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GOBIERNO DE PUERTO RICO JUNTA REGLAMENTADORA DE SERVICIO PÚBLICO NEGOCIADO DE ENERGÍA DE PUERTO RICO

IN RE: ENMIENDA A CONTRATO DE COMPRAVENTA DE ENERGÍA OTORGADO POR LA AUTORIDAD DE ENERGÍA ELÉCTRICA DE PUERTO RICO Y PUNTA LIMA WIND FARM, LLC

CASO NÚM.: NEPR-AP-2021-0003

ASUNTO: Enmienda a Contrato de Compraventa de Energía Renovable

PETICIÓN DE APROBACIÓN DE ENMIENDAS A CONTRATO DE COMPRAVENTA DE ENERGÍA RENOVABLE OTORGADO POR LA AUTORIDAD DE ENERGÍA ELÉCTRICA DE PUERTO RICO Y PUNTA LIMA WIND FARM, LLC

AL HONORABLE NEGOCIADO DE ENERGÍA:

COMPARECE la Autoridad de Energía Eléctrica de Puerto Rico a través de la representación legal que suscribe y muy respetuosamente expone y solicita:

I. INTRODUCCIÓN

La Autoridad de Energía Eléctrica de Puerto Rico (la "Autoridad") tiene la responsabilidad de suministrar y asegurar un servicio de energía eléctrica confiable al menor costo posible, tanto a corto como a largo plazo, a todos los puertorriqueños. De igual manera, la Autoridad tiene la responsabilidad de contribuir al bienestar general y futuro sostenible del pueblo de Puerto Rico, maximizando los beneficios y minimizando los impactos sociales, ambientales y económicos de sus servicios. Parte de los compromisos de la Autoridad es adelantar la política pública energética de Puerto Rico mediante el cumplimiento con los requisitos de aumentar la producción de energía renovable hasta llegar a un 100% de generación renovable en el año 2050.

Recientemente, la Autoridad llegó a ciertos acuerdos con Punta Lima Wind Farm, LLC1

¹ Punta Lima Wind Farm, LLC fue certificada como Compañía de Servicio Eléctrico por el Negociado de Energía de Puerto Rico el 17 de mayo de 2016.

("Punta Lima" y en conjunto con la Autoridad las "Partes") relacionado con la instalación eólica de Punta Lima ubicada en Naguabo, Puerto Rico (el "Proyecto"). Estos acuerdos incluyen (1) contrato de compraventa de energía renovable (PPOA, por sus siglas en inglés), que enmienda y reformula el PPOA Original entre las Partes, con fecha del 3 de julio de 2009², y (2) un Acuerdo de Compraventa de Activos (el APA, por sus siglas en inglés), que establece los términos para la adquisición de la línea 115 Kv de transmisión de servicio de energía eléctrica que transcurre desde el Proyecto hasta el Centro de Transmisión de la Autoridad de Daguao ("Daguao CT") en Naguabo, Puerto Rico (la "Línea de Transmisión").

El acuerdo de principio con Punta Lima (el "PPOA Propuesto") contempla (i) la compra de aproximadamente 26 MW por un período de 20 años a partir de la fecha de operación comercial de la reconstrucción del Proyecto y (ii) la compraventa de la Línea de Transmisión por \$ 3,700,000. La aprobación y ejecución del PPOA Propuesto proporcionaría a la Autoridad un ahorro de 12% en costos, valorado en exceso de \$ 13 millones (sin descuento) durante el plazo de la validez del PPOA Propuesto, en comparación con los términos del PPOA Original. Además, la reconstrucción del Proyecto es consistente con la política pública y metas de energía renovable del Gobierno de Puerto Rico, incluyendo (i) la contribución de megavatios a la cartera de energía renovables, (ii) un mensaje contundente al mercado de que la Autoridad actúa como una contraparte comprometida, (iii) priorizar proyectos que tienen una alta probabilidad de alcanzar ejecución y (iv) el alcance de ahorros significativos para los Puertorriqueños.

Como se discute a continuación, la ejecución del PPOA Propuesto adelanta la política pública energética requerida por ley y es de gran beneficio para los clientes de la Autoridad y Puerto Rico. Por lo tanto, en cumplimiento con las leyes, regulaciones y política pública energética

² Renewable Power Purchase and Operating Agreement between Go Green Puerto Rico Alternative Energy and the Puerto Rico Power Authority con fecha del 3 de julio del 2009, según enmendado, (el "PPOA Original"). Exhibit A.

aplicable, la Autoridad presenta al Honorable Negociado de Energía de la Junta Reglamentadora de Servicio Público (el "Negociado de Energía" o "Negociado") el PPOA Propuesto y le solicita respetuosamente que le imparta su aprobación.

II. TRASFONDO

A principios del 2019, la Autoridad determinó que para alcanzar los objetivos provistos por la Ley 17-2019³ y cumplir con los requisitos financieros establecidos en el Plan Fiscal Certificado para la Autoridad, la renegociación de algunos de los aproximadamente sesenta (60) PPOAs era necesaria. Entre el 2009 y 2014, la Autoridad suscribió y renegoció varios contratos para el desarrollo de proyectos de energía renovable, entre los que hay varios que están en operación actualmente (los "PPOAs en Operación"). Sin embargo, desde hace varios años los precios que habían sido acordados originalmente con los desarrolladores están muy por encima del precio actual del mercado según determinado por la Junta de Gobierno de la Autoridad (la "Junta de Gobierno"). Además, los contratos originales contemplaban un aumento sin tope y cargos adicionales por créditos de energía renovable (RECs, por sus siglas en inglés). Si los PPOAs en Operación continúan bajo los términos originales, los precios crearían una carga económica insostenible para la Autoridad y, en consecuencia, para Puerto Rico.

En febrero de 2020, la Autoridad anunció su objetivo de alcanzar un diez por ciento 10% de descuento valor neto actual (VNA o NPV por sus siglas en inglés) de la totalidad del precio de energía (incluyendo los renewable energy credits⁴) para todos los PPOAs en Operación. Si bien es cierto que la Autoridad podía haber solicitado un descuento mayor, esta optó por un balance y procedió a identificar un descuento en todo el valor de los PPOA en Operación que no trastocara

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³ Ley de Política Pública Energética de Puerto Rico Ley Núm.17 del 11 de abril del 2019, 22 L.P.R.A. §§ 1141-1141f ("Ley 17-2019").

⁴ RECs por sus siglas en inglés.

las relaciones comerciales con los productores ya que esto podía afectar el ambiente de inversión para desarrollos de proyectos de energía renovable futuros de Puerto Rico. Durante el análisis de la transacción el objetivo de la Autoridad fue equilibrar la necesidad de buscar reducciones de precios con el objetivo importante de mantener un entorno económico fuerte y positivo para facilitar el desarrollo adicional de proyectos de energía renovable en Puerto Rico.

Con el propósito de aliviar el impacto negativo en a los productores con PPOAs en Operación, la Autoridad le dio a estos la flexibilidad para: (a) establecer los ahorros a su discreción, siempre y cuando el diez por ciento 10% de descuento en el NPV se lograra, (b) establecer aumentos modestos en la capacidad de generación (sujeto a la viabilidad de la transmisión y en cumplimiento con los requisitos técnicos mínimos (MTR por sus siglas en inglés) para el año 2020 para la capacidad adicional) y tomando en consideración que la energía y sus respectivos RECs se venderán a precios de mercado, según determinados la Junta de Gobierno y (c) hacer extensiones modestas a la vigencia de los PPOAs en Operación tomando en consideración que la energía y sus respectivos RECs se vendan durante ese término a los precios del mercado previamente determinados por la Junta de Gobierno.

La Autoridad y Punta Lima suscribieron el PPOA Original en el 2009. El Proyecto de Punta Lima fue uno de los primeros proyectos de energía renovable en llegar a operación comercial en Puerto Rico. Sin embargo, el 20 de septiembre de 2017, el huracán María estremeció la Isla y causó daños significativos al Proyecto, lo que resultó en lo que fue efectivamente una pérdida total del mismo. Punta Lima intentó renegociar y reconstruir el mismo, pero no tuvieron éxito. En el 2019, el Banco Santander de Puerto Rico ("Santander"), prestamista del Proyecto se hizo cargo de este. Santander ha propuesto reconstruir y operar el Proyecto, utilizando la indemnización recibida de sus aseguradoras por los daños ocasionados por el huracán María. En cumplimiento con las leyes

y regulaciones aplicables, la Autoridad presenta el PPOA Propuesto para la reconstrucción del Proyecto y solicita respetuosamente al Negociado de Energía que le imparta su aprobación.

III. DERECHO APLICABLE

El Artículo 6.3 de la Ley 57-2014⁵ dispone que el Negociado de Energía tiene la facultad de implementar los reglamentos y las acciones regulatorias necesarias para garantizar la capacidad, confiabilidad, seguridad, eficiencia y razonabilidad en tarifas del sistema eléctrico de Puerto Rico. De igual forma, el Negociado tiene la facultad para establecer las guías, estándares, prácticas y procesos a seguir para los procesos que la Autoridad lleve a cabo en relación a la compra de energía a otras compañías de servicio eléctrico y/o para modernizar sus plantas o instalaciones generadoras de energía.⁶ Además, el Negociado de Energía tiene el poder de establecer mediante reglamento las normas de política pública en relación con las compañías de servicio eléctrico, así como toda transacción, acción u omisión que incida sobre la red eléctrica y la infraestructura eléctrica en Puerto Rico, e implementar dichas normas de política pública.⁷ Este ente regulador aplicará normas de política pública que sean coherentes con la política pública de energía según declarada por legislación.⁸

Asimismo, el párrafo (b) del Artículo 1.11 de la Ley 17-2019 dispone que todo contrato de compra de energía o toda enmienda o extensión a un contrato de compra de energía otorgado previo a la aprobación de la Ley Núm. 57-2014, como lo es el PPOA Original, se otorgará de conformidad con lo establecido en el Artículo 6.32 de la Ley 57-2014 y la reglamentación adoptada por el Negociado al amparo de dicho artículo. Por lo cual, al evaluar cada propuesta de contrato

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⁵ Ley de Transformación y ALIVIO Energético, Ley Núm. 57 de 27 de mayo de 2014, 22 L.P.R.A. §§ 1051-1056 ("Ley 57-2014").

⁶ *Id.* en Art. 6.3 (c).

⁷ *Id.* en Art. 6.3 (b).

⁸ *Id*.

entre las compañías de servicio eléctrico, el Negociado de Energía debe tomar en cuenta lo establecido en el Plan Integrado de Recursos (PIR), especialmente en lo referente a las metas de energía renovable, generación distribuida, conservación y eficiencia establecidos en el mismo. ⁹

Las leyes aplicables también establecen que, con el propósito de garantizar que dichos acuerdos tengan un precio adecuado y razonable, los parámetros establecidos por el Negociado de Energía serán cónsonos con los que normalmente utiliza la industria para tales fines, así como con cualquier otro parámetro o método utilizado para regular los ingresos atribuibles a los acuerdos de compra de energía. Además, los contratos de compra de energía se otorgarán considerando las metas y mandatos establecidos en la Cartera de Energía Renovable (RPS, por sus siglas en inglés), que obligan a una transición de la generación de energía anclada en combustibles fósiles, a la integración agresiva de energía renovable, según dispone la Ley 82-2010. Más aún, la Ley 17-2019 modificó los estándares de RPS establecidos en la Ley 82-2010. Dicha enmienda incrementó el requisito de generación de energía a base de fuentes renovables a 40% para el 2025, 60% para el 2040 y 100% para el 2050. De igual forma, la Ley 33-2019 estableció la meta de veinte 20% para el año 2022.

Por otra parte, el Artículo 6.32 de la Ley 57-2014 establece un marco legal integral para la evaluación y aprobación de los acuerdos de compra de energía, así como otras transacciones relacionadas con empresas de servicios de energía eléctrica, como la Autoridad y los desarrolladores de los PPOAs. ¹³ En lo pertinente, la Ley 57-2014 reitera que el Negociado de Energía adoptará y promulgará un reglamento con los estándares y requisitos con los que

⁹ Ley 57-2014 en Art. 6.32(d).

¹⁰ Id

¹¹ Ley de Política Pública de Diversificación Energética por Medio de la Energía Renovable Sostenible y Alterna, Ley Núm. 82 del 19 de julio de 2010, 12 L.P.R.A. §§ 8121-8136 ("Ley 82-2010").

¹² Ley de Mitigación, Adaptación y Resiliencia al Cambio Climático de Puerto Rico, Ley Núm. 33 del 22 de mayo de 2019, 12 L.P.R.A. §§ 8011-8014c.

¹³ Ley 57-2014 en Art 6.32.

cumplirán los contratos de las compañías de servicio eléctrico, incluyendo los contratos entre la Autoridad, su sucesora, o el contratante de la red de transmisión y distribución y cualquier compañía de servicio eléctrico o cualquier productor independiente de energía. ¹⁴ El Negociado de Energía debe también velar que las tarifas, derechos, rentas o cargos que se paguen a productores independientes de energía sean justas y razonables, y protejan el interés público y el erario. ¹⁵ Así como que la tarifa de interconexión a la red de transmisión y distribución, incluyendo los cargos por construcción, la tarifa de trasbordo, así como cualquier otro requerimiento aplicable a los productores independientes de energía o a otras compañías de servicio eléctrico que deseen interconectarse al sistema de transmisión y distribución, sea justa y razonable. ¹⁶ En este proceso el Negociado de Energía deberá asegurarse que las tarifas permitan una interconexión que no afecte la confiabilidad del servicio eléctrico y promueva la protección del ambiente, en cumplimiento con los mandatos de ley, y que no impacte adversamente a los clientes. ¹⁷

IV. ENMIENDA AL PPOA ORIGINAL OTORGADO POR LA AUTORIDAD Y PUNTA LIMA

El PPOA Original entre las Partes comprendía un precio de compra de energía de \$0.125 por kWh de producción neta de energía (*net electrical output*) (expresado en kWh) del Proyecto, sujeto a una tasa anual de 1.5% aumento escalado. Además, la Autoridad pagaría RECs por la cantidad de \$0.025 por kWh de producción eléctrica neta durante la vigencia de la PPOA Original, ósea, previo a la enmienda aquí propuesta. Esto resultó en un precio total de \$0.1577 por kWh de producción eléctrica neta en el momento en que el huracán María alcanzó a Puerto Rico.

¹⁴ *Id.* en Art. 6.32(c).

¹⁵ *Id.* en Art. 6.32(g).

¹⁶ Id.

¹⁷ *Id*.

Por otro lado, el PPOA Propuesto transmite 26 MW de generación de energía renovable por un plazo de 20 años junto con una reducción de precio (en comparación con la PPOA Original) del 12%. Esto producirá aproximadamente \$13 millones en ahorros (sin descuento) durante la vida útil del PPOA Propuesto. Los ahorros logrados bajo el PPOA Propuesto en comparación con el PPOA Original son similares a los logrados para otros Proyectos en Operación ya aprobados por la Junta de Supervisión y Administración Financiera para Puerto Rico (la "Junta de Supervisión"). El precio acordado se convertirá en un *all in price* de \$ 0.14728 /kWh bajo el PPOA Propuesto por el primer año después de alcanzar la operación comercial. La cantidad total a pagar por la Autoridad a Punta Lima bajo el PPOA Propuesto es de aproximadamente \$162 millones (sin descuento) o \$78 millones (*Net Present Value*).

Como parte de la transacción, la Autoridad ha acordado adquirir la Línea de Transmisión que va desde el Proyecto de Punta Lima hasta Daguao TC de la Autoridad por un precio de \$3,700,000 (la "Compra de la Línea de Transmisión"). La titularidad de la Línea de Transmisión proporcionará múltiples beneficios para la Autoridad, tomando en cuenta un escenario donde otros proyectos de energía renovable busquen interconectarse en la misma inmediación de Punta Lima. En este escenario uno o más proyectos podrían interconectarse con la red eléctrica al tener acceso a la Línea de Transmisión directamente sin la necesidad de desarrollar y construir líneas de transmisión adicionales en la zona de regreso al Daguao TC.

Algunos beneficios en este escenario comprenden, entre otros, posibles ahorros de costos futuros, la optimización de la infraestructura para promover aún más la energía renovable y la disminución del riesgo de permisos para garantizar el desarrollo oportuno del proyecto. La Línea de Transmisión reduce significativamente el riesgo para los proyectos (y para la Autoridad) de retrasos en la concesión de permisos y la adquisición de derechos sobre terrenos para alguna línea

de transmisión adicional, que de otro modo sería necesario. La adquisición de terrenos y servidumbres representa un obstáculo sustancial para el desarrollo de proyectos en Puerto Rico y esta transacción comercial reduce ese riesgo. Es por cada una de estas razones, así como la oportunidad de que el Proyecto vuelva a entrar en operación, que la Autoridad apoya la adquisición de la Línea de Transmisión como parte de esta transacción.

V. DOCUMENTOS DE RESPALDO A LA PETICIÓN

Los siguientes documentos incluyen la explicación y análisis minucioso de las enmiendas al PPOA Original, como el PPOA Propuesto cumple con la política pública energética según establecida en las leyes ya mencionadas, los ahorros requeridos por el Plan Fiscal Certificado, los planes incluidos en el PIR Final¹⁸ y, por ende, como la aprobación del PPOA Propuesto es beneficioso para Puerto Rico.

A continuación, un listado de los documentos en respaldo a la petición de aprobación:

Letra de Exhibit	Documento y Explicación
A.	PPOA Original: Renewable Power Purchase and Operating Agreement between Go
	Green Puerto Rico Alternative Energy and the Puerto Rico Power Authority con fecha
	del 3 de julio del 2009 y sus enmiendas subsiguientes.
B.	PPOA Propuesto: Amended and Restated Power Purchase and Operating Agreement
	between Puerto Rico Electric Power Authority
	and Punta Lima Wind Farm, LLC.
C.	PPOA Redline PPOA Original en comparación al PPOA Propuesto.
D.	Memorando de Justificación con sus anejos, titulado Reconstruction of the Punta Lima
	Wind Farm and Related Transactions con fecha del 21 de abril de 2021.

¹⁸ Resolución y Orden del 24 de agosto del 2020 *In Re: Review of the Puerto Rico Electric Power Authority Integrated Resource Plan*, caso núm.: CEPR-AP-2018-0001 (el "PIR Final").

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Letra de Exhibit	Documento y Explicación
E.	Resolución Núm. 4879 de la Junta de Gobierno de la Autoridad de Energía Eléctrica
	aprobando el PPOA Propuesto con fecha del 16 de abril de 2021.
F.	Certificación de Compañía de Servicio Eléctrico otorgado a Punta Lima Wind Farm,
	LLC el 17 de mayo de 2016.
G.	Borrador de APA titulado Asset Purchase and Sale Agreement
H.	Minimum Technical Requirements for Interconnection of Wind Turbine Generation
	WTG Projects

VI. SOLICITUD DE TRATAMIENTO CONFIDENCIAL A DOCUMENTACIÓN PRESENTADA

a. Borrador de PPOA Propuesto Redactado

El borrador de PPOA Propuesto incluido con esta petición pública presenta tachaduras o redacciones a información económica y financiera que la Autoridad considera confidencial. Cada tachadura esta identificada con un número. El número corresponde a la explicación que se identifica con tal número en la siguiente tabla:

REDACCIONES AL PPOA PROPUESTO ¹⁹			
Número de Redacción Exhibit B & D	Razón de Redacción		
1.	La información redactada/tachada es información comercial y financiera confidencial con respecto a los principales términos económicos aún en negociación, específicamente el Coeficiente monetario para el cálculo del precio a pagar por la Autoridad entre el <i>Initial Synchronization Date and the Commercial Operation Date</i> . La divulgación puede dar a las contrapartes potenciales una ventaja competitiva injusta en futuras negociaciones en detrimento de los clientes de la Autoridad.		
2.	La información redactada/tachada es información comercial y financiera confidencial con respecto a los principales términos económicos aún en negociación, específicamente el Coeficiente monetario para el cálculo de la <i>Operation Security</i> que podría provocar la obligación de pago de la Autoridad. La divulgación puede dar a las contrapartes potenciales una ventaja competitiva injusta en futuras negociaciones en detrimento de los clientes de la Autoridad.		
3.	La información redactada/tachada es información comercial y financiera confidencial con respecto a los principales términos económicos aún en negociación, específicamente el <i>Energy Purchase Price</i> y la tasa de escalada del mismo que podría provocar la obligación de pago de la Autoridad. La divulgación puede dar a las contrapartes potenciales una ventaja competitiva injusta en futuras negociaciones en detrimento de los clientes de la Autoridad.		

REDACCIONES A CONTRATO DE COMPRAVENTA DE ACTIVO ²⁰				
Número de Redacción Exhibit G	Razón de Redacción			
1.	La información redactada/tachada es información comercial y financiera confidencial con respecto a los principales términos económicos aún en negociación, específicamente el <i>Purchase Price</i> que podría provocar la obligación de pago de la Autoridad. La divulgación puede dar a las contrapartes potenciales una ventaja competitiva injusta en futuras negociaciones en detrimento de los clientes de la Autoridad.			

 ¹⁹ Términos Capitalizados tendrán el mismo significado proporcionado en el PPOA Propuesto.
 20 Términos Capitalizados tendrán el mismo significado proporcionado en el APA.

b. Justificación de Mantener Sellados y Declarar Como Confidencial la Información Redactada o Tachada

La norma constitucional es que los documentos preparados por una entidad gubernamental, como la Autoridad, son públicos. Sin embargo, según ya decidido por nuestro Tribunal Supremo, esta norma, como muchas otras, tiene sus excepciones. Nuestro ordenamiento jurídico ha evaluado y regulado en distintas instancias la forma y manera de proteger información pública que se debe mantener confidencial. Actualmente existen leyes de aplicación a información pública general, reglamentos específicos para agencias de gobiernos y corporaciones públicas y hasta procesos regulados internamente por las agencias y corporaciones para atender las situaciones que puedan surgir en el reclamo de divulgación de documentos e información que algún reclamante considere pública.

La Ley 57-2014, legislación que creó a este Honorable Negociado de Energía, no es la excepción y también provee para que se atiendan reclamos de confidencialidad durante procesos que están a su consideración. La Sección 6.15 de la referida ley dispone que:

Si alguna persona que tenga la obligación de someter información [al Negociado] de Energía entiende que la información a someterse goza de algún privilegio de confidencialidad, podrá pedirle [al Negociado] que le dé dicho tratamiento sujeto a lo siguiente: (a) Si [al Negociado] de Energía, luego de la evaluación de rigor, entiende que la información debe ser protegida, buscará la manera de conceder esta protección en la forma que menos impacte al público, a la transparencia y el derecho de las partes envueltas en el procedimiento administrativo en el cual se somete el documento alegadamente confidencial.

En el ejercicio de sus facultades y poderes otorgados por la Ley 57-2014, el Negociado de Energía aprobó el *Reglamento De Procedimientos Adjudicativos, Avisos de Incumplimiento*,

Revisión De Tarifas e Investigaciones.²¹ Entre las múltiples cosas que el Reglamento 8543 regula están las disposiciones en relación con las salvaguardas que el Negociado de Energía da a la información confidencial. En ese aspecto, el Reglamento 8543 provee que:

Si en cumplimiento con lo dispuesto en [el Reglamento 8543] o en alguna orden [del Negociado de Energía], una persona tuviese el deber de presentar [al Negociado de Energía] información que, a su juicio es privilegiada a tenor con lo dispuesto en las Reglas de Evidencia, dicha compañía identificará la información alegadamente privilegiada, solicitará [al Negociado de Energía] la protección de dicha información, y expondrá por escrito los argumentos en apoyo a su planteamiento sobre la naturaleza privilegiada de la información. [El Negociado] evaluará la petición y, de entender que la información amerita protección, procederá de conformidad con lo dispuesto en el Artículo 6.15 de la Ley 57-2014, según enmendada.²²

De igual forma *el Reglamento Para el Programa de Administración de Documentos de la Autoridad de Energía Eléctrica*²³, que tiene fuerza de ley, regula la administración de documentos de la Autoridad. El mismo indica en su Sección V las categorías de documentos que se pueden designar como confidenciales. Según el Reglamento 6285, y en relación con este caso, es confidencial:

[La] [i]nformación revelada o generada por la Autoridad, como parte de una transacción comercial, cuya divulgación podría ser utilizada por terceras personas para proveer bienes o servicios a la Autoridad, a un precio más alto del que regularmente se ofrecerán tales bienes o servicios, en detrimento de los propósitos contenidos con la ley habilitadora de la Autoridad, de hacer asequible el servicio de energía eléctrica en la forma económica más amplia.²⁴

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²¹ Negociado de Energía, *Reglamento De Procedimientos Adjudicativos, Avisos de Incumplimiento, Revisión de Tarifas e Investigaciones*, Núm. 8543 (18 de diciembre de 2014) ("Reglamento 8543").

²² Reglamento 8543 en Sec. 1.15.

²³ Autoridad, *Reglamento Para el Programa de Administración de Documentos de la Autoridad de Energía Eléctrica*, Núm. 6285 (9 de febrero de 2001) ("Reglamento 6285").

²⁴ Reglamento 6285 en Sec. V(15).

Por disposición de ley, entonces, la Autoridad puede reclamar como privilegiados y confidenciales aquellos documentos e información transacciones comerciales que están en curso. La información que la Autoridad ha tachado o redactado del borrador de PPOA Propuesto es información que cualifica en esa categoría. Veamos.

Cuando el gobierno en general, incluyendo a la Autoridad, ingresa al mercado como un comprador o vendedor comercial ordinario, la información está protegida bajo el privilegio de información comercial si es "información sensible que no está disponible de otra manera", y la divulgación "dañaría significativamente las funciones monetarias o los intereses comerciales del gobierno". La teoría detrás del privilegio es que el gobierno puede quedar en desventaja competitiva o la consumación de un contrato puede estar en peligro si se divulga información confidencial generada por el gobierno durante el proceso de adjudicación del contrato. Por ejemplo, la divulgación previa a la venta de tasaciones de bienes raíces desarrolladas para ayudar al gobierno federal a vender o comprar propiedades perjudicaría significativamente los intereses comerciales del gobierno. ²⁶

La información tachada o redactada del borrador de PPOA Propuesto se refiere a las negociaciones en curso entre las Partes con respecto a la renegociación del PPOA Original. La información retenida refleja información sobre los valores monetarios y análisis de la Autoridad con respecto a la transacción y renegociación que aún no son finales ya que faltan aprobaciones de entidades gubernamentales según leyes y reglamento aplicables, como el Negociado de Energía. La divulgación prematura de esta información al público permitiría a otras partes interesadas en este tipo de negocio o transacción debilitar la posición negociadora de la Autoridad. Por lo tanto,

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²⁵ Ver Fed. Open Mkt. Comm. v. Merrill, 443 U.S. 340, 363 (1979); Gov't Land Bank v. Gen. Servs. Admin., 671 F.2d 663, 665-66 (1st Cir. 1982).

²⁶ Ver Hoover v. United States Dep't of the Interior, 611 F.2d 1132 (5th Cir. 1980); Martin Marietta Aluminum, Inc., v. Adm'r, Gen. Services Admin, 444 F. Supp. 945 (C.D. Cal. 1977).

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la divulgación de la información comercial y financiera tachada colocará al gobierno en una

desventaja competitiva y pone en peligro la consumación de la renegociación del PPOA Original

con Punta Lima. Por lo tanto, las razones para no publicar la información superan el interés de si

publicarla y la balanza se inclina a favor de que el Negociado le conceda trato confidencial a la

información tachada.

VII. CONCLUSIÓN

Las enmiendas al PPOA Original que se reflejan en el PPOA Propuesto cumplen con todos

los requisitos legales vinculantes según detallados. La continuidad de los Proyectos en Operación,

incluyendo el aquí presentado, son parte de la implementación de política pública energética de

Puerto Rico según reconocida por la Autoridad y adoptada en el PIR Final.

POR TODO LO CUAL, se solicita al Negociado de Energía que APRUEBE el PPOA

Propuesto.

RESPETUOSAMENTE SOMETIDO.

En San Juan, Puerto Rico, este 22 de junio de 2021.

/f Katiuska Bolaños Lugo

Katiuska Bolaños Lugo

kbolanos@diazvaz.law

TSPR 18,888

<u>/f Joannely Marrero Cruz</u>

Joannely Marrero Cruz

jmarrero@diazvaz.law

TSPR 20,014

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DÍAZ & VÁZQUEZ LAW FIRM, P.S.C. 290 Jesús T. Piñero Ave. Oriental Tower, Suite 803 San Juan, PR 00918 Tel. (787) 395-7133 Fax. (787) 497-9664

Exhibit A

POWER PURCHASE AND OPERATING AGREEMENT BETWEEN GO GREEN PUERTO RICO ALTERNATIVE ENERGY AND PUERTO RICO ELECTRIC POWER AUTHORITY

AS FIRST PARTY: The Puerto Rico Electric Power Authority, hereinafter referred to as "PREPA", a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico, created by Act No. 83 of May 2, 1941, as amended, employer's Social Security number 660-43-3747, represented in this act by its Executive Director, Miguel Angel Cordero Lopez, of legal age, married, engineer, and resident of Caguas, Puerto Rico.

AS SECOND PARTY: Go Green Puerto Rico Alternative Energy named herewith as "Seller", a corporation organized in accordance with the laws of Puerto Rico, whose principal place of business is located at Humacao, Puerto Rico and authorized to do business in Puerto Rico, employer's Social Security number 660-72-9724represented in this act by Justino Orozco Garcia, Go Green President, of legal age, married, and resident of Humacao, Puerto Rico, duly authorized to sign this Agreement on its behalf as certified by the Corporate Resolution dated June 1, 2009.

RECITALS

WHEREAS, Seller will construct, own, operate and maintain an approximately 39 megawatt Qualifying Facility capable of operating on wind power, in the vicinity of Naguabo, Puerto Rico (Seller's Complex); and

WHEREAS, Seller proposes to sell electricity to PREPA from the Seller's Complex; and WHEREAS, PREPA is the electric utility engaged in the generation, transmission, distribution and sale of electric power within the Commonwealth of Puerto Rico; and WHEREAS, Seller will sell exclusively to PREPA and PREPA will purchase the electric energy produced by Seller in compliance with PURPA; and

WHEREAS, the Parties hereto will effectuate such sales and purchases of energy in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of these premises and of the mutual covenants and agreements set forth herein, Seller and PREPA, intending to be legally bound,

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hereby agree to the following:

ARTICLE 1. DEFINITIONS

Whenever the following terms appear in this Agreement, whether in the singular or in the plural, present or past tense, they shall have the meaning stated below:

- 1.1 Agreed Operating Procedures As set forth in Section 4.4.
- 1.2 Agreement All the covenants, terms and conditions in these articles of agreement and in all supplementary documents hereto attached which constitute essential parts of the agreement.
- 1.3 Agreement Year The period which begins on the Commercial Operation Date of the Seller's Complex and ends on the first anniversary thereof, and each one (1) year period thereafter commencing on each anniversary date.
- 1.4 Authorized Officer The Chief Executive Officer or President, any Vice-President, and Treasurer, the Secretary or the Assistant Secretary, of Seller or any of Seller's general partners.
- 1.5 Available Hours The number of hours in which the Seller's Complex is capable of delivering Net Electrical Output to PREPA.
- 1.6 Billing Period As set forth in Section 10.4.
- 1.7 Business Day Monday through Friday excluding holidays recognized by PREPA, which are set forth on Appendix B, Holidays, hereto; PREPA will notify Seller in writing of any changes to the holidays recognized by PREPA.
- 1.8 Cash Cash or short term securities with a maturity of 90 days or less.
- 1.9 Commencement of Construction The action taken by Seller or one or more contractors or subcontractors retained by Seller, initiating construction of Seller's Complex consistent with construction industry standards.
- 1.10 Commercial Operation Date The first day following the date on which the Seller's Complex is declared available for continuous operation by Seller subject to the provisions of Article 2, Sale and Purchase of Energy and Article 12, Seller's Complex Generating Capacity.



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- 1.11 Court of Competent Jurisdiction The state courts of the Commonwealth of Puerto Rico, the United States District Court for the District of Puerto Rico, the United States Court of Appeals for the First Circuit and the United States Supreme Court.
- 1.12 Day A day shall be the 24-hour period beginning and ending at 12:00 midnight Atlantic Time.
- 1.13 Debt Coverage Ratio The ratio of net operating income to total debt service.
- 1.14 Design Limits As set forth on Appendix A, Design Limits, hereto.
- 1.15 Development Abandonment Prior to the Commercial Operation Date, an affirmative action taken by the Seller to permanently cease the development of the Seller's Complex.
- 1.16 Effective Date Shall mean the date on which the Parties have signed this Agreement.
- 1.17 Emergency A condition or situation which in the sole judgment of PREPA is likely to result in imminent significant disruption of service to a significant number of customers or is imminently likely to endanger life or property.
- 1.18 Energy Payment As set forth in Article 11, Compensation, Payment and Billing, Section 11.1.
- 1.19 Energy Purchase Price or EPP The per kilowatt hour rate that PREPA will pay Seller for energy delivered to PREPA as determined in accordance with Section 11.1.
- 1.20 Environmental Costs As set forth in Article 18, Taxes and Environmental Costs.
- 1.21 Equity Capital The amount invested in the Seller's Complex by Seller's direct or indirect parent corporation or other investors as common stock, preferred stock or equivalents, general or limited partnership interests, Subordinated Debt, or other qualifying contributions.
- 1.22 Estimated Generating Capacity: As declared by Seller in Article 12, Seller's Complex Generating Capacity, Section 12.1.

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- 1.23 Facility Seller's Small Power Production Facility as defined in section 201 of PURPA, consisting of 30 Wind Turbines, including auxiliary equipment and unit transformer and switching equipment. The Facility will be located in the municipality of Naguabo, Puerto Rico.
- 1.24 FERC The Federal Energy Regulatory Commission, or any successor thereto.
- 1.25 Financial Closing Date The first date on which documents that provide binding commitments for funding for the construction of Seller's Complex have been executed and funds for the initial phase of construction become available to Seller.
- 1.26 Fiscal Year- Means the twelve (12) month period beginning at 12:00 midnight on June 30st and ending 12:00 midnight each year thereafter for the Term of this Agreement.
- 1.27 Force Majeure As set forth in Article 15 hereof.
- 1.28 GAAP- Generally Accepted Accounting Principles, as promulgated by the Financial Accounting Standards Board or its predecessors or successors.
- 1.29 Green Credits Credits or other environmental attributes now or in the future available to producers of energy from renewable clean energy sources such as wind power. Green credits include, but are not limited to, Renewable Energy Credits or RECs, Renewable Portfolio Standards or RPS, green tags, etc.
- 1.30 Initial Synchronization Date The first date when all or a portion of Seller's electricity generating equipment is synchronized with PREPA's electrical generating equipment and able to deliver electrical energy generated by the Facility to PREPA at the Interconnection Point.
- 1.31 Interconnection Facilities Seller's Interconnection Facilities and PREPA's Interconnection Facilities. The location of the Interconnection Point, interconnection voltage, conductor capacity, protection equipment, switchyard configuration and any other equipment necessary for the Interconnection

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- Facilities shall be determined by PREPA not later than a Year after the execution of this Agreement.
- 1.32 Interconnection Point The physical point where Net Electrical Output is delivered to PREPA's system.
- 1.33 Interest The compensation for the accrual of monetary obligations under this Agreement computed monthly and prorated daily from the time each such obligation is past due based on an annual interest rate equal to the lesser of (i) the Prime Commercial Lending Rate as set by Citibank N.A., New York, New York or any other bank as mutually agreed by the Parties or any other equivalent rate as mutually agreed by the Parties and (ii) the maximum rate allowable under Article 1649 of the Puerto Rico Civil Code or successor statute applicable to past due amounts. The provisions of this definition shall not be construed to limit the applicable rate of interest on the Project Debt.
- 1.34 Legal Challenge Means any action, suit or proceeding brought or commenced by a third party seeking to contest the validity of this Agreement, any Permit, or the development, construction or operation of the Facility which materially impairs the ability of the Parties to perform their respective obligations hereunder.
- Maintenance Outage A planned interruption of all or a portion of the net's electrical output of the Seller's Complex that has been informed to PREPA and is required for any purpose including inspection, preventive maintenance, or corrective maintenance and which has not been included in the Planned Outage Program.
- 1.36 Month A Month shall begin at 12:00 midnight on the last day of the preceding calendar month and end at 12:00 midnight on the last day of the current calendar month.
- 1.37 Net Electrical Output -The net electrical energy output (expressed in kWh) from the Seller's Complex measured at the Interconnection Point.

- 1.38 Off-Peak Period The time from 10:00 p.m. to 9:00 a.m. daily from Monday through Friday and all hours from 10:00 p.m. of each Friday through 9:00 a.m. on the immediately succeeding Monday.
- 1.39 On-Peak Period The time from 9:00 a.m. to 10:00 p.m. daily from Monday through Friday.
- 1.40 Operation Security As set forth in Article 17, Breach of Agreement, Delays and Security, Section 17.4.
- 1.41 Party or Parties Both Seller and PREPA are herein individually referred to as a Party and collectively referred to as the Parties.
- 1.42 Permanent Abandonment Shall be deemed to have occurred when, at any time after Commercial Operation Date, an affirmative action is taken by Seller, its successors, or assignees, as applicable, to permanently shut down the operation of the Seller's Complex.
- 1.43 Permanent Closing Shall be deemed to have occurred when, at any time after Commercial Operation Date, (a) the Available Hours for the Facility equal zero (0) for any period of twelve (12) consecutive months, excluding periods of outages due to Force Majeure, or (b) the Available Hours for the Facility equal zero (0) for any period of thirty (30) consecutive months whether or not a Force Majeure event has been claimed by Seller.
- 1.44 Permits All permits, licenses, approvals, authorizations, consents, variances or waivers issued by federal, Commonwealth and local agencies, commissions, authorities and regulatory bodies with jurisdiction over Seller and the Seller's Complex which are necessary or required for the development, construction, operation or maintenance of the Seller's Complex.
- 1.45 Planned Outage A planned interruption of all or a portion of the Net Electrical Output that has been informed in advance to PREPA and included in the Planned Outage Program.

- 1.46 Planned Outage Program A written scheduled outage program submitted to PREPA by Seller setting forth the Planned Outage periods for the Facility, as modified from time to time by Seller as provided for in Article 8, Control and Operation of the Facility.
- 1.47 Pre-Operation Period The period beginning on the Initial Synchronization Date and ending on the Commercial Operation Date.
- 1.48 PREPA's Interconnection Facilities All equipment and facilities located on PREPA's side of the Interconnection Point constructed and installed for the purpose of interconnecting the Facility with PREPA's electric transmission or distribution system.
- 1.49 Production Credits The fiscal benefits such as the Production Tax Credit or PTC available now or in the future to producers of renewable energy.
- 1.50 Project Debt The outstanding balance, as amortized according to the amortization schedules established at the Financial Closing Date or refunding date, respectively, of the Total Initial Debt or the corresponding initial permanent financing of the Total Initial Debt, including related Project Lenders fees and expenses.
- 1.51 Project Lenders Any party providing construction or permanent financing for the Seller's Complex or any portion thereof (excluding Subordinated Debt) or any agent, indenture trustee or other person representing or acting on behalf of any such party.
- 1.52 Proposed Initial Synchronization Date As set forth in Article 4, Pre-Commercial Operation Period, Section 4.2.
- 1.53 Prudent Electrical Practices Those practices, methods, standards and acts which, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, would have been used in prudent electrical engineering and operations to operate equipment for the generation, transmission, distribution and delivery of electricity, lawfully and with efficiency

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- and dependability, and that are in accordance with the National Electrical Safety Code, the National Electrical Code and any other applicable federal, state or local code.
- 1.54 Prudent Utility Practices Those practices, methods, standards and acts which, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, would have been generally followed by the electric utility industry in the United States and Puerto Rico, as changed from time to time, which generally include, but are not limited to, engineering and operating considerations.
- 1.55 PURPA The Public Utility Regulatory Policies Act of 1978 and the regulations promulgated there under in effect as of the date this Agreement is executed or as they are amended in the future from time to time.
- 1.56 Qualified Operator or Operator Seller or another qualified and experienced operator acceptable to PREPA.
- 1.57 Qualifying Facility A Small Power Production facility under Section 201 of PURPA.
- 1.58 Quarter A Quarter shall be a three (3) month period beginning 12:00 midnight on December 31, March 31, June 30, or September 30.
- 1.59 Seller As set forth in the second paragraph of this Agreement.
- 1.60 Seller's Complex The premises, facilities and infrastructure comprising the Facility and Seller's Interconnection Facilities, and other ancillary equipment owned by Seller and installed for the purpose of performing its obligations under this Agreement.
- 1.61 Seller's Complex Generating Capacity or Generating Capacity The sum of the capacities in MW for all the generators of Seller's Complex, as determined pursuant to Article 12, Seller's Complex Generating Capacity.
- 1.62 Seller's Interconnection Facilities All equipment and facilities, located on the Facility side of the Interconnection Point, constructed and installed for the

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- purpose of interconnecting the Facility with PREPA's electric transmission or distribution system.
- 1.63 Taxes As set forth in Article 18, Taxes and Environmental Costs, Section 18.1.
- 1.64 Term The initial term of this Agreement as specified in Article 5, Term, plus any renewal Term determined pursuant to this Agreement.
- 1.65 Total Initial Debt The sum of the original principal amount of each of the debts (excluding Subordinated Debt) incurred for the development, acquisition and construction of the Seller's Complex, prior to any amortization or repayment of each of such debt components.
- 1.66 Working Capital Ratio The ratio of current assets divided by current liabilities.
- 1.67 Year A Year shall be the twelve (12) Month period beginning 12:00 midnight on December 31 and ending at 12:00 midnight on the subsequent December 31.

ARTICLE 2. SALE AND PURCHASE OF ENERGY

- 2.1 Seller agrees to sell and PREPA agrees to accept delivery of and purchase Net Electrical Output up to Seller's Complex Generating Capacity, as of and following the Initial Synchronization Date, subject to the terms and conditions of this Agreement.
- 2.2 Without limiting any other obligations of Seller in this Agreement, PREPA's obligation to purchase Net Electrical Output from Seller is conditioned upon Seller's submittal to PREPA of the following:
 - (a) One or more documents evidencing Seller compliance with all environmental laws and regulations.
 - (b) Evidence that the Facility will be a Qualifying Facility as defined in section 201 of PURPA, provided prior to the Commercial Operation Date.
 - (c) Originals of certificates of insurance policies for insurance coverage required by Article 19, Insurance.





- (d) Copies of all material Permits needed to construct and operate the Facility and its Interconnection Facilities.
- 2.3 Without limiting any other obligations of Seller in this Agreement, PREPA's obligation to purchase Net Electrical Output from Seller is conditioned upon Seller, at its expense, acquiring and maintaining in effect any Permits and completing or having completed any environmental impact studies, in each case necessary for the design, construction, operation and maintenance of the Seller's Complex, which, if not obtained, would prevent Seller from operating the Seller's Complex.
- 2.4 Seller agrees that at the Effective Date Seller shall pay PREPA the sum of \$5/KW of Estimated Generating Capacity for the costs incurred by PREPA in performing all the evaluations and studies needed before Commercial Operation Date.

ARTICLE 3. NOTICES

All notices and other communications hereunder shall be in writing, other than disconnect orders which may be oral and immediately confirmed by telecopy, and shall be deemed duly given upon receipt after being delivered by hand or sent by registered or certified mail, return receipt requested, postage prepaid or by recognized overnight courier service or by telecopy, addressed as follows:

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If to Seller to:

Address: Costa Verde # 42, Palmas del Mar – Humacao, P.R 00791

Attention: Justino Orozco, President

With a copy to:

Name: Rolando Aponte Ruiz

Address: 1500 Jardines de Montehiedra # 614, San Juan PR 00926

If to PREPA:

Puerto Rico Electric Power Authority (if by hand) 1110 Ponce de Leon Avenue

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Santurce, Puerto Rico

Attention: Director of Planning and Environmental

With a copy to:

Puerto Rico Electric Power Authority (if by mail)

G.P.O. Box 364267

San Juan, Puerto Rico 00936-4267

Attention: Director of Planning and Environmental

Either Party hereto may change, by notice as above provided; the persons and/or addresses to which all such notices are to be sent.

ARTICLE 4. PRE-COMMERCIAL OPERATION PERIOD

- 4.1 Seller shall submit to PREPA the following: (i) Seller's Complex licensing and milestone construction schedules thirty (30) days after the Effective Date; (ii) the conceptual engineering design of Seller's Complex, including the relay protection scheme, within thirty (30) days following its completion; and (iii) the manufacturer's guaranteed performance data required to perform the interconnection study as described in Appendix C within thirty (30) days following its receipt by Seller. Seller shall submit progress reports in a form satisfactory to PREPA by the fifth (5th) Business Day of every Month until the Commercial Operation Date and notify PREPA of any material changes to Seller's licensing and milestone construction schedules.
- 4.2 Seller shall notify PREPA in writing of the proposed Initial Synchronization Date (the "Proposed Initial Synchronization Date") and the start-up and testing schedule for the Facility not later than sixty (60) days prior to such Proposed Initial Synchronization Date. Seller shall have the right to postpone such date with at least two (2) weeks advance notice to PREPA. PREPA and Seller shall agree on the actual Initial Synchronization Date for the Facility and PREPA shall have the right to have a representative present during such period.
- 4.3 Seller shall provide PREPA with relay settings for review and inspection by PREPA not later than one hundred and twenty (120) days prior to the Proposed





Initial Synchronization Date. If these are not found to be acceptable to PREPA, Seller agrees to comply with any request made by PREPA to provide acceptable relay settings prior to Initial Synchronization Date. PREPA agrees to give any comments or suggested changes which it is entitled to give to Seller pursuant to this Section 4.3 within sixty (60) days after Seller submits any required documents or other information to PREPA.

- 4.4 Seller and PREPA shall mutually develop detailed written operating procedures (the "Agreed Operating Procedures") no later than one hundred eighty (180) days prior to the Proposed Initial Synchronization Date for the Facility. The Agreed Operating Procedures will be a mutual agreement based on PREPA's standard operating procedures, taking into consideration the design of the Facility and its interconnection to PREPA's electric system. The Agreed Operating Procedures shall be the procedures as to how to integrate the Seller's Complex output into PREPA's electric system. Topics covered shall include, but not necessarily be limited to, method of day-to-day communications, key personnel lists for both Seller and PREPA's dispatching centers, clearances and switching practices, outage scheduling, daily available capacity and energy reports, Seller's Complex operations log, reactive power support and Emergency procedures. The Agreed Operating Procedures may only be modified with the written consent of the Parties.
- PREPA shall prepare and submit to Seller a written voltage schedule for the Facility no later than thirty (30) days prior to the Proposed Initial Synchronization Date. PREPA may change such voltage schedule upon thirty (30) days prior written notice. Operator shall use such voltage schedule in the operation of its Facility provided that it is in accordance with the Design Limits of the Facility. This voltage schedule shall be based on the normally expected operating conditions for the Facility and the reactive power requirements of PREPA's system.

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- 4.6 PREPA reserves the right to delay the actual Initial Synchronization Date due to problems in which the synchronization of the Seller's Complex could adversely affect the operations of PREPA's electrical system, subject to Prudent Utility and Electrical Practices. In such event, PREPA shall promptly give Seller notice of such problems and Seller shall promptly remedy any problems with facilities or equipment installed or maintained by Seller.
- 4.7 Seller shall provide PREPA with as-built drawings of the Interconnection Facilities (one line diagram and protection scheme) within one hundred twenty (120) days after the Commercial Operation Date and within one hundred twenty (120) days after any material modification of the Seller's Interconnection Facilities.

ARTICLE 5. TERM

- 5.1 The term of this Agreement shall begin with the Effective Date and shall continue for a period of 20 Agreement Years, unless extended, terminated, or canceled in accordance with the terms hereof. If the Term is extended, the word "Term" shall thereafter be deemed to mean the original Term so extended.
- The Term of this Agreement may be extended by mutual agreement of the Parties for up to two (2) consecutive periods of five (5) years following the expiration of the initial twenty (20) year term. The intention to extend the Term of this Agreement shall be notified in writing by certified or registered mail to the other Party not less than eighteen (18) Months prior to the expiration of the term, unless either Party shall give written notice by certified or registered mail to the other of its intent not to extend the term of this Agreement not less than eighteen (18) Months prior to the expiration of the term. During any extension term, all provisions contained herein remain in effect.



ARTICLE 6. REPRESENTATIONS, WARRANTIES AND COVENANTS

- 6.1 Seller covenants and warrants that the Seller's Complex shall be operated and maintained by a Qualified Operator in accordance with (a) the Agreed Operating Procedures, (b) Prudent Electrical Practices and (c) Prudent Utility Practices, including without limitation, synchronizing, voltage and reactive power control.
- Seller covenants and warrants that the Seller's Complex shall generate its own reactive power (kVAr) such that the Facility shall be capable of operating with a power factor between 0.85 lagging and 1.00 and that the Facility shall be operated at the voltage levels determined pursuant to Article 4, Pre- Commercial Operation Period, Section 4.5. Seller further covenants and warrants that its generator(s) shall be capable of operating at the maximum MVA rating at a 0.85 power factor (lagging). Seller will validate through testing the manufacturer's power curves for each generator. Seller warrants that it will promptly correct any Seller's Complex design or construction defect that causes the Seller's Complex to have a material adverse effect on PREPA's voltage level or voltage waveform.
- 6.3 Seller shall, at all times, comply with all applicable laws, ordinances, rules and regulations applicable to it and the use, occupancy and operation of Seller's Complex, unless the non compliance therewith would not have a materially adverse effect on the operation of the Seller's Complex, provided that in the event of any such noncompliance, Seller shall be diligently contesting in good faith any such law, ordinance, rule or regulation. Seller shall give all required notices, shall procure and maintain all Permits and shall pay all charges and fees in connection therewith unless Seller shall be diligently contesting any such payments in good faith. Seller shall give all required notices, shall procure and maintain all Permits and shall pay all charges and fees in connection therewith.

5.0 M 6.4 Seller shall have the sole responsibility for the payment of any and all fines or other penalties incurred by or imposed upon the Seller or its agents, suppliers, employees or subcontractors for noncompliance by Seller, its agents, employees, suppliers, or subcontractors with laws, rules, regulations or ordinances applicable to or in connection with the development, construction, ownership and/or the proper operation of the Seller's Complex as determined by those having jurisdiction over the Seller's Complex, and PREPA shall be held harmless from any such fines or penalties and expenses related to these (including without limitation all reasonable attorneys' fees).

6.5 Seller hereby warrants:

- (a) As of the Effective Date, the Seller is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Puerto Rico. Seller has all requisite power and authority to conduct its business, to own its properties, and to execute, to deliver, and to perform its obligations under this Agreement.
- (b) The execution, delivery and performance by Seller of this Agreement have been duly authorized by all directors of the corporation, and do not and will not (i) require any consent or approval of Seller's directors, other than that which has been obtained, as certified by the corporate resolution dated June 1st, 2009 and delivered to PREPA not later than the Effective Date, (ii) violate any provision of Seller's corporate bylaws or other organic documents, any indenture, contract or agreement to which it is a party or by which it or its properties may be bound, or any law, ordinance, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect, or (iii) result in a breach of or constitute a default under Seller's corporate bylaws or other organic documents or other material indentures, contracts or agreements to which it is a party or by which it or its property may be bound.

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- (c) Seller is not in default under Seller's corporate bylaws or other organic documents or in material default under other indentures, contracts or agreements to which it is a party or by which it or its property may be bound.
- (d) This Agreement is a legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms.
- (e) Except as previously disclosed in writing, there is no pending action or proceeding in which Seller is a party before any court, governmental agency or arbitrator that could reasonably be expected to affect materially and adversely the financial condition or operations of Seller or the ability of Seller to perform its obligations under, or which purports to affect the legality, validity or enforceability, of this Agreement as in effect on the date hereof.
- 6.6 Seller shall not be relieved of its obligations under this Agreement as a result of subcontracting any of its obligations to a third party.
- 6.7 Seller further agrees that it will cause to be delivered to PREPA an annual certification of the names of its Authorized Officers, accountants, and consulting engineers. Seller shall make available to PREPA all copies that Seller receives of any maintenance evaluations or reports to be provided by Seller to any third party with a financial security interest in or lien on the Seller's Complex, including evaluations or reports generated at the request of such third parties or performed by an engineering firm employed by such third party.
- 6.8 PREPA agrees that all information (whether financial, technical, or otherwise) obtained from Seller, or from PREPA's inspections of Seller's Complex, which is not otherwise generally available to the public shall be kept confidential and used solely by PREPA in connection with the performance of its obligations under this Agreement. Disclosure of such information may be made only within PREPA's organization to key personnel, and to third parties serving as PREPA's legal,

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financial or technical advisors, whose duties justify their need to review and know such material. PREPA shall require each person (and personnel thereof) to agree for the benefit of Seller to maintain the confidentiality of such information. To the extent PREPA is required to disclose such information by any court, governmental agency or to the extent necessary to secure governmental approval or authorization, PREPA shall use its best efforts to seek a confidentiality agreement that assures confidential treatment of the information consistent with the terms of this Section 6.8. In the event PREPA is not successful in obtaining a confidentiality agreement, PREPA and Seller shall use reasonable efforts to obtain through court action the appropriate protective order.

- 6.9 PREPA hereby agrees that, throughout the Term, all payments by PREPA to Seller under this Agreement shall be treated as current expenses as defined by the terms of the Trust Agreement dated as of January 1, 1974 as amended (the "1974 Agreement") between PREPA and State Street Bank and Trust, Company, as successor trustee, and any successor indentures or agreements, including any amendments, supplements or modifications thereto.
- 6.10 PREPA shall cause its counsel to issue an opinion in a form reasonably acceptable to Seller and the Project Lenders on the Financial Closing Date affirming that the Agreement is a legal, valid and binding obligation of PREPA, enforceable against PREPA according to its terms.

