely increases the costs or causes an economic hardship to a Party, (x) any occurrence

or event that was caused by or contributed to by the Party claiming the Force Majeure, (y) Seller's ability to sell the Products at a price greater than that set out in these Governing Terms, or (z) Buyer's ability to procure the Products at a price lower than that set out in these Governing Terms. In addition, a delay or inability to perform attributable to a Party's lack of preparation, a Party's failure to timely obtain and maintain all necessary Permits (excepting the Regulatory Approval), a failure to satisfy contractual conditions or commitments, or lack of or deficiency in funding or other resources shall each not constitute a Force Majeure.

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

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

10. DISPUTE RESOLUTION

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

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management of the Parties, then either Party desiring formal dispute resolution shall petition the NHPUC for such resolution; provided, however, if ~~the NHPUC disclaims~~

~~jurisdiction because~~ the Dispute is subject to FERC's jurisdiction, then the Parties may seek to resolve such Dispute before FERC.

~~10.2 Consent to Jurisdiction. The Transaction shall be subject to the jurisdiction of the NHPUC in connection with any Dispute arising out of or in connection with these Governing Terms.~~

11. INDEMNIFICATION

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

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

12. ASSIGNMENT AND CHANGE OF CONTROL

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

13. TITLE; RISK OF LOSS

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

14. AUDIT

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

date the overpayment or underpayment was made until paid.

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

15. NOTICES

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

16. WAIVER AND MODIFICATION

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

17. INTERPRETATION

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

17.2 Headings. Article and Section headings are for convenience only and shall not affect the interpretation of these Governing Terms. References to articles, sections and exhibits are, unless the context otherwise requires, references to articles,

sections and exhibits of these Governing Terms. The words “hereof” and “hereunder” shall refer to these Governing Terms as a whole and not to any particular provision of these Governing Terms.

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

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

18. COUNTERPARTS; FACSIMILE SIGNATURES

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

19. NO DUTY TO THIRD PARTIES

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

20. SEVERABILITY

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

21. INDEPENDENT CONTRACTOR

Nothing in these Governing Terms shall be construed as creating any relationship between Buyer and Seller other than that of Seller as independent contractor for the sale of Products, and Buyer as principal and purchaser of the same. Neither Party shall be deemed to be the agent of the other Party for any purpose by reason of these Governing Terms, and no partnership or joint venture or fiduciary relationship between the Parties is intended to be created hereby.

22. ENTIRE RELATIONSHIP

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

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Description	General Terms - FINAL 20181105
Document 2 ID	file:///c:/users/bersara/OneDrive - Eversource Energy/My Documents/PURPA/Biomass Plants/PROPOSALS/Pinetree Tamworth/4 - Pinetree Power Tamworth LLC (Governing Terms Proposal).pdf
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