6.11 PREPA represents:

- (a) Pursuant to Act No. 83 of May 2, 1941, as amended, PREPA is a public corporation duly organized and validly existing under the laws of the Commonwealth of Puerto Rico and has all requisite power and authority to conduct its business, to own its properties, and to execute, to deliver, and to perform its obligations under this Agreement.
- (b) This Agreement is a legal, valid and binding obligation of PREPA, enforceable against PREPA in accordance with its terms.





- (c) Except as previously disclosed in writing, there is no pending or, to its best knowledge, threatened action or proceeding against PREPA before any court, governmental agency or arbitrator that could reasonably be expected to affect materially and adversely the financial condition or operations of PREPA or the ability of PREPA to perform its obligations under, or which purports to affect the legality, validity or enforceability of, this Agreement (as in effect on the date hereof).
- 6.12 PREPA agrees that at no cost to Seller, PREPA shall at the time of execution of this Agreement cause its general counsel to issue an opinion to Seller affirming the representations in Section 6.11.
- 6.13 PREPA shall not be relieved of its obligations under this Agreement as a result of subcontracting any of its obligations to a third party.
- PREPA acknowledges that under this Agreement Seller is only committing and PREPA is only paying for the Net Electrical Output as available from time to time from the Seller's Complex. PREPA also acknowledges that there is no explicit or implied guarantee about the Net Electrical Output reliability, and that Seller is not committing and PREPA is not paying for dependable capacity, and that the Facility production is intermittent and subject to wind availability, and that PREPA is not relying and will not rely on the Seller's Complex Generating Capacity for the expansion of its system, and that the only remedy available to PREPA for the failure of Seller to achieve the Commercial Operation Date or for the failure to achieve any particular number of Available Hours is the termination of the Agreement as provided for in Article 16.
- 6.15 PREPA further acknowledges that under this Agreement Seller is not committing and PREPA is not paying for any credits, whether monetary, fiscal or material, now or in the future available from any government or, regulatory agency, or third party, to facilities that generate electricity from renewable or non-polluting resources. Any such credits or benefits that are now available or in the future





might become available inure to the benefit and remain the property of Seller. Seller retains the sole right to market and sell such credits or benefits available to this Facility.

Notwithstanding the foregoing acknowledgement of this Section 6.15, if the Commonwealth of Puerto Rico or the Federal Government enacts legislation or promulgates regulations requiring PREPA to abide by a Renewal Portfolio Standard or any similar program requiring PREPA to include renewable energy in its portfolio of generation ("RPS"), PREPA can utilize the renewal energy produced by Seller's Complex to meet its obligations under such legislation and Seller shall cooperate with PREPA and shall take all steps necessary for such utilization, including without limiting the scope of the foregoing, execution of documents and participation in filings with governmental agencies. PREPA will not have to pay any additional amounts for this right. Moreover, if the RPS approved by the Commonwealth of Puerto Rico or the Federal Government or regulations promulgated pursuant to any such approval in addition specifically requires that the Green Credits available to the Seller's Complex are necessary to comply with the enacted RPS, Seller will transfer to PREPA such Green Credits prospectively at no cost to PREPA. To the extent that more than one facility provides renewable energy to PREPA that would satisfy an RPS, when and if enacted, PREPA will acquire the RPS credits from each facility proportionately.

- 6.16 Seller shall have committed as of financial closing the equity amount required by the project lenders but in no event less than 20% of Seller's Complex cost.
- 6.17 If Seller is not able to obtain financing for the remaining 80% not covered by the equity requirements above within one year after the Effective Date, PREPA shall have the right to terminate this Agreement.

- 6.18 Seller shall maintain for the Term of the Agreement a Minimum Working Capital ratio of 2 to 1. Seller shall maintain for the Term of the Agreement minimum debt coverage of 1.3.
- 6.19 Seller shall provide for the Term of the Agreement, audited financial statements in accordance with GAAP.

ARTICLE 7. DISPATCH

- 7.1 The Facility production is intermittent and subject to wind availability. PREPA agrees to accept all the Net Electrical Output produced by the Facility according to the terms of this Agreement and will not disconnected the Facility unless due to an Emergency as specified in Article 8, Control and Operation of the Facility.
- 7.2 Notwithstanding Section 7.1 and as further specified in Article 9, Interconnection, PREPA may require Seller to disconnect the Facility or reduce the amount of Net Electrical Output due to situations that may affect safety margins or reliability levels in PREPA's system; provided, however, any disconnection or reduction in the level of Net Electrical Output required by PREPA hereunder shall be based upon and implemented in a manner consistent with Prudent Utility Practices and within the Design Limits.
- 7.3 Seller will give the PREPA's dispatcher a status report every eight (8) hours of the Seller's Complex conditions, including any Seller's Complex restrictions, and the hourly integrated net generation during that period. Seller shall notify the dispatcher right away if there is any pertinent change in Seller's Complex status. The Seller shall make available through the Facility's remote terminal unit ("RTU") the actual Facility load limit adjustment.
- 7.4 The Facility will provide to PREPA an estimate of next day and next week production, based on the previous Day production, estimated strength of the winds the next day and week and based on the meteorological forecast for the region and site.

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ARTICLE 8. CONTROL AND OPERATION OF THE FACILITY

- 8.1 Seller shall use reasonable efforts to: (a) submit to PREPA prior to the beginning of each Year the Planned Outage Program for that Year and (b) notify PREPA at least twenty four (24) hours in advance of all Planned and Maintenance Outages.
- If an Emergency is declared by PREPA, PREPA's dispatching centers may disconnect the Facility from PREPA's system and the Facility will remain disconnected from PREPA's system until Seller has received permission to reconnect from PREPA's dispatching center. At its sole discretion, during an Emergency PREPA may elect to lower the output of the Facility. Without limiting the generality of the foregoing, PREPA may require the Facility to be disconnected without prior notice and remain disconnected until permission to reconnect has been received from PREPA; (i) if a failure to disconnect would create or contribute to an Emergency; (ii) if immediate maintenance operations are required or; (iii) whenever PREPA deems it necessary to do so in the interest of the safety and integrity of PREPA's system; provided, however, any such requests, disconnections or lowering the output of the Facility by PREPA hereunder shall be based upon and implemented in a manner consistent with Prudent Utility Practices and within the Design Limits.
- 8.3 Seller shall cooperate with PREPA in establishing Emergency plans, including without limitation, recovery from a local or widespread electrical blackout; voltage reduction in order to effect load curtailment; and other plans which may arise. Seller shall make technical information and data available to PREPA concerning start-up times and black-start capabilities.
- 8.4 If Seller has a Planned Outage or a Maintenance Outage, and such Planned Outage or Maintenance Outage occurs or would occur coincident with an Emergency, Seller shall make reasonable efforts, consistent with Prudent Utility Practices and with PREPA's approval, to reschedule the Planned Outage or





Maintenance Outage or if the Planned Outage or Maintenance Outage has begun, to expedite the completion thereof.

- 8.5 Seller shall provide as a minimum at its expense the following communication facilities linking the Seller's Complex with PREPA's dispatching centers:
 - (a) One dual ported RTU, including setup installation and configuration, which shall be specified by PREPA.
 - (b) Two voice grade telecommunication circuits for the RTU. One for communication with Monacillos Transmission Center (Monacillos TC), the other with Ponce Transmission Center (Ponce TC).
 - (c) A voice telephone extension for the purpose of accessing PREPA's dial-up metering equipment and for communicating with PREPA's dispatching centers.
 - (d) Telephone line and equipment to transmit and receive facsimile messages to confirm the oral communication between PREPA and Seller.
 - (e) The communication facilities shall provide for digital access using PREPA's TDM (Time Division Multiplexer) and Ethernet networks.
 - (f) One voice grade telecommunication circuit for the Facility backup telemeter's communication with Monacillos TC.
 - (g) Seller shall supply and install a Dynamic System Monitor (cabinet version) or equivalent equipment, for recording the power disturbance caused by electro-mechanic swings and to measure the system response to the swing disturbance.

Items provided by Seller in accordance with this Section 8.5 shall be subject to the approval of PREPA, which approval shall not be unreasonably withheld or delayed.

8.6 Each Party shall keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this Agreement.

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- (a) All such records shall be maintained for a minimum of five (5) years after the creation of such record or data and for any additional length of time required by regulatory agencies with jurisdiction over the Parties; provided, however, that neither Party shall dispose of or destroy any such records that are specifically designated by the other Party even after five (5) years without thirty (30) days prior notice to the other Party. If notice is given to the notifying Party during such thirty (30) day period, the notifying Party shall promptly deliver such records and data to the Party wishing to retain such records.
- Seller shall maintain an accurate and up-to-date operating log at the Facility with 8.7 records of: real and reactive power for each hour: (ii) changes in operating status and outages; (iii) any unusual conditions found during inspections; (iv) the Available Capacity for each hour as determined consistent with Prudent Utility Practices. Either Party shall have the right from time to time, upon fourteen (14) days written notice to the other Party and during regular business hours, to examine the records and data of the other Party relating to the proper administration of this Agreement any time during the period the records are required to be maintained. At PREPA's request, Seller shall provide certifications of tests and inspections of the electric and protection equipment, which may impact PREPA's electrical system. PREPA shall have the right to visit and visually monitor the Seller's Complex during operation and testing.

ARTICLE 9. INTERCONNECTION

9.1 PREPA agrees to allow interconnection to PREPA's system. The location of the interconnection point, interconnection voltage, conductor capacity, protection equipment, switchyard configuration and any other equipment necessary for the Interconnection Facilities shall be determined by PREPA not later than a Year

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- after the execution of this Agreement. Interconnection of Seller's Complex is conditioned on Seller's compliance with the terms established in this Article 9.
- 9.2 Seller shall at its own cost, (i) design, obtain the land rights necessary, acquire all materials and equipment necessary, construct and install the Seller's Interconnection Facilities, and (ii) design, acquire all materials and equipment necessary, construct, install and transfer to PREPA the PREPA's Interconnection Facilities, in each case contemporaneous with performing such acts with respect to the Seller's Complex. Seller agrees that the cost of the PREPA's Interconnection Facilities includes the control, protection and communication infrastructure required for implementing the aforementioned improvements.
- 9.3 Seller further agrees that the Seller's Complex interconnection is conditioned upon the installations, at Seller's cost, of the frequency regulation, voltage and dynamic reactive power support equipment, requested by PREPA. Examples of the aforementioned equipment are battery energy storage system, flywheel energy storage systems, static VAR compensators and STATCOMs. Seller shall install a dynamic system monitoring equipment as specified in Appendix C. Seller shall also be responsible for the costs of major improvements and upgrades in nearby transmission facilities affected by the integration of the Interconnection Facilities (ie upgrade of short circuit capability of transmission breakers, upgrade of transmission busbars, upgrade of power transfer capability of transmission lines, etc).
- 9.4 Seller also agrees to comply with any request made by PREPA to provide acceptable relay settings prior to Initial Synchronization Date as per Article 4, Pre-Commercial Operation Period, Section 4.3. Notwithstanding the above, control and protection schemes may also be modified or expanded regarding, without limitation, the following parameters: ramp rates, higher frequency fluctuations, low voltage ride-through, low frequency ride-through, voltage support and dynamic power factor support. Any such modifications or expansions

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will be in compliance with Prudent Electrical Practices, Prudent Utility Practices, and the Design Limits. Seller shall procure equipment with electrical capabilities to comply with the above-mentioned parameters.

- 9.5 At PREPA's option and prior to transfer of the PREPA's Interconnection Facilities to PREPA, PREPA shall perform the acceptance testing of the Interconnection Facilities or supervise the testing by Seller. Following the completion of such acceptance testing, Seller shall transfer to PREPA all of Seller's rights, tittles and interests (including land and easement rights) for the PREPA's Interconnection Facilities. Seller shall own and be responsible for the safe and adequate operation and maintenance of all Seller's Interconnection Facilities, other than metering equipment. After transfer from Seller, PREPA shall own and be responsible for the safe and adequate operation and maintenance of the PREPA's Interconnection Facilities. The design of the Interconnection Facilities shall be part of the project design to be submitted by Seller for approval to the Permits and Regulations Administration of Puerto Rico.
- 9.6 Seller shall provide to PREPA the preliminary and final equipment data required in Appendix C by the dates specified therein.
- 9.7 PREPA shall perform an interconnection study and provide the same to Seller within ninety (90) days of Seller's provision of the equipment data required by Section 9.5. The interconnection study shall, at a minimum, (a) determine the power capabilities of the major interconnection equipment required to complete the Interconnection Facilities, (b) the maximum fault currents necessary to specify short circuit duty and interrupting ratings, (c) approve or disapprove generator step up (GSU) transformer impedance and determine transformer tap ranges necessary for proper control of voltage and reactive power flow, and (d) designate the PREPA dispatching centers that will coordinate the operation of the Seller's Complex. The Interconnection Facilities design shall be consistent with Prudent Utility Practices considering the functional one-line interconnection

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diagram and approved specifications contained in Appendix C for the site plan provided to PREPA pursuant to Section 9.4. Additional studies of stability, motor starting and transients shall be performed as necessary to allow the timely progress of the detailed design of the Interconnection Facilities.

- 9.8 Seller shall notify PREPA and provide the following information which PREPA shall have the right to review, comment on, and approve, which approval shall not be unreasonably withheld or delayed: (i) a detailed design and list of the equipment required for each of the Interconnection Facilities; and (ii) the estimated time required to construct and/or install the PREPA's Interconnection Facilities.
- 9.9 Within one hundred twenty (120) days of PREPA's receipt of the information submitted by Seller in accordance with Section 9.6 above, PREPA shall either issue Seller a Notice to Proceed or notify Seller of any disagreement with the information provided. Seller shall not purchase, construct or install any Interconnection Facilities until receipt of a Notice to Proceed from PREPA, which shall constitute acceptance by PREPA of the design and specifications of the Interconnection Facilities and of the need to purchase, construct or install such Interconnection Facilities. Once the Notice to Proceed is received by Seller, Seller shall use its best efforts to complete construction of the PREPA's Interconnection Facilities within the time period specified in the schedule submitted as per Article 4, Pre-Commercial Operation Period, Section 4.2.
- 9.10 PREPA reserves the right to modify or expand its requirements for protective devices in the Interconnection Facilities in conformance with Prudent Electrical Practices.
- 9.11 Each Party shall notify the other in advance of any changes to its system that will affect the proper coordination of protective devices on the two systems.
- 9.12 Seller recognizes that the Facility's Net Electrical Output may be reduced or the Facility may be disconnected due to situations that may affect safety margins or

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S V reliability levels in PREPA's system. Some of these situations may include, but are not limited to, voltage stability problems, security driven dispatch, transmission lines contingencies, generating units contingencies, power transfer levels in some circuits, and disconnection ("vías libres") of some transmission circuits due to maintenance and improvement.

ARTICLE 10. METERING

- 10.1 PREPA shall own and maintain all meters and metering devices (including RTUs) used to measure the delivery and receipt of Net Electrical Output, for payment purposes. Seller shall install primary and back up meters and metering devices subject to Section 10.3, provided that such meters and metering devices shall be subject to PREPA's approval.
- 10.2 All meters and metering equipment used to determine the Net Electrical Output delivered to PREPA shall be located at the Interconnection Point and sealed, and the seals broken only by PREPA personnel when the meters are to be inspected, tested or adjusted. PREPA shall give Seller two (2) weeks prior written notice thereof and Seller shall have the right to have a representative present during the meter inspection, testing or adjustment. If either Party believes that there has been a meter failure or stoppage, it shall immediately notify the other Party.
- 10.3 At least once a Year at PREPA's cost and, in addition, from time to time upon two (2) weeks prior written notice by Seller, at Seller's cost, PREPA will test and calibrate the meter(s), including backup meters, in accordance with the provisions for meter testing as established in American National Standard Code for Electricity Metering (ANSI) Standard C 12.16 for Solid State Electricity Meters, and the Handbook for Electrical Metering, Edison Electric Institute 8th Edition or the updated edition in effect and available to PREPA at the time the test is performed. When, as a result of such a test, a meter is found to be inaccurate by no more than two percent (2%), no adjustment will be made in the amount paid to Seller for Net Electrical Output delivered to PREPA. If the meter





is found to be inaccurate by more than two percent (2%), PREPA will use the backup meters to calculate the correct amount delivered to PREPA for the actual period during which inaccurate measurements were made or, if the actual period cannot be determined to the mutual satisfaction of the Parties, for a period equal to the time elapsed since the most recent test, but in no case for a period in excess of six (6) Months. If the backup meters are not available, or if the testing of the backup meters demonstrates that those meters are inaccurate by more than two percent (2%), the meter readings shall be adjusted based on the corrected meter readings of the most accurate meter for the actual period during which inaccurate measurements were made, or, if the actual period cannot be determined to the mutual satisfaction of the Parties, for a period equal to one-half of the time elapsed since the most recent test, but in no case for a period in excess of six (6) Months. The previous payments by PREPA for this period shall be subtracted from the amount of payments that are calculated to have been owed under this Agreement. The difference shall be offset against or added to the next payment to either Party as appropriate under this or other agreements between the Parties. Each Party shall comply with any reasonable request of the other Party concerning the sealing of meters, the presence of a representative of the other Party when the seals are broken and the test is made, and other matters affecting the accuracy of the measurement of electricity delivered from the Seller's Complex.

10.4 During each one (1) year period, following the Initial Synchronization Date, PREPA shall read the meters twelve (12) times to determine the amount of Net Electrical Output delivered to PREPA between any such two (2) consecutive meter readings (the "Billing Period"). The Billing Period shall not exceed thirtythree (33) days nor be less than twenty-eight (28) days. Except that the first Billing Period, from the Initial Synchronization Date might be less than twentyeight (28) days to adjust the ensuing Billing Periods to the desired schedule. The

meters will be read on the dates indicated on the meter-reading program prepared by PREPA and submitted to the Seller on or before January 1st of each Year. PREPA shall notify Seller in advance of any change on the meter-reading program. The Seller may be present, at its option, during all meter readings. PREPA shall provide the Seller with a written statement containing the results of such meter readings within ten (10) days following the reading.

ARTICLE 11. COMPENSATION, PAYMENT AND BILLINGS

11.1 For each Billing Period PREPA shall pay Seller an Energy Payment for the Net Electrical Output delivered and billed to PREPA as set forth below.

The Energy Payment (EP) shall be equal to:

 $EP(\$) = EPP \times NEO.$

Where:

EPP (\$/kWh) = The Energy Purchase Price, which:

- (a) For the Billing Periods commencing on Commercial Operation through Billing Period 60 (corresponding to the first through the fifth Agreement Years) shall be equal to 0.12 \$/KWH,
- (b) For the Billing Periods 61 through 120 (corresponding to sixth through the tenth Agreement Years) shall be equal to 0.11 \$/KWH,
- (c) For the Billing Periods 121 through 192 (corresponding to eleventh through the fifteenth Agreement Years) shall be equal to 0.10 \$/KWH and,
- (d) For the Billing Periods 193 through 240 (corresponding to sixteenth through the twentieth Agreement Years) shall be equal to 0.09 \$/KWH.

11.2 PREPA will buy all the energy produced by Seller from the Initial Synchronization Date to the Commercial Operation Date, at EPP = 0.09 \$/KWH.

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11.3 On or before the fifteenth (15th) day following the end of each Billing Period, Seller shall provide PREPA with a written invoice for the Net Electrical Output delivered to PREPA and for other amounts or reimbursement due to Seller by PREPA hereunder, and such invoice shall be paid by PREPA within forty-seven (47) days after the end of the Billing Period. Interest shall accrue on the outstanding payments due to Seller commencing on the forty-eighth (48) day after the Billing Period. Notwithstanding the payment requirements set forth in this Section, any amounts owed to PREPA by Seller relating to the Seller's Complex that are not paid when due to PREPA, at PREPA's discretion, may be offset against the amounts due to Seller from PREPA under this Agreement. Payment to PREPA shall be made by wire transfer to an account with a bank to be specified by PREPA in writing at least thirty (30) days prior to the Initial Synchronization Date or with such other banks as may thereafter be specified by PREPA in writing. Payment to Seller shall be made by wire transfer to an account with a bank to be specified by Seller in writing at least thirty (30) days prior to the Initial Synchronization Date or with such other banks or institutions as may thereafter be specified by Seller in writing. Either Party may, by written notice to the other, change the address to which such payments are to be sent.

ARTICLE 12. SELLER'S COMPLEX GENERATING CAPACITY

- 12.1 Seller declares that the estimated nameplate capacity for the Seller's Complex is approximately 39MW (Estimated Generating Capacity).
- 12.2 Following the test performed as per Appendix D, Machine Power Performance Test, Seller shall notify PREPA in writing of the Generating Capacity and the Commercial Operation Date. PREPA at its option may have an eyewitness during the performance of the test.

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12.3 During the performance of the Machine Power Performance Test, Seller shall also perform Machine Parameters Measurements and Field Tests Requirements, as specified in Appendix G.



ARTICLE 13. LIABILITY

- Interconnection Facilities, located on its respective side of the Interconnection Point. The Net Electrical Output made available by the Seller to PREPA under this Agreement shall become the property of PREPA at the Interconnection Point. Except as provided in Section 13.2 below, the Seller shall not be liable to PREPA for loss or damage to PREPA's generation, transmission, and distribution system, including PREPA's Interconnection Facilities, resulting directly or indirectly from the use, misuse or presence of said energy once it passes the Interconnection Point. PREPA shall not be liable to Seller for loss or damage to Seller's Complex, resulting directly or indirectly from the use, misuse or presence of said energy before it passes the Interconnection Point.
- 13.2 The Parties agree that their responsibility under this Agreement will be governed by the Puerto Rico Civil Code and its case law, as dictated by the Supreme Court of Puerto Rico. This Agreement shall be governed by, and construed in accordance with the laws of the Commonwealth of Puerto Rico. Also, the Parties expressly agree that only the Court of Competent Jurisdiction will decide over the judicial controversies that the appearing Parties may have among them regarding the terms and conditions of this Agreement.
- 13.3 Notwithstanding anything to the contrary contained in this Agreement, neither Party nor any of its affiliates nor any of their respective directors, officers, shareholders, partners, employees, agents and representatives nor any of their respective heirs, successors and assigns shall in any event be liable to the other Party or its officers, directors, agents, employees or representatives for claims for incidental, consequential or indirect damages to persons or property, whether arising in tort, contract or otherwise, connected with or resulting from performance or nonperformance under this Agreement, including without limitation, claims made by

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- either Party's customers or suppliers, or claims made by third parties, or claims made by either Party for lost profits.
- 13.4 Nothing in this Article 13 shall relieve either Party of its obligation to make payments that become or have become due pursuant to Article 11, Compensation, Payment and Billings and Article 18, Taxes and Environmental Costs.

ARTICLE 14. INDEMNIFICATION

- 14.1 Each Party shall indemnify and hold harmless the other Party and each of its affiliates and each of their respective directors, officers, shareholders, partners, employees, agents and representatives and each of their respective heirs, successors and assigns from and against any and all damages, claims, losses, liabilities, actions, causes of action, costs, expenses and obligations (including, without limitation, all reasonable attorneys' fees) whether arising in contract, tort or otherwise to third parties for or on account of injury, bodily or otherwise, to or death of persons or for damage to or destruction of property, in each case resulting from, arising out of or in connection with such indemnifying Party's negligent performance or failure to perform under this Agreement.
- In the event any Party to this Agreement receives notice of any claim or cause of action for which such Party elects to assert a right of indemnification and hold harmless from the other Party, the Party receiving such notice must give prompt written notice to the other Party of the claim. The Party required to give the indemnification and hold harmless under the terms and provisions of this Agreement will have control of the defense of any such claim or cause of action (except to the extent prevented by any legal conflict of interest) including the selection of counsel to handle same. In addition to the counsel so selected, the Party being indemnified and held harmless shall be entitled to be represented by counsel of his or its own choosing but, in such event, the cost and expense of said additional counsel shall be borne by the Party being indemnified.

As of the Effective Date and for the Term, Seller shall indemnify and hold harmless PREPA for any and all judgments and expenses (including reasonable costs and attorneys' fees) required to be incurred by PREPA as a result of claims of any nature whatsoever resulting from any environmental harm due to the actions of the Seller or Seller's agents or employees in the design, planning, construction or operation of the Seller's Complex or any of its Facilities or arising as a result of the presence at the Seller's Complex or any of its Facilities of pollutants, hazardous substances, materials or wastes. In the event Seller fails to reimburse PREPA for such expenses within thirty (30) days of receipt of written notice from PREPA stating that such expenses were incurred, PREPA may offset the amount of such expenses against amounts due Seller from PREPA under this Agreement.

ARTICLE 15. FORCE MAJEURE

- 15.1 The Parties shall be excused from performing hereunder and shall not be liable or otherwise if and only to the extent that they shall be unable to perform or are prevented from performing due to a Force Majeure event. For purposes of this Agreement, Force Majeure means any cause beyond the reasonable control of and not the result of the fault or negligence of the Party claiming the Force Majeure event. The burden of proof as to whether a Force Majeure event has occurred and caused a non-performance or inability to perform shall be on the Party claiming the Force Majeure. Except as provided in Section 15.4, the Parties hereto shall be excused from performing hereunder and shall not be liable in damages or otherwise to the extent the non-performance or inability to perform is due to a Force Majeure event.
- 15.2 Provided that the provisions of Section 15.1 above are met, Force Majeure events may include, but are not limited to, the following: Acts of God, strikes, acts of public enemy, war, blockades, boycotts, riots, insurrections, epidemics, earthquakes, storms, floods, civil disturbances, lockouts, fires, explosions, Legal

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- Challenges, interruptions of services due to the act or failure to act of any governmental authority, except that PREPA cannot claim Force Majeure for acts or failures to act by PREPA.
- 15.3 Except as otherwise provided in Section 15.4, if either Party is rendered wholly or partly unable to perform its obligations under this Agreement because of Force Majeure, that Party shall be excused from whatever performance is affected by the Force Majeure to the extent so affected, provided that: (i) the non-performing Party, within ten (10) days after the occurrence of the Force Majeure, gives the other Party written notice describing the particulars of the occurrence and its estimated duration; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure consistent with Prudent Utility Practices; (iii) no obligations of either Party which arose prior to the Force Majeure be excused as a result of the Force Majeure; and (iv) the nonperforming Party uses its best efforts, consistent with Prudent Utility Practices, to remedy its inability to perform and resume in full its performance under this Agreement, provided that this obligation shall not require the settlement of any strike, walkout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its best interest.
- 15.4 Neither Party shall be excused by reason of Force Majeure from the obligation to make any payments, when due, to the other Party.
- 15.5 For purposes of this Article 15, if a Party disputes the other Party's claim of Force Majeure such dispute shall be resolved by binding arbitration in accordance with the Dispute Resolution process provided for in Section 22.26.
- 15.6 A Party claiming a Force Majeure shall use its best efforts, diligently and continuously, to mitigate and remedy the causes of the Force Majeure. These efforts shall continue during any Dispute Resolution process.

ARTICLE 16. TERMINATION

16.1 Termination of this Agreement shall occur only upon:





- (i) expiration of the Term of this Agreement as provided in Article 5, Term; or
- (ii) mutual written consent of the Parties; or
- (iii) the Development Abandonment, Permanent Abandonment or Permanent Closing of the Seller's Complex; or
- (iv) the material breach of any of the terms and conditions of this Agreement by either Party, subject to the provisions of Article 17, Breach of Agreement, Delays And Security hereof; or
- (v) Delay by Seller in achieving the Commercial Operation Date by thirty (30) Months after the Effective Date, unless the delay is due to one or more events of Force Majeure in which case the thirty (30)month period may be extended for the duration of the Force Majeure events up to twelve (12) months, in such case the termination right can be only exercised by PREPA subject to the provisions of Article 17, Breach of Agreement, Delays And Security, hereof, or exercised by either Party if the delay is caused by one or more events of Force Majeure. If at the end of the twelfth month, Seller has commenced construction of the Seller's Complex, the twelve (12) Months will be extended for an additional twelve (12) Months;
- (vi) delay by Seller in obtaining the Permits by twelve Months after the Effective Date, unless the delay is due to one or more events of Force Majeure in which case the twelve Months period may be extended for the duration of the Force Majeure events up to twelve (12) months, in such case the termination right can be only exercised by PREPA subject to the provisions of Article 17, Breach of Agreement, Delays And Security, hereof, or exercised by either Party if the delay is caused by one or more events of Force Majeure.:
- (vii) any reason as specified in this Article 16.

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- 16.2 The Parties agree that the continued effectiveness of this Agreement is dependent on Seller's determination that the Seller's Complex to be constructed in accordance with this Agreement is financially feasible. If Seller notifies PREPA that the Seller's Complex is not financially feasible on or before one (1) year after the Effective Date, either Party may terminate this Agreement without liability.
- 16.3 Termination of this Agreement shall not discharge either Party hereto from any obligation it owes to the other Party under this Agreement by reasons of any transaction, loss, cost, damage, expense or liability, which shall occur or arise (or the circumstances, events, or basis of which shall occur or arise) prior to termination. It is the intent of the Parties hereby that any such obligation owed (whether the same shall be known or unknown at termination or whether the circumstances, events or basis of the same shall be known or unknown at termination) shall survive termination. Any indebtedness by either Party to the other shall be considered payable within ninety (90) days of the termination of this Agreement. This Section 16.3, together with Article 13, Liability, Article 14, Indemnification, Sections 22.4 and 22.7 shall survive termination of this Agreement.

ARTICLE 17. BREACH OF AGREEMENT, DELAYS AND SECURITY

- 17.1 A breach of this Agreement shall be deemed to exist upon the occurrence of any one of the following: (i) Commercial Operation Date for the Facility is not achieved within the time frame specified in Section 16.1 (v), (ii) the failure by either Party to perform in any material respect its obligations under this Agreement, subject to the provisions of Section 17.3 below, or (iii) Development Abandonment, Permanent Abandonment or Permanent Closing.
- 17.2 If PREPA believes Seller has breached this Agreement pursuant to Section 17.1 (i) above, PREPA shall provide Seller written notice (the "Notice of Breach") thereof. If within fifteen (15) days of the receipt of such Notice of

Breach, Seller fails to respond in writing to the Notice of Breach, PREPA may terminate this Agreement as provided under Article 16, Termination, as the only remedy for such a breach.

- If either Party believes the other Party has breached this Agreement pursuant to 17.3 Section 17.1(ii) above, the non-breaching Party shall provide the other Party with written notice (the "Notice of Breach") thereof. If within fifteen (15) days of the receipt of such Notice of Breach, such other Party fails to respond in writing to the Notice of Breach, the non-breaching Party shall be entitled to invoke its remedies under this Agreement and/or under the law. If such other Party disputes in writing that a breach by it has occurred, the Parties may pursue a resolution by the Dispute Resolution process provided for in Section 22.25. In case the other Party admits in writing, or the resolution contemplated above determines that a breach (other than a payment breach) has occurred, the breaching Party shall have a minimum of thirty (30) days from the latest of (i) receipt of the Notice of Breach, (ii) its admission of breach, or (iii) when the resolution contemplated above determines that a breach has occurred, to cure the breach or the cause of such breach if the breach is one which by its nature cannot be cured, provided however, that if the breach or such cause cannot be cured within the thirty (30) day period, the breaching Party shall be given an additional thirty (30) day period to cure the breach or such cause with the exercise of due diligence. If the breaching Party fails to cure the breach or such cause or to be actively pursuing to cure with the exercise of due diligence within such time period, the non-breaching Party may pursue its remedies under this Agreement and/or under the law.
- 17.4 Commencing with the Initial Synchronization Date, Seller shall provide to PREPA, at Seller's sole expense, an unconditional and irrevocable direct pay letter or letters of credit issued by a local bank or any other bank, which such issuing bank and letters of credit shall be subject to PREPA's approval

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- (Operation Security) in the amount of thirty dollars (\$30) per kilowatt of Estimated Generating Capacity. This letter or letters of credit (or other security acceptable to PREPA) required herein shall be maintained for the remaining of the Term.
- 17.5 PREPA may draw from the Operation Security required under Section 17.4 above to offset any damages PREPA may be entitled to under this Agreement, provided that PREPA either obtains the agreement of Seller to the level of damages or obtains a judgment from a Court of Competent Jurisdiction specifying the level of damages. If PREPA reasonably determines that the Operation Security would otherwise expire or cease to exist prior to such agreement or judgment, PREPA may draw from the Operation Security an amount equal to PREPA's claim of damages, provided that PREPA places the drawn amounts in an escrow account in a bank reasonably acceptable to Seller until the appropriate amount of damages is determined. Following such agreement or determination, PREPA may draw from the escrow account and retain amounts equal to the amount of damages, if any, determined to be due to PREPA and PREPA shall deliver to Seller all amounts remaining in the escrow account, if any. Drawing under the Operation Security shall not be the exclusive remedy available to PREPA.

ARTICLE 18. TAXES AND ENVIRONMENTAL COSTS

18.1. For purposes of this Agreement, "Taxes" shall mean any and all taxes, fees or other charges of any nature, excluding income taxes and repatriation (tollgate) taxes, that are imposed or assessed on or as a result of the ownership or operations of the Seller's Complex by federal, Commonwealth or municipal governmental bodies or agencies responsible for implementing tax laws, rules, regulations or orders. "Environmental Costs" shall mean any and all fixed and variable costs incurred by Seller resulting from the imposition or assessment on or as a result of the ownership or operations of the Seller's Complex by laws, rules, regulations or orders relating to the environment issued by federal,

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Commonwealth or municipal governmental bodies or agencies. "Post-Effective Date Taxes" shall mean all Taxes resulting from tax laws, rules, regulations or orders enacted, approved or issued after the Effective Date. "Post-Effective Date Environmental Costs" shall mean all Environmental Costs resulting from laws, rules, regulations or orders enacted, approved or issued after the Effective Date. "Deemed Debt Level" shall equal seventy six million dollars (\$76,000,000). "Deemed Debt Service" shall equal the annual payments that will fully amortize the Deemed Debt Level with equal monthly payments in fifteen years and at an interest rate equal to the yield of 15-year United States Treasury bonds plus 300 basis points. This interest rate will be determined on the day closest to the Commercial Operation Date for which this rate is available. "After Tax Debt Service Coverage Ratio" shall mean the ratio of (i) all Seller's revenues generated by the Seller's Complex minus Taxes and other Seller's operating expenses (other than debt service) and minus Puerto Rico income taxes and repatriation (tollgate) taxes paid by Seller, incurred in connection with the operation of the Seller's Complex to (ii) Deemed Debt Service. Deemed Debt Service Coverage Ratio" shall mean a debt service coverage ratio of 1.3 (one hundred thirty divided by one hundred) used in the implementation of the Tracking Account created as per this Article 18.

18.2 Seller shall be responsible for all income taxes, repatriation (tollgate) taxes, Taxes and Environmental Costs. Provided that, PREPA shall reimburse Seller for all changes in the payments of Taxes by Seller that are the result of the enactment of Post-Effective Date Taxes and for all changes in Seller's Environmental Costs that are the result of the enactment of Post-Effective Date Environmental Costs, all applicable to Seller by reason of the ownership or operation of Seller's Complex for the purpose of the sale by Seller to PREPA of Net Electrical Output (collectively called "Changes") which would also apply to

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- PREPA if a generation facility similar to the Facility would have been owned and operated by PREPA as part of its system.
- 18.3 Further provided that, if during the first twenty (20) Agreement Years the Changes not reimbursable by PREPA (Changes Not Reimbursable) would cause the After Tax Debt Service Coverage Ratio to fall below the Minimum Deemed Debt Service Coverage Ratio, PREPA shall pay the necessary amount of such Changes Not Reimbursable to permit the maintenance of the After Tax Debt Service Coverage Ratio at a value equal to the Minimum Deemed Debt Service Coverage Ratio or equal to the After Tax Debt Service Coverage Ratio that would have resulted in the absence of such Changes (Alternative Ratio), whichever is lower (the Necessary Amount). Such Necessary Amount shall be paid to Seller in equal monthly installments due on the same dates and on the same terms as payments made under Article 11, Compensation, Payment and Billing, Section 11.3 hereof. In no event the Necessary Amount will exceed the actual Changes Not Reimbursable.
- 18.4 The Necessary Amount paid by PREPA shall be recorded in an unfunded tracking account and shall accrue Interest. If at any time during the first twenty (20) Agreement Years the Seller's payment obligation of such Changes/Not Reimbursable would enable the Seller to maintain an After Tax Debt Service Coverage Ratio in excess of the Minimum Deemed Debt Service Coverage Ratio, Seller shall reimburse PREPA for amounts contained in the tracking account up to that amount that will not reduce the After Tax Debt Service Coverage Ratio bellow the Minimum Debt Service Coverage Ratio, and the tracking account balance shall be reduced by such reimbursed amounts.
- 18.5 If there remains a balance in the tracking account at the end of the twentieth (20th) Agreement Year, PREPA shall have the option to extend the Term for up to such additional period as necessary to repay such balance. This monthly retention shall be eliminated when the tracking account balance equals zero. In

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the event this Agreement is terminated according to Article 16, Termination, herein, and there is a balance in the tracking account, such amount shall be paid to PREPA according to Section 16.3 or PREPA may draw from the Operation Security required under Article 17, Breach of Agreement, Delays and Security, Section 17.4. Notwithstanding, during the Term of this Agreement, Seller shall have the option to prepay all or any portion of the balance of the tracking account at any time or from time to time.

18.6 Seller will promptly pay and discharge all lawful taxes, assessments and governmental charges or levies imposed upon it or in respect of all or any part of its property or business, all trade accounts payable in accordance with usual and customary business terms, and all claims for work, labor or materials which, if unpaid, might become a lien or charge upon any of its property; provided, however, that Seller shall not be required to pay any such tax, assessment, charge, levy, account payable or claim if (a) the validity, applicability or amount thereof is being contested in good faith by appropriate actions or proceedings which will prevent the forfeiture or sale of any property of Seller or any material interference with the use thereof by Seller and (b) Seller shall set aside on its books reserves deemed by it to be adequate with respect thereto.

ARTICLE 19. INSURANCE

- 19.1 Seller shall obtain or cause its agent or its affiliate to obtain on or before the later of (i) the Financial Closing Date, and (ii) the Commencement of Construction of the Seller's Complex, and shall maintain during the remainder of the Term of the Agreement the following policies of insurance issued by an A. M. Best rated insurance company authorized to do business in Puerto Rico, or any other insurance providers reasonably acceptable to PREPA, such as Lloyds of London:
 - (a) Workmen's Compensation Insurance: (i) Seller shall provide Workmen's Compensation Insurance as required by the Workmen's Compensation Act of the Commonwealth of Puerto Rico. Seller shall also be responsible

for compliance with said Workmen's Compensation Act by all his subcontractors, agents or affiliates; (ii) Seller shall furnish PREPA with a certificate from the State Insurance Fund showing that all personnel employed in the works under this Agreement are covered. If imported technical personnel is exempted, Seller shall furnish evidence of such exemption and a certificate from the insurance carrier covering said personnel and; (iii) for imported technical personnel eligible for exemption, Seller shall refer to Appendix F, enclosed;

- (b) Employer's Liability Insurance: Seller shall provide Employer's Liability Insurance with minimum bodily injury limits of \$1,000,000 for each employee and \$1,000,000 for each accident covering against the liability imposed by Law upon the Seller as a result of bodily injury, by accident or disease, including death arising out of and in the course of his/her employment outside of and distinct from any claim for Workmen's Compensation Act of the Commonwealth of Puerto Rico;
- (c) Commercial General Liability Insurance: Seller shall provide and maintain during the Term of the Agreement a Commercial General Liability Insurance with bodily injury and property damage combined single limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. Such insurance shall include specific coverage for contractual liability encompassing the indemnification provisions in 13.4, broad form property damage liability, personal injury liability, "XCU", explosion, collapse and undergrounds damages coverage, products/completed operations liability; and where applicable, watercraft indemnity liability which may be covered on a separate policy;
- (d) Automobile Liability Insurance: Seller shall provide a Comprehensive Automobile Liability Insurance with bodily injury and property damage





- combined single limits of at least \$1,000,000 per accident covering all owned, non-owned or hired vehicles;
- (e) Excess Umbrella Liability Insurance: Seller shall maintain an Excess Umbrella Liability Insurance with a limit of not less than \$3,000,000 per occurrence in excess of the limits of insurance provided in subsections (b) through (d) above;
- 19.2 The amounts of insurance required in Section 19.1 above may be satisfied by Seller purchasing primary coverage in the amounts specified or by buying a separate Excess Umbrella Liability Policy together with lower limit primary underlying coverage. The structure of the coverage is Seller's option, so long as the total amount of insurance meets PREPA's requirements set forth in Section 19.1.
- 19.3 The coverage's requested in Section 19.1(b) above and any required Umbrella or Excess coverage could be "occurrence" form policies.
- 19.4 Seller shall cause its insurers to endorse its Commercial General Liability and, if applicable, Excess Umbrella Liability policies with the following endorsement (a) through (d) with respect to the Seller's Complex; and to amend Automobile, Liability policies with endorsement item (d):
 - (a) PREPA, its board of directors, its directors, officers and employees are additional insurers under this policy to the extent of Seller's indemnity obligations elsewhere in this Agreement; and
 - (b) This insurance is primary, but only for liability arising out of the operation of the Seller's Complex or other matters arising in relation to this Agreement; with respect to the interest of PREPA, its directors, officers, and employees, and other insurance maintained by them is excess and not contributory with this insurance; and
 - (c) Insurer hereby waives all rights of subrogation against PREPA, its officers, directors and employees; and

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- (d) Notwithstanding any provision of the policy, this policy may not be cancelled, non-renewed or materially changed by the insurer without giving thirty (30) days (ten (10) days in the case of non-payment of premiums) prior written notice to PREPA. All other terms and conditions of the policy remain unchanged.
- 19.5 Regarding breach of insurance warranties by Seller, all insurance policies under Subsections 19.1(b) through 19.1(d) shall be endorsed, to the extent available on commercially reasonable terms, as follows or with substantially similar language agreeable to the Parties: "The breach of any of the warranties or conditions in this policy by Seller shall not prejudice PREPA's right under this policy."
- 19.6 Seller shall cause its insurers or agents to provide PREPA not later than seven (7) days prior to Commencement of Construction, with the originals of the certificates of insurance evidencing the policies and endorsements listed above with respect to the Seller's Complex. Failure of PREPA to obtain certificates of insurance does not relieve Seller of the insurance requirements set forth herein. Failure to obtain the insurance coverage required by this Article 19 shall in no way relieve Seller's obligations and liabilities under other provisions of this Agreement.

ARTICLE 20. ASSIGNMENT

- 20.1 This Agreement shall not be assigned or transferred by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Any attempt to assign this Agreement without the prior written consent of the corresponding Party shall be void.
- 20.2 Notwithstanding the above, the Seller may assign its rights and benefits but not its obligations and duties under this Agreement without PREPA's consent to the Project Lenders as collateral security, in order to obtain financing, provided that the Seller shall not be relieved of its responsibility to carry out its duties and obligations under this Agreement, and further provided that any such assignment

is made expressly subject to the terms and conditions of this Agreement between the Seller and PREPA. PREPA agrees to execute the appropriate consenting documents, as reasonably required by the Project Lenders, in connection with any assignment made by Seller in accordance with this Article 20.

20.3 PREPA acknowledges that as a result of an assignment of Seller's rights and interests (but not its obligations) under this Agreement to the Project Lender(s): (a) the Project Lender(s) will have the right upon the occurrence of a default under the Project Lender(s) agreements with Seller to assume or cause a nominee to assume all of the rights and obligations of Seller under this Agreement and (b) the Project Lender(s) will have the right to cure defaults by Seller under this Agreement on the same terms and during the same periods available to Seller.

ARTICLE 21. QUALIFYING FACILITY STATUS

- 21.1 The Seller hereby agrees the Facility will achieve status as a Qualifying Facility pursuant to PURPA on or before the Commercial Operation Date.
- 21.2 In the event the Facility loses its status as a Qualifying Facility pursuant to PURPA, the Seller shall vigorously pursue and use reasonable efforts to re obtain Qualifying Facility status. Notwithstanding the above, should the Seller be unable to obtain such status, this Agreement shall remain in full force and effect and the Seller shall comply, in its relationship with PREPA, with all other provisions of PURPA and the regulations approved under PURPA by FERC or any successor applicable to the relationship between Qualifying Facilities and electric utilities, in particular those provisions which protect, defend, preserve, and/or are propitious to electric utilities, provided, however, that nothing under PURPA or the regulations hereunder shall materially adversely affect in any way the rights, duties, and obligations of the Parties under this Agreement.

ARTICLE 22. MISCELLANEOUS PROVISIONS

22.1 This Agreement, including the appendices thereto, can be amended only by agreement between the Parties in writing.

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- 22.2 The failure of either Party to insist in any one or more instances upon strict performance of any provisions of this Agreement, or to take advantage of any of its rights hereunder, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder, which shall remain in full force and effect.
- 22.3 The headings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the Parties hereto, nor should they be used to aid in any manner in the construction of this Agreement.
- 22.4 This Agreement is intended solely for the benefit of the Parties hereto. Nothing in this Agreement shall be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a Party to this Agreement.
- 22.5 No officer, employee, or agent of Seller or PREPA or of the Commonwealth or municipal governments shall be entitled to any share or part of this Agreement or to any benefit that may arise therefore that would be in violation of any law, rule, regulation, order, or policy of the Commonwealth of Puerto Rico or PREPA.
- 22.6 This Agreement shall not be interpreted or construed to create an association, joint venture, 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.
- 22.7 Cancellation, expiration or earlier termination of this Agreement shall not relieve the Parties of obligations incurred prior to, or as a result of, such cancellation, expiration or earlier termination of this Agreement, which by their nature should survive such events, including without limitation warranties, remedies, promises of indemnity and confidentiality.

22.8 PREPA agrees to provide electric service to Seller as requested by Seller, at the most advantageous rate available to Seller in accordance with PREPA's applicable rates.

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- 22.9 Previous to the signing of this Agreement, Seller will have to submit the following documents or certifications:
 - (a) Certification by Seller, which indicates that it has filed its Income Tax Returns during the five (5) previous years, if required, and that it does not owe taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan in full compliance with its terms.
 - (b) An Income Tax Return Filing Certificate, issued by the Treasury Department of Puerto Rico, Area of Internal Revenues, assuring that Seller has filed his Income Tax Return for the last five (5) years, if required. To require such Certification, Seller will use the Request for Copy and/or Certification of Income Tax Returns Form issued by the Treasury Department of Puerto Rico. In addition, Seller shall submit a Certification of Debt issued by the Area of Internal Revenues.
 - (c) Certification issued by the Municipal Revenues Collection Center (MRCC), assuring that Seller does not owe any tax to such governmental agency. To require such Certification, Seller will use the form issued by the MRCC.
 - (d) Certificate, issued by the Department of Labor and Human Resources of Puerto Rico, assuring that Seller has paid to the Department of Labor and Human Resources of Puerto Rico his employees' contributions, in accordance with the Puerto Rico Employment Security (unemployment, temporary disability or sickness or social security for chauffeurs); or is paying such contributions by an installment plan in full compliance with its terms. To require such Certification, Seller will use the form issued by the Department of Labor and Human Resources of Puerto Rico.

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- (e) A sworn statement that neither Seller nor any of its partners or owners have been convicted, nor have they plead guilty of any felony or misdemeanor involving fraud, misuse or illegal appropriation of public funds as enumerated in Article 3 of Public Law number 428 of September 22, 2004, as amended.
- 22.10 It shall be Seller's responsibility, also, to require all subcontracted third parties to comply with all the previous Certifications and agrees to notify PREPA of such compliance within 10 working days of subcontracting such third party.
- 22.11 If any of the previously required Certifications shows a debt, and Seller has requested a review or adjustment this debt, Seller will certify that it has made such request at the Effective Date. If the requested review or adjustment is denied and such determination is final, Seller will provide, immediately, proof of payment of this debt to PREPA; otherwise, Seller accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments.
- 22.12 Specifically, Seller recognizes that submittal of the aforementioned certifications and documents is an essential condition of this Agreement; and even in the case that they are partially incorrect, there will be sufficient cause for PREPA to terminate, cancel or rescind this Agreement and Seller have to refund all payments received under this Agreement. Prior to exercising any rights that PREPA might have pursuant to this Section 22.12, PREPA will notify Seller of the nature of the deficiency and will afford Seller a reasonable time to prepare or cause to prepare the documents and certifications to comply with the aforementioned requirements. The Seller will not have the preceding cure rights if Seller had knowingly submitted false documents.
- 22.13 Each Party to this Agreement warrants that, except to the extent that a particular provision of this Agreement expressly creates a different standard, it will be reasonable with respect to the substance and timing of any exercise of its

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respective rights, obligations, duties and discretions in implementing this Agreement, including, without limitation, the making of and satisfying of requests, the issuance and withholding of consents and findings of acceptability or satisfaction, the incurrence of costs that are the responsibility of the other Party, and the provision of notice to the other Party and the Project Lenders if applicable.

- 22.14 This Agreement shall inure to the benefit of and be binding upon the Seller and PREPA and their respective successors and assigns.
- 22.15 Either Party may waive breach by the other Party, provided that no waiver by or on behalf of either Party of any breach of this Agreement shall take effect or be binding on that Party unless the waiver is in writing. A waiver of breach shall extend only to the particular breach waived and shall not limit or otherwise affect any rights that either Party may have with respect to any other or future breach.
- 22.16 This Agreement is intended by the Parties as the final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement with respect to the Net Electrical Output sold and purchased hereunder and other matters set out herein with respect to the Seller's Complex. Except for the information to be submitted by Seller to PREPA under Section 4.1(i) and the information to be disclosed under Sections 6.5(e) and 6.11(c), all prior written or oral understandings, offers or other communications of every kind pertaining to the sale of Net Electrical Output hereunder to PREPA by Seller are hereby superseded.
- 22.17 If any provision hereof shall be held invalid, illegal or unenforceable by any Court of Competent Jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- 22.18 PREPA and Seller agree that no amendment, which could be made to the Agreement, during its Term, shall be understood as a contractual novation, unless both Parties agree to the contrary specifically and in writing. The previous

- provision shall be equally applicable in such other cases where PREPA gives Seller a time extension for the compliance of any of its obligations under the Agreement, or where PREPA dispenses the claim or demand of any of its credits or rights under the Agreement.
- 22.19 Under no circumstances, except in such one where PREPA agrees to the contrary specifically and in writing, PREPA's rights under the Agreement shall be understood as waived by any amendment, change order, time extension to Seller, or by reason of dispense give by PREPA as to a claim or demand of any of its credits or contractual rights, even if PREPA has agreed, as provided under the previous paragraph, that any of those circumstances constitute a contractual novation; and PREPA by this means reserves its right to claim and demand its credits and rights, and the compliance of any and all the contractual obligations of Seller, as if such amendment, time extension dispense, or novation, if any, has not been effectuated.
- 22.20 Seller certifies that it does not receive payment or benefit of any nature for services rendered regularly through an appointment to a governmental agency, body, public corporation or municipality of Puerto Rico. Seller also certifies that it may have contracts with other governmental agencies or bodies, but such contracts do not constitute a conflict of interest for Seller.
- 22.21 Seller certifies that, on the Effective Date, it does not have any contractual relation that could cause a conflict of interest with this Agreement. Seller also certifies that no public employee has any personal or economic interest in this Agreement.
- 22.22 Seller agrees to comply with the provisions of Act of June 18, 2002, No. 84, which establishes a Code of Ethics for the Contractors, Suppliers and Economic Incentive Applicants of the Executive Agencies of the Commonwealth of Puerto Rico.



- 22.23 Except as provided under Article 18, Taxes and Environmental Costs, during the Term of this Agreement, any Change in Law, including, but not limited to changes in applicable tax law, which causes an increase in Seller costs when supplying the products or services to be acquired by PREPA, shall be Seller's responsibility. PREPA shall not be obliged to pay more for Net Electrical Output than as defined in this Agreement.
- 22.24 Seller shall be considered as an independent contractor, for all purposes under this Agreement, and all persons engaged or contracted by Seller for the performance of its obligations herein, shall be considered as its employees or agents or those of its subcontractors, and not as employees or agents of PREPA.
- 22.25 All invoices submitted by Seller shall include the following Certification in order to be processed for payment by PREPA:

No Interest Certification:

Under penalty of absolute nullity, I hereby certify that no employee, official or director of PREPA is a party or has any interest in the profits or benefits to be obtained under this Agreement, or if any employee, official or director of PREPA has any interest in the profits or benefits under this Agreement, a waiver has been previously obtained. I, also certify that the only consideration to provide the services under this Agreement is the payment agreed with PREPA's authorized representative. The total amount of this invoice is fair and correct. The services were provided and no payment has been received for this invoice.

Seller's Signature

22.26 Dispute Resolution: If a dispute or controversy arises between the Parties relating to the effectiveness, validity, interpretation, implementation, termination, cancellation, performance of, or enforcement of this Agreement, then the Party raising the Dispute shall give written notice to the other Party setting forth in reasonable detail the scope and nature of such Dispute, including without

limitation an identification of the provisions of this Agreement under which such Dispute arises.

- (a) It is the Parties' Intent that disputes arising under the terms of this Agreement be resolved as expeditiously as possible, either by mutual negotiation or an amendment to the Agreement or, failing such, in accordance with the provisions set forth in this Section 22.26.
- (b) If any dispute arises, the person designated by Seller, shall, as soon as is practicable, enter into negotiations with the representative designated by PREPA to resolve such dispute. Both PREPA and Seller will negotiate in good faith.
- If within sixty (60) days the dispute is not resolved through negotiations (c) pursued diligently and in good faith, the Parties shall attempt to agree on a person with special knowledge and expertise with respect to the dispute to serve as arbitrator. If the Parties cannot agree on an arbitrator within ten (10) days, each shall then appoint one neutral person to serve as an arbitrator and the two thus appointed shall select a third arbitrator with such special knowledge and expertise to serve as chairman of the panel of arbitrators; and such three arbitrators shall determine all matters by majority vote provided, however, if the two arbitrators appointed by the Parties are unable to agree upon the appointment of the third arbitrator within five (5) days after their appointment, both shall give written notice of such failure to agree to the Parties, and, if the Parties fail to agree upon the selection of such third arbitrator within five (5) days thereafter, then either of the Parties upon written notice to the other may require such appointment from a Court of Competent Jurisdiction. The Parties shall have sixty (60) days to perform discovery and present evidence and argument to the arbitrators. During that period, the arbitrators shall be available to





receive and consider all such evidence as is relevant and, within reasonable limits due to the restricted time period, to hear as much argument as is feasible, giving a fair allocation of time to each Party to the arbitration. The arbitrators shall use all reasonable means to expedite discovery and to sanction noncompliance with reasonable discovery requests or any discovery order. The arbitrators shall not consider any evidence or argument not presented during such period and shall not extend such period except by the written consent of both Parties. At the conclusion of such period, the arbitrators shall have forty-five (45) days to reach a determination.

- (d) The arbitrators shall have the right only to interpret and apply the terms and conditions of this Agreement and to order any remedy allowed by this Agreement, but may not change any term or condition of this Agreement, deprive either Party of any right or remedy expressly provided hereunder, or provide any right or remedy that has been excluded hereunder.
- (e) The arbitrators shall give a written decision to the Parties stating their/findings of fact, conclusions of law and order, and shall furnish to each Party a copy thereof signed by them within five (5) days from the date of their determination.
- (f) Any actual determination made by the arbitrators shall be conclusive and binding upon the Parties and not subject to judicial review, except on the grounds of fraud or bias and may be presented to any Court of Competent Jurisdiction as a stipulation of the Parties. Any conclusions and any order issued by the arbitrators shall be subject to review in any Court of Competent Jurisdiction, provided however, that any order issued by the arbitrators shall be effective and enforceable unless and until a stay of the order is issued by the arbitrators or by such court

- under the prevailing standards for issuing stays, or such court enjoins, modifies or reverses the order of the arbitrators.
- (g) The Parties shall each pay fifty percent (50%) of the cost of arbitrator or arbitrators.
- (h) The dispute resolution process will be carried out in San Juan, PR, in the English language

ARTICLE 23. CHOICE OF LAW AND VENUE

- 23.1 This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Puerto Rico and, to the extent applicable, the laws of the United States of America.
- 23.2 Unless otherwise specified in this Agreement, the venue for all disputes hereunder shall be exclusively in a Court of Competent Jurisdiction.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement this <u>3</u> day of <u>july</u> of the year <u>2009</u> in San Juan, Puerto Rico.

Puerto Rico Electric Power Authority

MiguelAngel Cordero Lopez
Executive Director

Go Green Puerto Rico Alternative

Energy , Corp.

Justino Orozco Garcia President

Appendix A - DESIGN LIMITS

(To be developed)



Appendix B- HOLIDAYS

The following holidays are recognized by PREPA. All holidays which fall on a Sunday are observed the following day, Monday:

DAY

CELEBRATION

January 1

New Year's Day

January 6

Three Kings Day

2nd Monday in January

Eugenio María de Hostos

3rd Monday in January

Martin Luther King

3rd Monday in February

George Washington

March 22

Abolition of Slavery

Friday of Holy Week

Good Friday

3rd Monday in April

José de Diego

Last Monday in May

Memorial Day

July 4

Independence Day

3rd Monday in July

Luis Muñoz Rivera

4th Monday in July

José Celso Barbosa

July 25

Commonwealth Constitution

1st Monday in September

Labor Day

October 12

Columbus Day

November 11

Veterans Day

4th Thursday in November

Thanksgiving Day

December 24 afternoon

December 25

Christmas Eve

Christmas Day

Appendix C-INTERCONNECTION

Seller shall provide the following information to PREPA within ninety (90) Days following the Effective Date. Data submitted in a preliminary or estimated form shall be updated within thirty (30) Days after final equipment arrangements and specifications are established.

- 1. Electrical one-line diagram of the Facility.
- 2. Explanation of proposed equipment protection and control scheme (may be shown functionally on the one-line diagram).
- 3. Site plan showing plant layout, property lines, access roads and switchyard boundaries.
- 4. Preliminary equipment layout and arrangement for switchyard and generator step-up transformers (GSU).
- 5. Reactive Power Capacity curve of generators.
- 6. Station auxiliary load.
- 7. Station auxiliary transformer data impedance, connection winding, load loss and no load tap changer.
- 8. GSU impedance, load loss, no load taps changer, connection and winding.
- 9. Generator reactances
 - a. Saturated and unsaturated;
 - b. Synchronous, transient, sub transient, and rotor mutual;
 - c. Direct axis and quadrature axis.
- 10. Stator leakage reactances.
- 11. Generator Short Circuit Ratio.
- Generator kilowatt rating.
- 13. Generator kilovar rating.

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- 14. Explanation of the excitation system and the IEEE Excitation System Model including time constants, gains, limits, block diagrams, exciter saturation curves and configuration.
- 15. Additional data necessary for initial transient stability study. At a minimum:
 - a. H Inertia constants of turbo generators shaft (MW-second/MVA).
 - b. R_a Stator resistances of generators.
 - c. Generators time constants:
 - i. Open circuit and short circuit;
 - ii. Transient and sub transient;
 - iii. Direct axis and quadrature axis.
 - d. Generator saturation curves.
 - e. Explanation of the mechanical system. IEEE Turbines Governor (mechanical system) Model covering speed governing, turbine time constants, gains, limits, block diagrams, damping coefficient, droop, dead band, and configuration.
 - f. Over speed protection system purpose, model, description, setting, data, and curves (as fast valving).
 - g. Any other control system model (as compensator, stabilizer and excitation limiter models), including the time constants, gains, limits, description, block diagrams and configuration.
- Seller's requirements for power supplied by PREPA during construction and start-up.
- 17. Project schedule (I-J or bar chart format) including but not limited to the following milestones:
 - · QF status obtained
 - Engineering 30% complete
 - One-line diagram approved
 - Financial Closing Date
 - Major licenses/permits
 - · Major material procurement

- Start Construction
- Engineering 70% complete
- Utility technical submittals complete
- Operating procedures finalized
- Start test and start-up
- Initial synchronizing date
- Commercial operation

18. PSSE Mathematical Model (Parameters and Data Requirements)

The Contractor shall submit to PREPA the PSSE mathematical model with the following information and data related to the proposed units. The data shall be submitted initially in a preliminary or estimated form. The data shall be updated and officially certified according to PREPA requirements when final field adjustments and machine parameters measurements and field tests are performed to the units by the contractor:

- 1. Turbo-Generators data, including but not limited to the following:
- a. MVA Base and Voltage Base
- b. MVA, MW and MVAR Ratings
- c. Voltage Ratings
- d. Inertia Constant of Turbo Generators
- e. Moment of Inertia
- f. Speed (rpm)
- g. Ra Stator Resistances
- h. Generator Saturation Curves
- i. Reactive Power Capacity Curves
- Generator Short Circuit Ratio
- k. Generator Reactances
- 1) Saturated and Unsaturated
- 2) Synchronous, Transient, Subtransient and Rotor Mutual
- 3) Direct Axis and Quadrature Axis
- 4) Positive, Negative and Zero Sequence
- Generator Time Constants
- 1) Open Circuit and Short Circuit
- 2) Transient and Subtransient
- 3) Direct Axis and Quadrature Axis
- m. Stator Leakage Reactances
- n. Over Speed Protection System purpose, model, description setting, data, and curves.



- 2. Excitation System Data, Excitation System Dynamic Mathematical Model and Detailed Explanation
 - a. IEEE Excitation System Model, including but not limited to the time constants, gains, limits, block diagrams, exciter saturation curves and configuration.
 - b. The dynamic mathematical model of the excitation system shall be fully compliant with the latest version of PSS/E dynamic simulations platform.
 - c. Any other control system model (as compensator, stabilizer and excitation limiter models), including but not limited to the time constants, gains, limits, description, block diagrams and configuration.
 - 3. Turbine Speed Control and Mechanical System Data, Turbine Speed Control and Mechanical System Dynamic Mathematical Model and Detailed Explanation
 - a) Turbine System Model IEEE Turbine Speed Control and Mechanical System Model, including but not limited to the speed governing, turbine time constants, gains, limits, damping coefficient, droop, dead band, block diagrams and configuration.
 - b) The dynamic mathematical model of the turbines system shall be fully compliant with the latest version of PSS/E dynamic simulations platform.
 - 4. Manufacturer standard assumption values, or field settable ranges, for all gains, time constants, and limits appearing in the excitation and mechanical systems block diagrams, and in any other control system.
 - 5. Generators step up (GSU) transformers data (manufacturer test report), including but not limited to the impedance, connection, winding, MVA ratings, voltage ratings, load loss (kW) and no load tap changer.
 - 6. Turbo-generators protective relays purpose, description, data, and setting (as loss of field, negative-sequence, ground over current and directional relays).
 - 7. Station auxiliary load (MW and MVAR).
 - 8. Station auxiliary and start-up transformers data (if required), including but not limited to the impedance, connection winding, MVA ratings, voltage rating, load loss (kW) and no load tap changer.
- 19. Sample specification for dynamic system monitoring equipment

Technical Specification for Dynamic System Monitor

1. Introduction

The following specification defines the minimum requirements for an instrument used in the monitoring and register of dynamic disturbances on electric power systems.

2. Hardware

2.1 Inputs

- 2.1.1 The equipment shall have at least 32 analog inputs with a minimum resolution of 16 bit for the A/D converter. The analog inputs shall permit at least the following types of signals:
- a. Seven (7) ac voltages (125 V rms minimum)
- b. Six (6) ac currents (5 A rms minimum)
- c. Two dc voltages of at least 800 V
- d. DC signals of the range of 0 100 mV
- e. DC signals of the range of 0 20 mA
- 2.1.2 The equipment shall have at least 16 digital inputs. The minimum input voltage range of the digital inputs should be $0-250~\rm V$. The digital inputs should be included as a user defined software triggering input.
- 2.1.3 The equipment shall be able to record power system frequency with a resolution of at least 0.001Hz.
- 2.2 The equipment shall have a built-in microprocessing unit with color monitor, keyboard and mouse from which all commands, controls and setup parameters may be entered. All setup parameters shall be store in a non-volatile media, to prevent loss of setup data if power is interrupted. This microprocessing unit shall be of industrial grade to insure long life in a typical substation or generation plant environment.

2.3 Memory and storage capacity

The equipment shall have a solid state memory (hard disk or flash) with the required capacity to stores at least 500 events of at least 2 minutes of length (each) with one cycle of resolution.





The equipment shall maintain the date and time in an internal battery-backed clock.

2.4 The equipment shall have an Ethernet 10/100 Mbps port (LAN interface) for local or remote network communication.

2.5 Power Source

The equipment shall operate from a voltage source of 120 Vac + 10%, 60 Hz.

2.6 Signal Conditioning modules

The equipment should have modules with the capacity of perform basic filtering functions like low-pass, high-pass, band-pass and band-stop. Also the modules shall have the capacity of signal attenuation and gain.

- 2.7 Measurement accuracy
- 2.7.1 Voltage measurement error shall be less than + 0.5 % full scale
- 2.7.2 Current measurement error shall be less than +0.5% full scale
- 3. Software
- 3.1 The software platform of the equipment shall be Windows and shall be compatible with the latest version of windows operation systems.
- 3.2 The equipment remote communication shall be thru TCP/IP network connectivity (LAN). The remote communication should permit at least the set up and data retrieval of the equipment. The equipment should have the capability of perform at least the following functions remotely:
 - Modification of the configuration
- Retrieval of captured events
- Remote event triggering
- 3.3 The equipment shall have the capacity of time synchronization with GPS system via a network time server. Optionally the equipment could have an IRIG-B serial time code interface for the GPS synchronization.
 - 3.4 Triggers

- 3.4.1 The equipment shall support user defined programmable triggers. Triggering shall be initiated based upon primary quantities (voltage, current, and frequency), calculated quantities (watts, Var, power factor, etc), or digital signals.
- 3.4.2 The trigger thresholds shall be based upon the following:
- Level threshold (high level, low level, in-band, out-band, etc)
- Rate of change (ex. frequency variation (df/dt))
- Manual input (keyboard trigger)
- Request from remote computer
- Event input status (digital signal)
- 3.4.3 A re-trigger function shall be available which permits the equipment to return to the beginning of the recording time interval if a second disturbance is detected while the recording of the first disturbance is still in process.
- 3.5 The acquisition software shall include a user selectable pre-trigger interval option as well as a user defined post trigger interval for the information captured. The range of the pre-trigger interval should be form 0 to 60 seconds and the range for the post trigger interval should be of at least 0 to 120 seconds. In addition, the date, time, and type of trigger that initiated the event shall be included as part of the disturbance record.
- 3.6 The acquisition software shall have the following capabilities:
- Time displays (ex. Oscilloscope)
- Multiple displays in real-time and multiple signals in displays
- Display resizing in real time
- Programmable conversion of range and units of signals
- Independent range for signals
- 3.7 The acquired data shall be available in a format directly compatible with Siemens Power Technologies International (Siemens PTI) PSS/E plotting software.
- 3.8 The software shall support data export in ASCII, CSV and PSS/E formats.
- 3.9 The software shall support image export in JPG, BMP and GIF formats.

- 3.10 The software shall have the following analysis capabilities for the data and signals (actual and calculated):
- Fast Fourier Transform (FFT)
- Peak analysis
- Filter functions
- Series and scalar mathematic (square root, inversion, square, gain, offset, etc)
- 4. General
- 4.1 Environmental Conditions
- 4.1.1 Operating temperature: 0° C to 50° C
- 4.1.2 Operating humidity: 95 %, non-condensing
- 4.2 Equipment cabinet and corresponding accessories

The cabinet should have test switches at the front of the panel for the three phase voltages and currents of two generators and a phase A voltage of the bus. The test switches should have a minimum rating of 600 V rms and 30 A rms; semi flush mounted, back connected, equal or similar to ABB FT-1, style no. 129A514G01.

The signals (analog and digital) should terminate on terminal blocks inside the cabinet, before the connection to the Dynamic System Monitor. The AC, DC and digital signals should be in different terminal blocks. The terminal blocks should have a minimum rating of 600 V rms and 30 A rms (except the exciter voltages signals, see below). Examples of terminal blocks are: GE CR151B2 and Marathon 1512 STD. The current signals should terminate on shorting type heavy duty terminal blocks equal or similar to Marathon, catalog number 1506SC. The terminal blocks used for the excitation voltage of the generators must have a nominal voltage capacity greater than 800 V DC.

4.3 Documentation

4.3.1 The equipment shall include a documentation package that contains the user, operation and maintenance manuals and the mechanical and electrical

equipment drawings. The documentation should be in hard copy and in digital format.

4.3.2 The equipment documentation shall include a copy of the software.

4.4 Warranty

The equipment warranty shall include part and service for a period not less than 24 months from the delivery day.

Appendix D

Machine Power Performance Test

Technical Requirements and Definitions

(To be Developed)



APPENDIX F

WORKMEN'S COMPENSATION INSURANCE REQUIREMENTS FOR IMPORTED TECHNICAL SERVICES

A. Introduction

Act No. 16, approved on May 16, 1958, authorizes the Commonwealth State Insurance Fund Administrator to exempt employers from payment of premium for salaries paid to imported technical personnel.

The basic requirements for the exemption are:

- 1. Said technical personnel must be hired because the same special skills required for the job are not readily available in Puerto Rico.
- 2. Exemption cannot exceed two (2) years per employee.
- 3. Technical personnel must be covered for workmen's Compensation benefits equal or greater to those provided under the Puerto Rico Workmen's Compensation Act.
- B. Requirements Exemption request must be filed with the Commonwealth State Insurance Fund for each case. Therefore, every firm entering a contract with PREPA for the furnishing of services to be rendered by imported technical personnel must submit, prior to contract execution or purchase order issuance the following information:
 - 1. A list containing the following information:
 - Name, residence and usual place of employment of all such technical personnel temporarily transferred to Puerto Rico.
 - Effective date of employment in Puerto Rico for each technical employee so transferred to Puerto Rico and expected duration of their stay in the island.
 - c. Technical qualifications of each employee transferred to Puerto Rico and their job descriptions while in the island.

- 2. If such technical personnel is covered by an insurance policy, a complete copy of each workmen's compensation insurance policy, including the endorsement pertaining to such coverage, covering such technical personnel while working in Puerto Rico.
- 3. If item 2 above is applicable, a certified statement by the Secretary of the Insurer or insurer's issuing said policies stating that:
 - a. The copy of each policy is a true and complete copy of the policy issued by the insurer.
 - b. Each policy so certified will be in full force and effect during the entire policy period shown in the declarations of the policy.
 - c. Each policy so certified will provide workmen's compensation insurance coverage for all technical personnel of the insured while working in Puerto Rico. As part of this statement there must be indicated the name of the state under whose workmen's compensation law benefits will be provided for all technical personnel of the insured while working in Puerto Rico.
- 4. If Item 2 is not applicable, a certificate issued by the appropriate governmental agency having jurisdiction over workmen's compensation insurance coverage stating that their coverage is extended to such technical personnel during their entire stay in Puerto Rico. The certificate must include the effective date of approval and the conditions, if any, attached to such approval.
- 5. The exact location in Puerto Rico of the construction project where such technical personnel will be or is employed.

APPENDIX F

Machine Parameters Measurements and Field Tests Requirements

The Contractor shall perform on-site machine parameters measurements and field tests for the identification, development and validation of the dynamic mathematical models and parameters required by PREPA for the synchronous generator, excitation system and turbine speed control and mechanical systems. Tests shall be conducted according to standardized procedures established by companies with worldwide technical expertise in the performance of machine parameters measurements and field tests for developing, improving and validating dynamic mathematical models for synchronous generators, excitation systems and turbine speed control and mechanical systems. The test procedures for the machine parameters measurements shall be submitted to PREPA officials for evaluation and final approval.

The Contractor shall coordinate with PREPA officials meetings and presentations to discuss the specific aspects related to the planning and performance of the machine parameters measurements and field tests. The bidder shall coordinate with PREPA officials for the witnessing of the machine parameters measurements and field tests. The field data and graphs accumulated by the installed data acquisition measuring systems (DSM, AQX, DCS, etc...) shall be stored in digital media and submitted to PREPA as part of the acceptance tests and validation process. The Contractor shall submit to PREPA a comprehensive official final report with the field test results data and graphs. The document shall include a thorough description of the machine parameters measurements and field tests performed as well as correlated technical explanations for each one of the test steps and results.

The dynamic mathematical models (for synchronous generator, excitation system and turbine speed control and mechanical system) developed from the machine parameters measurements and field tests shall be compliant with the latest version of PSS/E. The Contractor shall submit to PREPA a written official certification from Power Technologies International (developers of PSS/E) that establishes the mathematical models and parameters full compliance with PSS/E dynamic simulations platform. The final mathematical models of the synchronous generator, excitation system and turbine speed control and mechanical system shall be submitted to PREPA officials for evaluation and approval.

If the mathematical models developed from the machine parameters measurements and field tests are not compliant with any dynamic mathematical model available at the PSSE dynamic models library, the Contractor shall be responsible for the development

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of mathematical models (for synchronous generator, excitation system, turbine speed control and mechanical system) compatible with the latest version of PSS/E dynamic simulations software package. These models shall be tested, validated and approved by Power Technologies International previous to its submittal to PREPA. The Contractor shall submit a written official certification from Power Technologies International that establishes the full compliance of any user written mathematical models developed or derived from the machine parameters measurements with the latest version of PSS/E dynamic simulations software platform.



AMENDMENT NO.1

TO

POWER PURCHASE AND OPERATING AGREEMENT BETWEEN

GO GREEN PUERTO RICO ALTERNATIVE ENERGY CORP.

AND

PUERTO RICO ELECTRIC POWER AUTHORITY

THIS AMENDMENT NO. 1 to the Power Purchase and Operating Agreement (this "Amendment No.1") dated as of November 4, 2010, between GO GREEN PUERTO RICO ALTERNATIVE ENERGY, CORP. ("Seller") and PUERTO RICO ELECTRIC POWER AUTHORITY ("PREPA"). PREPA and Seller are herein individually referred to as a "Party" and collectively referred to as "Parties."

RECITALS

WHEREAS, Seller and PREPA entered into a Power Purchase and Operating Agreement, dated and effective as of July 3, 2009 (the "Agreement");

WHEREAS, PREPA's Governing Board through Resolution 3769 approved amending the Agreement to make it consistent with other similar technology power purchase contracts and authorized PREPA's Executive Director to execute such amendment; and

WHEREAS, Seller and PREPA desire to amend the Agreement as provided herein;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements set forth herein and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Seller and PREPA, intending to be legally bound, hereby agree as follows:

Section 1. Definitions.

1. Capitalized terms used herein, and not otherwise defined herein, shall have the meanings set forth in the Agreement.

Section 2. Amendments to the Agreement.

- 1. The first Whereas is hereby amended by replacing "39" with "40".
- 2. Article 1.13 definition of Debt Coverage Ratio is hereby deleted in its entirety and replaced by the following:
 - 1.13 "Intentionally left blank"
- 3. Article 1.16 of the Agreement is hereby deleted in its entirety and replaced by the following:



- 1.16 Effective Date Shall mean the date on which the Parties have executed this First Amendment.
- 4. Article 1.23 "Facility" is hereby amended by, insert the words "up to" before the number "3D".
- 5. Article 1.66 definition of Working Capital is hereby deleted in its entirety and replaced by the following:
 - 1.66 "Intentionally left blank"
- 6. Article 6.2 of the Agreement is hereby deleted in its entirety and replaced by the following:

"Seller covenants and warrants that the Seller's Complex shall generate its own reactive power (kVAr) such that the Facility shall be capable of operating with a power factor consistent with the Minimum Technical Requirements for Wind Turbine Generation (WTG) Projects included in Appendix G and that the Facility shall be operated at the voltage levels determined pursuant to Article 4, Pre- Commercial Operation Period, Section 4.5. Seller further covenants and warrants that its generator(s) shall be capable of operating at the maximum MVA consistent with the Minimum Technical Requirements for Wind Turbine Generation (WTG) Projects. Seller warrants that it will promptly correct any Seller's Complex design or construction defect that causes the Seller's Complex to have a material adverse effect on PREPA's voltage level or voltage waveform."

7. Article 6.15; is hereby amended by deleting the following:

"Notwithstanding the foregoing acknowledgement of this Section 6.15, if the Commonwealth of Puerto Rico or the Federal Government enacts legislation or promulgates regulations requiring PREPA to abide by a Renewal Portfolio Standard or any similar program requiring PREPA to include renewable energy in its portfolio of generation ("RPS"), PREPA can utilize the renewal energy produced by Seller's Complex to meet its obligations under such legislation and Seller shall cooperate with PREPA and shall take all steps necessary for such utilization, inclUding without limiting the scope of the foregoing, execution of documents and participation in filings with governmental agencies. PREPA will not have to pay any additional amounts for this right. Moreover, if the RPS approved by the Commonwealth of Puerto Rico or the Federal Government or regulations promulgated pursuant to any such approval in addition specifically requires that the Green Credits available to the Seller's Complex are necessary to comply with the enacted RPS, Seller will transfer to PREPA such Green Credits prospectively at no cost to PREPA. To the extent that more than one facility provides renewable energy to PREPA that would satisfy an RPS, when and if enacted, PREPA will acquire the RPS credits from each facility proportionately."



8. Article 6.18 of the Agreement is hereby deleted in its entirety and replaced by the following:

"From and after the Commercial Operation Date, Seller shall maintain a minimum working capital in an amount specified by the Project Lenders, but not less than \$500,000 as calculated at the end of each Year in accordance with GAAP."

9. Article 9.1 of the Agreement is hereby deleted in its entirety and replaced by the following:

"Appendix C sets forth: (a) a description of the Interconnection Facilities, (b) a specification of the Interconnection Point, and (c) the information required for the interconnection study needed to interconnect the Facility to PREPA's system."

10. Article 9.3 of the Agreement is hereby deleted in its entirety and replaced by the following:

"Seller further agrees that the Seller's Complex interconnection is conditioned upon the installations, at Seller's cost, of the frequency regulation, voltage and dynamic reactive power support equipment consistent with the Minimum Technical Requirements for Wind Turbine Generation (WTG) Projects included in Appendix G. Examples of the aforementioned equipment are battery energy storage system, flywheel energy storage systems, static VAR compensators and STATCOMs. Seller shall install a dynamic system monitoring equipment as specified in Appendix C. Seller shall also be responsible for the costs of major improvements and upgrades in nearby transmission facilities affected by the integration of the Interconnection Facilities (ie upgrade of short circuit capability of transmission breakers, upgrade of transmission busbars, upgrade of power transfer capability of transmission lines, etc)."

11. Article 11.1 of the Agreement is hereby deleted in its entirety and replaced by the following:

For each Billing Period PREPA shall pay Seller an Energy Payment for the Net Electrical Output delivered and billed to PREPA as set forth below.

The Energy Payment (EP) shall be equal to:

EP = RATE x NEO (subject to annual escalation as set forth below)

Where:

EP is the Energy Payment

RATE = \$0.125Kwh

NEO is the Net Electrical Output expressed in kilowatt hours

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On an annual basis on the first anniversary of the Commercial Operation Date and each year thereafter, the Rate shall be escalated in an amount equal to one and a half percent (1.5%).

- 12. In Article 12.1, is hereby amended by, by replacing the number "39" with "40".
- 13. The Agreement is hereby amended by adding the following phrase at the end of Section 20.1:

"For avoidance of doubt, in no case shall the transfer of this Agreement to an affiliate of Seller be SUbject to PREPA's approval."

14. The Agreement is hereby amended by adding a new Section 23.3 as follows:

"PREPA hereby irrevocably and unconditionally, for itself and for any Person claiming by or through PREPA: (a) agrees that the execution, delivery and performance by it of this Agreement does and will constitute private and commercial acts done and performed for private and commercial purposes; (b) waives any and all rights, claims, defenses and immunities it or any of its assets has or may in the future have in any jurisdiction based on sovereign immunity or any similar rights, claims or defenses, in each case in respect of any claims or proceedings, the receipt of notice, service of process, compliance with judgments or orders or the enforcement of any such judgment, award or order in each case arising in respect of this Agreement or transactions contemplated in this Agreement; and (c) consents generally in respect of the enforcement of any judgment, award or order against it or its assets in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such claims or proceedings."

- 15. Appendix C of the Agreement is hereby deleted and replaced by the revised Appendix C attached hereto.
- 16. The Agreement is hereby amended by adding a new Appendix G attached hereto-Minimum Technical Requirements for Wind Turbine Generation (WTG).

Puerto Rico Electric Power Authority

Go Green Puerto Rico Alternative

Energy, Corp.

Miguel A. Cordero López

Executive Director

Justino Orozco Ġafcia

President

Appendix C-INTERCONNECTION

Seller shall provide the following information to PREPA within ninety (90) Days following the Effective Date. Data submitted in a preliminary or estimated form shall be updated within thirty (30) Days after final equipment arrangements and specifications are established.

- 1. Electrical one-line diagram of the Facility.
- 2. Explanation of proposed equipment protection and control scheme (may be shown functionally on the one-line diagram).
- 3. Site plan showing plant layout, property lines, access roads and switchyard boundaries.
- 4. Preliminary equipment layout and arrangement for switchyard and generator step-up transformers (GSU).
- 5. Reactive Power Capacity curve of generators.
- 6. Station auxiliary load.
- 7. Station auxiliary transformer data impedance, connection winding, load loss and no load tap changer.
- 8. GSU impedance, load loss, no load taps changer, connection and winding.
- 9. Generator reactances
 - a. Saturated and unsaturated:
 - b. Synchronous, transient, sub transient, and rotor mutual;
 - c. Direct axis and quadrature axis.
- 10. Stator leakage reactances.
- 11. Generator Short Circuit Ratio.
- 12. Generator kilowatt rating.
- 13. Generator kilovar rating.
- 14. Explanation of the excitation system and the **IEEE** Excitation System Model including time constants, gains, limits, block diagrams, exciter saturation curves and configuration.
- 15. Additional data necessary for initial transient stability study. At a minimum:



- a. H Inertia constants of turbo generators shaft (MW-second/MVA).
- b. R_a Stator resistances of generators.
- c. Generators time constants:
 - Open circuit and short circuit;
 - ii. Transient and sub transient:
 - iii. Direct axis and quadrature axis.
- d. Generator saturation curves.
- e. Explanation of the mechanical system. IEEE Turbines Governor (mechanical system) Model covering speed governing, turbine time constants, gains, limits, block diagrams, damping coefficient, droop, dead band, and configuration.
- f. Over speed protection system purpose, model, description, setting, data, and curves (as fast valving).
- g. Any other control system model (as compensator, stabilizer and excitation limiter models), including the time constants, gains, limits, description, block diagrams and configuration.
- 16. Seller's requirements for power supplied by PREPA during construction and start-up.
- 17. Project schedule (I-J or bar chart format) including but not limited to the following milestones:

OF status obtained
Engineering 30% complete
One-line diagram approved
Financial Closing Date
Major licenses/permits
Major material procurement
Start Construction
Engineering 70% complete
Utility technical submittals complete
Operating procedures finalized
Start test and start-up
Initial synchronizing date
Commercial operation

18. PSSE Mathematical Model (Parameters and Data Requirements)



The Contractor shall submit to PREPA the PSSE mathematical model with the following information and data related to the proposed units. The data shall be submitted initially in a preliminary or estimated form. The data shall be updated and officially certified according to PREPA requirements when final field adjustments and machine parameters measurements and field tests are performed to the units by the contractor:

- 1. Turbo-Generators data, including but not limited to the following:
- a. MVA Base and Voltage Base
- b. MVA, MW and MVAR Ratings
- c. Voltage Ratings
- d. Inertia Constant of Turbo Generators
- e. Moment of Inertia
- f. Speed (rpm)
- g. Ra Stator Resistances
- h. Generator Saturation Curves
- i. Reactive Power Capacity Curves
- j. Generator Short Circuit Ratio
- k. Generator Reactances
- 1) Saturated and Unsaturated
- 2) Synchronous, Transient, Subtransient and Rotor Mutual
- 3) Direct Axis and Quadrature Axis
- 4) Positive, Negative and Zero Sequence
- Generator Time Constants
- 1) Open Circuit and Short Circuit
- 2) Transient and Subtransient
- 3) Direct Axis and Quadrature Axis
- m. Stator Leakage Reactances
- n. Over Speed Protection System purpose, model, description setting, data, and curves.
- 2. Excitation System Data, Excitation System Dynamic Mathematical Model and Detailed Explanation
 - a. IEEE Excitation System Model, including but not limited to the time constants, gains, limits, block diagrams, exciter saturation curves and configuration.
 - b. The dynamic mathematical model of the excitation system shall be fully compliant with the latest and future versions of PSS/E dynamic simulations platform.
 - c. Any other control system model (as compensator, stabilizer and excitation limiter models), including but not limited to the time constants, gains, limits, description, block diagrams and configuration.



- 3. Turbine Speed Control and Mechanical System Data, Turbine Speed Control and Mechanical System Dynamic Mathematical Model and Detailed Explanation
- a) Turbine System Model IEEE Turbine Speed Control and Mechanical System Model, including but not limited to the speed governing, turbine time constants, gains, limits, damping coefficient, droop, dead band, block diagrams and configuration.
- b) The dynamic mathematical model of the turbines system shall be fully compliant with the latest and future versions of PSS/E dynamic simulations platform.
- 4. Manufacturer standard assumption values, or field settable ranges, for all gains, time constants, and limits appearing in the excitation and mechanical systems block diagrams, and in any other control system.
- 5. Generators step up (GSU) transformers data (manufacturer test report), inclUding but not limited to the impedance, connection, winding, MVA ratings, voltage ratings, load loss (kW) and no load tap changer.
- 6. Turbo-generators protective relays purpose, description, data, and setting (as loss of field, negative-sequence, ground over current and directional relays).
 - 7. Station auxiliary load (MWand MVAR).
- 8. Station auxiliary and start-up transformers data (if required), including but not limited to the impedance, connection winding, MVA ratings, voltage rating, load loss (kW) and no load tap changer.



Appendix G:

<u>Minimum</u> <u>Technical</u> <u>Requirements for Wind Turbine Generation (WTGI.</u> PrOlects

1. Voltage Ride-Through:

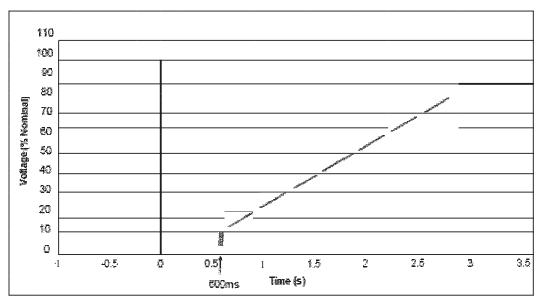


Figure 1 Iow Voltage Ride-Through Requirements

- a. PREPA's Low Voltage Ride-Through (LVRT) Requirements:
 - i. From Figure 1, PREPA requires all generation to remain online and be able to ride-through faults down to 0.0 per-unit (measured on the point of interconnection), for up to 600 ms.
 - ii. All generation remains online and operating during and after normally cleared faults on the point of interconnection, and
 - iii. All generation remains online and operating during backupcleared faults on the point of interconnection.
- b. PREPA's Overvoltage Ride-Through (OVRT) Requirements:
 - i. PREPA requires all generation to remain online and able to ridethrough overvoltage conditions specified by the folloWing values:

Overvoltage (pu)	Minimum time to remain online (seconds)
1.4 - 1.25	1
1.25 -1.15	3
1.15 or lower	indefinitely

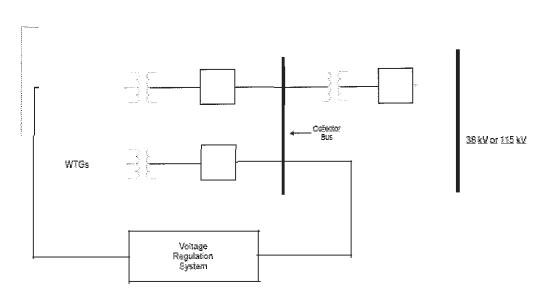
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2. Voltage Regulation and Reactive Power Compensation

Constant voltage control shall be required. Wind Generation Turbines (WTG) technologies in combination with Static Var Controls, such as Static Var Compensators (SVC), STATCOMs, DSTATCOMs are acceptable options to comply with this requirement.

Examples of possible Voltage Regulation configurations:

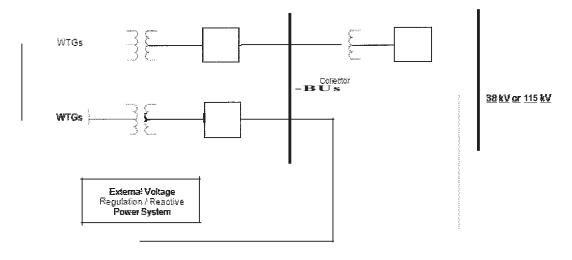
The following examples serve as possible solutions for REF voltage regulation and reactive power compensation.



WIND POWER FACILITY

Figure 2 Voltage Regulation at WTG

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WIND POWER FACILITY

Figure 3 Voltage Regulation at single collector bus

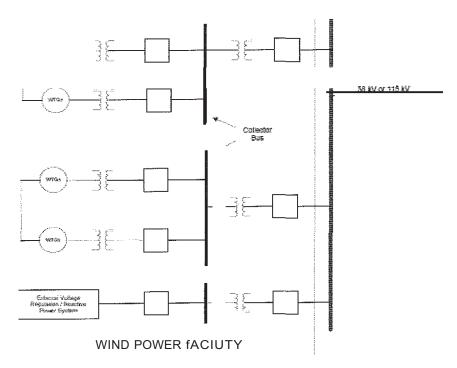
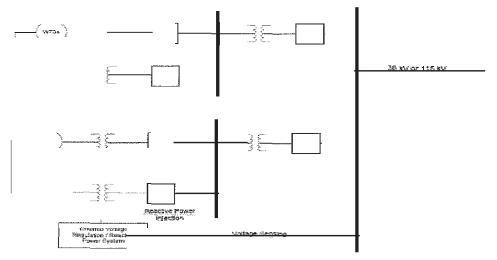


Figure 4 Voltage regulation on a multiple collector bus injection at collector bus



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WIND POWER FACILITY

Figure S Shared Voltage Regulation for multiple WPF at transmission system bus

3. Minimum Power Factor Requirements

The total power factor range shall be from 0.85 lagging to 0.85 leading. The reactive power requirements provide flexibility for many types of technologies at the Renewable Energy Facility. The intent is that a REF can ramp the reactive power from 0.85 lagging to 0.85 leading in a smooth continuous fashion.

4. Frequency Ride Through (FRT):

• 57.5 - 61.5 Hz No tripping (continuous)

• 61.5 - 62.5 Hz 30 sec

• 56.5 - 57.5 Hz 10 sec

• < 56.5 or > 62.5 Hz Instantaneous trip

5. Frequency Response:

WTG facility shall provide an immediate real power primary frequency response, proportional to frequency deviations from scheduled frequency, similar to governor response. The rate of real power response to frequency deviations shall be similar to or more responsive than the droop characteristic of 5% used by conventional generators. Wind turbine technologies, in combination with energy storage systems such as BESS, flywheels, hybrid systems are acceptable options to comply with PREPA's frequency regulation requirements.

6. Ramp Rate Control:

Ramp Rate Control is required to smoothly transition from one output level to another.

7. Power Quality

The developer shall address, in the design of their facilities potential sources and mitigation of power quality degradation prior to interconnection. Design considerations should include applicable standards including, but not limited to IEEE Standards 142,519, 1100, 1159, ANSI C84.1, IEC 61400-21, IEC 61000-3-7 and IEC 61000-3-6. Typical forms of power quality degradation include, but are not limited to voltage regulation/unbalance, harmonic distortion, flicker, voltage sags/interruptions and transients.

The developer shall submit the Power Quality Tests Result Report of the wind turbines as described in the IEC 61400-21 standard. This report includes: general wind turbine data, wind turbine rated data at terminals, voltage fluctuations coefficients (flicker coefficients), current harmonics components, current interharmonics components, current high frequency components, response to voltage drops, active power data, reactive power data, grid protection data and reconnection time. The wind turbines shall not exceed the flicker emission limits established by the IEC 61000-3-7 standard and the harmonics emission limits of IEC 61000-3-6.

8. Wind Power Management:

WTG facility shall provide adequate technology (communicating technology and the corresponding control equipment) and implement wind power management requirements (ramp rate limits, output limits, curtailment) as established by PREPA.

9. Special Protection Schemes:

WTG facility shall provide adequate technology and implement special protection schemes as established by PREPA in coordination with wind power management requirements.

10. Wind Generation Forecasting Systems:

WTG facility shall provide adequate technology to support wind generation forecasting systems (short term and day-ahead). Individual turbine's availability shall be included.

11. General Interconnection Substation Configuration: An interconnecting WTG facility must interconnect at an existing PREPA switchyard. The configuration requirements of the interconnection depend on where the physical interconnection is to occur and the performance of the system with the proposed interconnection. Under special circumstances, the WTG facility might

be interconnected to a new switchyard. The bus configuration and insulation technology of this new switchyard shall be established by PREPA.

12. Modeling and Validation

The Contractor shall submit to PREPA the PSS/E mathematical model with the following information and data related to the proposed units. The models shall be fully compatible with the latest and future versions of PSS/E. The data shall be submitted initially in a preliminary or estimated form. It is preferred that the models are standard models provided with PSS/E. In the case that the developer submits user written models, the developer shall be required to keep these models current with the futures versions of the PSS/E program until such time that PSS/E has implemented a standard model.

The data and PSS/E model shall be updated and officially certified according to PREPA requirements when final field adjustments and machine parameters measurements and field tests are performed to the units by the contractor:

- (i.) Turbo-Generators data, including but not limited to the following:
 - a) MVA Base and Voltage Base
 - b) MVA, MW and MVAR Ratings
 - c) Voltage Ratings
 - d) Inertia Constant of Turbo Generators
 - e) Moment of Inertia
 - f) Speed (rpm)
 - g) Ra Stator Resistances
 - h) Generator Saturation Curves
 - i) Reactive Power Capacity Curves
 - j} Generator Short Circuit Ratio
 - k) Generator Reactance
 - Saturated and Unsaturated
 - Synchronous, Transient, Subtransient and Rotor Mutual
 - Direct Axis and Quadrature Axis
 - Positive, Negative and Zero Sequence
 - I) Generator Time Constants
 - Open Circuit and Short Circuit
 - Transient and Subtransient
 - Direct Axis and Quadrature Axis
 - m) Stator Leakage Reactances
 - n) Over Speed Protection System purpose, model, description, settings, data, and curves.

appl)

- (iL) Excitation System Data, Excitation System Dynamic Mathematical Model and Detailed Explanation
 - a. **IEEE** Excitation System Model, including but not limited to the time constants, gains, limits, block diagrams, exciter saturation curves and configuration.
 - b. The dynamic mathematical model of the excitation system shall be fully compilant with the latest and future versions of PSS/E dynamic simulations platform.
 - c. Any other control system model (as compensator, stabilizer and excitation limiter models), including but not limited to the time constants, gains, limits, description, block diagrams and configuration.
- (iiL) Turbine Speed Control and Mechanical System Data, Turbine Speed Control and Mechanical System Dynamic Mathematical Model and Detailed Explanation
 - a) Turbine System Model IEEE Turbine Speed Control and Mechanical System Model, including but not limited to the speed governing, turbine time constants, gains, limits, damping coefficient, droop, dead band, block diagrams and configuration.
 - b) The dynamic mathematical model of the turbines system shall be fully compliant with the latest and future versions of PSS/E dynamic simulations platform.
- (iv.) Dynamic Active and Reactive Power Compensation Devices-The Contractor shall be responsible to submit PSSE mathematical models of any kind of compensation devices (ie. SVC, STATCOMs, DSTATCOMs, BESS, etc.) used on the REF. The data shall be submitted initially in a preliminary or estimated form. It is preferred that the models are standard models provided with In the case that the developer submits user written models, the REF developer shall be required to keep these models current with the future versions of the PSS/E program until such time that PSS/E has implemented a standard model. In its final form, the mathematical model shall be able to simulate each of the required control and operational modes available for the compensation device and shall be compatible with the latest and future versions of PSSE. Final adjustments and parameters settings related with the control system commissioning process shall be incorporated to the PSSE mathematical model and tested accordingly by the REF developer and PREPA system study groups.

and.

(v.) Validation and Testing-

The Contractor shall perform on-site machine parameters measurements and field tests for the identification, development and validation of the dynamic mathematical models and parameters required by PREPA for the generator, excitation system, turbine speed control, mechanical systems and dynamic active and reactive power compensation devices used at the REF project.

13. Dynamic System Monitoring Equipment

The developer of the Renewable Energy Facility shall be required to provide and install a dynamic system monitoring equipment that conforms to PREPA's specifications.



AMENDMENT NO. 2

TO

POWER PURCHASE AND OPERATING AGREEMENT BETWEEN PUNTA LIMA WIND FARM, LLC

AND PUERTO RICO ELECTRIC POWER AUTHORITY

THIS AMENDMENT NO. 2 to the Power Purchase and Operating Agreement dated as of July 3, 2009, as amended by Amendment No. 1 as of November 4, 2010, between PUNTA LIMA WIND FARM, LLC ("Seller") and PUERTO RICO ELECTRIC POWER AUTHORITY ("PREPA"), dated as of August 3, 2011 ("Amendment No. 2"). PREPA and Seller are herein individually referred to as a "Party" and collectively referred to as "Parties."

RECITALS

WHEREAS, Go Green Puerto Rico Alternative Energy Corp. ("Go Green") and PREPA entered into a Power Purchase and Operating Agreement, dated and effective as of July 3, 2009 (the "Agreement");

WHEREAS, Go Green and PREPA entered into Amendment No. 1 to the Agreement dated as of November 4, 2010 ("Amendment No. 1");

WHEREAS, Go Green transferred all of its right, title and interest in and to the Agreement to an affiliate, Punta Lima Wind Company ("Go Green USA"), pursuant to that certain Upstream Contribution Agreement, dated and effective as of April 8, 2011;

WHEREAS, Go Green USA transferred all of its right, title and interest in and to the Agreement to an affiliate, the Seller, pursuant to that certain Project Contribution Agreement, dated and effective as of April 8, 2011;

WHEREAS, PREPA agrees that, pursuant to section 20.1 of the Agreement as amended by Amendment No. 1, the foregoing transfers are permitted under the Agreement as amended by Amendment No. 1, and that Punta Lima Wind Farm, LLC is the Seller,

WHEREAS, PREPA's Governing Board through Resolution 3769 approved amending the Agreement to make it consistent with other similar technology power purchase contracts and authorized PREPA's Executive Director to execute such amendment; and

WHEREAS, Seller and PREPA desire to amend the Agreement and Amendment No. 1 as provided herein;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements set forth herein and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Seller and PREPA, intending to be legally bound, hereby agree as follows:

Section A. Definitions

- Capitalized terms used herein, and not otherwise defined herein, shall have the meanings set forth in the Agreement as amended by Amendment No. 1.
- Article 1.29 of the Agreement is hereby deleted in its entirety and replaced by the following:
 - 1.29 Green Credits Credits or other environmental attributes now or in the future available to producers of energy from renewable clean energy sources such as wind power. Green credits include, but are not limited to, Renewable Energy Credits or RECs, Renewable Portfolio Standards or RPS or green tags, but do not include federal or Puerto Rico tax credits, cash grants or other financial incentives.
- 3. A new Article 1.29(a) of the Agreement is hereby added to the Agreement to read as follows:

1.29(a) Green Credits Payment - shall have the meaning set forth in Article 11.1.

Section B. Other Amendments to the Agreement

1. Article 6.15 is hereby deleted and replaced with the following:

6.15. Seller shall sell and deliver to, and PREPA shall receive and pay for all Green Credits produced by the Facility in accordance with Article 11.1

2. Curtailment -- Article 7.2 is hereby revised by adding the following sentence at the end of the paragraph before the period:

"provided, further, however, that PREPA shall not disconnect the Facility or reduce the level of Net Electrical Output for purposes of economic dispatch."

- 3. Section 9.1 of the Agreement is hereby amended and restated as follows:
 - 9.1 Appendix C sets forth: (a) a description of the Interconnection Facilities, (b) a specification of the Interconnection Point, and (c) the information required for the interconnection study needed to interconnect the Facility to PREPA's system.
- 4. Section 9.3 of the Agreement is hereby revised by adding the following sentence at the end of the paragraph:

Both parties acknowledge that the foregoing MINIMUM TECHNICHAL REQUIREMENTS FOR WIND PROJECTS shall be clarified and modified through a future Amendment No. 3 to the Agreement to reflect the conclusions of the interconnection study referred to in section 9.8 of the Agreement.

- 5. Section 9.8 of the Agreement is hereby amended and restated as follows:
 - 9.8 SELLER shall submit to PREPA, in addition to the data required in Appendix C, an official Siemens PTI certified PSS/E mathematical model of the specific PV facility and manufacturer's performance data reasonably required to perform the interconnection study within thirty (30) Days following its receipt by SELLER. PREPA shall perform an interconnection study and provide the same to Seller within ninety (90) days of Seller's provision of the equipment data required by Section 9.5. The interconnection study shall, at a minimum, (a) determine the power capabilities of the major interconnection equipment required to complete the Interconnection Facilities, (b) the maximum fault currents necessary to specify short circuit duty and interrupting ratings, (c) approve or

disapprove generator step up (GSU) transformer impedance and determine transformer tap ranges necessary for proper control of voltage and reactive power flow, and (d) designate the PREPA dispatching centers that will coordinate the operation of the Seller's Complex. Seller is not prohibited from commencing construction of its Facility or Interconnection Facilities prior to the completion of the interconnection study to the extent that the parties agree that such construction of the Facility or Interconnection Facilities will not be materially affected by the results of the interconnection study. Interconnection Facilities design shall be consistent with Prudent Utility Practices considering the functional one-line interconnection diagram and approved specifications contained in Appendix C for the site plan provided to PREPA pursuant to Section 9.4. Additional studies of stability, motor starting and transients shall be performed as necessary to allow the timely progress of the detailed design of the Interconnection Facilities.

- 6. Article 11.1 of the Agreement is hereby amended and restated as follows:
 - 11.1 For each Billing Period PREPA shall pay SELLER an Energy Payment and a Green Credits Payment for the Net Electrical Output measured in accordance with Section 10.3. SELLER shall include both the Energy Payment and the Green Credits Payment in the monthly invoice presented to PREPA pursuant to this Section 11.1 calculated as follows.
 - (a) Energy Payment Beginning on the Commercial Operation Date and continuing throughout the Term of this Agreement:

 $EP = EPP \times NEO$

Where:

EP is the Energy Payment

EPP is the Energy Purchase Price, which for the first Agreement Year shall be equal to \$0.125 per kWh of NEO.

NEO is the Net Electrical Output expressed in kilowatt hours

On an annual basis on the first anniversary of the Commercial Operation Date and each year thereafter, the Energy Purchase Price shall be escalated in an amount equal to one and a half percent (1.5%).

An example of the Energy Payment is included in Appendix C.

(b) Green Credits Payment - Beginning with the Pre-Operation Period and continuing throughout the Term of this Agreement:

GCP = GCPP x NEO

Where:

GCP is the Green Credits Payment

GCPP is the Green Credit Purchase Price, which for the first Agreement Year shall be equal to \$0.025 per kWh of NEO for the Term. For the avoidance of doubt the Green Credit Purchase Price shall not be subject to escalation for the Term. NEO is the Net Electrical Output expressed in kilowatt hours

- 7. Section 12.1 hereby deleted and replaced with the following:
 - 12.1 "Seller declares that the Estimated Generating Capacity for the Facility is approximately 40 MW. The Parties agree that Seller shall be permitted to construct the Facility in two phases, known as Phase I and Phase II. Seller shall be permitted to declare a Commercial Operation Date for Phase I and Phase II separately. For Phase I, the capacity shall be between 20 and 26 megawatts on the Commercial Operation Date. For Phase II, the capacity, when combined with the Phase I capacity, shall not exceed Estimated Generating Capacity for the Facility.
- 8. Section 16.1(v) is hereby deleted and replaced with the following:

16.1(v)(a) Delay by Seller in achieving the Commercial Operation Date for Phase I of the Facility by thirty-six (36) Months after the Effective Date, unless the delay is due to one or more events of Force Majeure in which case the thirty-six (36)month period may be extended for the duration of the Force Majeure events up to twelve (12) months, in such case the termination right can be only exercised by PREPA subject to the

provisions of Article 17, Breach of Agreement, Delays And Security, hereof, or exercised by either Party if the delay is caused by one or more events of Force Majeure. If at the end of the twelfth month, Seller has commenced construction of the Seller's Complex, the twelve (12) Months will be extended for an additional twelve (12) Months and; (b) Delay by Seller in achieving the Commercial Operation Date for Phase II of the Facility by sixty (60) Months after the Effective Date. If Seller has achieved the Commercial Operation Date for Phase I and PREPA has declared a Default solely due to the failure of Seller to achieve the Commercial Operation Date for Phase II as this Agreement, PREPA shall only be permitted to issue a notice of termination for Phase II, and the Agreement shall otherwise remain in full force and effect.

- 9. All deadlines for the submission of information or documentation to PREPA shall be based on the full execution date of this Amendment No. 2, rather than on the Effective Date.
- 10. Appendix A of the Agreement is hereby deleted and replaced with the following:

Appendix A - Intentionally left blank.

11. Appendix C of the Agreement is hereby deleted and replaced with the new revised Appendix C.

IN WITNESS WHEREOF, the Parties hereto have agreed to execute this Amendment No. 2 in San Juan, Puerto Rico, as of the date first written above.

Puerto Rico Electric Power Authority

Miguel A. Cordero López

Executive Director

Punta Lima Wind Farm, LLC

Javier Mateache Sacristán

Chief Executive Officer

Appendix A

(Intentionally left blank)



Appendix C- INTERCONNECTION

Seller shall provide the following information to PREPA within ninety (90) days following the Effective Date. Data submitted in a preliminary or estimated form shall be updated within thirty (30) days after final equipment arrangements and specifications are established.

- 1. Electrical one-line diagram of the Facility.
- 2. Explanation of proposed equipment protection and control scheme (may be shown functionally on the one-line diagram).
- 3. Site plan showing plant layout, property lines, access roads and switchyard boundaries.
- 4. Preliminary equipment layout and arrangement for switchyard and generator step-up transformers (GSU).
- 5. Reactive Power Capacity curve of generators.
- 6. Station auxiliary load.
- 7. Station auxiliary transformer data impedance, connection winding, load loss and no load tap changer.
- 8. GSU step-up transformer impedance, load loss, no load taps changer, connection and winding.
- Generator Short Circuit Ratio.
- 10. Generator kilowatt rating.
- 11. Generator kilovar rating.
- 12. Equivalent WGT Facility modeling for Short Circuit Studies,
- 13. Seller's requirements for power supplied by PREPA during construction and start-up.
- 14. Project schedule (I-J or bar chart format) including but not limited to the following milestones:
- · QF status obtained
- Engineering 30% complete
- One-line diagram approved
- Financial Closing Date
- Major licenses/permits
- Major material procurement
- Start Construction
- Engineering 70% complete
- Utility technical submittals complete
- Operating procedures finalized
- Start test and start-up
- · Initial synchronizing date
- Commercial operation



15. PSSE Mathematical Model (Parameters and Data Requirements)

The Contractor shall submit to PREPA a Siemens - PTI certified PSS/E mathematical model and data related to the proposed WTG Facility. When referred to the WTG Facility model, this shall include but is not limited to wind generator, transformers, collector systems, control systems and any other equipment necessary to properly model the WTG Facility.

The mathematical models shall be fully compatible with the latest and future versions of PSS/E. It is preferred that the models are PSS/E standard models. In the case that the Contractor submits user written models, the Contractor shall be required to keep these models current with the future versions of the PSS/E program until such time that PSS/E has implemented a standard model. The Contractor shall submit to PREPA an official report from Siemens - PTI that validates and certifies the required mathematical models, including subsequent revisions. The data and PSS/E model shall also be updated and officially certified according to PREPA requirements when final field adjustments and parameters measurements and field tests are performed to the facility by the contractor. The mathematical model (either PSS/E standard or user written model) of the WTG Facility shall be officially certified by Siemens - PTI before a specific and validated PSS/E mathematical model of the complete WTG Facility be submitted to PREPA. The Contractor shall be responsible of submitting the official reports and certifications from Siemens — PTI, otherwise the mathematical model shall not be considered valid.

The Contractor shall be responsible to submit Siemens - PTI certified PSSE mathematical models of any kind of compensation devices (i e, SVC, STATCOMs, DSTATCOMs, BESS, etc.) used on the WTG Facility. It is preferred that the models are standard models provided with PSS/E. In the case that the Contractor submits user written models, the WTG Facility Contractor shall be required to keep these models current with the future versions of the PSS/E program until such time that PSS/E has implemented a standard model. In its final form, the mathematical model shall be able to simulate each of the required control and operational modes available for the compensation device and shall be compatible with the latest and future versions of PSS/E. Final adjustments and parameters settings related with the control system commissioning process shall be incorporated to the PSSE mathematical model and tested accordingly by the WTG Facility Contractor and PREPA system study groups. The Contractor shall also perform on-site field tests for the identification, development, and validation of the dynamic mathematical models and parameters required by PREPA for any kind of compensation devices used at the WTG Facility. The mathematical models of the WTG Facility and its required compensation devices shall be officially certified by Siemens - PTI before a specific and validated PSS/E mathematical model of the complete WIG Facility be submitted to PREPA. The Contractor shall be responsible of submitting the official reports and certifications from Siemens — PTI, otherwise the mathematical models shall not be considered valid.

WTG Facility Owners that provide user written model(s) shall provide compiled code of the model and are responsible to maintain the user written model compatible with current and new releases of PSS/E until such time a standard model is provided. PREPA must be permitted by the WGT Facility Owner to make available WGT Facility models if required to external consultants with an NDA in place.

16. Additional data necessary for dynamic modeling - At a minimum, any necessary control system model (inverter, compensator and excitation limiter models), including the time constants, gains, limits, description, block diagrams and configuration. Oll

AMENDMENT NO. 3 TO POWER PURCHASE AND OPERATING AGREEMENT BETWEEN PUNTA LIMA WIND FARM, LLC AND PUERTO RICO ELECTRIC POWER AUTHORITY

THIS AMENDMENT NO. 3 to the Power Purchase and Operating Agreement (this "Amendment No. 3"), dated as of December 18, 2012, by and between PUNTA LIMA WIND FARM, LLC, a Delaware limited liability company (as successor-in-interest to Go Green Puerto Rico Alternative Energy Corp.) ("Seller"), and PUERTO RICO ELECTRIC POWER AUTHORITY ("PREPA"). PREPA and Seller are herein individually referred to as a "Party" and collectively referred to as "Parties." All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Agreement (defined below).

RECITALS

WHEREAS, Seller and PREPA entered into a Power Purchase and Operating Agreement, dated and effective as of July 3, 2009, as amended by Amendment No. 1 to the Power Purchase and Operating Agreement dated as of November 4, 2010 ("Amendment No. 1"), as further amended by Amendment No. 2 to the Power Purchase and Operating Agreement dated as of August 3, 2011 ("Amendment No. 2") (collectively referred herein as the "Agreement");

WHEREAS, PREPA's Governing Board through Resolution 3769 approved amending the Agreement to make it consistent with other similar technology power purchase contracts and authorized PREPA's Executive Director to execute such amendment;



WHEREAS, pursuant to Section B(4) of Amendment No. 2, Seller and PREPA acknowledged that the MINIMUM TECHNICAL REQUIREMENTS FOR WIND PROJECTS shall be clarified and modified through a future Amendment No. 3 to the Agreement to reflect the conclusions of certain interconnection study to be conducted by PREPA;

WHEREAS, PREPA performed the aforementioned interconnection study and, as a result thereof, has modified the MINIMUM TECHNICAL REQUIREMENTS FOR WIND PROJECTS;

WHEREAS, a proposed sale/leaseback structure being negotiated by Seller requires some minor amendments to the Agreement; and

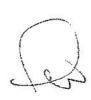
WHEREAS, Seller and PREPA desire to further amend the Agreement as provided herein;

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and agreements set forth herein and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Seller and PREPA, intending to be legally bound, hereby agree as follows:

SECTION A. Amendment to the Agreement. The Agreement is hereby amended as follows:

- Section 1.14 of the Agreement is hereby deleted in its entirety and replaced with the following:
 - "1.14 Design Limits the operational limitations of the Facility based on the Facility's design, as identified in the Agreed Operating Procedures.
- Section 1.17 of the Agreement is hereby deleted in its entirety and replaced with the following:
 - "1.17 Emergency A condition or situation which in the judgment of PREPA is likely to result in imminent significant disruption of service to a significant number of customers or is imminently likely to endanger life or property; provided, however, that such condition or situation is likely to provide such results according to Prudent Utility Practices and following Agreed Operating Procedures."
- Section 1.32 [Interconnection Point] of the Agreement is hereby amended by inserting the following phrase to the end of the section:
 - ", which shall be the point at which the 115 kV Line (as defined in the IFCA) interconnects with the PREPA Interconnection Facilities (as defined in the IFCA) at PREPA's Daguao Transmission Center in Naguabo, Puerto Rico."





 Section 1.60 [Seller's Complex] of the Agreement is hereby amended by inserting the phrase "or leased" after the word "owned".

 Article 1 of the Agreement is hereby amended by adding the following Sections thereto:

"1.22A Execution Date – The date on which the Parties have executed the Agreement, which is July 3, 2009."

"1.29b IFCA – That certain Agreement between Seller and Buyer, dated November 18, 2011, governing the design, procurement, and construction of the Interconnection Facilities and other facilities needed to interconnect the Facility to PREPA's system."

"1.34A Lessor(s) – Any party or parties that lease any equipment, structures or other facilities that are part of the Seller's Complex to Seller, or any agent, trustee or other person representing or acting on behalf of any such part(ies)."

"1.64A Third Amendment Effective Date – The date that certain Amendment No. 3 to the Agreement was executed by the Parties."

 Seller notice address information in Section 3 of the Agreement is hereby deleted in its entirety and replaced to read as follows:

"If to Seller to:

Address: Punta Lima Wind Farm, LLC, 5120 Woodway Drive, Suite 9004,

Houston, Texas 77056

Attention: Javier Mateache Sancristán, Chief Executive Officer

With a copy to:

Name: Frank Monserrate Soto, Business Development Engineer

Address: Punta Lima Wind Farm, LLC, 140 BDA Santiago & Lima, Naguabo, Puerto Rico 00718

With respect to any Notice of Breach, PREPA shall also deliver a copy of such notice to:

Sovereign Bank, N.A.

Attention: Alberto Ramos, Managing Director

Address: 45 East 53rd Street, New York, New York 10022

and

McConnell Valdés, LLC

Attention: Juan C. Méndez, Capital Member 270 Muñoz Rivera Avenue, Suite 900, San Juan, Puerto Rico 00918"

 Section 4.2 of the Agreement is hereby deleted in its entirety and replaced to read as follows:

(A)

"Seller shall notify PREPA in writing of the proposed Initial Synchronization Date (the 'Proposed Initial Synchronization Date') and the start up and testing schedule for the facility on or before such Proposed Initial Synchronization Date. Seller shall have the right to postpone such date with advance notice to PREPA. PREPA and Seller shall agree on the actual Initial Synchronization Date for the facility and PREPA shall have the right to have a representative present during such period."

8. Section 4.3 of the Agreement is hereby deleted in its entirety and replaced to read as follows:

"Seller shall provide PREPA with relay settings for review and inspection by PREPA on or before the Proposed Initial Synchronization Date. If these are not found to be acceptable to PREPA Seller agrees to comply with any request made by PREPA to provide acceptable relay settings prior to the Initial

Synchronization Date. PREPA agrees to give any comments or suggested changes which it is entitled to give to Seller pursuant to this Section 4.3 within sixty (60) days after Seller submits any required documents or information to PREPA."

 The first sentence of Section 4.4 of the Agreement is hereby deleted in its entirety and replaced to read as follows

"Unless otherwise agreed to by the Parties, Seller and PREPA shall use commercially reasonable efforts to mutually develop detailed written operating procedures (the "Agreed Operating Procedures") on or before one hundred twenty (120) days after the Commercial Operation Date."

10. The following sentence is added at the end of Section 4.5:

"These thirty (30) day terms may be waived by Seller."

- 11. Section 6.4 of the Agreement is hereby amended by inserting the phrase "As between the Parties," at the beginning of the section.
- 12. Section 6.5(a) of the Agreement is hereby amended by deleting the phrase "As of the Effective Date" and replacing it with "On the Execution Date".
- 13. Section 6.5(c) is hereby amended by adding the phrase "On the Execution Date," to the beginning of the section.
- 14. Section 6.5(e) is hereby amended by adding the phrase "On the Execution"

 Date," to the beginning of the section.
- 15. Section 6.11(c) is hereby amended by adding the phrase "On the Execution Date," to the beginning of the section.

Section 6.16 of the Agreement is hereby deleted in its entirety and replaced with the following:

"6.16 [Intentionally left blank]".

17. Section 6.17 of the Agreement is hereby deleted in its entirety and replaced with the following:

"6.17 [Intentionally left blank]".

18. Section 6.18 of the Agreement is hereby deleted in its entirety and replaced with the following:

"6.18 [Intentionally left blank]".

19. Section 9.1 of the Agreement is hereby deleted in its entirety and replaced with the following:

"Subject to the requirements of this Agreement and the IFCA (but without waiving any rights under applicable law), Seller shall have the right to interconnect Seller's Complex to PREPA's electrical system at, and deliver the Net Electrical Output to, the Interconnection Point. Appendix C sets forth the information required for the interconnection study needed to interconnect Seller's Complex to PREPA's system."

- 20. Section 9.2 is hereby amended by adding the phrase "Except as otherwise set forth in the IFCA," to the beginning of the section.
- 21. Section 9.3 of the Agreement is hereby amended by adding the phrase "As set forth in the IFCA," to the beginning of the third sentence in the section and by deleting the last sentence of the section in its entirety and replacing it with the following sentence:

"The Parties agree to comply with the Minimum Technical Requirements for Wind Projects attached hereto as Appendix G, which reflect the conclusions of the interconnection study referred to in Section 9.8 of the Agreement."

- Section 9.5 is hereby amended by: (a) adding the phrase "Except as otherwise set forth in the IFCA," to the beginning of the section; and (b) deleting the penultimate sentence of the section in its entirety and replacing it with the following: "PREPA shall own and be responsible for the safe and adequate operation and maintenance of the PREPA's Interconnection Facilities, but Seller shall be responsible for the replacement and maintenance cost of breaker 42070 (including both disconnecting switches and breaker protection equipment) located at the PREPA Interconnection Facilities (as defined in the IFCA). PREPA shall be responsible for any work at the switchyard and shall provide the cost of any material and labor related to the Facility."
- 23. Section 9.7 of the Agreement is hereby deleted in its entirety and replaced with the following:
 - "9.7 [Intentionally left blank]".
- 24. Section 9.8 is hereby amended by: (a) deleting the phrase "PTI certified PSS/E mathematical model of the specific PV facility" and replacing it with "PTI certified PSS/E mathematical model of the Facility"; (b) replacing the reference to Section 9.5 therein with a reference to Section 9.6; and deleting the phrase "pursuant to Section 9.4".
- 25. Section 9.9 is hereby amended by adding the phrase "Except as otherwise set forth in the IFCA," to the beginning of the section.
- 26. Section 11.1(b) is hereby amended by deleting the phrase "for the first Agreement Year" in the definition of "GCPP".

- Section 13.3 is hereby amended by deleting the phrase "to persons or property".
- 28. Section 16.1(v) is hereby amended by replacing the term "Effective Date" with the term "Third Amendment Effective Date" each time it appears therein.
- 29. Section 16.1(vi) of the Agreement is hereby deleted in its entirety and replaced with the following:
 - "(vi) [Intentionally left blank]".
- 30. Section 17.3 is hereby amended by replacing the reference to Section 22.25 therein with a reference to Section 22.26.
- 31. Section 17.4 of the Agreement is hereby deleted in its entirety and replaced with the following:

"Commencing with the Third Amendment Effective Date, Seller shall provide to PREPA, at Seller's sole expense, an unconditional and irrevocable guaranty by Seller or any of its affiliates, which guaranty shall be subject to PREPA's approval in the amount of thirty dollars (\$30) per kilowatt of Estimated Generating Capacity. This guaranty required herein shall be maintained until December 31, 2013 at which time Seller or any of its affiliates shall provide an unconditional and irrevocable direct pay letter or letter of credit issued by a local bank or any other bank or in the alternative open an escrow account in the amount described in this Section 17.4 in a local bank or any other bank approved by PREPA for the remainder of the Term."

- 32. Sections 20.2 and 20.3 of the Agreement are hereby deleted in their entirety and replaced with the following:
 - "20.2 Notwithstanding the above, the Seller may assign its rights and benefits but not its obligations and duties under this Agreement without

PREPA's consent (a) to a Project Lender as collateral security in connection with a financing and/or (b) to a Lessor as collateral security in connection with a lease arrangement; provided that the Seller shall not be relieved of its responsibility to carry out its duties and obligations under this Agreement, and further provided that any such assignment is made expressly subject to the terms and conditions of this Agreement between Seller and PREPA. PREPA agrees to execute the appropriate consenting documents, estoppels certificates and acknowledgements (including agreements to provide copies of notices of defaults and agreements to pay funds directly to the Project Lender or Lessor (or its lenders or its lenders' representatives), as reasonably required by the Project Lender or Lessor, in connection with any assignment made by Seller, Project Lender, or Lessor in accordance with this Article 20.

20.3 PREPA acknowledges that as a result of an assignment of Seller's rights and interests under this Agreement to a Project Lender or Lessor:

(a) the Project Lender or Lessor, as applicable, will have the right, upon the occurrence of a default under its corresponding agreements with Seller, to assume or cause a nominee to assume, all of the rights and obligations of Seller (or Project Lender or Lessor) under this Agreement, and (b) the Project Lender or Lessor, or its lenders or its lenders' representatives, as applicable, will have the right to cure defaults by Seller under this Agreement on the same terms and during the same periods available to Seller."

33. Appendix G of the Agreement is hereby deleted in its entirety and replaced with the attached Appendix G.

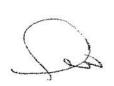
SECTION B. Sale/Leaseback Structure. PREPA acknowledges that Seller seeks to enter into a transaction with one or more Lessors whereby Seller will sell to, and leaseback from, such Lessors certain of the equipment, structures and other facilities that are part of the Seller's Complex, and PREPA hereby consents, pursuant to Article 20 of the Agreement, to such sale/leaseback transaction.

SECTION C. Effect on the Agreement. Except as specifically amended above, the Agreement is and shall continue to be in full force and effect and is hereby in all respects ratified and confirmed.

SECTION D. Amendment. No change or modification of this Amendment No. 3 shall be valid unless the same is in writing and signed by the Parties hereto. No purported or alleged waiver of any of the provisions of this Amendment No. 3 shall be binding and effective unless in writing and signed by the Party against whom it is sought to be enforced.

SECTION E. Counterparts. This Amendment No. 3 may be simultaneously executed in several counterparts, each of which shall be an original and all of which together shall constitute one and the same Agreement.

SECTION F. Governing Law. THIS AMENDMENT NO. 3 SHALL BE GOVERNED BY THE LAWS OF THE COMMONWEALTH OF PUERTO RICO, AND TO THE EXTENT APPLICABLE, THE LAWS OF THE UNITED STATES OF AMERICA.



IN WITNESS WHEREOF, the Parties hereto have caused this Amendment No. 3 to be executed by their respective officers thereunto duly authorized, as of the date first above written.

DENEAL	(/4)
Josué A. Colon Ortiz	
Executive Director	

PUERTO RIGO-ELECTRIC POWER AUTHORITY

PUNTA LIMA WIND FARM, LLC

By: Punta Lima Holding Company, LLC as Sole Member,

By: Gestamp Wind Puerto Rico, Inc.,

as Managing Member

Appendix G

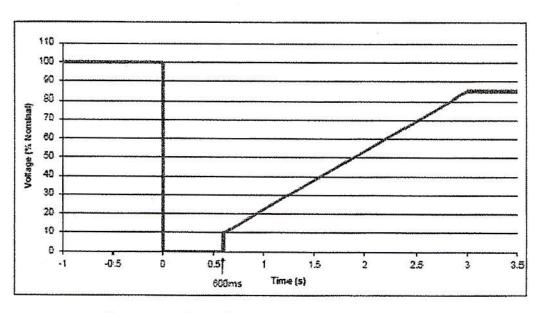
MINIMUM TECHNICAL REQUIREMENTS FOR WIND PROJECTS

(Attached)

MINIMUM TECHNICAL REQUIREMENTS FOR INTERCONNECTION OF WIND TURBINE GENERATION (WTG) PROJECTS

The proponent shall comply with the following minimum technical requirements:

1. VOLTAGE RIDE-THROUGH:



(See)

Figure 1 Low Voltage Ride-Through Requirements

- a. PREPA's Low Voltage Ride-Through (LVRT) Requirements:
 - i. From Figure 1, PREPA requires all generation to remain online and be able to ride-through faults down to 0.0 per-unit (measured on the point of interconnection), for up to 600 ms.
 - ii. All generation remains online and operating during and after normally cleared faults on the point of interconnection, and
 - iii. All generation remains online and operating during backupcleared faults on the point of interconnection.

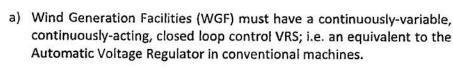
b. PREPA's Overvoltage Ride-Through (OVRT) Requirements:

 PREPA requires all generation to remain online and able to ridethrough overvoltage conditions specified by the following values:

Overvoltage (pu)	Minimum time to remain online (seconds)
1.4 – 1.25	1
1.25 – 1.15	3
1.15 or lower	indefinitely

2. VOLTAGE REGULATION SYSTEM (VRS)

Constant voltage control shall be required. Wind Turbine Generation (WTG) technologies in combination with Static Var Controls, such as Static Var Compensators (SVC), STATCOMs, DSTATCOMs are acceptable options to comply with this requirement. A complete description of the VRS control strategy should be submitted for evaluation.



- b) The VRS set-point must be adjustable by the WGF Operator following a PREPA System Controller dispatch. The set-point shall be adjustable between 95% to 105% of rated voltage at the POI.
- c) The VRS shall operate only in a voltage set point control mode. Controllers such as Power Factor or constant VAR are not permitted.
- d) The VRS shall be capable of adjustable Droop or adjustable gain. VRS that utilize Droop shall be adjustable from 0 to 10%.
- e) The combined settings of Droop or gain are to achieve a steady-state voltage regulation of +/- 0.5% of the voltage controlled by the VRS.
- f) The VRS shall be calibrated such that a change in reactive power will achieve 95% of its final value no later than 1 second following a step



- change in voltage. The change in reactive power should not cause excessive voltage excursions or overshoot.
- g) The generator facility VRS must be in service at any time the WGF is electrically connected to the grid regardless of MW output from the WGF.

Examples of possible VRS configurations:

The following examples serve as possible solutions for REF voltage regulation and reactive power compensation.

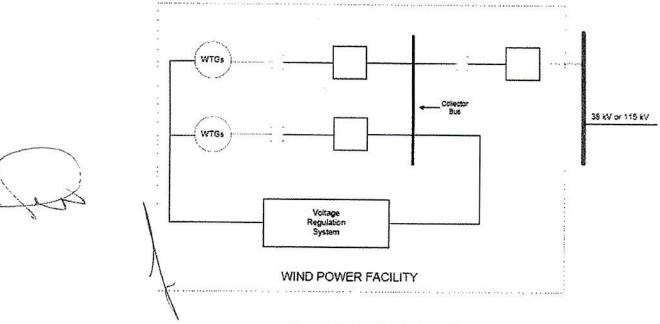


Figure 2 Voltage Regulation at WGF

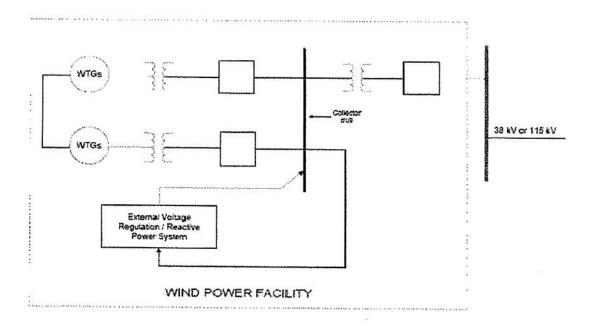


Figure 3 Voltage Regulation at single collector bus

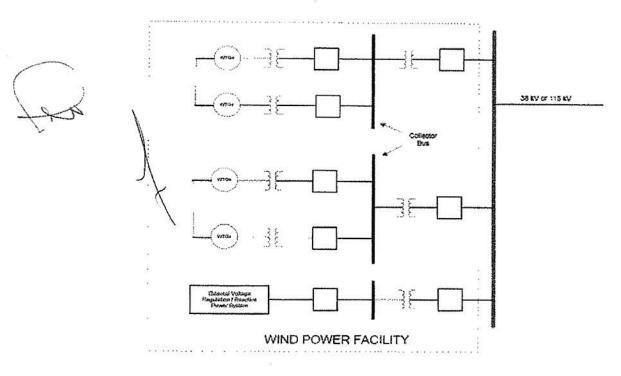


Figure 4 Voltage regulation on a multiple collector bus injection at collector bus

Puerto Rico Electric Power Authority Minimum Technical Requirements for Wind Turbine Generation (WTG) Projects

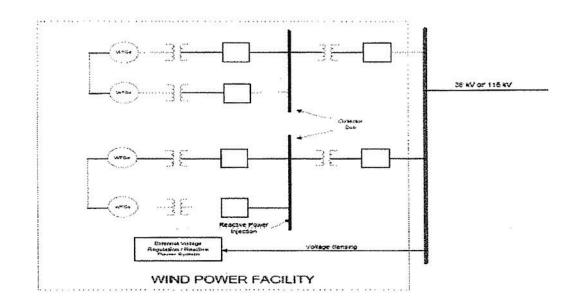


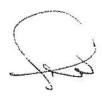
Figure 5 Shared Voltage Regulation for multiple WGF at transmission system bus

3. REACTIVE POWER CAPABILITY AND MINIMUM POWER FACTOR REQUIREMENTS

The total power factor range shall be from 0.85 lagging to 0.85 leading. The reactive power requirements provide flexibility for many types of technologies at the Renewable Energy Facility. The intent is that a WGF can ramp the reactive power from 0.85 lagging to 0.85 leading in a smooth continuous fashion.

The power factor range from (-) 0.95 to (+) 0.90 shall be dynamic and continuous. This means that the WGF has to be able to respond to power system voltage fluctuations by continuously varying the reactive output of the plant within the specified limits. The previously established power factor dynamic range could be expanded if studies indicate that additional continuous, dynamic compensation is required. It is required that the WGF reactive capability meets +/- 0.85 Power Factor (PF) range based on the WGF Aggregated MW Output, which is the maximum MVAr capability corresponding to maximum MW Output. It is understood that positive (+) PF is where the WGF is producing MVAr and negative (-) PF is where the WGF is absorbing MVAr.

This requirement of MVAr capability at maximum output shall be sustained throughout the complete range of operation of the WGF as established by Figure 6.



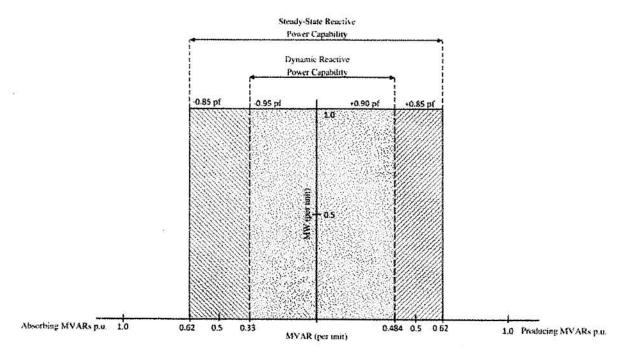


Figure 6 Reactive Power Capability Curve

4. SHORT CIRCUIT RATIO (SCR) REQUIREMENTS:

Short Circuit Ratio values (at the point of interconnection) under 5 shall not be permitted. The constructor shall be responsible for the installation of additional equipment, such as synchronous condensers, and controls necessary to comply with PREPA's minimum short circuit requirements.

5. Frequency Ride Through (FRT):

• 57.5 - 61.5 Hz

No tripping (continuous)

• 61.5 - 62.5 Hz

30 sec

• 56.5 - 57.5 Hz

10 sec

< 56.5 or > 62.5 Hz

Instantaneous trip

6. FREQUENCY RESPONSE/REGULATION:

WTG facility shall provide an immediate real power primary frequency response, proportional to frequency deviations from scheduled frequency, similar to governor response. The rate of real power response to frequency deviations shall be similar to or more responsive than the droop characteristic of 5% used by conventional generators. WTG facility shall have controls that provide down-regulation reserve. Wind turbine technologies, in combination with energy storage systems such as BESS, flywheels, hybrid systems are acceptable options to comply with PREPA's frequency regulation requirements.

7. RAMP RATE CONTROL:

Ramp Rate Control is required to smoothly transition from one output level to another. The WTG facility shall be able to control the rate of change of power output during some circumstances, including but not limited to: (1) rate of increase of power output when wind speed is increasing, (2) rate of decrease of power output when wind speed is decreasing; (3) rate of increase of power when a curtailment of power output is released, (4) rate of decrease of power when a curtailment limit is engaged. A 10 % per minute rate (based on nameplate capacity) limitation shall be enforced. This limit applies both to the increase and decrease of power output.

8. POWER QUALITY

The developer shall address, in the design of their facilities potential sources and mitigation of power quality degradation prior to interconnection. Design considerations should include applicable standards including, but not limited to JEEE Standards 142, 519, 1100, 1159, ANSI C84.1, IEC 61400-21, IEC 61000-3-7 and IEC 61000-3-6. Typical forms of power quality degradation include, but are not limited to voltage regulation, voltage unbalance, harmonic distortion, flicker, voltage sags/interruptions and transients.

The developer shall submit the Power Quality Tests Result Report of the wind turbines as described in the IEC 61400-21 standard. This report includes: general wind turbine data, wind turbine rated data at terminals, voltage fluctuations coefficients (flicker coefficients), current harmonics components, current interharmonics components, current high frequency components, response to voltage drops, active power data, reactive power data, grid protection data and



reconnection time. The wind turbines shall not exceed the flicker emission limits established by the IEC 61000-3-7 standard and the harmonics emission limits of IEC 61000-3-6.

9. WIND POWER MANAGEMENT:

WTG facility shall provide adequate technology (communicating technology and the corresponding control equipment) and implement wind power management requirements (ramp rate limits, output limits, curtailment) as established by PREPA.

10. SPECIAL PROTECTION SCHEMES:

WTG facility shall provide adequate technology and implement special protection schemes as established by PREPA in coordination with wind power management requirements.

11. WIND GENERATION FORECASTING SYSTEMS:

WTG facility shall provide adequate technology to support wind generation forecasting systems (short term and day-ahead). Individual turbine's availability shall be included.

12. GENERAL INTERCONNECTION SUBSTATION CONFIGURATION:

An interconnecting generation producer must interconnect at an existing PREPA substation. The configuration requirements of the interconnection depend on where the physical interconnection is to occur and the performance of the system with the proposed interconnection. The interconnection must conform, at a minimum, to the original designed configuration of the substation. PREPA, at its sole discretion, may consider different configurations due to physical limitations at the site.

13. MODELING AND VALIDATION

The Contractor shall submit to PREPA a Siemens - PTI certified PSS/E mathematical model and data related to the proposed WTG facility. When referred to the WTG facility model, this shall include but is not limited to wind generator, transformers, collector systems, plant controllers, control systems



and any other equipment necessary to properly model the WTG facility for both steady-state and dynamic simulation modules. It is required that the Contractor submits both an aggregate and detailed model of the WTG facility model.

The Contractor shall be required to submit user manuals for both the Wind Turbine Generator and WTG Facility models. The mathematical models shall be fully compatible with the latest and future versions of PSS/E. It is preferred that the models are PSS/E standard models. In the case that the Contractor submits user written models, the Contractor shall be required to keep these models, as well as its corresponding user manual, current with the future versions of the PSS/E program until such time that PSS/E has implemented a standard model. The Contractor shall submit to PREPA an official report from Vestas that validates and certifies the required mathematical models, including subsequent revisions. The data and PSS/E model shall also be updated and officially certified according to PREPA requirements when final field adjustments and parameters measurements and field tests are performed to the facility by the contractor. The mathematical model (either PSS/E standard or user written model) of the WTG facility shall be officially certified by Vestas before a specific and validated PSS/E mathematical model of the complete WTG facility be submitted to PREPA. The Contractor shall be responsible of submitting the official reports and certifications from Vestas. The mathematical model shall not be considered valid until PREPA's Planning team validates and certifies the submitted PSS/E mathematical model.

Lest 1

The Contractor shall be responsible to submit certified PSSE mathematical models of any kind of compensation devices (ie. SVC, STATCOMs, DSTATCOMs, BESS, etc.) used on the WTG facility. It is preferred that the models are standard models provided with PSS/E. In the case that the Contractor submits user written models, the WTG facility Contractor shall be required to keep these models current with the future versions of the PSS/E program until such time that PSS/E has implemented a standard model. In its final form, the mathematical model shall be able to simulate each of the required control and operational modes available for the compensation device and shall be compatible with the latest and future versions of PSSE. Final adjustments and parameters settings related with the control system commissioning process shall be incorporated to the PSSE mathematical model and tested accordingly by the WTG facility Contractor and PREPA system study groups. The Contractor shall also perform on-site field tests for the identification, development, and

validation of the dynamic mathematical models and parameters required by PREPA for any kind of compensation devices used at the WTG facility. The mathematical models of the WTG facility and its required compensation devices shall be officially certified before a specific and validated PSS/E mathematical model of the complete WTG facility be submitted to PREPA. The Contractor shall be responsible of submitting the official reports and certifications, otherwise the mathematical models shall not be considered valid.

WTG facility Owners that provide user written model(s) shall provide compiled code of the model and are responsible to maintain the user written model compatible with current and new releases of PSS/E until such time a standard model is provided. PREPA must be permitted by the WGF Owner to make available WGF models if required to external consultants with an NDA in place.

14. TRANSIENT MATHEMATICAL MODEL

The contractor shall be responsible of providing a detailed transient model of the WTG facility and to show that it is capable of complying with PREPA's transient Minimum Technical Requirements.

15. Dynamic System Monitoring Equipment

The developer of the Renewable Energy Facility shall be required to provide and install a dynamic system monitoring equipment that conforms to PREPA's specifications.



Exhibit B

AMENDED AND RESTATED POWER PURCHASE AND OPERATING AGREEMENT BETWEEN

PUERTO RICO ELECTRIC POWER AUTHORITY

AND

PUNTA LIMA WIND FARM, LLC

DATED [•]

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AMENDED AND RESTATED

POWER PURCHASE AND OPERATING AGREEMENT

BETWEEN

PUERTO RICO ELECTRIC POWER AUTHORITY

AND

PUNTA LIMA WIND FARM, LLC

This AMENDED AND RESTATED POWER PURCHASE AND OPERATING AGREEMENT (the "Agreement") is entered into and effective as of this [●] day of 2020 (the "Effective Date") by and between the PUERTO RICO ELECTRIC POWER AUTHORITY (including any successor thereto, "PREPA"), a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico, created by Act of May 2, 1941, No. 83, as amended, employer identification number [●], represented in this act by its Executive Director, Mr. [●], of legal age, [married], [engineer] and resident of [●], Puerto Rico; and PUNTA LIMA WIND FARM, LLC ("SELLER"), a limited liability company organized under the laws of Delaware, authorized to do business in Puerto Rico (as successor-in-interest to Go Green Puerto Rico Alternative Energy Corp.), employer identification number [●], with its principal office at [●], and represented in this act by[INSERT AUTHORIZED REPRESENTATIVE], of legal age, [married], and a resident of [●], who is authorized to sign this Agreement on behalf of SELLER as certified by the Resolution dated [●].

RECITALS

WHEREAS, PREPA and SELLER are parties to that certain Power Purchase and Operating Agreement, dated as of July 3, 2009, as amended, supplemented, and modified from time to time (the "**Pre-Restatement PPOA**");

WHEREAS, pursuant to the Pre-Restatement PPOA, SELLER completed construction and commenced commercial operation on December 17, 2012 of an approximately 26-megawatt Qualifying Facility, capable of operating on wind power, in the vicinity of Naguabo, Puerto Rico ("SELLER's Original Complex");

WHEREAS, on September 20, 2017, Hurricane María made landfall in Puerto Rico as a Category 4 storm, causing significant damage to PREPA's energy transmission and distribution infrastructure and SELLER's Original Complex;

WHEREAS, on July 2, 2017, PREPA commenced proceedings under Title III of the Puerto Rico Oversight, Management and Economic Stability Act before the District Court for the District of Puerto Rico (the "PROMESA Court"), which is being administered under Case No. 17-4780 (LTS);

WHEREAS, SELLER proposes to reconstruct, own, operate and maintain an approximately 26-megawatt Qualifying Facility, capable of operating on wind power ("SELLER's Complex"), on the site of SELLER's Original Complex and sell electricity generated by SELLER's Complex to PREPA;

WHEREAS, SELLER will sell exclusively to PREPA and PREPA will purchase the electric energy produced by SELLER in compliance with PURPA (as defined below); and

WHEREAS, the Parties desire to amend and restate the Pre-Restatement PPOA in its entirety, to effectuate such sale and purchase of energy in accordance with the terms and conditions of this Agreement, and acknowledge that this Agreement contains substantially similar terms to the Pre-Restatement PPOA and that the modifications to the Pre-Restatement PPOA as set forth in this Agreement do not render this Agreement a new agreement between the Parties.

NOW THEREFORE, in consideration of these premises and of the mutual covenants and agreements set forth herein, SELLER and PREPA, intending to be legally bound, hereby agree to the following:

ARTICLE 1. DEFINITIONS

- 1.1 Whenever the following terms appear in this Agreement, whether in the singular or in the plural, present or past tense, they shall have the meaning stated below:
- "115 kV Line" The 115 kV electric power service transmission line of approximately three point five (3.5) miles of length connecting SELLER's Interconnection Facilities with the remaining portions of PREPA's Interconnection Facilities, a functional one-line interconnection diagram of which is contained in Appendix C-1.
- "Agreed Operating Procedures" As set forth in Section 4.4.
- "Agreement" As set forth in the first paragraph of this Agreement.
- "Agreement Year" The period which begins on the Commercial Operation Date of SELLER's Complex and ends on the first anniversary thereof, and each one (1) year period thereafter commencing on each anniversary date.
- "Assumption Order" An order of the PROMESA Court that approves of and authorizes the assumption by PREPA of this Agreement.
- "Assumption Order Date" The date that the PROMESA Court has issued the Assumption Order.
- "Authorized Officer" The Chief Executive Officer or President, any Vice-President, the Treasurer, the Secretary or the Assistant Secretary of SELLER or any of SELLER's general partners.
- "Available Hours" The number of hours in which SELLER's Complex is capable of delivering Net Electrical Output to PREPA.
- "Billing Period" As set forth in Section 10.4.
- "Business Day" Monday through Friday excluding holidays recognized by PREPA, which are set forth on Appendix B; PREPA will notify SELLER in writing of any changes to the holidays recognized by PREPA.
- "Changes" As set forth in Section 18.2.
- "Commencement of Construction" The action taken by SELLER or one or more contractors or subcontractors retained by SELLER, initiating reconstruction of SELLER's Complex consistent with construction industry standards.

- "Commercial Operation Date" The first day following the date on which SELLER has satisfied the conditions set forth on Appendix D.
- "Consulting Technical Expert" A Person or Persons mutually agreed by the Parties assist in the resolution of technical issues, and/or issue a technical recommendation in connection with Technical Disputes, as specified at the time of such Consulting Technical Expert's appointment, which Person shall be selected within thirty (30) Days of the notice of Technical Dispute under Article 22.24, or, if not so selected, shall be selected by the American Arbitration Association upon the request of either Party. The fees of the Consulting Technical Expert shall be equally shared by the Parties.
- "**Design Limits**" The operational limitations of the Facility based on the Facility's design, as identified in the Agreed Operating Procedures.
- "Development Abandonment" Prior to the Commercial Operation Date, an affirmative action taken by SELLER to permanently cease the development of SELLER's Complex.
- "Dispute" As set forth in Section 22.24.
- "Dispute Notice" As set forth in Section 22.24.
- "Effective Date" As set forth in the first paragraph of this Agreement.
- "Emergency" A condition or situation which in the judgment of PREPA is likely to result in imminent significant disruption of service to a significant number of customers or is imminently likely to endanger life or property; provided, however, that such condition or situation is likely to provide such results according to Prudent Utility Practices and following Agreed Operating Procedures.
- "Energy Payment" The product of the applicable Energy Purchase Price (\$/kWh) and the Net Electrical Output for a given Billing Period.
- "Energy Purchase Price" The amount set forth in the column "Energy Purchase Price" in <u>Appendix A</u> for the applicable Agreement Year. <u>Appendix A</u> sets out the Energy Purchase Price for each Agreement Year during the Term.
- "Environmental Costs" As set forth in Article 18.
- "Estimated Generating Capacity" As declared by SELLER in Section 12.1.
- "Facility" SELLER's reconstructed Small Power Production Facility as defined in section 201 of PURPA, consisting of up to 13 Wind Turbines, including auxiliary equipment and unit transformer and switching equipment. The Facility will be located in the municipality of Naguabo, Puerto Rico.
- "FERC" The Federal Energy Regulatory Commission, or any successor thereto.
- "Financial Closing Date" The first date on which documents that provide binding commitments for funding for the reconstruction of SELLER's Complex have been executed and funds for the initial phase of construction become available to SELLER.
- "Force Majeure" As set forth in Article 15.
- "GAAP" Generally Accepted Accounting Principles, as promulgated by the Financial Accounting Standards Board or its predecessors or successors.

- "Governmental Authority" Any court, tribunal or governmental or quasi-governmental body, regulatory body, agency, authority, office, department, commission, board, bureau, public corporation, municipality or instrumentality, in each case at any federal, state, Commonwealth of Puerto Rico, county, municipal, or local level, having jurisdiction over a Party, the Facility or the Site, and includes the Financial Oversight and Management Board of Puerto Rico, the Puerto Rico Central Office for Reconstruction, Recovery and Resiliency, the Public-Private Partnership Authority of Puerto Rico and the Puerto Rico Energy Bureau, or any successor to any of the foregoing.
- "Green Credits" "Renewable energy certificates" and "environmental and social attributes", as such terms are defined in the Puerto Rico Green Energy Incentives Act (Act No. 83 of July 19, 2010), renewable energy credits, environmental attributes, emissions reductions, offsets, allowances or benefits, however entitled (or payments in lieu thereof), whether monetary, fiscal or in the form of physical property, now or in the future available to the Facility, as a facility that generates or produces electricity by means of "green energy" (as such term is defined in the Puerto Rico Green Energy Incentives Act), or from renewable or non-polluting resources, granted or available to SELLER as the owner or operator of the Facility or otherwise, in each case, from any Governmental Authority or third party, including renewable energy credits established pursuant to the Green Energy Incentives Act of Puerto Rico, but shall exclude (i) any federal or Puerto Rico tax credits and grants in lieu thereof, (ii) other tax benefits or credits, (iii) any accelerated depreciation, and (iv) proceeds from (i) through (iii), in each case, associated with the Facility or otherwise available to SELLER, each of which (i) through (iii) are expressly reserved to SELLER.
- "Initial Synchronization Date" The first date when all or a portion of SELLER's electricity generating equipment is synchronized with PREPA's electrical generating equipment and able to deliver electrical energy generated by the Facility to PREPA at the Interconnection Point.
- "Interconnection Facilities" SELLER's Interconnection Facilities and PREPA's Interconnection Facilities.
- "Interconnection Point" The physical point where Net Electrical Output is delivered to PREPA's system, as set forth in <u>Appendix C</u>.
- "Interconnection Study" A study conducted by PREPA in accordance with Section 9.2 to evaluate the integration of the Facility's anticipated Net Electrical Output into PREPA's electric transmission or distribution system.
- "Interest" The compensation for the accrual of monetary obligations under this Agreement computed monthly and prorated daily from the time each such obligation is past due based on an annual interest rate equal to the lesser of (i) the Prime Commercial Lending Rate as set by Citibank N.A., New York, New York or any other bank as mutually agreed by the Parties or any other equivalent rate as mutually agreed by the Parties and (ii) the maximum rate allowable under Article 1649 of the Puerto Rico Civil Code or successor statute applicable to past due amounts. The provisions of this definition shall not be construed to limit the applicable rate of interest on the project debt.
- "Legal Challenge" Means any action, suit or proceeding brought or commenced by a third party seeking to contest the validity of this Agreement, any Permit, or the development, construction or operation of the Facility which materially impairs the ability of the Parties to perform their respective obligations hereunder.
- "Lessor(s)" Any party or parties that lease any equipment, structures or other facilities that are part of SELLER's Complex to SELLER, or any agent, trustee or other person representing or acting on behalf of any such part(ies).

- "Maintenance Outage" A planned interruption of all or a portion of the net electrical output of SELLER's Complex that has been informed to PREPA and is required for any purpose including inspection, preventive maintenance, or corrective maintenance and which has not been included in the Planned Outage Program.
- "Modifications" As set forth in Section 24.3.
- "Month" A Month shall begin at 12:00 midnight on the last day of the preceding calendar month and end at 12:00 midnight on the last day of the current calendar month.
- "Net Electrical Output" The net electrical energy output (expressed in kWh) delivered to PREPA from the Facility, as measured in accordance with Article 10.
- "Net Power Output" means, at any given time, the instantaneous net electrical power output (expressed in kW) made available from the Facility at the Interconnection Point.
- "Notice of Breach" A written notice delivered by a Party to the other Party upon belief that a breach under Section 17.1 has occurred and is continuing.
- "Operation Security" As set forth in Section 17.4.
- "Party" or "Parties" Both SELLER and PREPA are herein individually referred to as a Party and collectively referred to as the Parties.
- "Permanent Abandonment" At any time after Commercial Operation Date, the affirmative action taken by SELLER, its successors, or assignees, as applicable, to permanently shut down the operation of SELLER's Complex.
- "Permanent Closing" At any time after the Commercial Operation Date, the Available Hours for the Facility equal zero (0) for: (a) any period of twelve (12) consecutive Months, excluding periods of outages described in the following subclause (b); and (b) in respect of any outage due to an event of Force Majeure, a period of thirty (30) consecutive Months, whether or not a Force Majeure event has been claimed by SELLER.
- "Permits" All permits, licenses, approvals, authorizations, consents, variances or waivers issued by federal, Commonwealth and local agencies, commissions, authorities and regulatory bodies with jurisdiction over SELLER and SELLER's Complex which are necessary or required for the development, construction, operation or maintenance of SELLER's Complex.
- "Planned Outage" A planned interruption of all or a portion of the Net Electrical Output that has been informed in advance to PREPA and included in the Planned Outage Program.
- "Planned Outage Program" A written scheduled outage program submitted to PREPA by SELLER setting forth the Planned Outage periods for the Facility, as modified from time to time by SELLER as provided for in Article 8, Control and Operation of the Facility.
- "Post-Effective Date Environmental Costs" As set forth in Section 18.1.
- "Post-Effective Date Taxes" As set forth in Section 18.1.
- "Pre-Operation Period" The period beginning on the Initial Synchronization Date and ending on the Commercial Operation Date.

- "PREPA's Interconnection Facilities" All equipment and facilities located on PREPA's side of the Interconnection Point, as set forth in <u>Appendix C</u>, constructed and installed for the purpose of interconnecting the Facility with PREPA's electric transmission or distribution system, including without limitation the 115 kV Line once it is acquired by PREPA pursuant to the Transmission Line PSA.
- "Project Lender" Any party providing construction or permanent financing for SELLER's Complex or any portion thereof (excluding subordinated debt) or any agent, indenture trustee or other person representing or acting on behalf of any such party.
- "PROMESA Court" As set forth in the recitals.
- "Proposed Initial Synchronization Date" As set forth in Section 4.2.
- "Prudent Electrical Practices" Those practices, methods, standards and acts which, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, would have been used in prudent electrical engineering and operations to operate equipment for the generation, transmission, distribution and delivery of electricity, lawfully and with efficiency and dependability, and that are in accordance with the National Electrical Safety Code, the National Electrical Code and any other applicable federal, state or local code.
- "Prudent Utility Practices" Those practices, methods, standards and acts which, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, would have been generally followed by the electric utility industry in the United States and Puerto Rico, as changed from time to time, which generally include, but are not limited to, engineering and operating considerations.
- "PURPA" The Public Utility Regulatory Policies Act of 1978 and the regulations promulgated there under in effect as of the date this Agreement is executed or as they are amended in the future from time to time.
- "Qualified Bank" means Santander Bank, N.A., a commercial bank or other financial institution located within Puerto Rico, the United States or a country (or other jurisdiction) reasonably acceptable to PREPA, or which has, as of the date of issuance or renewal of such guarantee, a long-term counterparty credit rating of at least "A" by Standard & Poor's Ratings Services, a long-term foreign currency deposit rating of "A2" by Moody's Investors Services Inc., or, if either such rating agency is no longer in business or no longer rating the obligations in question, an equivalent rating from another internationally recognized rating agency selected by SELLER with the written consent of PREPA; provided that, if such financial institution's ratings match such minimum ratings, no other credit rating agency shall have placed such financial institution on credit watch with negative implications.
- "Qualified Operator" or "Operator" SELLER or another qualified and experienced operator acceptable to PREPA.
- "Qualifying Facility" A Small Power Production facility under Section 201 of PURPA.
- "RTU" As set forth in Section 7.3.
- "SELLER" As set forth in the first paragraph of this Agreement.
- "SELLER's Complex" As set forth in the recitals. SELLER's Complex shall include the premises, facilities and infrastructure comprising the Facility and SELLER's Interconnection Facilities, and other ancillary equipment owned or leased by SELLER and installed for the purpose of performing its obligations

under this Agreement; as such premises, facilities and infrastructure shall be constructed or reconstructed by SELLER in accordance herewith.

- "SELLER's Complex Generating Capacity" The sum of the capacities in megawatts for all the generators of SELLER's Complex, as determined pursuant to Article 12.
- "SELLER's Interconnection Facilities" All equipment and facilities, located on the Facility side of the Interconnection Point, as set forth in <u>Appendix C</u>, constructed or reconstructed and installed for the purpose of interconnecting the Facility with PREPA's Interconnection Facilities and PREPA's electric transmission or distribution system.
- "SELLER's Original Complex" As set forth in the recitals.
- "Taxes" As set forth in Section 18.1.
- "Technical Dispute" As set forth in Section 22.24.
- "Technical Recommendation" As set forth in Section 22.24.
- "**Term**" The initial term of this Agreement as specified in Article 5, plus any renewal Term determined pursuant to this Agreement.
- "Transfer" As set forth in Section 20.4.
- "Transmission Line PSA" The asset purchase and sale agreement materially in the form attached hereto as Appendix F to be executed by SELLER (as seller) and PREPA (as buyer) on the Effective Date.
- "Year" A Year shall be the twelve (12) Month period beginning 12:00 midnight on December 31 and ending at 12:00 midnight on the subsequent December 31.
- 1.2 The rules of interpretation listed below shall be followed when interpreting this Agreement:
 - (a) Words importing the singular also include the plural and vice versa.
 - (b) References to natural persons or parties include any person having legal capacity.
 - (c) References to a Party include such Party's successors and permitted assigns.
 - (d) Words importing one gender include the other gender.
 - (e) The words "include" and "including" mean "including, but not limited to" and corresponding grammatical variants.
 - (f) Except as otherwise expressly stated herein, all references in this Agreement to this Agreement (including the Appendices hereto) or to contracts, agreements, or other documents shall be deemed to mean this Agreement (including the Appendices hereto) and such contracts, agreements or other documents, as the same may be modified, supplemented, or amended from time to time.
 - (g) Except as otherwise expressly stated herein, all references to recitals, Sections, Articles, and Appendices in this Agreement are references to the recitals, Sections, Articles, and Appendices of this Agreement.

- (h) Words and abbreviations not defined in this Agreement which have generally accepted technical or design, engineering, or construction industry meanings are used in this Agreement in accordance with such recognized meanings.
- (i) The terms "hereof," "herein," "hereto," "hereunder" and words of similar or like import, refer to this entire Agreement, together with its Appendices, and not any one particular Article, Section, Appendix, or other subdivision of this Agreement.
- (j) The headings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the Parties hereto, nor should they be used to aid in any manner in the construction of this Agreement.
- (k) Terms used in the present tense may be interpreted as referring to the past tense and vice versa.
- (l) Unless otherwise stated herein, (i) references to the construction of any portion of SELLER's Complex shall include reconstruction of such portion, and (ii) any obligation of a Party in respect of the construction of SELLER's Complex shall be applicable to, and performed by, such Party in respect to the reconstruction of SELLER's Complex.

ARTICLE 2. SALE AND PURCHASE OF ENERGY

- 2.1 SELLER agrees to sell and PREPA agrees to accept delivery of and purchase the Net Electrical Output as of and following the Initial Synchronization Date, subject to the terms and conditions of this Agreement.
- 2.2 SELLER agrees to reimburse PREPA, subject to the provision of evidence reasonably satisfactory to SELLER, for the actual costs incurred by PREPA in performing the Interconnection Study in accordance with Section 9.2. SELLER shall make such payment within thirty (30) days of PREPA providing the evidence referenced in the preceding sentence.

ARTICLE 3. NOTICES

All notices and other communications hereunder shall be in writing, other than disconnect orders which may be oral and immediately confirmed by email, and shall be deemed duly given upon receipt after being delivered by hand or sent by registered or certified mail, return receipt requested, postage prepaid or by recognized overnight courier service or by email, addressed as follows:

If to SELLER:	
Punta Lima Wind Farm, LLC	
[]	
[]	
Attention: [

With a copy, which shall not constitute notice, to:

McConnell Valdes, LLC

Attention: Carlos J. Fernández Lugo 270 Muñoz Rivera Avenue, Suite 900

San Juan, Puerto Rico 00918

email: cfl@mcvpr.com

If to PREPA:

Puerto Rico Electric Power Authority 1110 Ponce de Leon Avenue Santurce, Puerto Rico

Attention: Director of Planning and Environmental

With a copy to:
Puerto Rico Electric Power Authority
G.P.O. Box 364267
San Juan, Puerto Rico 00936-4267

Attention: Director of Planning and Environmental

Either Party hereto may change, by notice as above provided; the persons and/or addresses to which all such notices are to be sent.

ARTICLE 4. PRE-COMMERCIAL OPERATION PERIOD

- 4.1 SELLER shall submit to PREPA the following:
 - (a) SELLER's Complex preliminary and non-binding licensing and milestone construction schedules within thirty (30) days after the Assumption Order Date (and, thereafter, promptly notify PREPA of any material changes to SELLER's licensing and milestone construction schedules);
 - (b) the conceptual engineering design of SELLER's Complex, including the relay protection scheme, within ninety (90) days following the Assumption Order Date;
 - (c) the wind turbine manufacturer's guaranteed performance data required to perform the Interconnection Study within sixty (60) days following its receipt by SELLER;
 - (d) an official Siemens PTI certified PSS/E mathematical model of the Facility within ninety (90) days following the Assumption Order Date; and
 - (e) progress reports in a form satisfactory to PREPA by the fifth (5th) Business Day of every Month until the Commercial Operation Date.
- 4.2 SELLER shall notify PREPA in writing of the proposed Initial Synchronization Date (the "Proposed Initial Synchronization Date") and the start-up and testing schedule for the Facility on or before such Proposed Initial Synchronization Date no later than sixty (60) days in advance thereof. SELLER shall have the right to postpone such date with advance notice to PREPA. PREPA and SELLER shall agree on the actual Initial Synchronization Date for the Facility and PREPA shall have the right to have a representative present during such period.
- 4.3 SELLER shall provide PREPA with relay settings for review and inspection by PREPA no later than sixty (60) days in advance of the Proposed Initial Synchronization Date. If these are found not to be acceptable to PREPA, SELLER agrees to comply with any request made by PREPA to provide acceptable relay settings prior to the Initial Synchronization Date. PREPA agrees to give any comments or suggested changes which it is entitled to give to SELLER pursuant to this Section 4.3 within thirty (30) days after SELLER submits any required documents or information to PREPA. SELLER agrees to comply with any request made by PREPA to provide acceptable relay settings prior to Initial Synchronization Date. Notwithstanding the above, PREPA may modify the

control and protection schemes regarding, without limitation, the following parameters: ramp rates, higher frequency fluctuations, low voltage ride-through, low frequency ride-through, voltage support and dynamic power factor support; provided that any such modifications are in compliance with Prudent Electrical Practices, Prudent Utility Practices, and the Design Limits and the Minimum Technical Requirements for Wind Turbine Generation Projects set forth in <u>Appendix G. SELLER</u> shall procure equipment with electrical capabilities to comply with the above-mentioned parameters.

- Unless otherwise agreed to by the Parties, SELLER and PREPA shall use commercially reasonable efforts to mutually develop detailed written operating procedures (the "Agreed Operating Procedures") on or before sixty (60) days before the Initial Synchronization Date. The Agreed Operating Procedures will be mutually agreed based on PREPA's standard operating procedures, taking into consideration the design of the Facility and its interconnection to PREPA's electric system. The Agreed Operating Procedures shall describe the procedures to integrate the Net Electrical Output from SELLER's Complex into PREPA's electric system. Topics covered shall include, but not necessarily be limited to, method of day-to-day communications, key personnel lists for both SELLER and PREPA's dispatching centers, clearances and switching practices, outage scheduling, daily available capacity and energy reports, SELLER's Complex operations log, reactive power support and Emergency procedures. The Agreed Operating Procedures may only be modified with the written consent of the Parties.
- 4.5 PREPA shall prepare and submit to SELLER a written voltage schedule for the Facility no later than thirty (30) days prior to the Proposed Initial Synchronization Date. PREPA may change such voltage schedule upon thirty (30) days prior written notice. SELLER shall use such voltage schedule in the operation of its Facility; provided that it is in accordance with the Design Limits of the Facility. This voltage schedule shall be based on the normally expected operating conditions for the Facility and the reactive power requirements of PREPA's system. These thirty (30) day terms may be waived by SELLER.
- 4.6 PREPA reserves the right to delay the actual Initial Synchronization Date due to problems in which the synchronization of SELLER's Complex could adversely affect the operations of PREPA's electrical system, subject to Prudent Utility and Electrical Practices. In such event, PREPA shall promptly give SELLER notice of such problems with PREPA's electrical system. SELLER shall promptly remedy any problems with facilities or equipment installed or maintained by SELLER.
- 4.7 SELLER shall provide PREPA with as-built drawings of the Interconnection Facilities (one line diagram and protection scheme) within one hundred twenty (120) days after the Commercial Operation Date and within one hundred twenty (120) days after any material modification of SELLER's Interconnection Facilities.

ARTICLE 5. TERM

- 5.1 The term of this Agreement shall begin with the Effective Date and shall continue for a period of twenty (20) Agreement Years from the Commercial Operation Date, unless extended, terminated, or canceled in accordance with the terms hereof. If the Term is extended, the word "Term" shall thereafter be deemed to mean the original Term so extended.
- 5.2 The Term of this Agreement may be extended by mutual agreement of the Parties for up to two (2) consecutive periods of five (5) Agreement Years following the expiration of the initial twenty (20) year term. Written notice of intent to extend the Term of this Agreement shall be sent by overnight courier, certified or registered mail to the other Party not less than eighteen (18) Months prior to

the expiration of the term, unless either Party shall give written notice by certified or registered mail to the other of its intent not to extend the term of this Agreement not less than eighteen (18) Months prior to the expiration of the term, and if the other Party fails to respond in writing to such written notice of intent to extend prior to the expiration of the Term, the Term shall be deemed extended for five (5) Agreement Years. During any extension term, all provisions contained herein remain in effect.

ARTICLE 6. REPRESENTATIONS, WARRANTIES AND COVENANTS

- 6.1 SELLER covenants and warrants that SELLER's Complex shall be operated and maintained by a Qualified Operator in accordance with (a) the Agreed Operating Procedures, (b) Prudent Electrical Practices and (c) Prudent Utility Practices, including without limitation, synchronizing, voltage and reactive power control.
- 6.2 SELLER covenants and warrants that SELLER's Complex shall generate its own reactive power (kVAr) such that the Facility shall be capable of operating with a power factor consistent with the Minimum Technical Requirements for Wind Turbine Generation Projects set forth in <u>Appendix G</u> and that the Facility shall be operated at the voltage levels determined pursuant to Section 4.5. SELLER further covenants and warrants that its generator(s) shall be capable of operating at the maximum MVA consistent with the Minimum Technical Requirements for Wind Turbine Generation Projects set forth in <u>Appendix G</u>. SELLER warrants that it will promptly correct any SELLER's Complex design or construction defect that causes SELLER's Complex to have a material adverse effect on PREPA's voltage level or voltage waveform.
- 6.3 SELLER shall, at all times, comply with all applicable laws, ordinances, rules and regulations applicable to it and the use, occupancy and operation of SELLER's Complex, unless the non-compliance therewith would not have a materially adverse effect on the operation of SELLER's Complex, provided that in the event of any such noncompliance, SELLER shall be diligently contesting in good faith any such law, ordinance, rule or regulation. SELLER shall give all required notices, shall procure and maintain all Permits and shall pay all charges and fees in connection therewith unless SELLER shall be diligently contesting any such payments in good faith. SELLER shall give all required notices, shall procure and maintain all Permits and shall pay all charges and fees in connection therewith.
- As between the Parties, SELLER shall have the sole responsibility for the payment of any and all fines or other penalties incurred by or imposed upon SELLER or its agents, suppliers, employees or subcontractors for noncompliance by SELLER, its agents, employees, suppliers, or subcontractors with laws, rules, regulations or ordinances applicable to or in connection with the development, construction, ownership and/or the proper operation of SELLER's Complex as determined by those having jurisdiction over SELLER's Complex, and PREPA shall be held harmless from any such fines or penalties and expenses related to these (including without limitation all reasonable attorneys' fees).

6.5 SELLER hereby represents and warrants:

(a) On the Effective Date, SELLER is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware. SELLER has all requisite power and authority to conduct its business, to own its properties, and to execute, to deliver, and to perform its obligations under this Agreement.

- (b) The execution, delivery and performance by SELLER of this Agreement have been duly authorized, and do not and will not (i) require any additional internal consent or approval of SELLER, or (ii) violate any provision of SELLER's certificate of formation or operating agreement, or any material indenture, contract or agreement to which it is a party or by which it or its properties may be bound, or any law, ordinance, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect.
- (c) On the Effective Date, SELLER is not in default under any document or instrument referred to in clause (ii) of the preceding paragraph (b), which default could reasonably be expected to have a material adverse effect on the ability of SELLER to perform its obligations under this Agreement.
- (d) This Agreement is a legal, valid and binding obligation of SELLER, enforceable against SELLER in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of rights generally.
- (e) On the Effective Date, except as previously disclosed in writing, there is no pending action or proceeding in which SELLER is a party before any Governmental Authority or arbitrator that could reasonably be expected to affect materially and adversely the financial condition or operations of SELLER or the ability of SELLER to perform its obligations under, or which purports to affect the legality, validity or enforceability, of this Agreement as in effect on the date hereof.
- 6.6 SELLER shall not be relieved of its obligations under this Agreement as a result of subcontracting any of its obligations to a third party.
- 6.7 SELLER further agrees that it will cause to be delivered to PREPA an annual certification of the names of its Authorized Officers, accountants, and consulting engineers. SELLER shall make available to PREPA all copies that SELLER receives of any maintenance evaluations or reports to be provided by SELLER to any third party with a financial security interest in or lien on SELLER's Complex, including evaluations or reports generated at the request of such third parties or performed by an engineering firm employed by such third party.
- PREPA agrees that all information (whether financial, technical, or otherwise) obtained from SELLER, or from PREPA's inspections of SELLER's Complex, which is not otherwise generally available to the public shall be kept confidential and used solely by PREPA in connection with the performance of its obligations under this Agreement. Disclosure of such information may be made only within PREPA's organization to key personnel, and to third parties serving as PREPA's legal, financial or technical advisors, whose duties justify their need to review and know such material. PREPA shall require each person (and personnel thereof) to agree for the benefit of SELLER to maintain the confidentiality of such information. To the extent PREPA is required to disclose such information by any Governmental Authority or to the extent necessary to secure governmental approval or authorization, PREPA shall use its best efforts to seek a confidentiality agreement that assures confidential treatment of the information consistent with the terms of this Section 6.8. In the event PREPA is not successful in obtaining a confidentiality agreement, PREPA and SELLER shall use reasonable efforts to obtain through court action the appropriate protective order.
- 6.9 PREPA hereby agrees that, throughout the Term for so long as (i) the Trust Indenture dated January 1, 1974, as amended, between PREPA and The Chase Manhattan Bank (National Association) as successor trustee remains in effect, or (ii) in any agreements subsequently entered into by PREPA for similar purposes in connection with or related to the restructuring of PREPA's debts, all

- payments by PREPA to SELLER under this Agreement shall be treated as current expenses as defined by the terms of the Trust Agreement dated as of January 1, 1974 as amended, between PREPA and State Street Bank and Trust Company, as successor trustee, and any successor indentures or agreements, including any amendments, supplements or modifications thereto, or will be afforded no less beneficial treatment than current expenses in any such new agreements.
- 6.10 PREPA agrees to cause its external counsel (at SELLER's cost) or its internal counsel to issue an opinion in a form reasonably acceptable to SELLER and the Project Lenders on the Financial Closing Date affirming the representations in Section 6.11.
- 6.11 PREPA hereby represents and warrants:
 - (a) Pursuant to Act No. 83 of May 2, 1941, as amended, PREPA is a public corporation duly organized and validly existing under the laws of the Commonwealth of Puerto Rico and has all requisite power and authority to conduct its business, to own its properties, and to execute, to deliver, and to perform its obligations under this Agreement.
 - (b) The execution, delivery and performance by PREPA of this Agreement have been duly authorized by PREPA's Governing Board in accordance with applicable law, and (i) do not and will not require any additional internal consent or approval of PREPA; and (ii) do not and will not violate any provision of Act No. 83 of May 2, 1941, as amended, or its regulations, or any material indenture, contract or agreement to which it is a party or by which its properties may be bound.
 - (c) PREPA is not in default under any document or instrument referred to in clause (ii) of the preceding paragraph (b), which default could reasonably be expected to have a material adverse effect on the ability of PREPA to perform its obligations under this Agreement.
 - (d) This Agreement is a legal, valid and binding obligation of PREPA, enforceable against PREPA in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of rights generally.
 - (e) Except for the proceedings before the PROMESA Court, there is no pending, or to the best of its knowledge, threatened action or proceeding against PREPA before any Governmental Authority or arbitrator that could reasonably be expected to affect materially and adversely the financial condition or operations of PREPA or the ability of PREPA to perform its obligations under, or which purports to affect the legality, validity or enforceability, of this Agreement as in effect on the date hereof.
- 6.12 PREPA shall not be relieved of its obligations under this Agreement as a result of subcontracting any of its obligations to a third party.
- PREPA acknowledges that under this Agreement SELLER is only committing and PREPA is only paying for the Net Electrical Output as available from time to time from SELLER's Complex. PREPA also acknowledges that there is no explicit or implied guarantee about the Net Electrical Output reliability, and that SELLER is not committing and PREPA is not paying for dependable capacity, and that the Facility production is intermittent and subject to wind availability, and that PREPA is not relying and will not rely on SELLER's Complex Generating Capacity for the expansion of its system, and that the only remedy available to PREPA for the failure of SELLER to achieve the Commercial Operation Date or for the failure to achieve any particular number of Available Hours is the termination of the Agreement as provided for in Article 16.

- 6.14 SELLER shall sell and deliver to, and PREPA shall receive and pay for all Green Credits produced by the Facility in accordance with Article 11.1.
- 6.15 SELLER shall provide to PREPA, for the Term of the Agreement, audited financial statements prepared in accordance with GAAP.

ARTICLE 7. DISPATCH

- 7.1 The Facility production is intermittent and subject to wind availability. PREPA agrees to accept all the Net Electrical Output produced by the Facility according to the terms of this Agreement and will not disconnect or curtail the Facility unless due to an Emergency as specified in Article 8.
- 7.2 Notwithstanding Section 7.1 and as further specified in Article 8, PREPA may require SELLER to disconnect or curtail the Facility or reduce the amount of Net Electrical Output due to situations that may affect safety margins or reliability levels in PREPA's system; provided, however, that any disconnection or reduction in the level of Net Electrical Output required by PREPA hereunder shall be based upon and implemented in a manner consistent with Prudent Utility Practices and within the Design Limits; provided further, however, that PREPA shall not disconnect the Facility or reduce the level of Net Electrical Output for purposes of economic dispatch.
- 7.3 SELLER will give PREPA's dispatcher a status report every eight (8) hours of SELLER's Complex conditions, including any SELLER's Complex restrictions, and the hourly integrated net generation during that period. SELLER shall notify the dispatcher right away if there is any pertinent change in SELLER's Complex status. SELLER shall make available through the Facility's remote terminal unit ("RTU") the actual Facility load limit adjustment.
- 7.4 The Facility will provide to PREPA an estimate of next day and next week production, based on the previous day production, estimated strength of the winds the next day and week and based on the meteorological forecast for the region and site.

ARTICLE 8. CONTROL AND OPERATION OF THE FACILITY

- 8.1 SELLER shall use reasonable efforts to (a) submit to PREPA the Planned Outage Program for (i) the balance of the Year during which the Commercial Operation Date occurs no later than the Commercial Operation Date and (ii) each subsequent Years before the beginning of such Year and (b) notify PREPA at least twenty-four (24) hours in advance of all Planned and Maintenance Outages.
- 8.2 If an Emergency is declared by PREPA, PREPA's dispatching centers may partially curtail the Facility or disconnect the Facility from PREPA's system and the Facility will remain curtailed or disconnected from PREPA's system until SELLER has received permission to increase output or reconnect from PREPA's dispatching center. At its sole discretion, during an Emergency PREPA may elect to lower the output of the Facility. Without limiting the generality of the foregoing, PREPA may require the Facility to be curtailed or disconnected without prior notice and remain curtailed or disconnected until permission to reconnect has been received from PREPA (i) if a failure to curtail or disconnect would create or contribute to an Emergency; (ii) if immediate maintenance operations are required or; (iii) whenever PREPA deems it necessary to do so in the interest of the safety and integrity of PREPA's system; provided, however, that any such requests, curtailment, disconnections or lowering the output of the Facility by PREPA hereunder shall be of no greater scope and of no longer duration than is required due to the Emergency or other operating

- problem, and is based upon and implemented in a manner consistent with Prudent Utility Practices and within the Design Limits.
- 8.3 SELLER shall cooperate with PREPA in establishing Emergency plans, including without limitation, recovery from a local or widespread electrical blackout; voltage reduction in order to effect load curtailment; and other plans which may arise. SELLER shall make technical information and data available to PREPA concerning start-up times and black-start capabilities.
- 8.4 If SELLER has a Planned Outage or a Maintenance Outage, and such Planned Outage or Maintenance Outage occurs or would occur coincident with an Emergency, SELLER shall make reasonable efforts, consistent with Prudent Utility Practices and with PREPA's approval, to reschedule the Planned Outage or Maintenance Outage or if the Planned Outage or Maintenance Outage has begun, to expedite the completion thereof.
- 8.5 SELLER recognizes that, subject to Section 7.2 and Section 8.2, PREPA may require that the Facility's Net Power Output be reduced (or capped) or the Facility may be curtailed or disconnected due to situations that may affect safety margins or reliability levels in PREPA's system. Some of these situations may include, but are not limited to, voltage stability problems, security driven dispatch, transmission lines contingencies, generating units contingencies, power transfer levels in some circuits, and disconnection ("vias libres") of some transmission circuits due to maintenance and improvement.
- 8.6 SELLER shall provide as a minimum at its expense the following communication facilities linking SELLER's Complex with PREPA's dispatching centers:
 - (a) One dual ported RTU, including setup installation and configuration, which shall be specified by PREPA.
 - (b) Two independent telecommunication circuits, including one voice grade to link the SCADA system to the Facility's RTU using DNP protocol through a designated PREPA communication node, and a second fiber optic circuit to link PREPA's network to the Facility in order to access protection equipment, revenue meters and the dynamic system monitor through the ruggedcom security device as specified by PREPA;
 - (c) A voice telephone extension for the purpose of communicating with the Monacillos Transmission Center and Ponce Transmission Center;
 - (d) A telephone line and equipment to transmit and receive e-mail messages to confirm the oral communication between PREPA and SELLER; and
 - (e) Dynamic system monitor equipment, components, and system in accordance with Appendix H, for recording the power disturbance caused by electro-mechanic swings and to measure the system response to the swing disturbance.

Items provided by SELLER in accordance with this Section 8.5 shall be subject to the approval of PREPA, which approval shall not be unreasonably withheld or delayed.

8.7 Each Party shall keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this Agreement.

- (a) All such records shall be maintained for a minimum of five (5) years after the creation of such record or data and for any additional length of time required by regulatory agencies with jurisdiction over the Parties; provided, however, that neither Party shall dispose of or destroy any such records that are specifically designated by the other Party even after five (5) years without thirty (30) days prior notice to the other Party. If notice is given to the notifying Party during such thirty (30) day period, the notifying Party shall promptly deliver such records and data to the Party wishing to retain such records.
- (b) SELLER shall maintain an accurate and up-to-date operating log at the Facility with records of: (i) real and reactive power for each hour; (ii) changes in operating status and outages; (iii) any unusual conditions found during inspections; (iv) SELLER's Complex Generating Capacity for each Available Hour as determined consistent with Prudent Utility Practices. Either Party shall have the right from time to time, upon fourteen (14) days written notice to the other Party and during regular business hours, to examine the records and data of the other Party relating to the proper administration of this Agreement any time during the period the records are required to be maintained. At PREPA's request, SELLER shall provide certifications of tests and inspections of the electric and protection equipment, which may impact PREPA's electrical system. PREPA shall have the right to visit and visually monitor SELLER's Complex during operation and testing.

ARTICLE 9. INTERCONNECTION

- 9.1 Subject to the requirements of this Agreement (but without waiving any rights under applicable law), SELLER shall have the right to interconnect SELLER's Complex to PREPA's electrical system at, and deliver the Net Electrical Output to, the Interconnection Point. Appendix C sets forth the information required for the Interconnection Study needed to assess the interconnection of SELLER's Complex to PREPA's system.
- 9.2 PREPA shall perform the Interconnection Study and provide a report summarizing the results to SELLER within sixty (60) days of SELLER's provision of the information and data required by Section 4.1. The Interconnection Study shall, at a minimum, determine what modifications need to be made to the Interconnection Facilities in light of the reconstruction of SELLER's Complex, if any, such as (a) a determination of the power capabilities of the major interconnection equipment required for the Interconnection Facilities, (b) the maximum fault currents necessary to specify short circuit duty and interrupting ratings, (c) confirm generator step up (GSU) transformer impedance and determine transformer tap ranges necessary for proper control of voltage and reactive power flow, and (d) verify the PREPA dispatching centers that will coordinate the operation of SELLER's Complex. SELLER is not prohibited from commencing construction of or modifications to its Facility or the Interconnection Facilities, if applicable, prior to the completion of the Interconnection Study to the extent that the Parties agree that such construction of or modification to the Facility or the Interconnection Facilities will not be materially affected by the results of the Interconnection Study. Any modifications to the Interconnection Facilities shall be consistent with Prudent Utility Practices considering the functional one-line interconnection diagram and approved specifications contained in Appendix C.
- 9.3 Within one hundred twenty (120) days of PREPA's receipt of the information submitted by SELLER in accordance with Section 4.1, PREPA shall either issue SELLER a notice to proceed or notify SELLER of any disagreement with the information provided. SELLER shall not purchase equipment or repair or modify the Interconnection Facilities until receipt of a notice to proceed from PREPA, which shall constitute acceptance by PREPA of the design and specifications of the Interconnection Facilities and of the need to purchase equipment or repair or modify the

- Interconnection Facilities, if applicable. Once the notice to proceed is received by SELLER, SELLER shall use its best efforts to complete work, if any, on PREPA's Interconnection Facilities within the time period specified in the schedule submitted as per Section 4.2.
- 9.4 Subject to Section 9.3, SELLER shall, to the extent required, at its own cost (a) design, acquire all necessary materials and equipment, and repair or modify SELLER's Interconnection Facilities, and (b) design, acquire all necessary materials and equipment, and repair or modify PREPA's Interconnection Facilities, in each case, contemporaneously with the reconstruction of SELLER's Complex. SELLER agrees that the cost of repairing or modifying PREPA's Interconnection Facilities, if required, shall include the control, protection and communication infrastructure required for implementing the aforementioned improvements.
- 9.5 SELLER further agrees that SELLER's Complex interconnection is conditioned upon the installation, at SELLER's cost, of (a) the frequency regulation, voltage and dynamic reactive power support equipment consistent with the Minimum Technical Requirements for Wind Turbine Generation Projects set forth in <u>Appendix G</u> and (b) dynamic system monitoring equipment as specified in <u>Appendix H</u>. The Parties agree to comply with the Minimum Technical Requirements for Wind Projects attached hereto as <u>Appendix G</u>. SELLER's compliance with the Minimum Technical Requirements for Wind Projects shall be measured at the location set forth in <u>Appendix C-1</u>.
- 9.6 Prior to the Initial Synchronization Date, PREPA shall perform, or supervise SELLER in the performance of, the acceptance testing of the Interconnection Facilities, which shall include an inspection of the 115 kV Line. The acceptance testing requirements for the Interconnection Facilities will be set forth in the Agreed Operating Procedures.
- 9.7 On the Effective Date, SELLER and PREPA shall enter into the Transmission Line PSA, pursuant to which SELLER shall assign, transfer and sell, and PREPA shall purchase and accept assignment of, the 115 kV Line and the other assets described therein, subject to the terms and conditions of the Transmission Line PSA.
- 9.8 At all times, SELLER shall own and be responsible for the safe and adequate operation and maintenance of all SELLER's Interconnection Facilities. From and after the date that the transactions contemplated in the Transmission Line PSA are consummated, PREPA shall own and be responsible for the safe and adequate operation and maintenance of PREPA's Interconnection Facilities.
- 9.9 PREPA reserves the right to modify or expand its requirements for protective devices in the Interconnection Facilities in conformance with Prudent Electrical Practices and subject to the Design Limits.
- 9.10 Each Party shall notify the other in advance of any changes to its system that will affect the proper coordination of protective devices on the two systems.

ARTICLE 10. METERING

10.1 PREPA shall own and maintain the primary and backup meters and metering devices (including RTUs) used to measure the delivery and receipt of Net Electrical Output for payment purposes, located at the point identified in <u>Appendix C-1</u>. SELLER shall calibrate and test the primary and backup meters and metering devices subject to Section 10.3, provided that such meters and metering devices shall be subject to PREPA's approval.

- All meters and metering equipment used to determine the Net Electrical Output delivered to PREPA shall be sealed, and the seals broken only by PREPA personnel when the meters are to be inspected, tested or adjusted. PREPA shall give SELLER two (2) weeks prior written notice thereof and SELLER shall have the right to have a representative present during the meter inspection, testing or adjustment. If either Party believes that there has been a meter failure or stoppage, it shall immediately notify the other Party.
- 10.3 At least once a Year at PREPA's cost and, in addition, from time to time upon two (2) weeks prior written notice by SELLER, at SELLER's cost, PREPA will test and calibrate the meter(s), including backup meter, in accordance with the provisions for meter testing as established in American National Standard Code for Electricity Metering (ANSI) Standard C 12.16 for Solid State Electricity Meters, and the Handbook for Electrical Metering, Edison Electric Institute 8th Edition or the updated edition in effect and available to PREPA at the time the test is performed. When, as a result of such a test, a meter is found to be inaccurate by no more than two percent (2%), no adjustment will be made in the amount paid to SELLER for Net Electrical Output delivered to PREPA. If the meter is found to be inaccurate by more than two percent (2%), PREPA will use the backup meter to calculate the correct amount delivered to PREPA for the actual period during which inaccurate measurements were made or, if the actual period cannot be determined to the mutual satisfaction of the Parties, for a period equal to the time elapsed since the most recent test, but in no case for a period in excess of six (6) Months. If the backup meter is not available, or if the testing of the backup meter demonstrates that said meter is inaccurate by more than two percent (2%), the meter readings shall be adjusted based on the corrected meter readings of the most accurate meter for the actual period during which inaccurate measurements were made, or, if the actual period cannot be determined to the mutual satisfaction of the Parties, for a period equal to one-half of the time elapsed since the most recent test, but in no case for a period in excess of six (6) Months. The previous payments by PREPA for this period shall be subtracted from the amount of payments that are calculated to have been owed under this Agreement. The difference shall be offset against or added to the next payment to either Party as appropriate under this or other agreements between the Parties. Each Party shall comply with any reasonable request of the other Party concerning the sealing of meters, the presence of a representative of the other Party when the seals are broken and the test is made, and other matters affecting the accuracy of the measurement of electricity delivered from SELLER's Complex.
- During each one (1) year period, following the Initial Synchronization Date, PREPA shall read the meters twelve (12) times to determine the amount of Net Electrical Output delivered to PREPA between any such two (2) consecutive meter readings (the "Billing Period"). The Billing Period shall not exceed thirty-three (33) days nor be less than twenty-eight (28) days. Except that the first Billing Period, from the Initial Synchronization Date might be less than twenty-eight (28) days to adjust the ensuing Billing Periods to the desired schedule. The meters will be read on the dates indicated on the meter-reading program prepared by PREPA and submitted to SELLER on or before January 1st of each Year. PREPA shall notify SELLER in advance of any change on the meter-reading program. SELLER may be present, at its option, during all meter readings. PREPA shall provide SELLER with a written statement containing the results of such meter readings within ten (10) days following the reading.

ARTICLE 11. COMPENSATION, PAYMENT AND BILLINGS

11.1 For each Billing Period (or part thereof), PREPA shall pay to SELLER the Energy Payment in consideration for both the Net Electrical Output delivered to PREPA and the Green Credits generated by the Facility during such Billing Period (or part thereof). For the avoidance of doubt, all Green Credits generated by the Facility shall be conveyed to PREPA at no additional charge (as

- the consideration therefor is included in the Energy Payment). An example of the Energy Payment is included in Appendix A.
- PREPA will buy all the energy delivered by SELLER for each Month (or part thereof) from the Initial Synchronization Date to the Commercial Operation Date in an amount equal to the product of 1 / kWh and the energy produced during such Month (or part thereof).
- On or before the fifteenth (15th) day following the end of each Billing Period, SELLER shall 11.3 provide PREPA with a written invoice for the Net Electrical Output delivered to PREPA and for other amounts or reimbursement due to SELLER by PREPA hereunder, and such invoice shall be paid by PREPA within forty-seven (47) days after the end of the Billing Period. Interest shall accrue on the outstanding payments due to SELLER commencing on the forty-eighth (48) day after the Billing Period. Notwithstanding the payment requirements set forth in this Section, any amounts owed to PREPA by SELLER relating to SELLER's Complex that are not paid when due to PREPA, at PREPA's discretion, may be offset against the amounts due to SELLER from PREPA under this Agreement, subject to PREPA providing SELLER with ten (10) business days' advance written notice describing in reasonable detail the amounts to be set off before effecting any such set off. Payment to PREPA shall be made by wire transfer to an account with a bank to be specified by PREPA in writing at least thirty (30) days prior to the Initial Synchronization Date or with such other banks as may thereafter be specified by PREPA in writing. Payment to SELLER shall be made by wire transfer to an account with a bank to be specified by SELLER in writing at least thirty (30) days prior to the Initial Synchronization Date or with such other banks or institutions as may thereafter be, specified by SELLER in writing. Either Party may, by written notice to the other, change the address to which such payments are to be sent.
- PREPA will charge all payments that it owes under this Agreement to PREPA's budget account number [●] and estimates that its costs under this Agreement will not exceed [●]. For the avoidance of doubt, the Parties have set out the expected account number and estimate of costs for informational purposes to satisfy the requirements of the Puerto Rico Controller. This paragraph does not bind the Parties or modify any other provision of this Agreement.

ARTICLE 12. SELLER'S COMPLEX GENERATING CAPACITY

- 12.1 SELLER declares (but does not represent, warrant or covenant) that the Estimated Generating Capacity for the Facility at commencement of commercial operations is expected to be approximately 26 MW. SELLER acknowledges and agrees that, to remain interconnected to the PREPA's generation, transmission, and distribution system, the Net Power Output of the Facility at the Interconnection Point shall not exceed the Estimated Generating Capacity at any time, unless required by the Minimum Technical Requirements for Wind Turbine Generation Projects set forth in Appendix G.
- 12.2 [intentionally omitted]
- 12.3 Following the performance of the tests detailed in <u>Appendix D</u>, SELLER shall notify PREPA in writing of SELLER's Complex Generating Capacity and the Commercial Operation Date. PREPA at its option may have an eyewitness during the performance of the tests.

ARTICLE 13. LIABILITY

13.1 Each Party shall be responsible for the energy and facilities, including Interconnection Facilities, located on its respective side of the Interconnection Point. The Net Electrical Output made available

by SELLER to PREPA under this Agreement shall become the property of PREPA at the Interconnection Point. Except as provided in Section 13.2, SELLER shall not be liable to PREPA for loss or damage to PREPA's generation, transmission, and distribution system, including PREPA's Interconnection Facilities, resulting directly or indirectly from the use, misuse or presence of said energy once it passes the Interconnection Point. PREPA shall not be liable to SELLER for loss or damage to SELLER's Complex, resulting directly or indirectly from the use, misuse or presence of said energy before it passes the Interconnection Point.

- 13.2 The Parties agree that their responsibility under this Agreement will be governed by the Puerto Rico Civil Code and its case law, as dictated by the Supreme Court of Puerto Rico. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico.
- 13.3 Notwithstanding anything to the contrary contained in this Agreement, neither Party nor any of its affiliates nor any of their respective directors, officers, shareholders, partners, employees, agents and representatives nor any of their respective heirs, successors and assigns shall in any event be liable to the other Party or its officers, directors, agents, employees or representatives for claims for incidental, consequential or indirect damages, whether arising in tort, contract or otherwise, connected with or resulting from performance or nonperformance under this Agreement, including without limitation, claims made by either Party's customers or suppliers, or claims made by third parties, or claims made by either Party for lost profits.
- Nothing in this Article 13 shall relieve either Party of its obligation to make payments that become or have become due pursuant to Article 11 and Article 18.

ARTICLE 14. INDEMNIFICATION

- 14.1 Each Party shall indemnify and hold harmless the other Party and each of its affiliates and each of their respective directors, officers, shareholders, partners, employees, agents and representatives and each of their respective heirs, successors and assigns from and against any and all damages, claims, losses, liabilities, actions, causes of action, costs, expenses and obligations (including, without limitation, all reasonable attorneys' fees) whether arising in contract, tort or otherwise to third parties for or on account of injury, bodily or otherwise, to or death of persons or for damage to or destruction of property, in each case resulting from, arising out of or in connection with such indemnifying Party's negligent performance or failure to perform under this Agreement.
- In the event any Party to this Agreement receives notice of any claim or cause of action for which such Party elects to assert a right of indemnification and hold harmless from the other Party, the Party receiving such notice must give prompt written notice to the other Party of the claim. The Party required to give the indemnification and hold harmless under the terms and provisions of this Agreement will have control of the defense of any such claim or cause of action (except to the extent prevented by any legal conflict of interest) including the selection of counsel to handle same. In addition to the counsel so selected, the Party being indemnified and held harmless shall be entitled to be represented by counsel of his or its own choosing but, in such event, the cost and expense of said additional counsel shall be borne by the Party being indemnified.
- 14.3 SELLER shall indemnify and hold harmless PREPA for any and all judgments and expenses (including reasonable costs and attorneys' fees) required to be incurred by PREPA as a result of claims of any nature whatsoever resulting from any environmental harm due to the actions of SELLER or SELLER's agents or employees in the design, planning, construction or operation of either or both of SELLER's Original Complex or SELLER's Complex or any of its Facilities or

arising as a result of the presence at either or both of SELLER's Original Complex or SELLER's Complex or any of its Facilities of pollutants, hazardous substances, materials or wastes. In the event SELLER fails to reimburse PREPA for such expenses within thirty (30) days of receipt of written notice from PREPA stating that such expenses were incurred, subject to the provisions of Article 11.3, PREPA may offset the amount of such expenses against amounts due SELLER from PREPA under this Agreement.

ARTICLE 15. FORCE MAJEURE

- 15.1 The Parties shall be excused from performing hereunder and shall not be liable or otherwise if and only to the extent that they shall be unable to perform or are prevented from performing due to a Force Majeure event. For purposes of this Agreement, Force Majeure means any cause beyond the reasonable control of and not the result of the fault or negligence of the Party claiming the Force Majeure event. The burden of proof as to whether a Force Majeure event has occurred and caused a non-performance or inability to perform shall be on the Party claiming the Force Majeure. Except as provided in Section 15.4, the Parties hereto shall be excused from performing hereunder and shall not be liable in damages or otherwise to the extent the non-performance or inability to perform is due to a Force Majeure event.
- 15.2 Provided that the provisions of Section 15.1 above are met, Force Majeure events may include, but are not limited to, the following: Acts of God, strikes, acts of public enemy, war, blockades, boycotts, riots, insurrections, epidemics, earthquakes, storms, floods, civil disturbances, lockouts, fires, explosions, Legal Challenges, interruptions of services due to the act or failure to act of any Governmental Authority, except that PREPA cannot claim Force Majeure for acts or failures to act by PREPA.
- 15.3 Except as otherwise provided in Section 15.4, if either Party is rendered wholly or partly unable to perform its obligations under this Agreement because of Force Majeure, that Party shall be excused from whatever performance is affected by the Force Majeure to the extent so affected, provided that: (i) the non-performing Party, within ten (10) days after the occurrence of the Force Majeure, gives the other Party written notice describing the particulars of the occurrence and its estimated duration; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure consistent with Prudent Utility Practices; (iii) no obligations of either Party which arose prior to the Force Majeure be excused as a result of the Force Majeure; and (iv) the non-performing Party uses its best efforts, consistent with Prudent Utility Practices, to remedy its inability to perform and resume in full its performance under this Agreement, provided that this obligation shall not require the settlement of any strike, walkout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its best interest.
- Neither Party shall be excused by reason of Force Majeure from the obligation to make any payments, when due, to the other Party.
- 15.5 For purposes of this Article 15, if a Party disputes the other Party's claim of Force Majeure such dispute shall be resolved through the Dispute Resolution process provided for in Section 22.24.
- 15.6 A Party claiming a Force Majeure shall use its best efforts, diligently and continuously, to mitigate and remedy the causes of the Force Majeure. These efforts shall continue during any Dispute Resolution process.

ARTICLE 16. TERMINATION

- 16.1 Termination of this Agreement shall occur only upon:
 - (a) expiration of the Term of this Agreement as provided in Article 5; or
 - (b) mutual written consent of the Parties; or
 - (c) the date identified by PREPA in a written notice to SELLER following the occurrence of a Development Abandonment, Permanent Abandonment or Permanent Closing, subject to the provisions of Article 17; or
 - (d) the date identified by a Party in a written notice to the other Party following the material, uncured breach of any of the terms and conditions of this Agreement by such other Party, subject to the provisions of Article 17; or
 - (e) the date identified by PREPA in a written notice to SELLER following any delay by SELLER in achieving the Commercial Operation Date of the Facility by the date that is twenty-four (24) Months after the Assumption Order Date, unless the delay is due to one or more events of Force Majeure or the act or omission of PREPA, in which case, the twenty-four (24) Month period shall be extended on a day for day basis for the duration of such Force Majeure event or act or omission of PREPA and the termination right may only be exercised if the Commercial Operation Date has not occurred by the expiration of such extended period, subject to the provisions of Article 17.
- 16.2 Termination of this Agreement shall not discharge either Party hereto from any obligation it owes to the other Party under this Agreement by reasons of any transaction, loss, cost, damage, expense or liability, which shall occur or arise (or the circumstances, events, or basis of which shall occur or arise) prior to termination. It is the intent of the Parties hereby that any such obligation owed (whether the same shall be known or unknown at termination or whether the circumstances, events or basis of the same shall be known or unknown at termination) shall survive termination. Any indebtedness by either Party to the other shall be considered payable within ninety (90) days of the termination of this Agreement. This Section 16.2, together with Article 13, Article 14, Section 22.4 and Section 22.7 shall survive termination of this Agreement.

ARTICLE 17. BREACH OF AGREEMENT, DELAYS AND SECURITY

- 17.1 A breach of this Agreement shall be deemed to exist upon the occurrence of any one of the following:
 - (a) Commercial Operation Date for the Facility is not achieved within the time frame specified in Section 16.1(e);
 - (b) the failure by either Party to perform in any material respect its obligations under this Agreement, subject to the provisions of Section 17.3, or
 - (c) the occurrence of a Development Abandonment, Permanent Abandonment or Permanent Closing of SELLER's Complex.
- 17.2 If PREPA believes SELLER has breached this Agreement pursuant to Section 17.1(a), PREPA shall provide SELLER a Notice of Breach thereof. If within fifteen (15) days of the receipt of such

- Notice of Breach, SELLER fails to respond in writing to the Notice of Breach, PREPA may terminate this Agreement as provided under Article 16 as the only remedy for such a breach.
- 17.3 If either Party believes the other Party has breached this Agreement pursuant to Section 17.1(b) or Section 17.1(c), the non-breaching Party shall provide the other Party with a Notice of Breach thereof. If within thirty (30) days of the receipt of such Notice of Breach, such other Party fails to respond in writing to the Notice of Breach, the non-breaching Party shall be entitled to invoke its remedies under this Agreement and/or under applicable law. If such other Party disputes in writing that a breach by it has occurred, the Parties may pursue a resolution by the Dispute Resolution process provided for in Section 22.24. In case the other Party admits in writing, or the Dispute Resolution process contemplated above results in a determination that a breach (other than a payment breach) has occurred, the breaching Party shall have a minimum of thirty (30) days from the latest of (i) receipt of the Notice of Breach, (ii) its admission of breach, or (iii) when the resolution contemplated above determines that a breach has occurred, to cure the breach or the cause of such breach, if the breach is one which by its nature cannot be cured, provided however, that if the breach or such cause cannot be cured within the thirty (30) day period, the breaching Party shall be given an additional ninety (90) day period to cure the breach or such cause with the exercise of due diligence. If the breaching Party fails to cure the breach or such cause or to be actively pursuing to cure with the exercise of due diligence within such time period, the nonbreaching Party may pursue its remedies under this Agreement and/or under the law.
- 17.4 No later than the Commencement of Construction, SELLER shall provide to PREPA, at SELLER's sole expense, a surety bond issued by a surety company duly licensed in the Commonwealth of Puerto Rico, an irrevocable direct pay letter or letters of credit issued by a Qualified Bank, or a guaranty provided by a guarantor with an investment grade credit rating as determined by Moody's or Standard and Poor's (provided, however, that the requirement that such guarantor have an investment grade credit rating shall not apply so long as such guarantor and SELLER are, directly or indirectly, wholly owned by Santander), which such issuing bank or guarantor and forms of surety bond, letter of credit or guaranty shall be subject to PREPA's approval (such approval not to be unreasonably withheld, conditioned or delayed), in each case, in the aggregate amount of per kilowatt of Estimated Generating Capacity (the "Operation Security").

 The Operation Security required herein shall be maintained for the remainder of the Term.
- PREPA may draw from the Operation Security required under Section 17.4 to offset any damages PREPA may be entitled to under this Agreement, provided that PREPA either obtains the agreement of SELLER to the level of damages or obtains a final determination through the Dispute Resolution process specifying the level of damages. If PREPA reasonably determines that the Operation Security would otherwise expire or cease to exist prior to such agreement or judgment, PREPA may draw from the Operation Security an amount equal to PREPA's claim of damages; provided that PREPA places the drawn amounts in an escrow account in a bank reasonably acceptable to SELLER until the appropriate amount of damages is determined. Following such agreement or determination, PREPA may draw from the escrow account and retain amounts equal to the amount of damages, if any, determined to be due to PREPA and PREPA shall deliver to SELLER all amounts remaining in the escrow account, if any. Drawing under the Operation Security shall not be the exclusive remedy available to PREPA.

ARTICLE 18. TAXES AND ENVIRONMENTAL COSTS

18.1 For purposes of this Agreement, "**Taxes**" shall mean any and all taxes, fees or other charges of any nature, excluding income taxes and repatriation (tollgate) taxes, that are imposed or assessed on or as a result of the ownership or operations of SELLER's Complex by federal, Commonwealth or

municipal governmental bodies or agencies responsible for implementing tax laws, rules, regulations or orders. "Environmental Costs" shall mean any and all fixed and variable costs incurred by SELLER resulting from the imposition or assessment on or as a result of the ownership or operations of SELLER's Complex by laws, rules, regulations or orders relating to the environment issued by federal, Commonwealth or municipal governmental bodies or agencies. "Post-Effective Date Taxes" shall mean all Taxes resulting from tax laws, rules, regulations or orders enacted, approved or issued after the Effective Date. "Post-Effective Date Environmental Costs" shall mean all Environmental Costs resulting from laws, rules, regulations or orders enacted, approved or issued after the Effective Date.

- 18.2 SELLER shall be responsible for all income taxes, repatriation (tollgate) taxes, Taxes and Environmental Costs; provided that PREPA shall reimburse SELLER for (a) all changes in the payments of Taxes by SELLER that are the result of the enactment of Post-Effective Date Taxes and (b) all changes in SELLER's Environmental Costs that are the result of the enactment of Post-Effective Date Environmental Costs, in each case, applicable to SELLER by reason of the ownership or operation of SELLER's Complex for the purpose of the sale by SELLER to PREPA of Net Electrical Output (collectively, "Changes"). Such Changes payable by PREPA according to the foregoing shall be paid to SELLER by an equitable adjustment to the Energy Purchase Price on a per kWh basis over the remainder of the Term.
- 18.3 SELLER will promptly pay and discharge all lawful taxes, assessments and governmental charges or levies imposed upon it or in respect of all or any part of its property or business, all trade accounts payable in accordance with usual and customary business terms, and all claims for work, labor or materials which, if unpaid, might become a lien or charge upon any of its property; provided, however, that SELLER shall not be required to pay any such tax, assessment, charge, levy, account payable or claim if (a) the validity, applicability or amount thereof is being contested in good faith by appropriate actions or proceedings which will prevent the forfeiture or sale of any property of SELLER or any material interference with the use thereof by SELLER and (b) SELLER has set aside on its books reserves deemed by it to be adequate with respect thereto. PREPA shall pay or cause to be paid all taxes, fees and other charges of any nature on or with respect to the Net Electrical Output at and from the PREPA Interconnection Facilities, including, without limitation, taxes, fees or other charges of any nature assessed on or with respect to the purchase and sale of the Net Electrical Output at the Interconnection Point (including, without limitation, sales tax, excise tax, municipal license tax and value-added tax).

ARTICLE 19. INSURANCE

- 19.1 SELLER shall obtain or cause its agent or its affiliate to obtain on or before the later of (i) the Financial Closing Date, and (ii) the Commencement of Construction of SELLER's Complex, and shall maintain during the remainder of the Term of the Agreement the following policies of insurance issued by an A. M. Best rated insurance company authorized to do business in Puerto Rico, or any other insurance providers reasonably acceptable to PREPA, such as Lloyds of London:
 - (a) Workmen's Compensation Insurance: (i) SELLER shall provide Workmen's Compensation Insurance as required by the Workmen's Compensation Act of the Commonwealth of Puerto Rico. SELLER shall also be responsible for compliance with said Workmen's Compensation Act by all its subcontractors, agents or affiliates; (ii) SELLER shall furnish PREPA with a certificate from the State Insurance Fund showing that all personnel employed in the works under this Agreement are covered. If imported technical personnel is exempted, SELLER shall furnish evidence of such exemption and a

- certificate from the insurance carrier covering said personnel and; (iii) for imported technical personnel eligible for exemption, SELLER shall refer to Appendix E, enclosed;
- (b) Employer's Liability Insurance: SELLER shall provide Employer's Liability Insurance with minimum bodily injury limits of \$1,000,000 for each employee and \$1,000,000 for each accident covering against the liability imposed by Law upon SELLER as a result of bodily injury, by accident or disease, including death arising out of and in the course of employment outside of and distinct from any claim under the Workmen's Compensation Act of the Commonwealth of Puerto Rico;
- (c) Commercial General Liability Insurance: SELLER shall provide and maintain during the Term of the Agreement a Commercial General Liability Insurance with bodily injury and property damage combined single limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. Such insurance shall include specific coverage for contractual liability encompassing the indemnification provisions in Article 14, broad form property damage liability, personal injury liability, explosion, collapse and undergrounds damages coverage, products/completed operations liability; and where applicable, watercraft indemnity liability which may be covered on a separate policy;
- (d) Automobile Liability Insurance: SELLER shall provide a Comprehensive Automobile Liability Insurance with bodily injury and property damage combined single limits of at least \$1,000,000 per accident covering all owned, non-owned or hired vehicles;
- (e) Excess Umbrella Liability Insurance: SELLER shall maintain an Excess Umbrella Liability Insurance with a limit of not less than \$3,000,000 per occurrence in excess of the limits of insurance provided in subsections (b) through d) above;
- 19.2 The amounts of insurance required in Section 19.1 above may be satisfied by SELLER purchasing primary coverage in the amounts specified or by buying a separate Excess Umbrella Liability Policy together with lower limit primary underlying coverage. The structure of the coverage is SELLER's option, so long as the total amount of insurance meets PREPA's requirements set forth in Section 19.1.
- 19.3 The coverage's requested in Section (b) above and any required Umbrella or Excess coverage could be "occurrence" form policies.
- 19.4 SELLER shall cause its insurers to endorse its Commercial General Liability and, if applicable, Excess Umbrella Liability policies with the following endorsement (a) through (d); and its Automobile Liability policies with endorsement item (d):
 - (a) PREPA, its board of directors, its directors, officers and employees are additional insureds under this policy to the extent of SELLER's indemnity obligations elsewhere in this Agreement; and
 - (b) This insurance is primary, but only for liability arising out of the operation of SELLER's Complex or other matters arising in relation to this Agreement; with respect to the interest of PREPA, its directors, officers, and employees, and other insurance maintained by them is excess and not contributory with this insurance; and
 - (c) Insurer hereby waives all rights of subrogation against PREPA, its officers, directors and employees; and

- (d) Notwithstanding any provision of the policy, this policy may not be cancelled, non-renewed or materially changed by the insurer without giving thirty (30) days (ten (10) days in the case of non-payment of premiums) prior written notice to PREPA. All other terms and conditions of the policy remain unchanged.
- 19.5 Regarding breach of insurance warranties by SELLER, all insurance policies under Subsections (c) through (d) of Section 19.1 shall be endorsed, to the extent available on commercially reasonable terms, as follows or with substantially similar language agreeable to the Parties: "The breach of any of the warranties or conditions in this policy by SELLER shall not prejudice PREPA's right under this policy."
- 19.6 SELLER shall cause its insurers or agents to provide PREPA not later than seven (7) days prior to Commencement of Construction, with the originals of the certificates of insurance evidencing the policies and endorsements listed above with respect to SELLER's Complex. Failure of PREPA to obtain certificates of insurance does not relieve SELLER of the insurance requirements set forth herein. Failure to obtain the insurance coverage required by this Article 19 shall in no way relieve SELLER's obligations and liabilities under other provisions of this Agreement.

ARTICLE 20. ASSIGNMENT

- 20.1 Except as otherwise provided in Section 20.5, this Agreement shall not be assigned or transferred by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Any attempt to assign this Agreement without the prior written consent of the corresponding Party shall be void. For avoidance of doubt, in no case shall the transfer of this Agreement to an affiliate of SELLER be Subject to PREPA's approval.
- Notwithstanding the above, SELLER may assign its rights and benefits but not its obligations and duties under this Agreement without PREPA's consent (a) to a Project Lender as collateral security in connection with a financing and/or (b) to a Lessor as collateral security in connection with a lease arrangement; provided that SELLER shall not be relieved of its responsibility to carry out its duties and obligations under this Agreement, and further provided that any such assignment is made expressly subject to the terms and conditions of this Agreement between SELLER and PREPA. PREPA agrees to execute the appropriate consenting documents, estoppels certificates and acknowledgments (including agreements to provide copies of notices of defaults and agreements to pay funds directly to the Project Lender or Lessor (or its lenders or its lenders' representatives)), as reasonably required by the Project Lender or Lessor, in connection with any assignment made by SELLER, Project Lender, or Lessor in accordance with this Article 20.
- 20.3 PREPA acknowledges that as a result of an assignment of SELLER's rights and interests under this Agreement to a Project Lender or Lessor: (a) the Project Lender or Lessor, as applicable, will have the right, upon the occurrence of a default under its corresponding agreements with SELLER, to assume or cause a nominee to assume, all of the rights and obligations of SELLER (or Project Lender or Lessor) under this Agreement, and (b) the Project Lender or Lessor, or its lenders or its lenders' representatives, as applicable, will have the right to cure defaults by SELLER under this Agreement on the same terms and during the same periods available to SELLER.
- The Parties acknowledge that PREPA is undergoing a transformation process, and therefore, both Parties agree that PREPA may assign, convey or transfer (each, a "**Transfer**") any of its rights, title, or interest in this Agreement as permitted by applicable law and at any time, without SELLER's consent and without cost, expense or incremental liability to PREPA or SELLER, to any Governmental Authority of Puerto Rico which becomes the owner of all or substantially all of

Puerto Rico's electric power transmission and distribution system; provided that PREPA shall not be released from liability hereunder unless and until this Agreement shall be expressly accepted by the transferee in any such Transfer as binding upon said transferee, including an acknowledgment by said transferee of Project Lenders' rights with respect to this Agreement and the consent to collateral assignment, and provided further that PREPA shall notify SELLER no later than thirty (30) Days before the effective date of any such Transfer.

20.5 In the event the Facility or any portion thereof, SELLER, or substantially all of SELLER's assets are intended to be sold, directly or indirectly, SELLER shall notify PREPA of such intention to sell thirty (30) Days in advance of the intended date of such sale. PREPA shall have the right to approve the new owner, which approval shall not be unreasonably withheld, conditioned or delayed, and which decision PREPA shall inform SELLER no later than thirty (30) Days after SELLER's notice under the preceding sentence; provided, however, that no such approval shall be required if (a) the sale or transfer of SELLER's assets is part of any foreclosure on any mortgage, lien, pledge, charge or other encumbrance granted to the Project Lenders under any non-recourse project financing related exclusively to such assets and such lenders or their agent has entered into a direct agreement with PREPA in respect of the collateral assignment of this Agreement, (b) such new owner constitutes a permitted assignee under Article 20.3, or (c) the new owner provides to PREPA (i) its audited financial statements as per GAAP, demonstrating that such new owner has a tangible net worth of at least twenty-five million dollars (\$25,000,000) (or its direct or indirect parent has a tangible net worth of at least fifty million dollars (\$50,000,000)), (ii) evidence that such new owner is or has engaged a Qualified Operator, and (iii) the certifications and documentation required by Article 22.9, but construing references to SELLER therein as references to such new owner; provided, however, that, in each case, SELLER has ensured that any regulatory approvals required have been obtained in respect of such transfer and such transfer otherwise complies with applicable law. In all of the preceding authorized transactions, this Agreement shall be transferred and assigned to the new owner as of the date of the PREPA approval, or as of the date of the notice to PREPA under subclauses (a), (b) or (c) above, and from such date onward all references to SELLER herein shall be deemed to refer to the new owner.

ARTICLE 21. QUALIFYING FACILITY STATUS

- 21.1 SELLER shall certify that the Facility has achieved status as a Qualifying Facility pursuant to PURPA on or before the Commercial Operation Date.
- 21.2 In the event the Facility loses its status as a Qualifying Facility pursuant to PURPA, SELLER shall vigorously pursue and use reasonable efforts to re-obtain Qualifying Facility status. Notwithstanding the above, should SELLER be unable to obtain such status, this Agreement shall remain in full force and effect and SELLER shall comply, in its relationship with PREPA, with all other provisions of PURPA and the regulations approved under PURPA by FERC or any successor applicable to the relationship between Qualifying Facilities and electric utilities, in particular those provisions which protect, defend, preserve, and/or are propitious to electric utilities, provided, however, that nothing under PURPA or the regulations hereunder shall materially adversely affect in any way the rights, duties, and obligations of the Parties under this Agreement.

ARTICLE 22. MISCELLANEOUS PROVISIONS

22.1 This Agreement, including the appendices thereto, can be amended only by agreement between the Parties in writing.

- 22.2 The failure of either Party to insist in any one or more instances upon strict performance of any provisions of this Agreement, or to take advantage of any of its rights hereunder, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder, which shall remain in full force and effect.
- 22.3 SELLER represents and warrants that the information included in the Contractor Certification Requirement, as included in Appendix C of the Contract Submission Questionnaire required by the Financial Oversight & Management Board for Puerto Rico, is complete, accurate and correct, and that any misrepresentation, inaccuracy of falseness in such Contractor Certification Requirement will render this Agreement null and void and SELLER will have the obligation to reimburse immediately to PREPA any amounts, payments or benefits received from PREPA hereunder.
- 22.4 This Agreement is intended solely for the benefit of the Parties hereto. Nothing in this Agreement shall be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a Party to this Agreement.
- 22.5 No officer, employee, or agent of SELLER or PREPA or of the Commonwealth or municipal governments shall be entitled to any share or part of this Agreement or to any benefit that may arise therefore that would be in violation of any law, rule, regulation, order, or policy of the Commonwealth of Puerto Rico or PREPA.
- 22.6 This Agreement shall not be interpreted or construed to create an association, joint venture, 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.
- 22.7 Cancellation, expiration or earlier termination of this Agreement shall not relieve the Parties of obligations incurred prior to, or as a result of, such cancellation, expiration or earlier termination of this Agreement, which by their nature should survive such events, including without limitation warranties, remedies, promises of indemnity and confidentiality.
- 22.8 PREPA agrees to provide electric service to SELLER, as requested by SELLER, at the most advantageous rate available to SELLER in accordance with PREPA's applicable rates.
- 22.9 Previous to the signing of this Agreement, SELLER will have to submit the following documents or certifications:
 - (a) Certification by SELLER, which indicates that it has filed its Income Tax Returns during the five (5) previous years, if required, and that it does not owe taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan in full compliance with its terms.
 - (b) An Income Tax Return Filing Certificate, issued by the Treasury Department of Puerto Rico, Area of Internal Revenues, assuring that SELLER has filed his Income Tax Return for the last five (5) years, if required. To acquire such Certificate, SELLER will use the Request for Copy and/or Certification of Income Tax Returns Form issued by the Treasury Department of Puerto Rico. In addition, SELLER shall submit a Certification of Debt issued by the Area of Internal Revenues.

- (c) Certification issued by the Municipal Revenues Collection Center, assuring that SELLER does not owe any tax to such governmental agency. To acquire such Certificate, SELLER Will use the form issued by the Municipal Revenues Collection Center.
- (d) Certificate issued by the Department of Labor and Human Resources of Puerto Rico assuring that SELLER has paid to the Department of Labor and Human Resources of Puerto Rico his employees' contributions, in accordance with the Puerto Rico Employment Security Act (unemployment, temporary disability or sickness or social security for chauffeurs); or is paying such contributions by an installment plan in full compliance with its terms. To acquire such Certificate, SELLER will use the form issued by the Department of Labor and Human Resources of Puerto Rico.
- (e) A sworn statement that SELLER, to its actual knowledge, does not receive payment or benefit of any nature for services rendered regularly through an appointment to a Governmental Authority of Puerto Rico.
- 22.10 If any of the previously required Certifications shows a debt, and SELLER has requested a review or adjustment this debt, SELLER will certify that it has made such request at the Effective Date. If the requested review or adjustment is denied and such determination is final, SELLER will provide, immediately, proof of payment of this debt to PREPA; otherwise, SELLER accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments.
- 22.11 Specifically, SELLER recognizes that submittal of the aforementioned certifications and documents is an essential condition of this Agreement; and even in the case that they are partially incorrect, there will be sufficient cause for PREPA to terminate, cancel or rescind this Agreement and SELLER have to refund all payments received under this Agreement. Prior to exercising any rights that PREPA might have pursuant to this Section 22.11, PREPA will notify SELLER of the nature of the deficiency and will afford SELLER a reasonable time to prepare or cause to prepare the documents and certifications to comply with the aforementioned requirements. SELLER will not have the preceding cure rights if SELLER had knowingly submitted false documents.
- 22.12 Each Party to this Agreement warrants that, except to the extent that a particular provision of this Agreement expressly creates a different standard, it will be reasonable with respect to the substance and timing of any exercise of its respective rights, obligations, duties and discretions in implementing this Agreement, including, without limitation, the making of and satisfying of requests, the issuance and withholding of consents and findings of acceptability or satisfaction, the incurrence of costs that are the responsibility of the other Party, and the provision of notice to the other Party and the Project Lenders if applicable.
- 22.13 This Agreement shall inure to the benefit of and be binding upon SELLER and PREPA and their respective successors and assigns.
- 22.14 Either Party may waive breach by the other Party; provided that no waiver by or on behalf of either Party of any breach of this Agreement shall take effect or be binding on that Party unless the waiver is in writing. A waiver of breach shall extend only to the particular breach waived and shall not limit or otherwise affect any rights that either Party may have with respect to any other or future breach.
- 22.15 If any provision hereof shall be held invalid, illegal or unenforceable by in accordance with Section 22.24, such holding shall not invalidate or render unenforceable any other provision hereof.

- 22.16 PREPA and SELLER agree that no amendment, which could be made to the Agreement, during its Term, shall be understood as a contractual novation, unless both Parties agree to the contrary specifically and in writing. The preceding sentence shall be equally applicable in such other cases where PREPA gives SELLER a time extension for the compliance of any of its obligations under the Agreement, or where PREPA dispenses the claim or demand of any of its credits or rights under the Agreement.
- 22.17 Under no circumstances, except in such one where PREPA agrees to the contrary specifically and in writing, shall PREPA's rights under the Agreement be understood as waived by any amendment, change order, time extension to SELLER, or by reason of dispensation given by PREPA as to a claim or demand of any of its credits or contractual rights.
- 22.18 SELLER certifies that it does not receive payment or benefit of any nature for services rendered regularly through an appointment to a governmental agency, body, public corporation or municipality of Puerto Rico. SELLER also certifies that it may have contracts with other governmental agencies or bodies, but such contracts do not constitute a conflict of interest for SELLER.
- 22.19 SELLER certifies that, on the Effective Date, it does not have any contractual relation that could cause a conflict of interest with this Agreement. SELLER also certifies that no public employee has any personal or economic interest in this Agreement.
- 22.20 SELLER agrees to comply with the provisions of Act of June 18, 2002, No. 84, which establishes a Code of Ethics for the Contractors, Suppliers and Economic incentive Applicants of the Executive Agencies of the Commonwealth of Puerto Rico.
- 22.21 Except as provided under Article 18, Taxes and Environmental Costs, during the Term of this Agreement, any Change in Law, including, but not limited to changes in applicable tax law, which causes an increase in SELLER costs when supplying the products or services to be acquired by PREPA, shall be SELLER's responsibility. PREPA shall not be obliged to pay more for Net Electrical Output than as defined in this Agreement.
- 22.22 SELLER shall be considered as an independent contractor, for all purposes under this Agreement, and all persons engaged or contracted by SELLER for the performance of its obligations herein, shall be considered as its employees or agents or those of its subcontractors, and not as employees or agents of PREPA.
- 22.23 All invoices submitted by SELLER shall include the following Certification, signed by SELLER, in order to be processed for payment by PREPA:

No Interest Certification:

Under penalty of absolute nullity, I hereby certify that no employee, official or director of PREPA is a party or has any interest in the profits or benefits to be obtained under this Agreement, or if any employee, official or director of PREPA has any interest in the profits or benefits under this Agreement, a waiver has been previously obtained. I also certify that the only consideration to provide the services under this Agreement is the payment agreed with PREPA's authorized representative. The total amount of this invoice is fair and correct. The services were provided and no payment has been received for this invoice.

SELLER's Signature

- 22.24 If a dispute arises between the Parties regarding the application, interpretation, enforceability, validity, performance, or breach of this Agreement or matters arising therefrom or relating thereto, (a "**Dispute**"), then such Dispute shall be resolved solely by either the agreement of the Parties, with or without a Technical Recommendation (as defined and subject to the terms set forth in clause (b) below) or in a proceeding before the Puerto Rico Energy Bureau in accordance with this Section 22.24.
 - (a) In the event of a Dispute under this Agreement, the disputing Party may promptly provide written notice of the Dispute (a "Dispute Notice") to the other Party setting forth in reasonable detail the scope and nature of such Dispute, including without limitation an identification of the provisions of this Agreement under which such Dispute arises. Following delivery of the Dispute Notice, the Parties shall either (i) agree in writing to submit such Dispute for a Technical Recommendation as provided in clause (b) below or (ii) absent such agreement, nominate a member of its respective senior management, who shall have decision-making authority on behalf of such Party, and such senior management members shall promptly meet and seek to achieve settlement, if possible, by negotiation and mutual agreement. If the Dispute is not resolved or submitted for Technical Recommendation within forty-five (45) Days after the Dispute Notice is received by the recipient Party (or such longer period of time as may be mutually agreed by the Parties in writing), then either Party may submit the Dispute to the consideration of the Puerto Rico Energy Bureau.
 - If a Dispute hereunder is one that the Parties agree is of a technical nature that they should (b) attempt to resolve through a technical review in proceedings before the Consulting Technical Expert, either Party may submit such Dispute (a "Technical Dispute") for a recommended resolution by the Consulting Technical Expert (a "Technical **Recommendation**") by providing to the other Party and the Consulting Technical Expert a written notice, specifying the matter to be determined. Proceedings before the Consulting Technical Expert shall be held in San Juan, Puerto Rico, unless otherwise agreed in writing by the Parties. Within thirty (30) Days or the engagement of the Consulting Technical Expert for a Technical Dispute (or such longer period of time as the Parties may mutually agree in writing), the Consulting Technical Expert shall conduct a hearing; provided that the Parties may agree in writing to waive the hearing and have the Consulting Technical Expert issue the Technical Recommendation on the basis of written submissions alone. The Consulting Technical Expert shall render a written recommendation on the Technical Dispute as soon as practicable after the close of the hearing but, in any case, no later than fifteen (15) Days after the close of the hearing. The Parties may resolve the Technical Dispute based on the Technical Recommendation or any mutually agreed modification thereof. If the Technical Dispute is not resolved in this fashion, the Parties may submit the matter for a final determination before the Puerto Rico Energy Bureau.
- 22.25 This Agreement amends and restates the Pre-Restatement PPOA in its entirety. Each Party acknowledges and agrees that the execution and delivery of this Agreement does not constitute a novation of the Pre-Restatement PPOA. Each Party acknowledges and agrees that (a) it hereby waives its rights relating to any breach or default of, or claim against, any other Party, as well as any right to any time extension for achieving any milestone or performing any other obligation under the Pre-Restatement PPOA or arising prior to the Effective Date, and (b) it will not pursue any claim, or request any refund, reimbursement or extension of time, in each case for any event that has occurred prior to the Effective Date.

22.26 Promptly after the execution hereof, PREPA shall move for and use reasonable efforts to obtain the issuance of the Assumption Order. PREPA shall keep SELLER abreast of any proceedings before the PROMESA Court related to the Assumption Order and this Agreement.

ARTICLE 23. CHOICE OF LAW AND VENUE

- 23.1 This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Puerto Rico and, to the extent applicable, the laws of the United States of America.
- 23.2 PREPA hereby irrevocably and unconditionally, for itself and for any Person claiming by or through PREPA: (a) agrees that the execution, delivery and performance by it of this Agreement does and will constitute private and commercial acts done and performed for private and commercial purposes; (b) waives any and all rights, claims, defenses and immunities it or any of its assets has or may in the future have in any jurisdiction based on sovereign immunity or any similar rights, claims or defenses, in each case in respect of any claims or proceedings, the receipt of notice, service of process, compliance with judgments or orders or the enforcement of any such judgment, award or order in each case arising in respect of this Agreement or transactions contemplated in this Agreement; and (c) consents generally in respect of the enforcement of any judgment, award or order against it or its assets in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such claims or proceedings.

ARTICLE 24. THIRD-PARTY ACCESS TO INTERCONNECTION FACILITIES

- 24.1 The Parties acknowledge and agree that PREPA may, at any time, connect, or permit third parties to connect, additional generation or energy storage capacity to PREPA's Interconnection Facilities.
- 24.2 If necessary for the connection of additional generation or energy storage to any part of PREPA's Interconnection Facilities, (a) PREPA shall relocate, at no cost to SELLER for such relocation, the primary and backup meters, metering devices and protective devices to a location that ensures separate metering of any generation from the SELLER's Complex and any generation from such additional capacity, and (b) prior to relocating such meters, metering devices and protective devices, the Parties shall amend <u>Appendix C-1</u> to reflect any changes necessitated by such relocation.
- In order to facilitate the connection of additional generation or energy storage to PREPA's Interconnection Facilities, SELLER hereby grants PREPA access, at reasonable times and upon prior notice, to that part of SELLER's site where the Interconnection Facilities are situated, for the purposes of monitoring and maintaining any meters or metering devices relocated to such facilities pursuant to Section 24.2, and performing modifications and upgrades to the SELLER's Interconnection Facilities (including expansion of the busbar and addition of breakers or other switching devices, as well as related protective devices), expanding PREPA's Interconnection Facilities or constructing other facilities at such site (the "Modifications") at no cost to SELLER for such Modifications. The following provisions shall apply to any such Modifications:
 - (a) No later than ninety (90) Days prior to the expected commencement of such Modifications, PREPA shall present to SELLER a proposed scope of work for such Modifications and a schedule for completing the work, provided that the scope of such Modifications shall be subject to the prior written agreement of SELLER, which agreement SELLER shall not unreasonably withhold, condition or delay.

- (b) Without limiting PREPA's rights under the first sentence of this Section 24.3, the Parties shall, acting reasonably, negotiate in good faith the terms and conditions of shared facilities agreement related to such Modifications, including if necessary any third party connecting into PREPA's Interconnection Facilities or other PREPA facilities within such site.
- (c) PREPA shall cause its contractors or subcontractors to comply with applicable laws and, to the extent not inconsistent with this Agreement, any applicable safety rules and protocols prescribed by SELLER for SELLER's Interconnection Facilities, as in effect from time to time, including the provision of necessary insurance policies.
- (d) PREPA shall ensure that, once implemented, such Modifications shall not adversely affect the generation of Net Electrical Output or the operation of SELLER's Complex. To the extent that, during any Modifications, the Facility is not capable of delivering Net Electrical Output to PREPA that would have been deliverable from the Facility but for the performance of such Modifications, PREPA shall pay SELLER an Energy Payment for such Net Electrical Output that SELLER would have otherwise delivered, based on actual availability and a reasonable calculation of deemed output considering historical deliveries and the ambient conditions at the time.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]

IN WITNESS WHEREOF, the Parties hereto have agreed to execute this Agreement in San Juan, Puerto Rico, as of the date first written above.

Puerto Rico Electric Power Authority	Punta Lima Wind Farm, LLC
Tax ID Number: [●]	Tax ID Number: [•]

Appendix A - ENERGY PAYMENT

Agreement Year	Energy Purchase Price (\$/kWh)
1	
3	
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Appendix B - HOLIDAYS

The following holidays are recognized by PREPA. All holidays which fall on a Sunday are observed the following Monday.

<u>DAY</u> <u>CELEBRATION</u>

January 1 New Year's Day

January 6 Three Kings Day

2nd Monday in January Eugenio Maria de Hostos

3rd Monday in January Martin Luther King

3rd Monday in February George Washington

March 22 Abolition of Slavery

Friday of Holy Week Good Friday

3rd Monday in April Jose de Diego

Last Monday in May Memorial Day

July 4 Independence Day

3rd Monday in July Luis Munoz Rivera

4th Monday in July Jose Celso Barbosa

July 25 Commonwealth Constitution

1st Monday in September Labor Day

October 12 Columbus Day

November 11 Veterans Day

4th Thursday in November Thanksgiving Day

December 25 Christmas Day

Appendix C - INTERCONNECTION

The following are the description of the Interconnection Facilities existing as of the Effective Date, the scope of work for the modification to the Interconnection Facilities and the specifications needed to be performed by SELLER for modifications to PREPA's Interconnection Facility. The following is not intended to be an all-inclusive scope of work, as an Interconnection Study will be required to determine the design as described in the Article 4. The attached electrical interconnection single line at Appendix C-1 identifies the Interconnection Point, PREPA's Interconnection Facilities, SELLER's Interconnection Facilities, and the location for the primary meter used for measuring the Net Electrical Output.

1. Description of the Existing Interconnection Facilities:

- **1.1.** PREPA's Interconnection Facilities existing as of the Effective Date and located at the Daguao Transmission Center (TC) include:
 - 1.1.1. the revenue metering equipment; and
 - 1.1.2. the 115kV Breaker 42070 and associated structures, disconnect switches and lightening arrestors.
- 1.2. SELLER's Interconnection Facilities existing as of the Effective Date that will be transferred to PREPA in accordance with Section 9.7 of the Agreement include the 115 kV Line and associated Assets (as each term is defined in Appendix F). The 115 kV Line includes 39 structures, a 556.4kCMIL ACSS conductor and a 3#6 optical ground wire (OPGW).

2. Scope of Work for the Interconnection Facilities:

- 2.1. The Interconnection Facilities existing as of the Effective Date shall be modified or upgraded, as necessary, in accordance with the following; provided that, if the existing equipment described below (other than the Dynamic System Monitor (DSM)) is operational or otherwise repairable to the level of compliance it achieved prior to the passage of Hurricane María on September 20, 2017, then SELLER shall not be obligated to replace the equipment to meet the standards set forth in Article 3 below, and will only be required to cause such equipment to be put in a condition of good operation and repair (subject to normal wear and tear, consistent with its age) and, in all material respects, sufficient for its routine operation.
 - 2.1.1. protection and control relaying and equipment per PREPA's Design Criteria Documents (as applicable to SELLER's Complex);
 - 2.1.2. telecommunications equipment per PREPA's Telecommunication Design Criteria (as applicable to the SELLER's Complex);
 - 2.1.3. the Dynamic System Monitor (DSM), transient recorder, SCADA system and communications in accordance with the requirements of this Agreement; and
 - 2.1.4. other work as identified below in Articles 3 through 7 below.

3. Codes and Standards Requirements:

All new or replacement designs should be in accordance with PREPA's latest Design Criteria Documents (DCDs) listed below, practices and applicable standards, applicable ANSI/IEEE & NESC standards, and building codes. This includes but is not limited to the below requirements.

- **3.1.** PREPA's Protection and Control Design Criteria (as applicable to the SELLER's Complex)
- **3.2.** PREPA's Telecommunication Design Criteria (as applicable to the SELLER's Complex)
- **3.3.** American National Standards Institute (ANSI)
- **3.4.** NECA/BICSI 607, Standard for Telecommunications Bonding and Grounding Planning and Installation Methods for Commercial Buildings
- **3.5.** ALCOA (Formerly the Aluminum Company of America)
- **3.6.** American Concrete Institute (ACI)
- **3.7.** American Institute of Steel Construction (AISC)
- **3.8.** American National Standards Institute (ANSI)
- **3.9.** American Society for Testing and Materials International (ASTM)
- **3.10.** American Society of Civil Engineers (ASCE)
- **3.11.** American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)
- **3.12.** American Welding Society (AWS)
- **3.13.** American Wood Protection Association (AWPA)
- **3.14.** Association of Edison Illuminating Companies (AEIC)
- **3.15.** ASTM International (ASTM)
- **3.16.** Avian Power Line Interaction Committee (APLIC)
- **3.17.** Building Industry Consulting Services International (BICSI)
- **3.18.** Code of Federal Regulations (CFR)
- **3.19.** Construction Specifications Institute (CSI)
- **3.20.** Electric Power Research Institute (EPRI)
- **3.21.** Federal Aviation Administration (FAA)
- **3.22.** Federal Communications Commission (FCC)
- **3.23.** General Owner Standard References

- **3.24.** Illuminating Engineering Society (IES)
- **3.25.** Institute of Electrical and Electronics Engineers (IEEE)
- **3.26.** Insulated Cable Engineers Association (ICEA)
- **3.27.** International Electrotechnical Commission (IEC)
- **3.28.** ITSIMM 6th Edition Information Transport Systems Installation Methods Manual.
- **3.29.** National Electrical Code (NEC)
- **3.30.** National Electrical Manufacturers Association (NEMA)
- **3.31.** National Electrical Safety Code (NESC)
- **3.32.** National Fire Protection Association (NFPA)
- **3.33.** NECA/BICSI 568, Standard for Installing Commercial Building Telecommunications cabling.
- **3.34.** North American Electric Reliability Corporation (NERC)
- **3.35.** OSPDRM 5th Edition Outside Plant Design Reference Manual
- **3.36.** Puerto Rico Building Code 2018
- **3.37.** Puerto Rico Electric Power Authority (PREPA)
- **3.38.** Regulations per the Commonwealth of Puerto Rico
- 3.39. Rural Utilities Service (RUS), United States Department of Agriculture
- **3.40.** RUS 1724E-300, U.S. Dept. of Agriculture Design Guide for Rural Substations
- **3.41.** TDMM 14th Edition Telecommunications Distribution Methods Manual.
- **3.42.** Telecommunications Industry Association (TIA)
- **3.43.** TIA 568-D, Generic Telecommunications Cabling for Customer Premises.
- **3.44.** TIA 569-E, Telecommunication Provide the testing protocols Pathways and Spaces.
- **3.45.** TIA 606-C, Administration Standard for Telecommunications Infrastructure.
- **3.46.** TIA 607-D, Commercial Building Grounding (Earthing) and Bonding Requirements for Telecommunications.
- 3.47. TIA-1005-A, Telecommunications Infrastructure Standard for Industrial Premises
- **3.48.** TIA-758-B, Customer-Owned Outside Plant Telecommunications Infrastructure Standard

4. Transmission Line Requirements:

- **4.1.** Tasks to be performed by SELLER:
 - 4.1.1. Inspect and remediate any deficiencies in the structures, insulators, jumpers or conductor. For example, deficiencies would include, but not limited to:
 - 4.1.1.1. soil erosion around the structures at the ground line;
 - 4.1.1.2. vegetation management (i.e., any right of way should be cleared of vegetation growth above four feet in height and cleared to the extents of the easement and/or permitting documents);
 - 4.1.1.3. broken insulators and hardware shall be replaced; and
 - 4.1.1.4. any damaged conductors or jumpers shall be replaced or repaired.
 - 4.1.2. Any obligation of SELLER under the Transmission Line PSA necessary to prepare the Third-Party Report and complete the Repair Work (as each term is defined in the Transmission Line PSA).
- **4.2.** Tasks to be performed by PREPA, at PREPA's sole cost and expense:
 - 4.2.1. Inspect, review and provide comments to SELLER's inspection reports.

5. Transmission Center Requirements:

- **5.1.** Tasks to be performed by SELLER:
 - 5.1.1. All required repairs, upgrades or modifications resulting from calculations and studies are the responsibility of SELLER.
 - 5.1.2. Short circuit study, protection system coordination studies, and settings.
 - 5.1.3. New or replacement protection and control electrical designs shall follow the latest industry standards, e.g., IEEE Standards and PREPA's practices and applicable standards.
 - 5.1.4. Provide all materials required to interconnect the new, existing or repaired protection and control system for the Interconnection Facilities, with the existing Daguao TC system, unless existing or repaired materials otherwise complying with the requirements herein have been provided.
 - 5.1.5. Install and wire the new Dynamic System Monitor (DSM), unless the existing or repaired DSM otherwise complies with the requirements in Appendix H.
 - 5.1.6. Install the control cables from the equipment to the control house, if required per PREPA's Design Criteria Documents (DCDs), unless the existing or repaired control cables otherwise comply with the requirements herein.
 - 5.1.7. Install the wiring for the new transient recorder as required by PREPA, unless the existing or repaired transient recorder otherwise complies with the requirements herein. For security

- reasons, PREPA's relay personnel will wire these signals from the terminal block to the transient recorder. In addition, the following signals are required for the transient recorder:
- 5.1.7.1. Analog signals Phase A, B, and C voltage signals;
- 5.1.7.2. Analog signals Phase A, B, and C current signals from each line CT;
- 5.1.7.3. Digital 87L output Output TRIP signals associated with the primary protection of each line:
- 5.1.7.4. Digital BU output Output TRIP signal associated with the secondary protection (21/50/51) of each line;
- 5.1.7.5. Digital Output TRIP signal associated with the breaker failure protection of each line;
- 5.1.7.6. Digital TRIP signal from bus differential protection; and
- 5.1.7.7. Digital Status signal from each breaker.
- 5.1.8. Programming the settings on the protection equipment for the Interconnection Facilities. SELLER shall work with PREPA to evaluate and update the existing PLWF point list in PREPA's database.
- 5.1.9. Cleaning, removal, and disposal of construction debris.
- 5.1.10. Implementation of a protection scheme that will automatically coordinate the curtailment, if necessary, of the total generation connected to the Daguao TC when any of the following N-2 contingency occurs:
 - transmission line from Daguao TC to Rio Blanco TC (L-36200) and transmission line from Daguao TC to Fajardo TC (L-36200), or
 - transmission line from Canovanas TC to Palmer TC (L-36800) and transmission line from Sabana Llana TC to Canovanas TC (L-41200), or
 - transmission line from Palmer TC to Fajardo TC (L-36800) and transmission line from Sabana Llana TC to Canovanas TC (L-41200).
 - 5.1.10.1. The protection scheme shall avoid the overloading of any equipment at Daguao TC and the 38 kV system.
 - 5.1.10.2. The protection scheme shall integrate with the existing relay protection and controls settings, and communication settings.
- **5.2.** Tasks to be performed by PREPA, at PREPA's sole cost and expense:
 - 5.2.1. Project oversight, schedule evaluation, monitoring, and authorizing scope of work modifications and deviations.

- 5.2.2. Evaluate submittals and design input for all design phases for the following packages: protection and control, telecommunications, electrical design, and programming.
- 5.2.3. Evaluate all temporary and permanent modifications to the Interconnection Facilities.
- 5.2.4. Evaluate the proposed construction work outage sequence for entire project coordination.

6. Telecommunication Requirements:

In addition to the requirements as identified in Section 8.6 of the Agreement:

- **6.1.** Tasks to be performed by SELLER:
 - 6.1.1. Install, wire and program the SCADA Remote Terminal Units (RTU)s at the Interconnection Facilities, unless the existing or repaired SCADA RTUs otherwise comply with the requirements herein.
 - 6.1.2. Install and wire the telecommunication equipment for the Interconnection Facilities, unless the existing or repaired telecommunication equipment otherwise complies with the requirements herein.
 - 6.1.3. Programming the communication settings for the relays, meters, and all miscellaneous equipment connected to the RTU.
 - 6.1.4. If required for the new or existing RTU, DSM, relaying, etc., installation of conduits for control cables, conduits, etc. from the equipment to the control house.
 - 6.1.5. Program the DSM with the signal list provided by PREPA.
 - 6.1.6. The telecommunications equipment labeling, and color-coding should comply with ANSI/TIA 606 Standard.
- **6.2.** Tasks to be performed by PREPA, at PREPA's sole cost and expense:
 - 6.2.1. Programming the telecommunications equipment (routers, firewalls, and network equipment).
 - 6.2.2. Review and comment on all submittals and design input for all design phases for the telecommunications packages.
 - 6.2.3. Support the integration of the new equipment into the overall PREPA network

7. Commissioning and Testing Requirements

- **7.1.** Tasks to be performed by SELLER:
 - 7.1.1. All outages and construction work sequence plans will be coordinated with and approved by PREPA.
 - 7.1.2. Provide communication loss budget calculation and design prior to work being performed, and also as an as-built prior to testing.

- 7.1.3. Provide the testing protocols and plans for PREPA's approval prior to performing any acceptance test and energization of any equipment.
- 7.1.4. Perform the acceptance and commissioning tests on the equipment and auxiliaries according to PREPA's practices and applicable standards at the SELLER's collector Site only, including but not limited to voltage signals, current signals, relay outputs, breaker status and cable continuity.
- 7.1.5. Perform grounding tests at all sites including the transmission corridor.
- 7.1.6. Perform testing on the interconnection of the transmission line.
- 7.1.7. Perform impedance testing to validate the proper installation of all transmission and high voltage conductors and bus.
- 7.1.8. Perform tests for the wiring of protection and control systems, RTU, DSM, transient recorder, and others associated services for the Interconnection Facilities.
- 7.1.9. Perform adjustments and operation tests for the protection and control systems. Submit all test reports signed and sealed by an electrical engineer licensed in Puerto Rico for PREPA's review.
- 7.1.10. Perform preliminary testing of the protection, control and telecommunication system and the integration into SELLER's SCADA system. Depending on the type of alarm or signal into SELLER's SCADA system, PREPA personnel may act as a witness to validate the input. Final validation and acceptance of the SCADA integration will be performed by PREPA.
- 7.1.11. Perform operation tests for the telecommunication systems. The tests shall be standards compliant, the testing equipment shall be calibrated, and certification of calibration provided to PREPA prior to performing tests.
- 7.1.12. Perform operation tests for the DSM.
- 7.1.13. Perform the operation tests on the equipment and auxiliaries.
- 7.1.14. Perform operation tests for the transient recorder.
- 7.1.15. Verification of the Optical Time Domain Reflectometer (OTDR) tests for Fiber optic cable performed by SELLER for the following cables:
 - 7.1.15.1. fiber cable between the Interconnection Facilities;
 - 7.1.15.2. fiber cable for interconnection to PREPA's network;
 - 7.1.15.3. fiber cable between the control room at the Interconnection Facilities and meter cabinet located at the Interconnection Facilities; and
 - 7.1.15.4. verification of telecommunications facilities and equipment installations performed by SELLER at the Interconnection Facilities. This work includes verification, testing, configuration, and inspection of equipment specified by PREPA.

- 7.1.15.5. All tests shall be standards compliant, and the testing equipment shall be calibrated, and certification of calibration provided to PREPA prior to performing tests.
- 7.1.16. Witness all tests and commissioning of the electrical equipment installed the Interconnection Facilities.
- 7.1.17. SELLER must submit all test protocols for PREPA review.
- 7.1.18. SELLER must submit all test results in a test book in electronic format for PREPA review.
- **7.2.** Tasks to be performed by PREPA, at PREPA's sole cost and expense:
 - 7.2.1. Configuration of telecommunication or security equipment.
 - 7.2.2. Evaluate the test results and settings of the protection relays for Interconnection Facilities.
 - 7.2.3. Evaluate the test results and settings of the communication equipment at the Interconnection Facilities.
 - 7.2.4. Witness all tests and commissioning of the electrical equipment installed in PREPA's Interconnection Facilities.
 - 7.2.5. At the Daguao TC, where protection and control components are being repaired, updated, modified, or interconnected with, the tests should be done exclusively by PREPA.
 - 7.2.6. Perform final SCADA tests by PREPA acceptance test personnel from the point where the SELLER consolidates SCADA data and transmits it to PREPA's SCADA system.
 - 7.2.7. Perform the acceptance and commissioning tests on the equipment and auxiliaries according to PREPA's practices and applicable standards at the Interconnection Facilities.
 - 7.2.8. Perform end to end testing of all trips and controls by PREPA's Acceptance Tests Department personnel.

Appendix C-1 - Functional One-Line Interconnection Diagram

(attached separately)

Appendix D – CONDITIONS TO COMMERCIAL OPERATION DATE

- 1. An officer of SELLER, authorized to bind SELLER and who is familiar with the Facility, has provided written confirmation that (a) all necessary and material Permits have been obtained and are in full force and effect, (b) SELLER is in compliance with the Agreement in all material respects (including the satisfactory completion of the acceptance testing and inspection referenced in Section 9.6 thereof), (c) SELLER's Complex is in material compliance with applicable environmental laws and regulations, and (d) the Facility is available to commence normal operations in accordance with the Agreement, SELLER's construction and operation and maintenance contracts, and applicable manufacturers' warranties.
- 2. SELLER has obtained and provided to PREPA an independent registered professional engineer's certification stating the following:
 - (a) The Facility has achieved mechanical completion and the date on which it was achieved;
 - (b) All of the wind turbines at the Facility have been successfully commissioned as per SELLER's wind turbine supply agreement;
 - (c) The Facility has achieved substantial completion and the date on which it was achieved; and
 - (d) The Facility has been completed in all material respects, except for "punch list" items that do not have a material effect on the ability of the Facility to operate for its intended purpose.
 - (e) Wind turbines comprising at least 23.4 MW, which is 90% of the expected Estimated Generating Capacity of the Facility, and associated equipment sufficient to allow such wind turbines to generate and deliver energy to the Interconnection Point, have been installed and become operable.
 - (f) All arrangements for the supply of required electric services to the Facility, including the supply of wind turbine unit start-up and shutdown power and energy, house power and maintenance power have been completed by SELLER separate from the Agreement, are in effect, and are available for the supply of such electric services to the Facility.
 - (g) The Facility's communications systems and interface with PREPA's system, and the capability of the Facility to receive and respond to signals from PREPA's SCADA System, have been tested and confirmed to be operational.
 - (h) PREPA's Interconnection Facilities are operational and capable of delivering the Net Electrical Output to the Daguao Transmission Center.
 - (i) The Facility has been tested and confirmed to comply with the Minimum Technical Requirements for Interconnection of Wind Turbine Generation (WTG) Projects set forth in Appendix G.

Appendix E – WORKMEN'S COMPENSATION INSURANCE REQUIREMENTS FOR IMPORTED TECHNICAL SERVICES

A. Introduction

Act No. 16, approved on May 16, 1958, authorizes the Commonwealth State Insurance Fund Administrator to exempt employers from payment of premium for salaries paid to imported technical personnel.

The basic requirements for the exemption are:

- 1. Said technical personnel must be hired because the same special skills required for the job are not readily available in Puerto Rico.
- 2. Exemption cannot exceed two (2) years per employee.
- 3. Technical personnel must be covered for workmen's Compensation benefits equal or greater to those provided under the Puerto Rico Workmen's Compensation Act.
- B. Requirements Exemption request must be filed with the Commonwealth State Insurance Fund for each case. Therefore, every firm entering a contract with PREPA for the furnishing of services to be rendered by imported technical personnel must submit, prior to contract execution or purchase order issuance the following information:
 - 1. A list containing the following information:
 - a. Name, residence and usual place of employment of all such technical personnel temporarily transferred to Puerto Rico.
 - b. Effective date of employment in Puerto Rico for each technical employee so transferred to Puerto Rico and expected duration of their stay in the island.
 - c. Technical qualifications of each employee transferred to Puerto Rico and their job descriptions while in the island.
 - 2. If such technical personnel is covered by an insurance policy, a complete copy of each workmen's compensation insurance policy, including the endorsement pertaining to such coverage, covering such technical personnel while working in Puerto Rico.
 - 3. If item 2 above is applicable, a certified statement by the Secretary of the Insurer or insurer's issuing said policies stating that:
 - a. The copy of each policy is a true and complete copy of the policy issued by the insurer.
 - b. Each policy so certified will be in full force and effect during the entire policy period shown in the declarations of the policy.
 - c. Each policy so certified will provide workmen's compensation insurance coverage for all technical personnel of the insured while working in Puerto Rico. As part of this statement there must be indicated the name of the state under whose workmen's compensation law benefits will be provided for all technical personnel of the insured while working in Puerto Rico.

- 4. If Item 2 is not applicable, a certificate issued by the appropriate governmental agency having jurisdiction over workmen's compensation insurance coverage stating that their coverage is extended to such technical personnel during their entire stay in Puerto Rico. The certificate must include the effective date of approval and the conditions, if any, attached to such approval.
- 5. The exact location in Puerto Rico of the construction project where such technical personnel will be or is employed.

Appendix F - FORM OF ASSET PURCHASE AND SALE AGREEMENT

(attached separately)

${\bf Appendix}\;{\bf G}\;{\bf -MINIMUM}\;{\bf TECHNICAL}\;{\bf REQUIREMENTS}\;{\bf FOR}\;{\bf WIND}\;{\bf PROJECTS}$

(attached separately)

Appendix H - TECHNICAL SPECIFICATIONS FOR THE DYNAMIC SYSTEM MONITOR (DSM)

I. Introduction

The following specification defines the minimum requirements for an instrument used in the monitoring and register of dynamic disturbances on electric power systems and the supervision of generator performance according to Grid Codes.

II. Hardware

- (a) Inputs:
 - 1. The equipment shall have at least 32 analog inputs with the capacity to increase them to a minimum of 96 inputs depending in the application required analog signals. The minimum resolution for the A/D converter shall be of 16 bit. The sampling rate shall be programmable up to a minimum of 250 samples per cycle (15000 samples per second). The analog inputs shall permit at least the following types of signals:
 - i. PT voltage (150 V rms minimum, Accuracy better or equal to 0.3%);
 - ii. CT currents (5 A rms minimum, Accuracy better or equal to 0.3%);
 - iii. DC voltages of at least 800 V (Accuracy better or equal to 0.3%);
 - iv. Small Analog Signals (Accuracy better or equal to 0.3%);
 - A. Current: 4 20 mA; and
 - B. Voltage: 0 200 mV, 1V, 10 V;
 - 2. The equipment shall have at least 16 digital inputs with the capacity to increase them to a minimum of 48 inputs depending in the application required digital signals. The minimum input voltage range of the digital inputs should be 0-150 V. The digital inputs should be included as a user defined software triggering input.
 - 3. The equipment shall be able to record power system frequency with a resolution of at least 0.001Hz.
- (b) The equipment shall have a built-in microprocessing unit with color monitor, keyboard and mouse from which all commands, controls and setup parameters may be entered. All setup parameters shall be store in a non-volatile media, to prevent loss of setup data if power is interrupted. This microprocessing unit shall be of industrial grade to insure long life in a typical substation or generation plant environment.
- (c) Memory and storage capacity:

The equipment shall have a nonvolatile solid state memory (ex. SSD, flash, etc.) with the required capacity to stores at least one (1) year of continuous data based in typical recording periods and typical recording rates. Also the memory shall have a minimum storage capacity of 1,000 RMS Trigger events and 1,000

Instantaneous trigger events based in typical recording rates and recording periods. Typical recording periods and recording rates are:

- i. RMS Trigger Recording Function (Recording rate of 1 sample per cycle on all the signals)
 - A. Pre-Trigger: 60 seconds
 - B. Post –trigger: 300 seconds
- ii. Instantaneous Values Trigger Recording Function (recording rate of 250 samples per cycle on all instantaneous signals)
 - A. Pre-Trigger: 1 second
 - B. Post-Trigger: 2 seconds
- iii. Continuous Recording Function—The recording rate is 1 sample per second on all the signals. This recording function is continuous, but saved in 24 hours period.

All the recording functions mentioned above shall work simultaneously. The equipment shall maintain the date and time in an internal battery-backed clock.

(d) Communication:

The equipment shall have at least two Ethernet 10/100/1000 Mbps port (LAN interface, TCP/IP Protocol) for local and remote network communication.

(e) Power Source:

The equipment shall have a redundant power supply. Two separate inputs (one AC and one DC) 100 - 240 VAC, 60 Hz and 100 - 150 DC. Some applications could require DC supply of 48 VDC +/- 10%, verify before the equipment acquisition.

- (f) Measurement accuracy:
 - 1. Voltage measurement error shall be less than ± -0.3 % of reading.
 - 2. Current measurement error shall be less than +/- 0.3% of reading.
- (g) The DSM equipment to be installed and integrated to the grid shall be compatible with the existing PREPA's DSMs network and approved by PREPA.

III. Software

- (a) The software platform of the equipment shall be compatible with the latest version of windows operating system.
- (b) The equipment remote communication shall be thru TCP/IP network connectivity (LAN). The remote communication should permit at least the set up and data retrieval of the

equipment. The equipment should have the capability to perform at least the following functions remotely:

- 1. Modification of the configuration
- 2. Retrieval of captured events
- 3. Remote event triggering
- (c) The equipment shall have the capacity of time synchronization with GPS system. A GPS receiver and GPS antenna shall be included.
- (d) Triggers:
 - 1. The equipment shall support user defined programmable triggers. Triggering shall be initiated based upon primary quantities (voltage, current, and frequency), calculated quantities (watts, Var, power factor, apparent power, etc.), digital signals or small analog signals.
 - 2. The trigger thresholds shall be based on limits, gradients, equations and status. Examples of trigger conditions that shall be available are:
 - i. Level threshold (high level, low level, in-band, out-band, etc.)
 - ii. Rate of change (ex. frequency variation (df/dt))
 - iii. Manual input (keyboard trigger)
 - iv. Request from remote computer
 - v. Event input status (digital signal status)
 - 3. A re-trigger function shall be available which permits the equipment to generate a new event register if a second disturbance is detected while the recording of the first disturbance is still in process. This process should continue if more disturbances occur in the new registers.
- (e) The acquisition software shall include a user defined pre-trigger interval option as well as a user defined post trigger interval for the information captured in the case of triggered events. The minimum range of the pre-trigger interval should be from 0 to 60 seconds and the minimum range for the post trigger interval should be 0 to 300 seconds. In addition, the date, time, and type of trigger that initiated the event shall be included as part of the disturbance record.
- (f) The acquisition software shall have the following capabilities:
 - 1. Time displays (ex. Oscilloscope)
 - 2. Digital Status display (ex. High/Low, 1/0)
 - 3. Multiple displays and multiple signals in displays in real time and off-line

- 4. Display resizing
- 5. Programmable conversion of range and units of signals
- 6. Independent range for signals
- (g) The acquired data shall be available in a format directly compatible with Siemens Power Technologies International (Siemens PTI) PSS/E plotting software.
- (h) The software shall support data export in ASCII, CSV and PSS/E formats.
- (i) The software shall support image export in JPG, BMP or WMF formats.
- (j) The software shall have the following analysis capabilities for the data and signals (primary and calculated):
 - 1. Fast Fourier Transform (FFT)
 - 2. Peak analysis
 - 3. Filter functions
 - 4. Series and scalar mathematic (square root, inversion, square, sum, gain, offset, etc.)
- (k) The software shall perform the following power engineering calculations (on-line and off-line) and measurements:
 - 1. Three phase and single phase Power (Real, reactive, apparent)
 - 2. Power Factor
 - 3. Power angle
 - 4. rms line and phase voltage
 - 5. rms current
 - 6. Power system frequency
 - 7. DC voltage and currents
 - 8. AC voltage and currents

IV. General

- (a) Environmental Conditions:
 - 1. Operating temperature: 0° C to 50° C
 - 2. Operating humidity: 95 %, non-condensing

- (b) Equipment cabinet and corresponding accessories:
 - 1. The cabinet should have test switches at the front of the panel for the three phase voltages and currents. The test switches should have a minimum rating of 600 V rms and 30 A rms; semi flush mounted, rear connected, equal or similar to ABB FT-1, style no. 129A514G01. The test switches should be assembled horizontally in groups of three FT-1 switches per row, mounted on a 19 inches wide, three-rack unit (3RU) high panel suitable for rack mounting, similar to ABB FR3J014014014.
 - 2. The signals (analog and digital) should terminate on terminal blocks inside the cabinet, before the connection to the Dynamic System Monitor. The AC, DC, digital, exciter voltage and exciter current signals should be in different terminal blocks. The terminal blocks should have a minimum rating of 600 V rms and 30 A rms (except the exciter voltages signals, see below). Examples of terminal blocks are: GE CR151B2 and Marathon 1512 STD. The current signals should terminate on shorting type heavy duty terminal blocks equal or similar to Marathon, catalog number 1506SC. The terminal blocks used for the excitation voltage of the generators must have a nominal voltage capacity greater than 800 V DC. A switch or breaker for isolation purposes is also required for the excitation voltage and current signals.

(c) Documentation:

- 1. The equipment shall include a documentation package that contains the user, operation and maintenance manuals and the mechanical and electrical equipment drawings. The documentation should be in hard copy and in digital format.
- 2. The equipment documentation shall include a copy of the software.
- (d) Spare parts recommended by the equipment manufacturer shall be included in the dynamic system monitor (DSM) purchase order.
- (e) Warranty:

The equipment warranty shall include part and service for a period not less than 60 months from the delivery day.

- (f) Equipment Training, Installation Support and Commissioning:
 - 1. An on-site equipment operation and configuration training should be included.
 - 2. The dynamic system monitor (DSM) manufacturer shall perform the equipment commissioning and offer installation support.

Exhibit C

AMENDED AND RESTATED

POWER PURCHASE AND OPERATING AGREEMENT

BETWEEN

PUERTO RICO ELECTRIC POWER AUTHORITY

AND

PUNTA LIMA WIND FARM, LLC

AND
DATED [•]

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AMENDED AND RESTATED

POWER PURCHASE AND OPERATING AGREEMENT

BETWEEN

PUERTO RICO ELECTRIC POWER AUTHORITY

AS FIRST PARTY: The Puerto Rico Electric Power Authority, hereinafter referred to as

AND

PUNTA LIMA WIND FARM, LLC

This AMENDED AND RESTATED POWER PURCHASE AND OPERATING AGREEMENT (the "Agreement") is entered into and effective as of this [•] day of 2020 (the "Effective Date") by and between the PUERTO RICO ELECTRIC POWER AUTHORITY (including any successor thereto, "PREPA"), a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico, created by Act No. 83 of May 2, 1941, No. 83, as amended, employer's Social Security identification number 66043 3747[•], represented in this act by its Executive Director, Miguel Angel Cordero LopezMr. [•], of legal age, [married], [engineer,] and resident of Caguas[•], Puerto Rico.

AS SECOND PARTY: Punta Lima Wind Farm, LLC; and PUNTA LIMA WIND FARM, LLC ("SELLER"), a limited liability company organized under the laws of Delaware, authorized to do business in Puerto Rico (as successor-in-interest to Go Green Puerto Rico Alternative Energy Corp.), named herewith as "SELLER", a corporation organized in accordance with the laws of Puerto Rico, whose employer identification number [•], with its principal place of business is located office at Humacao, Puerto Rico [•], and authorized to do business in Puerto Rico, employer's Social Security number 660 72 9724 represented in this act by Justin Orozeo Garcia, Go Green President [INSERT AUTHORIZED REPRESENTATIVE], of legal age, [married], and a resident of Humacao, Puerto Rico, duly [•], who is authorized to sign this Agreement on its behalf of SELLER as certified by the Corporate Resolution dated June 1, 2009 [•].

RECITALS

WHEREAS, SELLER will construct, own, operate and maintain PREPA and SELLER are parties to that certain Power Purchase and Operating Agreement, dated as of July 3, 2009, as amended, supplemented, and modified from time to time (the "Pre-Restatement PPOA");

WHEREAS, pursuant to the Pre-Restatement PPOA, SELLER completed construction and commenced commercial operation on December 17, 2012 of an approximately 40–26-megawatt Qualifying Facility capable of operating on wind power, in the vicinity of Naguabo, Puerto Rico ("SELLER's Original Complex"); and

WHEREAS, on September 20, 2017, Hurricane María made landfall in Puerto Rico as a Category 4 storm, causing significant damage to PREPA's energy transmission and distribution infrastructure and SELLER's Original Complex;

WHEREAS, on July 2, 2017, PREPA commenced proceedings under Title III of the Puerto Rico Oversight, Management and Economic Stability Act before the District Court for the District of Puerto Rico (the "PROMESA Court"), which is being administered under Case No. 17-4780 (LTS);

WHEREAS, SELLER proposes to reconstruct, own, operate and maintain an approximately 26-megawatt Qualifying Facility, capable of operating on wind power ("SELLER's Complex"), on the site of SELLER's Original Complex and sell electricity to PREPA from thegenerated by SELLER's Complex; and WHEREAS, to PREPA is the electric utility engaged in the generation, transmission, distribution and sale of electric power within the Commonwealth of Puerto Rico; and;

WHEREAS, SELLER will sell exclusively to PREPA and PREPA will purchase the electric energy produced by SELLER in compliance with PURPA (as defined below); and

WHEREAS, the Parties hereto will desire to amend and restate the Pre-Restatement PPOA in its entirety, to effectuate such sales ale and purchases purchase of energy in accordance with the terms and conditions of this Agreement, and acknowledge that this Agreement contains substantially similar terms to the Pre-Restatement PPOA and that the modifications to the Pre-Restatement PPOA as set forth in this Agreement do not render this Agreement a new agreement between the Parties.

NOW THEREFORE, in consideration of these premises and of the mutual covenants and agreements set forth herein, SELLER and PREPA, intending to be legally bound, hereby agree to the following:

ARTICLE 1. DEFINITIONS

1.1 Whenever the following terms appear in this Agreement, whether in the singular or in the plural, present or past tense, they shall have the meaning stated below:

"115 kV Line" - The 115 kV electric power service transmission line of approximately three point five (3.5) miles of length connecting SELLER's Interconnection Facilities with the remaining portions of PREPA's Interconnection Facilities, a functional one-line interconnection diagram of which is contained in Appendix C-1.

- **1.1** "Agreed Operating Procedures" As set forth in Section 4.4.
- 1.2 Agreement All the covenants, terms and conditions in these articles of agreement and in all supplementary documents hereto attached which constitute essential parts of the agreement.
- "Agreement" As set forth in the first paragraph of this Agreement.
- 1.3 "Agreement Year" The period which begins on the Commercial Operation Date of the SELLER's Complex and ends on the first anniversary thereof, and each one (1) year period thereafter commencing on each anniversary date.
- "Assumption Order" An order of the PROMESA Court that approves of and authorizes the assumption by PREPA of this Agreement.
- "Assumption Order Date" The date that the PROMESA Court has issued the Assumption Order.

- 1.4 <u>"Authorized Officer"</u> The Chief Executive Officer or President, any Vice-President, and the Treasurer, the Secretary or the Assistant Secretary; of SELLER or any of SELLER's general partners.
- 1.5 "Available Hours" The number of hours in which the SELLER's Complex is capable of delivering Net Electrical Output to PREPA.
- **1.6** "Billing Period" As set forth in Section 10.4.
- 1.7 "Business Day" Monday through Friday excluding holidays recognized by PREPA, which are set forth on Appendix B, Holidays, hereto; PREPA will notify SELLER in writing of any changes to the holidays recognized by PREPA.
- 1.8 Cash Cash or short term securities with a maturity of 90 days or less.
- "Changes" As set forth in Section 18.2.
- 1.9 "Commencement of Construction" The action taken by SELLER or one or more contractors or subcontractors retained by SELLER, initiating construction reconstruction of SELLER's Complex consistent with construction industry standards.
- 1.10 "Commercial Operation Date" The first day following the date on which the SELLER's Complex is declared available for continuous operation by SELLER subject to the provisions of Article 2, Sale and Purchase of Energy and Article 12, SELLER's Complex Generating Capacity has satisfied the conditions set forth on Appendix D.
- 1.11 Court of Competent Jurisdiction—The state courts of the Commonwealth of Puerto Rico,
 the United States District Court for the District of Puerto Rico, the United States Court of
 Appeals for the First Circuit and the United States Supreme Court.
- 1.12 Day A day shall be the 24 hour period beginning and ending at 12:00 midnight Atlantic Time.
- 1.13 [Intentionally left blank].
- "Consulting Technical Expert" A Person or Persons mutually agreed by the Parties assist in the resolution of technical issues, and/or issue a technical recommendation in connection with Technical Disputes, as specified at the time of such Consulting Technical Expert's appointment, which Person shall be selected within thirty (30) Days of the notice of Technical Dispute under Article 22.24, or, if not so selected, shall be selected by the American Arbitration Association upon the request of either Party. The fees of the Consulting Technical Expert shall be equally shared by the Parties.
- 1.14 "Design Limits" The operational limitations of the Facility based on the Facility's design, as identified in the Agreed Operating Procedures.
- 1.15 "Development Abandonment" Prior to the Commercial Operation Date, an affirmative action taken by the SELLER to permanently cease the development of the SELLER's Complex.

- "Dispute" As set forth in Section 22 24
- "Dispute Notice" As set forth in Section 22.24.
- 1.16 "Effective Date" The date on which the Parties have executed As set forth in the first paragraph of this First Amendment Agreement.
- 1.17 "Emergency" A condition or situation which in the judgment of PREPA is likely to result in imminent significant disruption of service to a significant number of customers or is imminently likely to endanger life or property; provided, however, that such condition or situation is likely to provide such results according to Prudent Utility Practices and following Agreed Operating Procedures.
- 1.18 "Energy Payment" As set forth in Article 11, Compensation, Payment and The product of the applicable Energy Purchase Price (\$/kWh) and the Net Electrical Output for a given Billing, Section 11.1 Period.
- 1.19 Energy Purchase Price or EPP The per kilowatt hour rate that PREPA will pay SELLER for energy delivered to PREPA as determined in accordance with Section 11.1.
- "Energy Purchase Price" The amount set forth in the column "Energy Purchase Price" in Appendix A for the applicable Agreement Year. Appendix A sets out the Energy Purchase Price for each Agreement Year during the Term.
- 1.20 "Environmental Costs" As set forth in Article 18, Taxes and Environmental Costs.
- 1.21 Equity Capital The amount invested in the SELLER's Complex by SELLER's direct or indirect parent corporation or other investors as common stock, preferred stock or equivalents, general or limited partnership interests, Subordinated Debt, or other qualifying contributions.
- 1.22 <u>"Estimated Generating Capacity"</u> As declared by SELLER in Article 12, SELLER's Complex Generating Capacity, Section 12.1.
- 1.22A Execution Date The date on which the Parties have executed the Agreement, which is July 3, 2009.
- 1.23 "Facility" SELLER's reconstructed Small Power Production Facility as defined in section 201 of PURPA, consisting of up to 3013 Wind Turbines, including auxiliary equipment and unit transformer and switching equipment. The Facility will be located in the municipality of Naguabo, Puerto Rico.
- 1.24 "FERC" The Federal Energy Regulatory Commission, or any successor thereto.

1.25 "Financial Closing Date" - The first date on which documents that provide binding commitments for funding for the construction of SELLER's Complex have been executed and funds for the initial phase of construction become available to SELLER.

1.26 Fiscal Year Means the twelve (12) month period beginning at 12:00 midnight on June

30th and ending 12:00 midnight each year thereafter for the Term of this Agreement.

1.27 "Force Majeure" - As set forth in Article 15 hereof.

1.28 "GAAP" - Generally Accepted Accounting Principles, as promulgated by the Financial Accounting Standards Board or its predecessors or successors.

1.29

"Governmental Authority" - Any court, tribunal or governmental or quasi-governmental body, regulatory body, agency, authority, office, department, commission, board, bureau, public corporation, municipality or instrumentality, in each case at any federal, state, Commonwealth of Puerto Rico, county, municipal, or local level, having jurisdiction over a Party, the Facility or the Site, and includes the Financial Oversight and Management Board of Puerto Rico, the Puerto Rico Central Office for Reconstruction, Recovery and Resiliency, the Public-Private Partnership Authority of Puerto Rico and the Puerto Rico Energy Bureau, or any successor to any of the foregoing.

"Green Credits" - Credits or other "Renewable energy certificates" and "environmental and social attributes now or in the future available to producers of energy from", as such terms are defined in the Puerto Rico Green Energy Incentives Act (Act No. 83 of July 19, 2010), renewable elean energy sources such as wind power. Green credits include, but are not limited to, Renewable Energy Credits or RECs, Renewable Portfolio Standards or RPS or green tags, but do not include environmental attributes, emissions reductions, offsets, allowances or benefits, however entitled (or payments in lieu thereof), whether monetary, fiscal or in the form of physical property, now or in the future available to the Facility, as a facility that generates or produces electricity by means of "green energy" (as such term is defined in the Puerto Rico Green Energy Incentives Act), or from renewable or non-polluting resources, granted or available to SELLER as the owner or operator of the Facility or otherwise, in each case, from any Governmental Authority or third party, including renewable energy credits established pursuant to the Green Energy Incentives Act of Puerto Rico, but shall exclude (i) any federal or Puerto Rico tax credits, eash and grants or in lieu thereof, (ii) other financial incentives.

1.29A Green Credits Payment As set forth in Article 11.1.

1.29B—IFCA—That certain Agreement between SELLER and Buyer, dated November 18, 2011, governing the design, procurement, and construction of the Interconnection Facilities and other facilities needed to interconnect the Facility to PREPA's systemtax benefits or credits, (iii) any accelerated depreciation, and (iv) proceeds from (i) through (iii), in each case, associated with the Facility or otherwise available to SELLER, each of which (i) through (iii) are expressly reserved to SELLER.

1.30 "Initial Synchronization Date" - The first date when all or a portion of SELLER's electricity generating equipment is synchronized with PREPA's electrical generating equipment and able to deliver electrical energy generated by the Facility to PREPA at the Interconnection Point.

- 1.31 "Interconnection Facilities" SELLER's Interconnection Facilities and PREPA's Interconnection Facilities. The location of the
- "Interconnection Point, interconnection voltage, conductor capacity, protection equipment, switchyard configuration and any other equipment necessary for the Interconnection Facilities shall be determined by PREPA not later than a Year after the execution of this Agreement.
- 1.32 Interconnection Point" The physical point where Net Electrical Output is delivered to PREPA's system, which shall be the point at which the 115 kV Line (as defined as set forth in the IFCA) interconnects with the PREPA Appendix C.
- <u>"Interconnection Facilities (as defined in the IFCA) at PREPA's Daguao Transmission Center in Naguabo, Puerto RicoStudy" A study conducted by PREPA in accordance with Section 9.2 to evaluate the integration of the Facility's anticipated Net Electrical Output into PREPA's electric transmission or distribution system.</u>
- 1.33 "Interest" The compensation for the accrual of monetary obligations under this Agreement computed monthly and prorated daily from the time each such obligation is past due based on an annual interest rate equal to the lesser of (i) the Prime Commercial Lending Rate as set by Citibank N.A., New York, New York or any other bank as mutually agreed by the Parties or any other equivalent rate as mutually agreed by the Parties and (ii) the maximum rate allowable under Article 1649 of the Puerto Rico Civil Code or successor statute applicable to past due amounts. The provisions of this definition shall not be construed to limit the applicable rate of interest on the Project Debtproject debt.
- 1.34 "Legal Challenge" Means any action, suit or proceeding brought or commenced by a third party seeking to contest the validity of this Agreement, any Permit, or the development, construction or operation of the Facility which materially impairs the ability of the Parties to perform their respective obligations hereunder.
- 1.34A—"Lessor(s)" Any party or parties that lease any equipment, structures or other facilities that are part of the SELLER's Complex to SELLER, or any agent, trustee or other person representing or acting on behalf of any such part(ies).
- 1.35 "Maintenance Outage" A planned interruption of all or a portion of the net electrical output ofthe SELLER's Complex that has been informed to PREPA and is required for any purpose including inspection, preventive maintenance, or corrective maintenance and which has not been included in the Planned Outage Program.
- "Modifications" As set forth in Section 24.3.
- 1.36 "Month" A Month shall begin at 12:00 midnight on the last day of the preceding calendar month and end at 12:00 midnight on the last day of the current calendar month.
- 1.37 "Net Electrical Output" The net electrical energy output (expressed in kWh) delivered to PREPA from the SELLER's Complex Facility, as measured at the Interconnection Point in accordance with Article 10.

- 1.38 Off Peak Period The time from 10:00 p.m. to 9:00 a.m. daily from Monday through
 Friday and all hours from 10:00 p.m. of each Friday through 9:00 a.m. on the
 immediately succeeding Monday.
- 1.39 On Peak Period The time from 9:00 a.m. to 10:00 p.m. daily from Monday through Friday.
- "Net Power Output" means, at any given time, the instantaneous net electrical power output (expressed in kW) made available from the Facility at the Interconnection Point.
- "Notice of Breach" A written notice delivered by a Party to the other Party upon belief that a breach under Section 17.1 has occurred and is continuing.
- 1.40 "Operation Security" As set forth in Article 17, Breach of Agreement, Delays and Security, Section 17.4.
- 1.41 "Party" or "Parties" Both SELLER and PREPA are herein individually referred to as a Party and collectively referred to as the Parties.
- 1.42 "Permanent Abandonment" Shall be deemed to have occurred when, at At any time after Commercial Operation Date, anthe affirmative action—is taken by SELLER, its successors, or assignees, as applicable, to permanently shut down the operation of the SELLER's Complex.
- 1.43 "Permanent Closing" Shall be deemed to have occurred when, at At any time after the Commercial Operation Date, the Available Hours for the Facility equal zero (0) for: (a) any period of twelve (12) consecutive months Months, excluding periods of outages described in sub paragraph (b) of this Section 1.43 the following subclause (b); and (b) in respect of any outage due to an event of Force Majeure, a period of thirty (30) consecutive months Months, whether or not a Force Majeure event has been claimed by SELLER; provided, however, that solely in respect of the outage due to Hurricane María, such period shall be increased to thirty nine (39) consecutive months.
- 1.44 "Permits" All permits, licenses, approvals, authorizations, consents, variances or waivers issued by federal, Commonwealth and local agencies, commissions, authorities and regulatory bodies with jurisdiction over SELLER and the SELLER's Complex which are necessary or required for the development, construction, operation or maintenance of the SELLER's Complex.
- 1.45 "Planned Outage" A planned interruption of all or a portion of the Net Electrical Output that has been informed in advance to PREPA and included in the Planned Outage Program.
- 1.46 "Planned Outage Program" A written scheduled outage program submitted to PREPA by SELLER setting forth the Planned Outage periods for the Facility, as modified from time to time by SELLER as provided for in Article 8, Control and Operation of the Facility.
- "Post-Effective Date Environmental Costs" As set forth in Section 18.1.
- "Post-Effective Date Taxes" As set forth in Section 18.1.

- 1.47 "Pre-Operation Period" The period beginning on the Initial Synchronization Date and ending on the Commercial Operation Date.
- 1.48 "PREPA's Interconnection Facilities" All equipment and facilities located on PREPA's side of the Interconnection Point, as set forth in Appendix C, constructed and installed for the purpose of interconnecting the Facility with PREPA's electric transmission or distribution system.
- 1.49 Production Credits The fiscal benefits such as the Production Tax Credit or PTC available now or in the future to producers of renewable energy.
- 1.50 Project Debt The outstanding balance, as amortized according to the amortization schedules established at the Financial Closing Date or refunding date, respectively, of the Total Initial Debt or the corresponding initial permanent financing of the Total Initial Debt, including related Project Lenders fees and expenses, including without limitation the 115 kV Line once it is acquired by PREPA pursuant to the Transmission Line PSA.
- 1.51 "Project Lenders Lender" Any party providing construction or permanent financing for the SELLER's Complex or any portion thereof (excluding Subordinated Debtsubordinated debt) or any agent, indenture trustee or other person representing or acting on behalf of any such party.

"PROMESA Court" - As set forth in the recitals.

- 1.52 "Proposed Initial Synchronization Date" As set forth in Article 4, Pre Commercial Operation Period, Section 4.2.
- 1.53 "Prudent Electrical Practices" Those practices, methods, standards and acts which, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, would have been used in prudent electrical engineering and operations to operate equipment for the generation, transmission, distribution and delivery of electricity, lawfully and with efficiency and dependability, and that are in accordance with the National Electrical Safety Code, the National Electrical Code and any other applicable federal, state or local code.
- 1.54 "Prudent Utility Practices" Those practices, methods, standards and acts which, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, would have been generally followed by the electric utility industry in the United States and Puerto Rico, as changed from time to time, which generally include, but are not limited to, engineering and operating considerations.
- 1.55 "PURPA" The Public Utility Regulatory Policies Act of 1978 and the regulations promulgated there under in effect as of the date this Agreement is executed or as they are amended in the future from time to time.
- "Qualified Bank" means Santander Bank, N.A., a commercial bank or other financial institution located within Puerto Rico, the United States or a country (or other jurisdiction) reasonably acceptable to PREPA, or which has, as of the date of issuance or renewal of such guarantee, a long-term counterparty credit rating of at least "A" by Standard & Poor's Ratings Services, a long-term foreign currency deposit rating of "A2" by Moody's Investors Services Inc., or, if either such rating agency is no longer in business or no longer rating the obligations in question, an equivalent rating from another internationally recognized rating agency selected by SELLER with the written consent of PREPA; provided that, if such financial

institution's ratings match such minimum ratings, no other credit rating agency shall have placed such financial institution on credit watch with negative implications.

1.56 "Qualified Operator" or "Operator" - SELLER or another qualified and experienced operator acceptable to PREPA.

1.57 "Qualifying Facility" - A Small Power Production facility under Section 201 of PURPA.

1.58 Quarter A Quarter shall be a three (3) month period beginning 12:00 midnight on December 31, March 31, June 30, or September 30.

"RTU" - As set forth in Section 7.3.

1.59 "SELLER" - As set forth in the second first paragraph of this Agreement.

1.60 "SELLER's Complex" - The As set forth in the recitals. SELLER's Complex shall include the premises, facilities and infrastructure comprising the Facility and SELLER's Interconnection Facilities, and other ancillary equipment owned or leased by SELLER and installed for the purpose of performing its obligations under this Agreement; as such premises, facilities and infrastructure shall be constructed or reconstructed by SELLER in accordance herewith.

1.61 "SELLER's Complex Generating Capacity or Generating Capacity" - The sum of the capacities in https://www.megawatts for all the generators of SELLER's Complex, as determined pursuant to Article 12, <a href="https://www.seller.google.go

1.62 "SELLER's Interconnection Facilities" - All equipment and facilities, located on the Facility side of the Interconnection Point, as set forth in Appendix C, constructed or reconstructed and installed for the purpose of interconnecting the Facility with PREPA's Interconnection Facilities and PREPA's electric transmission or distribution system.

1.63 Taxes "SELLER's Original Complex" - As set forth in Article 18, Taxes and Environmental Costs, the recitals.

"Taxes" - As set forth in Section 18.1.

"Technical Dispute" - As set forth in Section 22.24.

"Technical Recommendation" - As set forth in Section 22.24.

1.64 "Term" - The initial term of this Agreement as specified in Article 5, Term, plus any renewal Term determined pursuant to this Agreement.

1.64A-Third Amendment Effective Date The date that certain Amendment No. 3 to the

Agreement was executed by the Parties.

- 1.65 Total Initial Debt The sum of the original principal amount of each of the debts (excluding Subordinated Debt) incurred for the development, acquisition and construction of the SELLER's Complex, prior to any amortization or repayment of each of such debt components.
- 1.66 [Intentionally left blank].

"Transfer" - As set forth in Section 20 4

"Transmission Line PSA" - The asset purchase and sale agreement materially in the form attached hereto as Appendix F to be executed by SELLER (as seller) and PREPA (as buyer) on the Effective Date.

1.67 "Year" - A Year shall be the twelve (12) Month period beginning 12:00 midnight on December 31 and ending at 12:00 midnight on the subsequent December 31.

- 1.2 The rules of interpretation listed below shall be followed when interpreting this Agreement:
 - (a) Words importing the singular also include the plural and vice versa.
 - (b) References to natural persons or parties include any person having legal capacity
 - (c) References to a Party include such Party's successors and permitted assigns.
 - (d) Words importing one gender include the other gender.
 - (e) The words "include" and "including" mean "including, but not limited to" and corresponding grammatical variants.
 - (f) Except as otherwise expressly stated herein, all references in this Agreement to this Agreement (including the Appendices hereto) or to contracts, agreements, or other documents shall be deemed to mean this Agreement (including the Appendices hereto) and such contracts, agreements or other documents, as the same may be modified, supplemented, or amended from time to time.
 - (g) Except as otherwise expressly stated herein, all references to recitals, Sections, Articles, and Appendices in this Agreement are references to the recitals, Sections, Articles, and Appendices of this Agreement.
 - (h) Words and abbreviations not defined in this Agreement which have generally accepted technical or design, engineering, or construction industry meanings are used in this Agreement in accordance with such recognized meanings.
 - (i) The terms "hereof," "herein," "hereto," "hereunder" and words of similar or like import, refer to this entire Agreement, together with its Appendices, and not any one particular Article, Section, Appendix, or other subdivision of this Agreement.

- (j) The headings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the Parties hereto, nor should they be used to aid in any manner in the construction of this Agreement.
- (k) Terms used in the present tense may be interpreted as referring to the past tense and vice versa.
- (I) Unless otherwise stated herein, (i) references to the construction of any portion of SELLER's Complex shall include reconstruction of such portion, and (ii) any obligation of a Party in respect of the construction of SELLER's Complex shall be applicable to, and performed by, such Party in respect to the reconstruction of SELLER's Complex.

ARTICLE 2. SALE AND PURCHASE OF ENERGY

- 2.1 SELLER agrees to sell and PREPA agrees to accept delivery of and purchase the Net Electrical Output up to SELLER's Complex Generating Capacity, as of and following the Initial Synchronization Date, subject to the terms and conditions of this Agreement.
- 2.2 Without limiting any other obligations of SELLER in this Agreement, PREPA's obligation to purchase Net Electrical Output from SELLER is conditioned upon SELLER's submittal to PREPA of the following:
 - (a) One or more documents evidencing SELLER compliance with all environmental laws and regulations.
 - (b) Evidence that the Facility will be a Qualifying Facility as defined in section 201 of PURPA, provided prior to the Commercial Operation Date.
 - (c) Originals of certificates of insurance policies for insurance coverage required by Article 19, Insurance.
 - (d) Copies of all material Permits needed to construct and operate the Facility and its Interconnection Facilities.
- 2.3 Without limiting any other obligations of SELLER in this Agreement, PREPA's obligation to purchase Net Electrical Output from SELLER is conditioned upon SELLER, at its expense, acquiring and maintaining in effect any Permits and completing or having completed any environmental impact studies, in each case necessary for the

design, construction, operation and maintenance of the SELLER's Complex, which, if not obtained, would prevent SELLER from operating the SELLER's Complex.

2.4 SELLER agrees that at the Effective Date SELLER shall pay PREPA the sum of 2.2 \$5/kW of Estimated Generating Capacityto reimburse PREPA, subject to the provision of evidence reasonably satisfactory to SELLER, for the actual costs incurred by PREPA in performing all the evaluations and studies needed before Commercial Operation Datethe Interconnection Study in accordance with Section 9.2. SELLER shall make such payment within thirty (30) days of PREPA providing the evidence referenced in the preceding sentence.

ARTICLE 3. NOTICES

All notices and other communications hereunder shall be in writing, other than disconnect orders which may be oral and immediately confirmed by telecopyemail, and shall be deemed duly given upon receipt after being delivered by hand or sent by registered or certified mail, return receipt requested, postage prepaid or by recognized overnight courier service or by telecopyemail, addressed as follows:

ifIf to SELLER-to:
Address:
Punta Lima Wind Farm, LLC , 5120 Woodway Drive, Suite 9004, Houston, Texas 77056
Attention: Javier Mateache Sancristán, Chief Executive Officer
With a copy-to:
Name: Frank Monserrate Soto, Business Development Engineer
Address: Punta Lima Wind Farm, LLC, 140 BDA Santiago & Lima, Naguabo, Puerto
Rico 00718
With respect to any Notice of Breach, PREPA shall also deliver a copy of such, which
shall not constitute notice, to:
Sovereign Bank, N.A.
Attention: Alberto Ramos, Managing Director
Address: 45 East 53 rd Street, New York, New York 10022
And
McConnell Valdes, LLC
Attention: Juan C. Méndez, Capital Member Carlos J. Fernández Lugo
270 Muñoz Rivera Avenue, Suite 900,
San Juan, Puerto Rico 00918

email: cfl@mcvpr.com

If to PREPA:

Puerto Rico Electric Power Authority (if by hand) 1110 Ponce de Leon Avenue Santurce, Puerto Rico Attention: Director of Planning and Environmental With a copy to:

Puerto Rico Electric Power Authority (if by mail)

G.P.O. Box 364267

San Juan, Puerto Rico 00936-4267

Attention: Director of Planning and Environmental

Either Party hereto may change, by notice as above provided; the persons and/or addresses to which all such notices are to be sent.

ARTICLE 4. PRE-COMMERCIAL OPERATION PERIOD

- 4.1 SELLER shall submit to PREPA the following:
 - (a) (i)—SELLER's Complex <u>preliminary and non-binding</u> licensing and milestone construction schedules <u>within</u> thirty (30) days after the <u>Effective DateAssumption Order Date (and, thereafter, promptly notify PREPA of any material changes to SELLER's licensing and milestone construction schedules);</u>
 - (b) (ii) the conceptual engineering design of SELLER's Complex, including the relay protection scheme, within thirtyninety (3090) days following its completionthe Assumption Order Date; and
 - (c) (iii) the <u>wind turbine</u> manufacturer's guaranteed performance data required to perform the <u>interconnection study</u> as <u>described in Appendix CInterconnection Study</u> within thirtysixty (3060) days following its receipt by SELLER. <u>SELLER shall submit</u>:
 - (d) an official Siemens PTI certified PSS/E mathematical model of the Facility within ninety (90) days following the Assumption Order Date; and
 - progress reports in a form satisfactory to PREPA by the fifth (5th) Business Day of every Month until the Commercial Operation Date and notify PREPA of any material changes to SELLER's licensing and milestone construction schedules.
- 4.2 SELLER shall notify PREPA in writing of the proposed Initial Synchronization Date (the "Proposed Initial Synchronization Date") and the start-up and testing schedule for the facility Facility on or before such Proposed Initial Synchronization Date no later than sixty (60) days in advance thereof. SELLER shall have the right to postpone such date with advance notice to PREPA. PREPA and SELLER shall agree on the actual Initial Synchronization Date for the facility Facility and PREPA shall have the right to have a representative present during such period.
- 4.3 SELLER shall provide PREPA with relay settings for review and inspection by PREPA on or before no later than sixty (60) days in advance of the Proposed Initial Synchronization Date. If these are not found not to be acceptable to PREPA. SELLER agrees to comply with any request made by PREPA to provide acceptable relay settings prior to the Initial Synchronization Date. PREPA agrees to give any comments or suggested changes which it is entitled to give to SELLER pursuant to this Section 4.3 within sixtythirty (6030) days after SELLER submits any required documents or information to PREPA. SELLER agrees to comply with any request made by PREPA to provide acceptable relay settings prior to Initial Synchronization Date. Notwithstanding the above, PREPA may modify the control and protection schemes regarding,

without limitation, the following parameters: ramp rates, higher frequency fluctuations, low voltage ride-through, low frequency ride-through, voltage support and dynamic power factor support; provided that any such modifications are in compliance with Prudent Electrical Practices, Prudent Utility Practices, and the Design Limits and the Minimum Technical Requirements for Wind Turbine Generation Projects set forth in Appendix G. SELLER shall procure equipment with electrical capabilities to comply with the above-mentioned parameters.

- Unless otherwise agreed to by the Parties, SELLER and PREPA shall use commercially reasonable efforts to mutually develop detailed written operating procedures (the "Agreed Operating Procedures") on or before one hundred twentysixty (12060) days afterbefore the Commercial Operation Initial Synchronization Date, the The Agreed Operating Procedures will be a mutual agreementmutually agreed based on PREPA's standard operating procedures, taking into consideration the design of the Facility and its interconnection to PREPA's electric system. The Agreed Operating Procedures shall bedescribe the procedures as to how to integrate the Net Electrical Output from SELLER's Complex output into PREPA's electric system. Topics covered shall include, but not necessarily be limited to, method of day-to-day communications, key personnel lists for both SELLER and PREPA's dispatching centers, clearances and switching practices, outage scheduling, daily available capacity and energy reports, SELLER's Complex operations toglog, reactive power support and Emergency procedures. The Agreed Operating Procedures may only be modified with the written consent of the Parties.
- 4.5 PREPA shall prepare and submit to SELLER a written voltage schedule for the Facility no later than thirty (30) days prior to the Proposed Initial Synchronization Date. PREPA may change such voltage schedule upon thirty (30) days prior written notice. Operator SELLER shall use such voltage schedule in the operation of its Facility: provided that it is in accordance with the Design Limits of the Facility. This voltage schedule shall be based on the normally expected operating conditions for the Facility and the reactive power requirements of PREPA's system. These thirty (30) day terms may be waived by SELLER.
- 4.6 PREPA reserves the right to delay the actual Initial Synchronization Date due to problems in which the synchronization of the SELLER's Complex could adversely affect the operations of PREPA's electrical system, subject to Prudent Utility and Electrical Practices. In such event, PREPA shall promptly give SELLER notice of such problems and with PREPA's electrical system. SELLER shall promptly remedy any problems with facilities or equipment installed or maintained by SELLER.
- 4.7 SELLER shall provide PREPA with as-built drawings of the Interconnection Facilities (one line diagram and protection scheme) within one hundred twenty (120) days after the Commercial Operation Date and within one hundred twenty (120) days after any material modification of the SELLER's Interconnection Facilities.

ARTICLE 5. TERM

- 5.1 The term of this Agreement shall begin with the Effective Date and shall continue for a period of twenty (20) Agreement Years from the Commercial Operation Date, unless extended, terminated, or canceled in accordance with the terms hereof. If the Term is extended, the word "Term" shall thereafter be deemed to mean the original Term so extended.
- 5.2 The Term of this Agreement may be extended by mutual agreement of the Parties for up to two (2) consecutive periods of five (5) vears Agreement Years following the expiration of the initial

twenty (20) year term. The intention Written notice of intent to extend the Term of this Agreement shall be notified in writing bysent by overnight courier, certified or registered mail to the other Party not less than eighteen (18) Months prior to the expiration of the term, unless either Party shall give written notice by certified or registered mail to the other of its intent not to extend the term of this Agreement not less than eighteen (18) Months prior to the expiration of the term, and if the other Party fails to respond in writing to such written notice of intent to extend prior to the expiration of the Term, the Term shall be deemed extended for five (5) Agreement Years. During any extension term, all provisions contained herein remain in effect.

ARTICLE 6. REPRESENTATIONS, WARRANTIES AND COVENANTS

- 6.1 SELLER covenants and warrants that the SELLER's Complex shall be operated and maintained by a Qualified Operator in accordance with (a) the Agreed Operating Procedures, (b) Prudent Electrical Practices and (c) Prudent Utility Practices, including without limitation, synchronizing, voltage and reactive power control.
- SELLER covenants and warrants that the SELLER's Complex shall generate its own reactive power (kVAr) such that the Facility shall be capable of operating with a power factor consistent with the Minimum Technical Requirements for Wind Turbine Generation (WTG) Projects included set forth in Appendix G and that the Facility shall be operated at the voltage levels determined pursuant to Article 4, Pre Commercial Operation Period, Section 4.5. SELLER further covenants and warrants that its generator(s) shall be capable of operating at the maximum MVA consistent with the Minimum Technical Requirements for Wind Turbine Generation (WTG) Projects set forth in Appendix G. SELLER warrants that it will promptly correct any SELLER's Complex design or construction defect that causes the SELLER's Complex to have a material adverse effect on PREPA's voltage level or voltage waveform.
- SELLER shall, at all times, comply with all applicable laws, ordinances, rules and regulations applicable to it and the use, occupancy and operation of SELLER's Complex, unless the non-compliance therewith would not have a materially adverse effect on the operation of the SELLER's Complex, provided that in the event of any such noncompliance, SELLER shall be diligently contesting in good faith any such law, ordinance, rule or regulation. SELLER shall give all required notices, shall procure and maintain all Permits and shall pay all charges and fees in connection therewith unless SELLER shall be diligently contesting any such payments in good faith. SELLER shall give all required notices, shall procure and maintain all Permits and shall pay all charges and fees in connection therewith.
- As between the Parties, SELLER shall have the sole responsibility for the payment of any and all fines or other penalties incurred by or imposed upon the SELLER or its agents, suppliers, employees or subcontractors for noncompliance by SELLER, its agents, employees, suppliers, or subcontractors with laws, rules, regulations or ordinances applicable to or in connection with the development, construction, ownership and/or the proper operation of the SELLER's Complex as determined by those having jurisdiction over the SELLER's Complex, and PREPA shall be held harmless from any such fines or penalties and expenses related to these (including without limitation all reasonable attorneys' fees).
- 6.5 SELLER hereby <u>represents and</u> warrants:
 - (a) On the Execution Effective Date, the SELLER is a corporation limited liability company duly organized, validly existing and in good standing under the laws of the

- Commonwealth of Puerto Rico Delaware. SELLER has all requisite power and authority to conduct its business, to own its properties, and to execute, to deliver, and to perform its obligations under this Agreement.
- (b) The execution, delivery and performance by SELLER of this Agreement have been duly authorized by all directors of the corporation, and do not and will not (i) require any additional internal consent or approval of SELLER's directors, other than that which has been obtained, as certified by the corporate resolution dated June 1st, 2009 and delivered to PREPA not later than the Effective Date, or (ii) violate any provision of SELLER's corporate bylaws or other organic documents certificate of formation or operating agreement, or any material indenture, contract or agreement to which it is a party or by which it or its properties may be bound, or any law, ordinance, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect, or (iii) result in a breach of or constitute a default under SELLER's corporate bylaws or other organic documents or other material indentures, contracts or agreements to which it is a party or by which it or its property may be bound.
- (c) On the Execution Effective Date, SELLER is not in default under SELLER's corporate bylaws or other organic documents or in material default under other indentures, contracts or agreements to which it is a party or by which it or its property may be boundary document or instrument referred to in clause (ii) of the preceding paragraph (b), which default could reasonably be expected to have a material adverse effect on the ability of SELLER to perform its obligations under this Agreement.
- (d) This Agreement is a legal, valid and binding obligation of SELLER, enforceable against SELLER in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of rights generally.
- (e) On the Execution Effective Date, except as previously disclosed in writing, there is no pending action or proceeding in which SELLER is a party before any court, governmental agency Governmental Authority or arbitrator that could reasonably be expected to affect materially and adversely the financial condition or operations of SELLER or the ability of SELLER to perform its obligations under, or which purports to affect the legality, validity or enforceability, of this Agreement as in effect on the date hereof.
- 6.6 SELLER shall not be relieved of its obligations under this Agreement as a result of subcontracting any of its obligations to a third party.
- 6.7 SELLER further agrees that it will cause to be delivered to PREPA an annual certification of the names of its Authorized Officers, accountants, and consulting engineers. SELLER shall make available to PREPA all copies that SELLER receives of any maintenance evaluations or reports to be provided by SELLER to any third party with a financial security interest in or lien on the SELLER's Complex, including evaluations or reports generated at the request of such third parties or performed by an engineering firm employed by such third party.
- 6.8 PREPA agrees that all information (whether financial, technical, or otherwise) obtained from SELLER, or from PREPA's inspections of SELLER's Complex, which is not otherwise generally

available to the public shall be kept confidential and used solely by PREPA in connection with the performance of its obligations under this Agreement. Disclosure of such information may be made only within PREPA's organization to key personnel, and to third parties serving as PREPA's legal, financial or technical advisors, whose duties justify their need to review and know such material. PREPA shall require each person (and personnel thereof) to agree for the benefit of SELLER to maintain the confidentiality of such information. To the extent PREPA is required to disclose such information by any court, governmental agency Governmental Authority or to the extent necessary to secure governmental approval or authorization, PREPA shall use its best efforts to seek a confidentiality agreement that assures confidential treatment of the information consistent with the terms of this Section 6.8. In the event PREPA is not successful in obtaining a confidentiality agreement, PREPA and SELLER shall use reasonable efforts to obtain through court action the appropriate protective order.

- PREPA hereby agrees that, throughout the Term for so long as (i) the Trust Indenture dated January 1, 1974, as amended, between PREPA and The Chase Manhattan Bank (National Association) as successor trustee remains in effect, or (ii) in any agreements subsequently entered into by PREPA for similar purposes in connection with or related to the restructuring of PREPA's debts, all payments by PREPA to SELLER under this Agreement shall be treated as current expenses as defined by the terms of the Trust Agreement dated as of January 1, 1974 as amended (the "1974 Agreement"), between PREPA and State Street Bank and Trust, Company, as successor trustee, and any successor indentures or agreements, including any amendments, supplements or modifications thereto, or will be afforded no less beneficial treatment than current expenses in any such new agreements.
- 6.10 PREPA shallagrees to cause its external counsel (at SELLER's cost) or its internal counsel to issue an opinion in a form reasonably acceptable to SELLER and the Project Lenders on the Financial Closing Date affirming that the Agreement is a legal, valid and binding obligation of PREPA, enforceable against PREPA according to its terms representations in Section 6.11.
- 6.11 PREPA hereby represents and warrants:
 - (a) Pursuant to Act No. 83 of May 2, 1941, as amended, PREPA is a public corporation duly organized and validly existing under the laws of the Commonwealth of Puerto Rico and has all requisite power and authority to conduct its business, to own its properties, and to execute, to deliver, and to perform its obligations under this Agreement.
 - (b) The execution, delivery and performance by PREPA of this Agreement have been duly authorized by PREPA's Governing Board in accordance with applicable law, and (i) do not and will not require any additional internal consent or approval of PREPA; and (ii) do not and will not violate any provision of Act No. 83 of May 2, 1941, as amended, or its regulations, or any material indenture, contract or agreement to which it is a party or by which its properties may be bound.
 - (c) PREPA is not in default under any document or instrument referred to in clause (ii) of the preceding paragraph (b), which default could reasonably be expected to have a material adverse effect on the ability of PREPA to perform its obligations under this Agreement.
 - (d) (b) This Agreement is a legal, valid and binding obligation of PREPA, enforceable against PREPA in accordance with its terms-

- (e) On the Execution Date, except as previously disclosed in writing may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of rights generally.
- Except for the proceedings before the PROMESA Court, there is no pending, or, to its the best of its knowledge, threatened action or proceeding against PREPA before any court, governmental agency Governmental Authority or arbitrator that could reasonably be expected to affect materially and adversely the financial condition or operations of PREPA or the ability of PREPA to perform its obligations under, or which purports to affect the legality, validity or enforceability, of, this Agreement (as in effect on the date hereof).
- (g) 6.12—PREPA agrees that at no cost to SELLER, PREPA shall at the time of execution of this Agreement cause its general counsel to issue an opinion to SELLER affirming the representations in Section 6.11.
- 6.12 PREPA shall not be relieved of its obligations under this Agreement as a result of subcontracting any of its obligations to a third party.
- 6.13 6.14-PREPA acknowledges that under this Agreement SELLER is only committing and PREPA is only paying for the Net Electrical Output as available from time to time from the SELLER's Complex. PREPA also acknowledges that there is no explicit or implied guarantee about the Net Electrical Output reliability, and that SELLER is not committing and PREPA is not paying for dependable capacity, and that the Facility production is intermittent and subject to wind availability, and that PREPA is not relying and will not rely on the SELLER's Complex Generating Capacity for the expansion of its system, and that the only remedy available to PREPA for the failure of SELLER to achieve the Commercial Operation Date or for the failure to achieve any particular number of Available Hours is the termination of the Agreement as provided for in Article 16.
- 6.15 SELLER shall sell and deliver to, and PREPA shall receive and pay for all Green Credits produced by the Facility in accordance with Article 11.1.
- 6.16—[Intentionally left blank].
- 6.17—[Intentionally left blank].
- 6.18—[Intentionally left blank].
- 6.19 SELLER shall provide to PREPA, for the Term of the Agreement, audited financial statements <u>prepared</u> in accordance with GAAP.

ARTICLE 7. DISPATCH

7.1 The Facility production is intermittent and subject to wind availability. PREPA agrees to accept all the Net Electrical Output produced by the Facility according to the terms of this Agreement and will not disconnected disconnect or curtail the Facility unless due to an Emergency as specified in Article 8, Control and Operation of the Facility.

- 7.2 Notwithstanding Section 7.1 and as further specified in Article 98, Interconnection, PREPA may require SELLER to disconnect or curtail the Facility or reduce the amount of Net Electrical Output due to situations that may affect safety margins or reliability levels in PREPA's system; provided, however, that any disconnection or reduction in the level of Net Electrical Output required by PREPA hereunder shall be based upon and implemented in a manner consistent with Prudent Utility Practices and within the Design Limits; provided further, however, that PREPA shall not disconnect the Facility or reduce the level of Net Electrical Output for purposes of economic dispatch.
- 7.3 SELLER will give the PREPA's dispatcher a status report every eight (8) hours of the SELLER's Complex conditions, including any SELLER's Complex restrictions, and the hourly integrated net generation during that period. SELLER shall notify the dispatcher right away if there is any pertinent change in SELLER's Complex status. The SELLER shall make available through the Facility's remote terminal unit ("RTU") the actual Facility load limit adjustment.
- 7.4 The Facility will provide to PREPA an estimate of next day and next week production, based on the previous <u>Dayday</u> production, estimated strength of the winds the next day and week and based on the meteorological forecast for the region and site.

ARTICLE 8. CONTROL AND OPERATION OF THE FACILITY

- 8.1 SELLER shall use reasonable efforts to; (a) submit to PREPA prior to the beginning of each Year—the Planned Outage Program for that(i) the balance of the Year during which the Commercial Operation Date occurs no later than the Commercial Operation Date and (ii) each subsequent Years before the beginning of such Year and (b) notify PREPA at least twenty _four (24) hours in advance of all Planned and Maintenance Outages.
- 8.2 If an Emergency is declared by PREPA, PREPA's dispatching centers may partially curtail the Facility or disconnect the Facility from PREPA's system and the Facility will remain curtailed or disconnected from PREPA's system until SELLER has received permission to increase output or reconnect from PREPA's dispatching center. At its sole discretion, during an Emergency PREPA may elect to lower the output of the Facility. Without limiting the generality of the foregoing, PREPA may require the Facility to be curtailed or disconnected without prior notice and remain curtailed or disconnected until permission to reconnect has been received from PREPA; (i) if a failure to curtail or disconnect would create or contribute to an Emergency; (ii) if immediate maintenance operations are required or; (iii) whenever PREPA deems it necessary to do so in the interest of the safety and integrity of PREPA's system; provided, however, that any such requests, curtailment, disconnections or lowering the output of the Facility by PREPA hereunder shall be of no greater scope and of no longer duration than is required due to the Emergency or other operating problem, and is based upon and implemented in a manner consistent with Prudent Utility Practices and within the Design Limits.
- 8.3 SELLER shall cooperate with PREPA in establishing Emergency plans, including without limitation, recovery from a local or widespread electrical blackout; voltage reduction in order to effect load curtailment; and other plans which may arise. SELLER shall make technical information and data available to PREPA concerning start-up times and black-start capabilities.
- 8.4 If SELLER has a Planned Outage or a Maintenance Outage, and such Planned Outage or Maintenance Outage occurs or would occur coincident with an Emergency, SELLER shall make reasonable efforts, consistent with Prudent Utility Practices and with PREPA's approval, to

- reschedule the Planned Outage or Maintenance Outage or if the Planned Outage or Maintenance Outage has begun, to expedite the completion thereof.
- SELLER recognizes that, subject to Section 7.2 and Section 8.2, PREPA may require that the Facility's Net Power Output be reduced (or capped) or the Facility may be curtailed or disconnected due to situations that may affect safety margins or reliability levels in PREPA's system. Some of these situations may include, but are not limited to, voltage stability problems, security driven dispatch, transmission lines contingencies, generating units contingencies, power transfer levels in some circuits, and disconnection ("vias libres") of some transmission circuits due to maintenance and improvement.
- 8.5 SELLER shall provide as a minimum at its expense the following communication facilities linking the SELLER's Complex with PREPA's dispatching centers:
 - (a) One dual ported RTU, including setup installation and configuration, which shall be specified by PREPA.
 - (b) Two voice gradeindependent telecommunication circuits for the RTU. One for communication with Monacillos Transmission Center (Monacillos TC), the other with Ponce Transmission Center (Ponce TC). including one voice grade to link the SCADA system to the Facility's RTU using DNP protocol through a designated PREPA communication node, and a second fiber optic circuit to link PREPA's network to the Facility in order to access protection equipment, revenue meters and the dynamic system monitor through the ruggedcom security device as specified by PREPA;
 - (c) A voice telephone extension for the purpose of accessing PREPA's dial up metering equipment and for communicating with PREPA's dispatching centers, the Monacillos Transmission Center and Ponce Transmission Center;
 - (d) Telephone line and equipment to transmit and receive facsimilee-mail messages to confirm the oral communication between PREPA and SELLER.
 - (e) The communication facilities shall provide for digital access using PREPA's TDM (Time Division Multiplexer); and Ethernet networks.
 - (f) One voice grade telecommunication circuit for the Facility backup telemeter's communication with Monacillos TC.
 - (f) (g) SELLER shall supply and install a Dynamic System Monitor (cabinet version) or equivalent equipment system monitor equipment, components, and system in accordance with Appendix H, for recording the power disturbance caused by electro-mechanic swings and to measure the system response to the swing disturbance.

Items provided by SELLER in accordance with this Section 8.5 shall be subject to the approval of PREPA, which approval shall not be unreasonably withheld or delayed.

8.6 Each Party shall keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this Agreement.

- (a) All such records shall be maintained for a minimum of five (5) years after the creation of such record or data and for any additional length of time required by regulatory agencies with jurisdiction over the Parties; provided, however, that neither Party shall dispose of or destroy any such records that are specifically designated by the other Party even after five (5) years without thirty (30) days prior notice to the other Party. If notice is given to the notifying Party during such thirty (30) day period, the notifying Party shall promptly deliver such records and data to the Party wishing to retain such records.
- 8.7-SELLER shall maintain an accurate and up-to-date operating log at the Facility with records of: (i) real and reactive power for each hour; (ii) changes in operating status and outages; (iii) any unusual conditions found during inspections; (iv) the Available SELLER's Complex Generating Capacity for each hour Available Hour as determined consistent with Prudent Utility Practices. Either Party shall have the right from time to time, upon fourteen (14) days written notice to the other Party and during regular business hours, to examine the records and data of the other Party relating to the proper administration of this Agreement any time during the period the records are required to be maintained. At PREPA's request, SELLER shall provide certifications of tests and inspections of the electric and protection equipment, which may impact PREPA's electrical system. PREPA shall have the right to visit and visually monitor the SELLER's Complex during operation and testing.

ARTICLE 9. INTERCONNECTION

- 9.1 Subject to the requirements of this Agreement—and the IFCA (but without waiving any rights under applicable law), SELLER shall have the right to interconnect SELLER's Complex to PREPA's electrical system at, and deliver the Net Electrical Output to, the Interconnection Point.

 Appendix C sets forth the information required for the Interconnection Study needed to assess the interconnection study needed to interconnect of SELLER's Complex to PREPA's system.
- 92 PREPA shall perform the Interconnection Study and provide a report summarizing the results to SELLER within sixty (60) days of SELLER's provision of the information and data required by Section 4.1. The Interconnection Study shall, at a minimum, determine what modifications need to be made to the Interconnection Facilities in light of the reconstruction of SELLER's Complex. if any, such as (a) a determination of the power capabilities of the major interconnection equipment required for the Interconnection Facilities, (b) the maximum fault currents necessary to specify short circuit duty and interrupting ratings, (c) confirm generator step up (GSU) transformer impedance and determine transformer tap ranges necessary for proper control of voltage and reactive power flow, and (d) verify the PREPA dispatching centers that will coordinate the operation of SELLER's Complex. SELLER is not prohibited from commencing construction of or modifications to its Facility or the Interconnection Facilities, if applicable, prior to the completion of the Interconnection Study to the extent that the Parties agree that such construction of or modification to the Facility or the Interconnection Facilities will not be materially affected by the results of the Interconnection Study. Any modifications to the Interconnection Facilities shall be consistent with Prudent Utility Practices considering the functional one-line interconnection diagram and approved specifications contained in Appendix <u>C.</u>
- 93 Within one hundred twenty (120) days of PREPA's receipt of the information submitted by SELLER in accordance with Section 4.1, PREPA shall either issue SELLER a notice to proceed or notify SELLER of any disagreement with the information provided. SELLER shall not

- purchase equipment or repair or modify the Interconnection Facilities until receipt of a notice to proceed from PREPA, which shall constitute acceptance by PREPA of the design and specifications of the Interconnection Facilities and of the need to purchase equipment or repair or modify the Interconnection Facilities, if applicable. Once the notice to proceed is received by SELLER, SELLER shall use its best efforts to complete work, if any, on PREPA's Interconnection Facilities within the time period specified in the schedule submitted as per Section 4.2.
- 9.2 Except as otherwise set forth in the IFCASubject to Section 9.3, SELLER shall, to the extent required, at its own cost, (ia) design, obtain the land rights necessary, acquire all necessary materials and equipment—necessary, construct, and (iib) design, acquire all necessary materials and equipment—necessary, construct, install, and transfer to PREPA therepair or modify PREPA's Interconnection Facilities, in each case—contemporaneous with performing such acts with respect to, contemporaneously with the reconstruction of SELLER's Complex. SELLER agrees that the cost of therepairing or modifying PREPA's Interconnection Facilities—includes, if required, shall include the control, protection and communication infrastructure required for implementing the aforementioned improvements.
- <u>95</u> 9.3 SELLER further agrees that the SELLER's Complex interconnection is conditioned upon the installations installation, at SELLER's cost, of (a) the frequency regulation, voltage and dynamic reactive power support equipment consistent with the Minimum Technical Requirements for Wind Turbine Generation (WTG) Projects included set forth in Appendix G. Examples of the aforementioned equipment are battery energy storage system, flywheel energy storage systems, static VAR compensators and STATCOMs. SELLER shall install a and (b) dynamic system monitoring equipment as specified in Appendix CH. SELLER shall also be responsible for the costs of major improvements and upgrades in nearby transmission facilities affected by the integration of the Interconnection Facilities (i.e. upgrade of short circuit capability of transmission breakers, upgrade of transmission busbars, upgrade of power transfer capability of transmission lines, etc.). The Parties agree to comply with the Minimum Technical Requirements for Wind Projects attached hereto as Appendix G, which reflect the conclusions of the interconnection study referred to in Section 9.8 of the Agreement. SELLER's compliance with the Minimum Technical Requirements for Wind Projects shall be measured at the location set forth in Appendix C-1.
- 9.4 SELLER also agrees to comply with any request made by PREPA to provide acceptable relay settings prior to Initial Synchronization Date as per Article 4, Pre Commercial Operation Period, Section 4.3. Notwithstanding the above, control and protection schemes may also be modified or expanded regarding, without limitation, the following parameters: ramp rates, higher frequency fluctuations, low voltage ride through, low frequency ride through, voltage support and dynamic power factor support. Any such modifications or expansions will be in compliance with Prudent Electrical Practices,

- Prudent Utility Practices, and the Design Limits. SELLER shall procure equipment with electrical capabilities to comply with the above mentioned parameters.
- 9.5 Except as otherwise set forth in the IFCA, at PREPA's option and prior to transfer of the PREPA's Interconnection Facilities to PREPA, PREPA shall perform the acceptance testing of the Interconnection Facilities or supervise the testing by SELLER. Following the completion of such acceptance testing, SELLER shall transfer to PREPA all of SELLER's rights, tittles and interests (including land and easement rights) for the PREPA's Interconnection Facilities. SELLER shall own and be responsible for the safeand adequate operation and maintenance of all SELLER's Interconnection Facilities, other than metering equipment. PREPA shall own and be responsible for the safe and adequate operation and maintenance of the PREPA's Interconnection Facilities, but SELLER shall be responsible for the replacement and maintenance cost of breaker 42070 (including both disconnecting switches and breaker protection equipment) located at the PREPA Interconnection Facilities (as defined in the IFCA). PREPA shall be responsible for any work at the switchyard and shall provide the cost of any material and labor related to the Facility. The design of the Interconnection Facilities shall be part of the project design to be submitted by SELLER for approval to the Permits and Regulations Administration of Puerto Rico.
- 9.6 SELLER shall provide to PREPA the preliminary and final equipment data required in Appendix C by the dates specified therein. Prior to the Initial Synchronization Date, PREPA shall perform, or supervise SELLER in the performance of, the acceptance testing of the Interconnection Facilities, which shall include an inspection of the 115 kV Line. The acceptance testing requirements for the Interconnection Facilities will be set forth in the Agreed Operating Procedures.
- 9.7 [Intentionally left blank].On the Effective Date, SELLER and PREPA shall enter into the Transmission Line PSA, pursuant to which SELLER shall assign, transfer and sell, and PREPA shall purchase and accept assignment of, the 115 kV Line and the other assets described therein, subject to the terms and conditions of the Transmission Line PSA.

- 9.8 SELLER shall submit to PREPA, in addition to the data required in Appendix C, an official Siemens PTI certified PSS/E mathematical model of the Facility and manufacturer's performance data reasonably required to perform the interconnection study within thirty (30) Days following its receipt by SELLER. PREPA shall perform an interconnection study and provide the same to SELLER within ninety (90) days of SELLER's provision of the equipment data required by Section 9.6. The interconnection study shall, at a minimum, (a) determine the power capabilities of the major interconnection equipment required to complete the Interconnection Facilities, (b) the maximum fault currents necessary to specify short circuit duty and interrupting ratings, (c) approve or disapprove generator step up (GSU) transformer impedance and determinetransformer tap ranges necessary for proper control of voltage and reactive power flow, and (d) designate the PREPA dispatching centers that will coordinate the operation of the SELLER's Complex. SELLER is not prohibited from commencing construction of its Facility or Interconnection Facilities prior to the completion of the interconnection study to the extent that the parties agree that such construction of the Facility or Interconnection Facilities will not be materially affected by the results of the interconnection study. Interconnection Facilities design shall be consistent with Prudent Utility Practices considering the functional one line interconnection diagram and approved specifications contained in Appendix C for the site plan provided to PREPA. Additional studies of stability, motor starting and transients shall be performed as necessary to allow the timely progress of the detailed design of the Interconnection Facilities. At all times, SELLER shall own and be responsible for the safe and adequate operation and maintenance of all SELLER's Interconnection Facilities. From and after the date that the transactions contemplated in the Transmission Line PSA are consummated, PREPA shall own and be responsible for the safe and adequate operation and maintenance of PREPA's Interconnection Facilities.
- 9.9 Except as otherwise set forth in the IFCA, within one hundred twenty (120) days of PREPA's receipt of the information submitted by SELLER in accordance with Section 9.6 above, PREPA shall either issue SELLER a Notice to Proceed or notify SELLER of any disagreement with the information provided. SELLER shall not purchase, construct or install any Interconnection Facilities until receipt of a Notice to Proceed from PREPA, which shall constitute acceptance by PREPA of the design and specifications of the Interconnection Facilities and of the need to purchase, construct or install such Interconnection Facilities. Once the Notice to Proceed is received by SELLER, SELLER shall use its best efforts to complete construction of the PREPA's Interconnection

- Facilities within the time period specified in the schedule submitted as per Article 4, Pre Commercial Operation Period, Section 4.2.
- 9.9 9.10 PREPA reserves the right to modify or expand its requirements for protective devices in the Interconnection Facilities in conformance with Prudent Electrical Practices and subject to the Design Limits.
- 9.11 Each Party shall notify the other in advance of any changes to its system that will affect the proper coordination of protective devices on the two systems.
- 9.12 SELLER recognizes that the Facility's Net Electrical Output may be reduced or the Facility may be disconnected due to situations that may affect safety margins or reliability levels in PREPA's system. Some of these situations may include, but are not limited to, voltage stability problems, security driven dispatch, transmission lines contingencies, generating units contingencies, power transfer levels in some circuits, and disconnection ("vias libres") of some transmission circuits due to maintenance and improvement.

ARTICLE 10. METERING

- 10.1 PREPA shall own and maintain allthe primary and backup meters and metering devices (including RTUs) used to measure the delivery and receipt of Net Electrical Output, for payment purposes, located at the point identified in Appendix C-1. SELLER shall install calibrate and test the primary and back upbackup meters and metering devices subject to Section 10.3, provided that such meters and metering devices shall be subject to PREPA's approval.
- All meters and metering equipment used to determine the Net Electrical Output delivered to PREPA shall be located at the Interconnection Point and sealed, and the seals broken only by PREPA personnel when the meters are to be inspected, tested or adjusted. PREPA shall give SELLER two (2) weeks prior written notice thereof and SELLER shall have the right to have a representative present during the meter inspection, testing or adjustment. If either Party believes that there has been a meter failure or stoppage, it shall immediately notify the other Party.
- 10.3 At least once a Year at PREPA's cost and, in addition, from time to time upon two (2) weeks prior written notice by SELLER, at SELLER's cost, PREPA will test and calibrate the meter(s), including backup metersmeter, in accordance with the provisions for meter testing as established in American National Standard Code for Electricity Metering (ANSI) Standard C 12.16 for Solid State Electricity Meters, and the Handbook for Electrical Metering, Edison Electric Institute 8th Edition or the updated edition in effect and available to PREPA at the time the test is performed. When, as a result of such a test, a meter is found to be inaccurate by no more than two percent (2%), no adjustment will be made in the amount paid to SELLER for Net Electrical Output delivered to PREPA. If the meter is found to be inaccurate by more than two percent (2%),

PREPA will use the backup metersmeter to calculate the correct amount delivered to PREPA for the actual period during which inaccurate measurements were made or, if the actual period cannot be determined to the mutual satisfaction of the Parties, for a period equal to the time elapsed since the most recent test, but in no case for a period in excess of six (6) Months. If the backup meters aremeter is not available, or if the testing of the backup metersmeter demonstrates that those meters are said meter is inaccurate by more than two percent (2%), the meter readings shall be adjusted based on the corrected meter readings of the most accurate meter for the actual period during which inaccurate measurements were made, or, if the actual period cannot be determined to the mutual satisfaction of the Parties, for a period equal to one-half of the time elapsed since the most recent test, but in no case for a period in excess of six (6) Months. The previous payments by PREPA for this period shall be subtracted from the amount of payments that are calculated to have been owed under this Agreement. The difference shall be offset against or added to the next payment to either Party as appropriate under this or other agreements between the Parties. Each Party shall comply with any reasonable request of the other Party concerning the sealing of meters, the presence of a representative of the other Party when the seals are broken and the test is made, and other matters affecting the accuracy of the measurement of electricity delivered from the SELLER's Complex.

During each one (1) year period, following the Initial Synchronization Date, PREPA shall read the meters twelve (12) times to determine the amount of Net Electrical Output delivered to PREPA between any such two (2) consecutive meter readings (the "Billing Period"). The Billing Period shall not exceed thirty-three (33) days nor be less than twenty-eight (28) days. Except that the first Billing Period, from the Initial Synchronization Date might be less than twenty-eight (28) days to adjust the ensuing Billing Periods to the desired schedule. The meters will be read on the dates indicated on the meter-reading program prepared by PREPA and submitted to the SELLER on or before January 1st of each Year. PREPA shall notify SELLER in advance of any change on the meter-reading program. The SELLER may be present, at its option, during all meter readings. PREPA shall provide the SELLER with a written statement containing the results of such meter readings within ten (10) days following the reading.

ARTICLE 11. COMPENSATION, PAYMENT AND BILLINGS

- 11.1 For each Billing Period (or part thereof), PREPA shall pay to SELLER anthe Energy Payment and a Green Credits Paymentin consideration for both the Net Electrical Output measured in accordance with Section 10.3. SELLER shall include both the Energy Paymentdelivered to PREPA and the Green Credits Payment ingenerated by the monthly invoice presented to PREPA pursuant to this Section 11.1 calculated as follows.
 - (a) Energy Payment Beginning on the Commercial Operation Date and continuing throughout the Term of this Agreement:

 $EP = EPP \times NEO$

Where:

EP is the Energy Payment

EPP is the Energy Purchase Price, which for the first Agreement Year shall be equal to \$0.125 per kWh of NEO.

NEO is the Net Electrical Output expressed in kilowatt hours

On an annual basis on the first anniversary of the Commercial Operation Date and each year thereafter, the Energy Purchase Price shall be escalated in an amount equal to one and a half percent (1.5%). Facility during such Billing Period (or part thereof). For the avoidance of doubt, all Green Credits generated by the Facility shall be conveyed to PREPA at no additional charge (as the consideration therefor is included in the Energy Payment). An example of the Energy Payment is included in Appendix C.

(b) Green Credits Payment Beginning with the Pre Operation Period and continuing throughout the Term of this Agreement:

GCP = GCPP x NEO

Where:

GCP is the Green Credits Payment

- GCPP is the Green Credit Purchase Price, which shall be equal to \$0.025 per kWh of NEO for the Term. For the avoidance of doubt the Green Credit Purchase Price shall not be subject to escalation for the Term. NEO is the Net Electrical Output expressed in kilowatt hours.
- 11.2 PREPA will buy all the energy <u>produced</u> delivered by SELLER for each Month (or part thereof) from the Initial Synchronization Date to the Commercial Operation Date, at EPP = 0.09 in an amount equal to the product of \$\frac{1}{2} \text{Wh} \text{ and the energy produced during such Month (or part thereof).}
- 11.3 On or before the fifteenth (15th) day following the end of each Billing Period, SELLER shall provide PREPA with a written invoice for the Net Electrical Output delivered to PREPA and for other amounts or reimbursement due to SELLER by PREPA hereunder, and such invoice shall be paid by PREPA within forty-seven (47) days after the end of the Billing Period. Interest shall accrue on the outstanding payments due to SELLER commencing on the forty-eighth (48) day after the Billing Period. Notwithstanding the payment requirements set forth in this Section, any amounts owed to PREPA by SELLER relating to—the SELLER's Complex that are not paid when due to PREPA, at PREPA's discretion, may be offset against the amounts due to SELLER from PREPA under this Agreement, subject to PREPA providing SELLER with ten (10) business days' advance written notice describing in reasonable detail the amounts to be set off before

effecting any such set off. Payment to PREPA shall be made by wire transfer to an account with a bank to be specified by PREPA in writing at least thirty (30) days prior to the Initial Synchronization Date or with such other banks as may thereafter be specified by PREPA in writing. Payment to SELLER shall be made by wire transfer to an account with a bank to be specified by SELLER in writing at least thirty (30) days prior to the Initial Synchronization Date or with such other banks or institutions as may thereafter be, specified by SELLER in writing. Either Party may, by written notice to the other, change the address to which such payments are to be sent.

PREPA will charge all payments that it owes under this Agreement to PREPA's budget account number [•] and estimates that its costs under this Agreement will not exceed [•]. For the avoidance of doubt, the Parties have set out the expected account number and estimate of costs for informational purposes to satisfy the requirements of the Puerto Rico Controller. This paragraph does not bind the Parties or modify any other provision of this Agreement.

ARTICLE 12. SELLER'S COMPLEX GENERATING CAPACITY

SELLER declares (but does not represent, warrant or covenant) that the Estimated Generating Capacity for the Facility at commencement of commercial operations is expected to be approximately 4026 MW. The Parties agree that SELLER shall be permitted to construct the Facility in two phases, known as Phase I and Phase II. SELLER shall be permitted to declare a Commercial Operation Date for Phase I and Phase II separately. For Phase I, the capacity shall be between 20 and 26 megawatts on the Commercial Operation Date. For Phase II, the capacity, when combined with the Phase I capacity, SELLER acknowledges and agrees that, to remain interconnected to the PREPA's generation, transmission, and distribution system, the Net Power Output of the Facility at the Interconnection Point shall not exceed the Estimated Generating Capacity for the Facility at any time, unless required by the Minimum Technical Requirements for Wind Turbine Generation Projects set forth in Appendix G.

12.2 [intentionally omitted]

- 12.2 Following the test performed as per the performance of the tests detailed in Appendix D, Machine Power Performance Test, SELLER shall notify PREPA in writing of the SELLER's Complex Generating Capacity and the Commercial Operation Date. PREPA at its option may have an eyewitness during the performance of the test.
- 12.4 12.3 During the performance of the Machine Power Performance Test, SELLER shall also perform Machine Parameters Measurements and Field Tests Requirements, as specified in Appendix Gtests.

ARTICLE 13. LIABILITY

13.1 Each Party shall be responsible for the energy and facilities, including Interconnection Facilities, located on its respective side of the Interconnection Point. The Net Electrical Output made available by the SELLER to PREPA under this Agreement shall become the property of PREPA at the Interconnection Point. Except as provided in Section 13.2 below, the SELLER shall not be liable to PREPA for loss or damage to PREPA's generation, transmission, and distribution system, including PREPA's Interconnection Facilities, resulting directly or indirectly from the use, misuse or presence of said energy once it passes the Interconnection Point. PREPA shall not

- be liable to SELLER for loss or damage to SELLER's Complex, resulting directly or indirectly from the use, misuse or presence of said energy before it passes the Interconnection Point.
- 13.2 The Parties agree that their responsibility under this Agreement will be governed by the Puerto Rico Civil Code and its case law, as dictated by the Supreme Court of Puerto Rico. This Agreement shall be governed by, and construed in accordance with the laws of the Commonwealth of Puerto Rico. Also, the Parties expressly agree that only the Court of Competent Jurisdiction will decide over the judicial controversies that the appearing Parties may have among them regarding the terms and conditions of this Agreement.
- 13.3 Notwithstanding anything to the contrary contained in this Agreement, neither Party nor any of its affiliates nor any of their respective directors, officers, shareholders, partners, employees, agents and representatives nor any of their respective heirs, successors and assigns shall in any event be liable to the other Party or its officers, directors, agents, employees or representatives for claims for incidental, consequential or indirect damages, whether arising in tort, contract or otherwise, connected with or resulting from performance or nonperformance under this Agreement, including without limitation, claims made by either Party's customers or suppliers, or claims made by third parties, or claims made by either Party for lost profits.
- 13.4 Nothing in this Article 13 shall relieve either Party of its obligation to make payments that become or have become due pursuant to Article 11, Compensation, Payment and Billings and Article 18, Taxes and Environmental Costs.

ARTICLE 14. INDEMNIFICATION

- 14.1 Each Party shall indemnify and hold harmless the other Party and each of its affiliates and each of their respective directors, officers, shareholders, partners, employees, agents and representatives and each of their respective heirs, successors and assigns from and against any and all damages, claims, losses, liabilities, actions, causes of action, costs, expenses and obligations (including, without limitation, all reasonable attorneys' fees) whether arising in contract, tort or otherwise to third parties for or on account of injury, bodily or otherwise, to or death of persons or for damage to or destruction of property, in each case resulting from, arising out of or in connection with such indemnifying Party's negligent performance or failure to perform under this Agreement.
- In the event any Party to this Agreement receives notice of any claim or cause of action for which such Party elects to assert a right of indemnification and hold harmless from the other Party, the Party receiving such notice must give prompt written notice to the other Party of the claim. The Party required to give the indemnification and hold harmless under the terms and provisions of this Agreement will have control of the defense of any such claim or cause of action (except to the extent prevented by any legal conflict of interest) including the selection of counsel to handle same. In addition to the counsel so selected, the Party being indemnified and held harmless shall be entitled to be represented by counsel of his or its own choosing but, in such event, the cost and expense of said additional counsel shall be borne by the Party being indemnified.
- 14.3 As of the Effective Date and for the Term, SELLER shall indemnify and hold harmless PREPA for any and all judgments and expenses (including reasonable costs and attorneys' fees) required to be incurred by PREPA as a result of claims of any nature whatsoever resulting from any environmental harm due to the actions of the SELLER or SELLER's agents or employees in the design, planning, construction or operation of theeither or both of SELLER's Original Complex or SELLER's Complex or any of its Facilities or arising as a result of the presence at

theeither or both of SELLER's Original Complex or SELLER's Complex or any of its Facilities of pollutants, hazardous substances, materials or wastes. In the event SELLER fails to reimburse PREPA for such expenses within thirty (30) days of receipt of written notice from PREPA stating that such expenses were incurred, subject to the provisions of Article 11.3. PREPA may offset the amount of such expenses against amounts due SELLER from PREPA under this Agreement.

ARTICLE 15. FORCE MAJEURE

- 15.1 The Parties shall be excused from performing hereunder and shall not be liable or otherwise if and only to the extent that they shall be unable to perform or are prevented from performing due to a Force Majeure event. For purposes of this Agreement, Force Majeure means any cause beyond the reasonable control of and not the result of the fault or negligence of the Party claiming the Force Majeure event. The burden of proof as to whether a Force Majeure event has occurred and caused a non-performance or inability to perform shall be on the Party claiming the Force Majeure. Except as provided in Section 15.4, the Parties hereto shall be excused from performing hereunder and shall not be liable in damages or otherwise to the extent the non-performance or inability to perform is due to a Force Majeure event.
- 15.2 Provided that the provisions of Section 15.1 above are met, Force Majeure events may include, but are not limited to, the following: Acts of God, strikes, acts of public enemy, war, blockades, boycotts, riots, insurrections, epidemics, earthquakes, storms, floods, civil disturbances, lockouts, fires, explosions, Legal Challenges, interruptions of services due to the act or failure to act of any governmental authority Governmental Authority, except that PREPA cannot claim Force Majeure for acts or failures to act by PREPA.
- 15.3 Except as otherwise provided in Section 15.4, if either Party is rendered wholly or partly unable to perform its obligations under this Agreement because of Force Majeure, that Party shall be excused from whatever performance is affected by the Force Majeure to the extent so affected, provided that: (i) the non-performing Party, within ten (10) days after the occurrence of the Force Majeure, gives the other Party written notice describing the particulars of the occurrence and its estimated duration; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure consistent with Prudent Utility Practices; (iii) no obligations of either Party which arose prior to the Force Majeure be excused as a result of the Force Majeure; and (iv) the non-performing Party uses its best efforts, consistent with Prudent Utility Practices, to remedy its inability to perform and resume in full its performance under this Agreement, provided that this obligation shall not require the settlement of any strike, walkout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its best interest.
- Neither Party shall be excused by reason of Force Majeure from the obligation to make any payments, when due, to the other Party.
- 15.5 For purposes of this Article 15, if a Party disputes the other Party's claim of Force Majeure such dispute shall be resolved by binding arbitration in accordance with through the Dispute Resolution process provided for in Section 22.2622.24.
- 15.6 A Party claiming a Force Majeure shall use its best efforts, diligently and continuously, to mitigate and remedy the causes of the Force Majeure. These efforts shall continue during any Dispute Resolution process.

ARTICLE 16. TERMINATION

- 16.1 Termination of this Agreement shall occur only upon:
 - (a) (i) expiration of the Term of this Agreement as provided in Article 5, Term; or
 - (b) (ii) mutual written consent of the Parties; or
 - (c) (iii) the date identified by PREPA in a written notice to SELLER following the occurrence of a Development Abandonment, Permanent Abandonment or Permanent Closing of the SELLER's Complex; or
 - (d) (iv) the material breach of any of the terms and conditions of this Agreement by either Party, subject to the provisions of Article 17, Breach of Agreement, Delays And Security hereof; or
 - (v) (a) Delay
 - (e) the date identified by a Party in a written notice to the other Party following the material, uncured breach of any of the terms and conditions of this Agreement by such other Party, subject to the provisions of Article 17; or
 - <u>(f)</u> the date identified by PREPA in a written notice to SELLER following any delay by SELLER in achieving the Commercial Operation Date for Phase I of the Facility by thirty sixthe date that is twenty-four (3624) Months after the Third Amendment Effective Assumption Order Date, unless the delay is due to one or more events of Force Majeure or the act or omission of Force Majeure PREPA, in which case, the thirty sixtwenty-four (3624) month Month period may shall be extended on a day for day basis for the duration of the such Force Majeure events up to twelve (12) months, in such case event or act or omission of PREPA and the termination right can be may only be exercised by PREPA subject to the provisions of Article 17, Breach of Agreement, Delays And Security, hereof, or exercised by either Party if the delay is caused by one or more events of Force Majeure. If at the end of the twelfth month, SELLER has commenced construction of the SELLER's Complex, the twelve (12) Months will be extended for an additional twelve (12) Months and; (b) Delay by SELLER in achieving if the Commercial Operation Date for Phase II of the Facility by sixty (60) Months after the Third Amendment Effective Date. If SELLER has achieved the Commercial Operation Date for Phase I and PREPA has declared a Default solely due to the failure of Seilerhas not occurred by the expiration of such extended period, subject to achieve the Commercial Operation Date for Phase II as this Agreement, PREPA shall only be permitted to issue a notice of termination for Phase II, and the Agreement shall otherwise remain in full force and effect.
 - (vi) [Intentionally left blank];
 - (g) (vii) any reason as specified in this provisions of Article 16.

- (h) 16.2—The Parties agree that the continued effectiveness of this Agreement is dependent on SELLER's determination that the SELLER's Complex to be constructed in accordance with this Agreement is financially feasible. If SELLER notifies PREPA that the SELLER's Complex is not financially feasible on or before one (1) year after the Effective Date, either Party may terminate this Agreement without liability 17.
- 16.2 16.3 Termination of this Agreement shall not discharge either Party hereto from any obligation it owes to the other Party under this Agreement by reasons of any transaction, loss, cost, damage, expense or liability, which shall occur or arise (or the circumstances, events, or basis of which shall occur or arise) prior to termination. It is the intent of the Parties hereby that any such obligation owed (whether the same shall be known or unknown at termination or whether the circumstances, events or basis of the same shall be known or unknown at termination) shall survive termination. Any indebtedness by either Party to the other shall be considered payable within ninety (90) days of the termination of this Agreement. This Section 16.3 16.2, together with Article 13, Liability, Article 14, Indemnification, Sections 22.4 and Section 22.7 shall survive termination of this Agreement.

ARTICLE 17. BREACH OF AGREEMENT, DELAYS AND SECURITY

- 17.1 A breach of this Agreement shall be deemed to exist upon the occurrence of any one of the following:
 - (a) (i) Commercial Operation Date for the Facility is not achieved within the time frame specified in Section 16.1(ve);
 - (b) (ii) the failure by either Party to perform in any material respect its obligations under this Agreement, subject to the provisions of Section 17.3 below, or
 - (c) (iii) the occurrence of a Development Abandonment, Permanent Abandonment or Permanent Closing of SELLER's Complex.
- 17.2 If PREPA believes SELLER has breached this Agreement pursuant to Section 17.1(ia) above, PREPA shall provide SELLER written notice (the "a Notice of Breach") thereof. If within fifteen (15) days of the receipt of such Notice of Breach, SELLER fails to respond in writing to the Notice of Breach, PREPA may terminate this Agreement as provided under Article 16, Termination, as the only remedy for such a breach.
- If either Party believes the other Party has breached this Agreement pursuant to Section 17.1(ib) above or Section 17.1(c), the non-breaching Party shall provide the other Party with writtennotice (the "a Notice of Breach") thereof. If within fifteenthirty (1530) days of the receipt of such Notice of Breach, such other Party fails to respond in writing to the Notice of Breach, the non-breaching Party shall be entitled to invoke its remedies under this Agreement and/or under the applicable law. If such other Party disputes in writing that a breach by it has occurred, the Parties may pursue a resolution by the Dispute Resolution process provided for in Section 22.2522.24. In case the other Party admits in writing, or the resolution Dispute Resolution process contemplated above determines results in a determination that a breach (other than a payment breach) has occurred, the breaching Party shall have a minimum of thirty (30) days from the latest of (i) receipt of the Notice of Breach, (ii) its admission of breach, or (iii) when the

resolution contemplated above determines that a breach has occurred, to cure the breach or the cause of such breach if the breach is one which by its nature cannot be cured, provided however, that if the breach or such cause cannot be cured within the thirty (30) day period, the breaching Party shall be given an additional thirtyninety (3090) day period to cure the breach or such cause with the exercise of due diligence. If the breaching Party fails to cure the breach or such cause or to be actively pursuing to cure with the exercise of due diligence within such time period, the non-breaching Party may pursue its remedies under this Agreement and/or under the law.

- Commencing with No later than the Third Amendment Effective Date Commencement of 17.4 Construction, SELLER shall provide to PREPA, at SELLER's sole expense, a surety bond issued by a surety company duly licensed in the Commonwealth of Puerto Rico, an unconditional and irrevocable guaranty by direct pay letter or letters of credit issued by a Qualified Bank, or a guaranty provided by a guarantor with an investment grade credit rating as determined by Moody's or Standard and Poor's (provided, however, that the requirement that such guarantor have an investment grade credit rating shall not apply so long as such guarantor and SELLER are, directly or any of its affiliates, which indirectly, wholly owned by Santander), which such issuing bank or guarantor and forms of surety bond, letter of credit or guaranty shall be subject to PREPA's approval (such approval not to be unreasonably withheld, conditioned or delayed), in per kilowatt of Estimated Generating each case, in the aggregate amount of Capacity. This guaranty (the "Operation Security"). The Operation Security required herein shall be maintained until December 31, 2013 at which time SELLER or any of its affiliates shall provide an unconditional and irrevocable direct pay letterer letter of credit issued by a local bank or any other bank or in the alternative open an escrow account in the amount described in this Section 17.4 in a local bank or any other bank approved by PREPA for the remainder of the Term.
- PREPA may draw from the Operation Security required under Section 17.4 above to offset any damages PREPA may be entitled to under this Agreement, provided that PREPA either obtains the agreement of SELLER to the level of damages or obtains a judgment from a Court of Competent Jurisdictionfinal determination through the Dispute Resolution process specifying the level of damages. If PREPA reasonably determines that the Operation Security would otherwise expire or cease to exist prior to such agreement or judgment, PREPA may draw from the Operation Security an amount equal to PREPA's claim of damages, provided that PREPA places the drawn amounts in an escrow account in a bank reasonably acceptable to SELLER until the appropriate amount of damages is determined. Following such agreement or determination, PREPA may draw from the escrow account and retain amounts equal to the amount of damages, if any, determined to be due to PREPA and PREPA shall deliver to SELLER all amounts remaining in the escrow account, if- any. Drawing under the Operation Security shall not be the exclusive remedy available to PREPA.

ARTICLE 18. TAXES AND ENVIRONMENTAL COSTS

18.1 For purposes of this Agreement, "Taxes" shall mean any and all taxes, fees or other charges of any nature, excluding income taxes and repatriation (tollgate) taxes, that are imposed or assessed on or as a result of the ownership or operations of the SELLER's Complex by federal, Commonwealth or municipal governmental bodies or agencies responsible for implementing tax laws, rules, regulations or orders. "Environmental Costs" shall mean any and all fixed and variable costs incurred by SELLER resulting from the imposition or assessment on or as a result of the ownership or operations of the SELLER's Complex by laws, rules, regulations or orders

relating to the environment issued by federal, Commonwealth or municipal governmental bodies or agencies. "Post-Effective Date Taxes" shall mean all Taxes resulting from tax laws, rules, regulations or orders enacted, approved or issued after the Effective Date. "Post-Effective Date Environmental Costs" shall mean all Environmental Costs resulting from laws, rules, regulations or orders enacted, approved or issued after the Effective Date. "Deemed Debt-Level" shall equal seventy six million dollars (\$76,000,000). "Deemed Debt Service" shall equal the annual payments that will fully amortize the Deemed Debt Level with equal monthly payments in fifteen years and at an interest rate equal to the yield of 15 year United States Treasury bonds plus 300 basis points. This interest rate will be determined on the day closest to the Commercial Operation Date for which this rate is available. "After Tax Debt Service Coverage Ratio" shall mean the ratio of (i) all-SELLER's revenues generated by the SELLER's Complex minus Taxes and other SELLER's operating expenses (other than debt service) and minus Puerto Rico incometaxes and repatriation (tollgate) taxes paid by SELLER, incurred in connection with the operation of the SELLER's Complex to (ii) Deemed Debt Service. "Minimum Deemed Debt Service Coverage Ratio" shall mean a debt service coverage ratio of 1.3 (onehundred thirty divided by one hundred) used in the implementation of the Tracking Account created as per this Article 18.

- SELLER shall be responsible for all income taxes, repatriation (tollgate) taxes, Taxes and Environmental Costs. Provided: provided that, PREPA shall reimburse SELLER for (a) all changes in the payments of Taxes by SELLER that are the result of the enactment of Post-Effective Date Taxes and for(b) all changes in SELLER's Environmental Costs that are the result of the enactment of Post-Effective Date Environmental Costs, all in each case, applicable to SELLER by reason of the ownership or operation of SELLER's Complex for the purpose of the sale by SELLER to PREPA of Net Electrical Output (collectively—called, "Changes")—which would also apply to PREPA if a generation facility similar to the Facility would have been owned and operated by PREPA as part, Such Changes payable by PREPA according to the foregoing shall be paid to SELLER by an equitable adjustment to the Energy Purchase Price on a per kWh basis over the remainder of its system the Term.
- Further provided that, if during the first twenty (20) Agreement Years the Changes not reimbursable by PREPA (Changes Not Reimbursable) would cause the After Tax Debt Service Coverage Ratio to fall below the Minimum Deemed Debt Service Coverage Ratio, PREPA shall pay the necessary amount of such Changes Not Reimbursable to permit the maintenance of the After Tax Debt Service Coverage Ratio at a value equal to the Minimum Deemed Debt Service Coverage Ratio or equal to the After Tax Debt Service Coverage Ratio that would have resulted in the absence of such Changes (Alternative Ratio), whichever is lower (the Necessary Amount). Such Necessary

- Amount shall be paid to SELLER in equal monthly installments due on the same dates and on the same terms as payments made under Article 11, Compensation, Payment and Billing, Section 11.3 hereof. In no event the Necessary Amount will exceed the actual Changes Not Reimbursable.
- 18.4 The Necessary Amount paid by PREPA shall be recorded in an unfunded tracking account and shall accrue. Interest. If at any time during the first twenty (20) Agreement Years the SELLER's payment obligation of such Changes Not Reimbursable would enable the SELLER to maintain an After Tax Debt Service Coverage Ratio in excess of the Minimum Deemed Debt Service Coverage Ratio, SELLER shall reimburse PREPA for amounts contained in the tracking account up to that amount that will not reduce the After Tax Debt Service Coverage Ratio below the Minimum Debt Service Coverage Ratio, and the tracking account balance shall be reduced by such reimbursed amounts.
- 18.5 If there remains a balance in the tracking account at the end of the twentieth (20th) Agreement Year, PREPA shall have the option to extend the Term for up to such additional period as necessary to repay such balance. This monthly retention shall be eliminated when the tracking account balance equals zero. In the event this Agreement is terminated according to Article 16, Termination, herein, and there is a balance in the tracking account, such amount shall be paid to PREPA according to Section 16.3 or PREPA may draw from the Operation Security required under Article 17, Breach of Agreement, Delays and Security, Section 17.4. Notwithstanding, during the Term of this Agreement, SELLER shall have the option to prepay all or any portion of the balance of the tracking account at any time or from time to time.
- 18.6 SELLER will promptly pay and discharge all lawful taxes, assessments and governmental charges or levies imposed upon it or in respect of all or any part of its property or business, all trade accounts payable in accordance with usual and customary business terms, and all claims for

work, labor or materials which, if unpaid, might become a lien or charge upon any of its property; provided, however, that SELLER shall not be required to pay any such tax, assessment, charge, levy, account payable or claim if (a) the validity, applicability or amount thereof is being contested in good faith by appropriate actions or proceedings which will prevent the forfeiture or sale of any property of SELLER or any material interference with the use thereof by SELLER and (b) SELLER shall has set aside on its books reserves deemed by it to be adequate with respect thereto. PREPA shall pay or cause to be paid all taxes, fees and other charges of any nature on or with respect to the Net Electrical Output at and from the PREPA Interconnection Facilities, including, without limitation, taxes, fees or other charges of any nature assessed on or with respect to the purchase and sale of the Net Electrical Output at the Interconnection Point (including, without limitation, sales tax, excise tax, municipal license tax and value-added tax).

ARTICLE 19. INSURANCE

- 19.1 SELLER shall obtain or cause its agent or its affiliate to obtain on or before the later of (i) the Financial Closing Date, and (ii) the Commencement of Construction of the SELLER's Complex, and shall maintain during the remainder of the Term of the Agreement the following policies of insurance issued by an A. M. Best rated insurance company authorized to do business in Puerto Rico, or any other insurance providers reasonably acceptable to PREPA, such as Lloyds of London:
 - (a) Workmen's Compensation Insurance: (i) SELLER shall provide Workmen's Compensation Insurance as required by the Workmen's Compensation Act of the Commonwealth of Puerto Rico. SELLER shall also be responsible for compliance with said Workmen's Compensation Act by all <a href="https://histits.com/histits
 - (b) Employer's Liability Insurance: SELLER shall provide Employer's Liability Insurance with minimum bodily injury limits of \$1,000,000 for each employee and \$1,000,000 for each accident covering against the liability imposed by Law upon—the SELLER as a result of bodily injury, by accident or disease, including death arising out of and in the course of his/her-employment outside of and distinct from any claim for.under the Workmen's Compensation Act of the Commonwealth of Puerto Rico;
 - (c) Commercial General Liability Insurance: SELLER shall provide and maintain during the Term of the Agreement a Commercial General Liability Insurance with bodily injury and property damage combined single limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. Such insurance shall include specific coverage for contractual liability encompassing the indemnification provisions in 13.4 Article 14, broad form property damage liability, personal injury liability, "XCU", explosion, collapse and undergrounds damages coverage, products/completed operations liability; and where applicable, watercraft indemnity liability which may be covered on a separate policy;

- (d) Automobile Liability Insurance: SELLER shall provide a Comprehensive Automobile Liability Insurance with bodily injury and property damage combined single limits of at least \$1,000,000 per accident covering all owned, non-owned or hired vehicles;
- (e) Excess Umbrella Liability Insurance: SELLER shall maintain an Excess Umbrella Liability Insurance with a limit of not less than \$3,000,000 per occurrence in excess of the limits of insurance provided in subsections (b) through (d) above;
- 19.2 The amounts of insurance required in Section 19.1 above may be satisfied by SELLER purchasing primary coverage in the amounts specified or by buying a separate Excess Umbrella Liability Policy together with lower limit primary underlying coverage. The structure of the coverage is SELLER's option, so long as the total amount of insurance meets PREPA's requirements set forth in Section 19.1.
- 19.3 The coverage's requested in Section 19.1(b) above and any required Umbrella or Excess coverage could be "occurrence" form policies.
- 19.4 SELLER shall cause its insurers to endorse its Commercial General Liability and, if applicable, Excess Umbrella Liability policies with the following endorsement (a) through (d) with respect to the. SELLER's Complex; and to amendits Automobile Liability policies with endorsement item (d):
 - (a) PREPA, its board of directors, its directors, officers and employees are additional insurers insureds under this policy to the extent of SELLER's indemnity obligations elsewhere in this Agreement; and
 - (b) This insurance is primary, but only for liability arising out of the operation of the SELLER's Complex or other matters arising in relation to this Agreement; with respect to the interest of PREPA, its directors, officers, and employees, and other insurance maintained by them is excess and not contributory with this insurance; and
 - (c) Insurer hereby waives all rights of subrogation against PREPA, its officers, directors and employees; and
 - (d) Notwithstanding any provision of the policy, this policy may not be cancelled, non-renewed or materially changed by the insurer without giving thirty (30) days (ten (10) days in the case of non-payment of premiums) prior written notice to PREPA. All other terms and conditions of the policy remain unchanged.
- 19.5 Regarding breach of insurance warranties by SELLER, all insurance policies under Subsections 19.1(bc) through 19.1(d) of Section 19.1 shall be endorsed, to the extent available on commercially reasonable terms, as follows or with substantially similar language agreeable to the Parties: "The breach of any of the warranties or conditions in this policy by SELLER shall not prejudice PREPA's right under this policy."
- 19.6 SELLER shall cause its insurers or agents to provide PREPA not later than seven (7) days prior to Commencement of Construction, with the originals of the certificates of insurance evidencing the policies and endorsements listed above with respect to the SELLER's Complex. Failure of PREPA to obtain certificates of insurance does not relieve SELLER of the insurance requirements set forth herein. Failure to obtain the insurance coverage required by this Article 19

shall in no way relieve SELLER's obligations and liabilities under other provisions of this Agreement.

ARTICLE 20. ASSIGNMENT

- 20.1 This Except as otherwise provided in Section 20.5, this Agreement shall not be assigned or transferred by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Any attempt to assign this Agreement without the prior written consent of the corresponding Party shall be void. For avoidance of doubt, in no case shall the transfer of this Agreement to an affiliate of SELLER be Subject to PREPA's approval.
- Notwithstanding the above, the SELLER may assign its rights and benefits but not its obligations and duties under this Agreement without PREPA's consent (a) to a Project Lender as collateral security in connection with a financing and/or (b) to a Lessor as collateral security in connection with a lease arrangement; provided that the SELLER shall not be relieved of its responsibility to carry out its duties and obligations under this Agreement, and further provided that any such assignment is made expressly subject to the terms and conditions of this Agreement between SELLER and PREPA. PREPA agrees to execute the appropriate consenting documents, estoppels certificates and acknowledgementsacknowledgments (including agreements to provide copies of notices of defaults and agreements to pay funds directly to the Project Lender or Lessor (or its lenders or its lenders' representatives)), as reasonably required by the Project Lender or Lessor, in connection with any assignment made by SELLER, Project Lender, or Lessor in accordance with this Article 20.
- 20.3 PREPA acknowledges that as a result of an assignment of SELLER's rights and interests under this Agreement to a Project Lender or Lessor: (a) the Project Lender or Lessor, as applicable, will have the right, upon the occurrence of a default under its corresponding agreements with SELLER, to assume or cause a nominee to assume, all of the rights and obligations of SELLER (or Project Lender or Lessor) under this Agreement, and (b) the Project Lender or Lessor, or its lenders or its lenders' representatives, as applicable, will have the right to cure defaults by SELLER under this Agreement on the same terms and during the same periods available to SELLER.
- The Parties acknowledge that PREPA is undergoing a transformation process, and therefore, both Parties agree that PREPA may assign, convey or transfer (each, a "Transfer") any of its rights, title, or interest in this Agreement as permitted by applicable law and at any time, without SELLER's consent and without cost, expense or incremental liability to PREPA or SELLER, to any Governmental Authority of Puerto Rico which becomes the owner of all or substantially all of Puerto Rico's electric power transmission and distribution system; provided that PREPA shall not be released from liability hereunder unless and until this Agreement shall be expressly accepted by the transferee in any such Transfer as binding upon said transferee, including an acknowledgment by said transferee of Project Lenders' rights with respect to this Agreement and the consent to collateral assignment, and provided further that PREPA shall notify SELLER no later than thirty (30) Days before the effective date of any such Transfer.
- In the event the Facility or any portion thereof, SELLER, or substantially all of SELLER's assets are intended to be sold, directly or indirectly, SELLER shall notify PREPA of such intention to sell thirty (30) Days in advance of the intended date of such sale. PREPA shall have the right to approve the new owner, which approval shall not be unreasonably withheld, conditioned or delayed, and which decision PREPA shall inform SELLER no later than thirty (30) Days after SELLER's notice under the preceding sentence; provided, however, that no such approval shall

be required if (a) the sale or transfer of SELLER's assets is part of any foreclosure on any mortgage, lien, pledge, charge or other encumbrance granted to the Project Lenders under any non-recourse project financing related exclusively to such assets and such lenders or their agent has entered into a direct agreement with PREPA in respect of the collateral assignment of this Agreement, (b) such new owner constitutes a permitted assignee under Article 20.3, or (c) the new owner provides to PREPA (i) its audited financial statements as per GAAP, demonstrating that such new owner has a tangible net worth of at least twenty-five million dollars (\$25,000,000) (or its direct or indirect parent has a tangible net worth of at least fifty million dollars (\$50,000,000)), (ii) evidence that such new owner is or has engaged a Qualified Operator, and (iii) the certifications and documentation required by Article 22.9, but construing references to SELLER therein as references to such new owner; provided, however, that, in each case, SELLER has ensured that any regulatory approvals required have been obtained in respect of such transfer and such transfer otherwise complies with applicable law. In all of the preceding authorized transactions, this Agreement shall be transferred and assigned to the new owner as of the date of the PREPA approval, or as of the date of the notice to PREPA under subclauses (a), (b) or (c) above, and from such date onward all references to SELLER herein shall be deemed to refer to the new owner.

ARTICLE 21. QUALIFYING FACILITY STATUS

- 21.1 The SELLER hereby agrees shall certify that the Facility will achieve has achieved status as a Qualifying Facility pursuant to PURPA on or before the Commercial Operation Date.
- In the event the Facility loses its status as a Qualifying Facility pursuant to PURPA, the SELLER shall vigorously pursue and use reasonable efforts to re obtain Qualifying Facility status. Notwithstanding the above, should the SELLER be unable to obtain such status, this Agreement shall remain in full force and effect and the SELLER shall comply, in its relationship with PREPA, with all other provisions of PURPA and the regulations approved under PURPA by FERC or any successor applicable to the relationship between Qualifying Facilities and electric utilities, in particular those provisions which protect, defend, preserve, and/or are propitious to electric utilities, provided, however, that nothing under PURPA or the regulations hereunder shall materially adversely affect in any way the rights, duties, and obligations of the Parties under this Agreement.

ARTICLE 22. MISCELLANEOUS PROVISIONS

- 22.1 This Agreement, including the appendices thereto, can be amended only by agreement between the Parties in writing.
- 22.2 The failure of either Party to insist in any one or more instances upon strict performance of any provisions of this Agreement, or to take advantage of any of its rights hereunder, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder, which shall remain in full force and effect.
- The headings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the Parties hereto, nor should they be used to aid in any manner in the construction of this Agreement. SELLER represents and warrants that the information included in the Contractor Certification Requirement, as included in Appendix C of the Contract Submission Questionnaire required by the Financial Oversight & Management Board for Puerto Rico, is complete, accurate and correct, and that any

- misrepresentation, inaccuracy of falseness in such Contractor Certification Requirement will render this Agreement null and void and SELLER will have the obligation to reimburse immediately to PREPA any amounts, payments or benefits received from PREPA hereunder.
- 22.4 This Agreement is intended solely for the benefit of the Parties hereto. Nothing in this Agreement shall be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a Party to this Agreement.
- 22.5 No officer, employee, or agent of SELLER or PREPA or of the Commonwealth or municipal governments shall be entitled to any share or part of this Agreement or to any benefit that may arise therefore that would be in violation of any law, rule, regulation, order, or policy of the Commonwealth of Puerto Rico or PREPA.
- 22.6 This Agreement shall not be interpreted or construed to create an association, joint venture, 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.
- 22.7 Cancellation, expiration or earlier termination of this Agreement shall not relieve the Parties of obligations incurred prior to, or as a result of, such cancellation, expiration or earlier termination of this Agreement, which by their nature should survive such events, including without limitation warranties, remedies, promises of indemnity and confidentiality.
- 22.8 PREPA agrees to provide electric service to SELLER, as requested by SELLER, at the most advantageous rate available to SELLER in accordance with PREPA's applicable rates.
- 22.9 Previous to the signing of this Agreement, SELLER will have to submit the following documents or certifications:
 - (a) Certification by SELLER, which indicates that it has filed its Income Tax Returns during the five (5) previous years, if required, and that it does not owe taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan in full compliance with its terms.
 - (b) An Income Tax Return Filing Certificate, issued by the Treasury Department of Puerto Rico, Area of Internal Revenues, assuring that SELLER has filed his Income Tax Return for the last five (5) years, if required. To require such CertificationCertificate, SELLER will use the Request for Copy and/or Certification of Income Tax Returns Form issued by the Treasury Department of Puerto Rico. In addition, SELLER shall submit a Certification of Debt issued by the Area of Internal Revenues.
 - (c) Certification issued by the Municipal Revenues Collection Center (MRCC), assuring that SELLER does not owe any tax to such governmental agency. To require such Certification Certificate, SELLER Will use the form issued by the MRCC Municipal Revenues Collection Center.
 - (d) Certificate, issued by the Department of Labor and Human Resources of Puerto Rico, assuring that SELLER has paid to the Department of Labor and Human Resources of Puerto Rico his employees' contributions, in accordance with the Puerto Rico Employment Security Act (unemployment, temporary disability or sickness or social

- security for chauffeurs); or is paying such contributions by an installment plan in full compliance with its terms. To require acquire such Certification Certificate, SELLER will use the form issued by the Department of Labor and Human Resources of Puerto Rico.
- (e) A sworn statement that neither SELLER nor any of its partners or owners have been convicted, nor have they plead guilty of any felony or misdemeanor involving fraud, misuse or illegal appropriation of public funds as enumerated in Article 3 of Public Law number 428 of September 22, 2004, as amended SELLER, to its actual knowledge, does not receive payment or benefit of any nature for services rendered regularly through an appointment to a Governmental Authority of Puerto Rico.
- 22.10 It shall be SELLER's responsibility, also, to require all subcontracted third parties to comply with all the previous Certifications and agrees to notify PREPA of such compliance within 10 working days of subcontracting such third party.
- 22.10 22.11 If any of the previously required Certifications shows a debt, and SELLER has requested a review or adjustment this debt, SELLER will certify that it has made such request at the Effective Date. If the requested review or adjustment is denied and such determination is final, SELLER will provide, immediately, proof of payment of this debt to PREPA; otherwise, SELLER accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments.
- 22.11 Specifically, SELLER recognizes that submittal of the aforementioned certifications and documents is an essential condition of this Agreement; and even in the case that they are partially incorrect, there will be sufficient cause for PREPA to terminate, cancel or rescind this Agreement and SELLER have to refund all payments received under this Agreement. Prior to exercising any rights that PREPA might have pursuant to this Section 22.1222.11, PREPA will notify SELLER of the nature of the deficiency and will afford SELLER a reasonable time to prepare or cause to prepare the documents and certifications to comply with the aforementioned requirements. The SELLER will not have the preceding cure rights if SELLER had knowingly submitted false documents.
- 22.13 Each Party to this Agreement warrants that, except to the extent that a particular provision of this Agreement expressly creates a different standard, it will be reasonable with respect to the substance and timing of any exercise of its respective rights, obligations, duties and discretions in implementing this Agreement, including, without limitation, the making of and satisfying of requests, the issuance and withholding of consents and findings of acceptability or satisfaction, the incurrence of costs that are the responsibility of the other Party, and the provision of notice to the other Party and the Project Lenders if applicable.
- 22.13 22.14—This Agreement shall inure to the benefit of and be binding upon the SELLER and PREPA and their respective successors and assigns.
- 22.14 Either Party may waive breach by the other Party; provided that no waiver by or on behalf of either Party of any breach of this Agreement shall take effect or be binding on that Party unless the waiver is in writing. A waiver of breach shall extend only to the particular breach waived and

- shall not limit or otherwise affect any rights that either Party may have with respect to any other or future breach.
- 22.16 This Agreement is intended by the Parties as the final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement with respect to the Net Electrical Output sold and purchased hereunder and other matters set out herein with respect to the SELLER's Complex. Except for the information to be submitted by SELLER to PREPA under Section 4.1(i) and the information to be disclosed under Sections 6.5(e) and 6.11(e), all prior written or oral understandings, offers or other communications of every kind pertaining to the sale of Net Electrical Output hereunder to PREPA by SELLER are hereby superseded.
- <u>22.15</u> 22.17 If any provision hereof shall be held invalid, illegal or unenforceable by any Court of Competent Jurisdiction accordance with Section 22.24, such holding shall not invalidate or render unenforceable any other provision hereof.
- 22.16 22.18 PREPA and SeilerSELLER agree that no amendment, which could be made to the Agreement, during its Term, shall be understood as a contractual novation, unless both Parties agree to the contrary specifically and in writing. The previous provision preceding sentence shall be equally applicable in such other cases where PREPA gives SELLER a time extension for the compliance of any of its obligations under the Agreement, or where PREPA dispenses the claim or demand of any of its credits or rights under the Agreement.
- 22.17 22.19—Under no circumstances, except in such one where PREPA agrees to the contrary specifically and in writing, shall PREPA's rights under the Agreement—shall be understood as waived by any amendment, change order, time extension to SELLER, or by reason of dispensedispensation given by PREPA as to a claim or demand of any of its credits or contractual rights, even if PREPA has agreed, as provided under the previous paragraph, that any of those circumstances constitute a contractual novation; and PREPA by this means reserves its right to claim and demand its credits and rights, and the compliance of any and all the contractual obligations of SELLER, as if such amendment, time extension dispense, or novation, if any, has not been effectuated.
- 22.18 22.20 SELLER certifies that it does not receive payment or benefit of any nature for services rendered regularly through an appointment to a governmental agency, body, public corporation or municipality of Puerto Rico. SELLER also certifies that it may have contracts with other governmental agencies or bodies, but such contracts do not constitute a conflict of interest for SELLER.

- 22.19 SELLER certifies that, on the Effective Date, it does not have any contractual relation that could cause a conflict of interest with this Agreement. SELLER also certifies that no public employee has any personal or economic interest in this Agreement.
- 22.20 SELLER agrees to comply with the provisions of Act of June 18, 2002, No. 84, which establishes a Code of Ethics for the Contractors, Suppliers and Economic incentive Applicants of the Executive Agencies of the Commonwealth of Puerto Rico.
- 22.21 22.23 Except as provided under Article 18, Taxes and Environmental Costs, during the Term of this Agreement, any Change in Law, including, but not limited to changes in applicable tax law, which causes an increase in SELLER costs when supplying the products or services to be acquired by PREPA, shall be SELLER's responsibility. PREPA shall not be obliged to pay more for Net Electrical Output than as defined in this Agreement.
- 22.22 SELLER shall be considered as an independent contractor, for all purposes under this Agreement, and all persons engaged or contracted by SELLER for the performance of its obligations herein, shall be considered as its employees or agents or those of its subcontractors, and not as employees or agents of PREPA.
- 22.23 All invoices submitted by SELLER shall include the following Certification, signed by SELLER, in order to be processed for payment by PREPA:

No Interest Certification:

Under penalty of absolute nullity, I hereby certify that no employee, official or director of PREPA is a party or has any interest in the profits or benefits to be obtained under this Agreement, or if any employee, official or director of PREPA has any interest in the profits or benefits under this Agreement, a waiver has been previously obtained. I_5 also certify that the only consideration to provide the services under this Agreement is the payment agreed with PREPA's authorized representative. The total amount of this invoice is fair and correct. The services were provided and no payment has been received for this invoice.

SELLER's Signature

- 22.24 <u>Pispute Resolution:</u> If a dispute or controversy arises between the Parties relating to regarding the effectiveness, validity application, interpretation, implementation, termination, cancellation enforceability, validity, performance of, or enforcement breach of this Agreement or matters arising therefrom or relating thereto, (a "Dispute"), then the Party raising the such Dispute shall give be resolved solely by either the agreement of the Parties, with or without a Technical Recommendation (as defined and subject to the terms set forth in clause (b) below) or in a proceeding before the Puerto Rico Energy Bureau in accordance with this Section 22.24.
 - (a) In the event of a Dispute under this Agreement, the disputing Party may promptly provide written notice of the Dispute (a "Dispute Notice") to the other Party setting forth in reasonable detail the scope and nature of such Dispute, including without limitation an identification of the provisions of this Agreement under which such Dispute arises. Following delivery of the Dispute Notice, the Parties shall either (i) agree in writing to

submit such Dispute for a Technical Recommendation as provided in clause (b) below or (ii) absent such agreement, nominate a member of its respective senior management, who shall have decision-making authority on behalf of such Party, and such senior management members shall promptly meet and seek to achieve settlement, if possible, by negotiation and mutual agreement. If the Dispute is not resolved or submitted for Technical Recommendation within forty-five (45) Days after the Dispute Notice is received by the recipient Party (or such longer period of time as may be mutually agreed by the Parties in writing), then either Party may submit the Dispute to the consideration of the Puerto Rico Energy Bureau.

- (a) It is the Parties' Intent that disputes arising under the terms of this Agreement be resolved as expeditiously as possible, either by mutual negotiation or an amendment to the Agreement or, failing such, in accordance with the provisions set forth in this Section 22.26.
- (b) If any dispute arises, the person designated by SELLER, shall, as soon as is practicable, enter into negotiations with the representative designated by PREPA to resolve such dispute. Both PREPA and SELLER will negotiate in good faith.
- (c) If within sixty (60) days the dispute is not resolved through negotiations pursued diligently and in good faith, the Parties shall attempt to agree on a person with special knowledge and expertise with respect to the dispute to serve as arbitrator. If the Parties cannot agree on an arbitrator within ten (10) days, each shall then appoint one neutral person to serve as an arbitrator and the two thus appointed shall select a third arbitrator with such special knowledge and expertise to serve as chairman of the panel of arbitrators; and such three arbitrators shall determine all matters by majority vote provided, however, if the two arbitrators appointed by the Parties are unable to agree upon the appointment of the third arbitrator within five (5) days after their appointment, both shall give written notice of such failure to agree to the Parties, and, if the Parties fail to agree upon the selection of such third arbitrator within five (5) days thereafter, then either of the Parties upon

written notice to the other may require such appointment from a Court of Competent Jurisdiction. The Parties shall have sixty (60) days to perform discovery and present evidence and argument to the arbitrators. During that period, the arbitrators shall be available to receive and consider all such evidence as is relevant and, within reasonable limits due to the restricted time period, to hear as much argument as is feasible, giving a fair allocation of time to each Party to the arbitration. The arbitrators shall use all reasonable means to expedite discovery and to sanction noncompliance with reasonable discovery requests or any discovery order. The arbitrators shall not consider any evidence or argument not presented during such period and shall not extend such period except by the written consent of both Parties. At the conclusion of such period, the arbitrators shall have forty five (45) days to reach a determination.

- (d) The arbitrators shall have the right only to interpret and apply the terms and conditions of this Agreement and to order any remedy allowed by this Agreement, but may not change any term or condition of this Agreement, deprive either Party of any right or remedy expressly provided hereunder, or provide any right or remedy that has been excluded hereunder.
- (e) The arbitrators shall give a written decision to the Parties stating their findings of fact, conclusions of law and order, and shall furnish to each Party a copy thereof signed by them within five (5) days from the date of their determination.
- (f) Any actual determination made by the arbitrators shall be conclusive and binding upon the Parties and not subject to judicial review, except on the grounds of fraudor bias and may be presented to any Court of Competent Jurisdiction as a

stipulation of the Parties. Any conclusions and any order issued by the arbitrators shall be subject to review in any Court of Competent Jurisdiction, provided however, that any order issued by the arbitrators shall be effective and enforceable unless and until a stay of the order is issued by the arbitrators or by such court under the prevailing standards for issuing stays, or such court enjoins, modifies or reverses the order of the arbitrators.

- (g) The Parties shall each pay fifty percent (50%) of the cost of arbitrator or arbitrators.
- (h) The dispute resolution process will be carried out in San Juan, PR, in the English language.
- If a Dispute hereunder is one that the Parties agree is of a technical nature that they (b) should attempt to resolve through a technical review in proceedings before the Consulting Technical Expert, either Party may submit such Dispute (a "Technical **Dispute**") for a recommended resolution by the Consulting Technical Expert (a "Technical Recommendation") by providing to the other Party and the Consulting Technical Expert a written notice, specifying the matter to be determined. Proceedings before the Consulting Technical Expert shall be held in San Juan, Puerto Rico, unless otherwise agreed in writing by the Parties. Within thirty (30) Days or the engagement of the Consulting Technical Expert for a Technical Dispute (or such longer period of time as the Parties may mutually agree in writing), the Consulting Technical Expert shall conduct a hearing; provided that the Parties may agree in writing to waive the hearing and have the Consulting Technical Expert issue the Technical Recommendation on the basis of written submissions alone. The Consulting Technical Expert shall render a written recommendation on the Technical Dispute as soon as practicable after the close of the hearing but, in any case, no later than fifteen (15) Days after the close of the hearing. The Parties may resolve the Technical Dispute based on the Technical Recommendation or any mutually agreed modification thereof. If the Technical Dispute is not resolved in this fashion, the Parties may submit the matter for a final determination before the Puerto Rico Energy Bureau.
- This Agreement amends and restates the Pre-Restatement PPOA in its entirety. Each Party acknowledges and agrees that the execution and delivery of this Agreement does not constitute a novation of the Pre-Restatement PPOA. Each Party acknowledges and agrees that (a) it hereby waives its rights relating to any breach or default of, or claim against, any other Party, as well as any right to any time extension for achieving any milestone or performing any other obligation under the Pre-Restatement PPOA or arising prior to the Effective Date, and (b) it will not pursue any claim, or request any refund, reimbursement or extension of time, in each case for any event that has occurred prior to the Effective Date.

22.26 Promptly after the execution hereof, PREPA shall move for and use reasonable efforts to obtain the issuance of the Assumption Order. PREPA shall keep SELLER abreast of any proceedings before the PROMESA Court related to the Assumption Order and this Agreement.

ARTICLE 23. CHOICE OF LAW AND VENUE

- 23.1 This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Puerto Rico and, to the extent applicable, the laws of the United States of America.
- 23.2 Unless otherwise specified in this Agreement, the venue for all disputes hereunder shall be exclusively in a Court of Competent Jurisdiction.
- 23.2 PREPA hereby irrevocably and unconditionally, for itself and for any Person claiming by or through PREPA: (a) agrees that the execution, delivery and performance by it of this Agreement does and will constitute private and commercial acts done and performed for private and commercial purposes; (b) waives any and all rights, claims, defenses and immunities it or any of its assets has or may in the future have in any jurisdiction based on sovereign immunity or any similar rights, claims or defenses, in each case in respect of any claims or proceedings, the receipt of notice, service of process, compliance with judgments or orders or the enforcement of any such judgment, award or order in each case arising in respect of this Agreement or transactions contemplated in this Agreement; and (c) consents generally in respect of the enforcement of any judgment, award or order against it or its assets in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such claims or proceedings.

ARTICLE 24. THIRD-PARTY ACCESS TO INTERCONNECTION FACILITIES

- 24.1 The Parties acknowledge and agree that PREPA may, at any time, connect, or permit third parties to connect, additional generation or energy storage capacity to PREPA's Interconnection Facilities.
- If necessary for the connection of additional generation or energy storage to any part of PREPA's Interconnection Facilities, (a) PREPA shall relocate, at no cost to SELLER for such relocation, the primary and backup meters, metering devices and protective devices to a location that ensures separate metering of any generation from the SELLER's Complex and any generation from such additional capacity, and (b) prior to relocating such meters, metering devices and protective devices, the Parties shall amend Appendix C-1 to reflect any changes necessitated by such relocation.
- In order to facilitate the connection of additional generation or energy storage to PREPA's Interconnection Facilities, SELLER hereby grants PREPA access, at reasonable times and upon prior notice, to that part of SELLER's site where the Interconnection Facilities are situated, for the purposes of monitoring and maintaining any meters or metering devices relocated to such facilities pursuant to Section 24.2, and performing modifications and upgrades to the SELLER's Interconnection Facilities (including expansion of the busbar and addition of breakers or other switching devices, as well as related protective devices), expanding PREPA's Interconnection Facilities or constructing other facilities at such site (the "Modifications") at no cost to SELLER for such Modifications. The following provisions shall apply to any such Modifications:

- (a) No later than ninety (90) Days prior to the expected commencement of such Modifications, PREPA shall present to SELLER a proposed scope of work for such Modifications and a schedule for completing the work, provided that the scope of such Modifications shall be subject to the prior written agreement of SELLER, which agreement SELLER shall not unreasonably withhold, condition or delay.
- (b) Without limiting PREPA's rights under the first sentence of this Section 24.3, the Parties shall, acting reasonably, negotiate in good faith the terms and conditions of shared facilities agreement related to such Modifications, including if necessary any third party connecting into PREPA's Interconnection Facilities or other PREPA facilities within such site.
- (c) PREPA shall cause its contractors or subcontractors to comply with applicable laws and, to the extent not inconsistent with this Agreement, any applicable safety rules and protocols prescribed by SELLER for SELLER's Interconnection Facilities, as in effect from time to time, including the provision of necessary insurance policies.
- (d) PREPA shall ensure that, once implemented, such Modifications shall not adversely affect the generation of Net Electrical Output or the operation of SELLER's Complex. To the extent that, during any Modifications, the Facility is not capable of delivering Net Electrical Output to PREPA that would have been deliverable from the Facility but for the performance of such Modifications, PREPA shall pay SELLER an Energy Payment for such Net Electrical Output that SELLER would have otherwise delivered, based on actual availability and a reasonable calculation of deemed output considering historical deliveries and the ambient conditions at the time.

ISIGNATURES APPEAR ON THE FOLLOWING PAGE.

na Wind Farm, LLC
Dionisio Fernández

Tax ID Number: [●]

Page 49

Tax ID Number: [●]

Appendix A - ENERGY PAYMENT

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Agreement Year	Energy Purchase Price (\$/kWh)	
1		
2		
<u>3</u>		
4		
<u>5</u>		
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<u>19</u>		
<u>20</u>		

Appendix B_HOLIDAYS

The following holidays are recognized by PREPA. All holidays which fall on a Sunday are observed the following Monday.

January 1 New Year's Day

January 6 Three Kings Day

2nd Monday in January Eugenio Maria de Hostos

3rd Monday in January Martin Luther King

3rd Monday in February George Washington

March 22 Abolition of Slavery

Friday of Holy Week Good Friday

3rd Monday in April Jose de Diego

Last Monday in May Memorial Day

July 4 Independence Day

3rd Monday in July Luis Munoz Rivera

4th Monday in July Jose Celso Barbosa

July 25 Commonwealth Constitution

1st Monday in September Labor Day

October 12 Columbus Day

November 11 Veterans Day

4th Thursday in November Thanksgiving Day

December 24 afternoon Christmas Eve

December 25 Christmas Day

Appendix C_INTERCONNECTION

SELLER shall provide the following information to PREPA within ninety (90) days following the Effective Date. Data submitted in a preliminary or estimated form shall be updated within thirty (30) days after final equipment arrangements and specifications are established.

- 1.—Electrical one line diagram of the Facility.
- 2.—Explanation of proposed equipment

The following are the description of the Interconnection Facilities existing as of the Effective Date, the scope of work for the modification to the Interconnection Facilities and the specifications needed to be performed by SELLER for modifications to PREPA's Interconnection Facility. The following is not intended to be an all-inclusive scope of work, as an Interconnection Study will be required to determine the design as described in the Article 4. The attached electrical interconnection single line at Appendix C-1 identifies the Interconnection Point, PREPA's Interconnection Facilities, SELLER's Interconnection Facilities, and the location for the primary meter used for measuring the Net Electrical Output.

1. Description of the Existing Interconnection Facilities:

- 1.1. PREPA's Interconnection Facilities existing as of the Effective Date and located at the Daguao Transmission Center (TC) include:
 - 111 the revenue metering equipment; and
 - 1.1.2. the 115kV Breaker 42070 and associated structures, disconnect switches and lightening arrestors.
- 1.2. SELLER's Interconnection Facilities existing as of the Effective Date that will be transferred to PREPA in accordance with Section 9.7 of the Agreement include the 115 kV Line and associated Assets (as each term is defined in Appendix F). The 115 kV Line includes 39 structures, a 556.4kCMIL ACSS conductor and a 3#6 optical ground wire (OPGW).

2. Scope of Work for the Interconnection Facilities:

- 2.1. The Interconnection Facilities existing as of the Effective Date shall be modified or upgraded, as necessary, in accordance with the following; provided that, if the existing equipment described below (other than the Dynamic System Monitor (DSM)) is operational or otherwise repairable to the level of compliance it achieved prior to the passage of Hurricane María on September 20, 2017, then SELLER shall not be obligated to replace the equipment to meet the standards set forth in Article 3 below, and will only be required to cause such equipment to be put in a condition of good operation and repair (subject to normal wear and tear, consistent with its age) and, in all material respects, sufficient for its routine operation.
 - 2.1.1. protection and control scheme (may be shown functionally on the one line diagram).
- 3.—Site plan showing plant layout, property lines, access roads and switchyard boundaries.

- 4. Preliminary equipment layout and arrangement for switchyard and generator step uptransformers (GSU).
- 5.—Reactive Power Capacity curve of generators.
- 6.—Station auxiliary load.
- 7.—Station auxiliary transformer data impedance, connection winding, load loss and no load tap changer.
- 8. GSU step up transformer impedance, load loss, no load taps changer, connection and winding.
- 9.—Generator Short Circuit Ratio.
- 10. Generator kilowatt rating.
- 11. Generator kilowatt rating.
- 12. Equivalent WGT Facility modeling for Short Circuit Studies,
 - 2.1.2. 13. SELLER's requirements for power supplied by PREPA during relaying and equipment per PREPA's Design Criteria Documents (as applicable to SELLER's Complex);
 - <u>213</u> <u>telecommunications equipment per PREPA's Telecommunication Design Criteria (as applicable to the SELLER's Complex);</u>
 - 2.1.4. the Dynamic System Monitor (DSM), transient recorder, SCADA system and communications in accordance with the requirements of this Agreement; and
 - 215 other work as identified below in Articles 3 through 7 below.
- 3. Codes and Standards Requirements:

All new or replacement designs should be in accordance with PREPA's latest Design Criteria Documents (DCDs) listed below, practices and applicable standards, applicable ANSI/IEEE & NESC standards, and building codes. This includes but is not limited to the below requirements.

- 3.1. PREPA's Protection and Control Design Criteria (as applicable to the SELLER's Complex)
- 3.2. PREPA's Telecommunication Design Criteria (as applicable to the SELLER's Complex)
- 3.3. American National Standards Institute (ANSI)
- 3.4. NECA/BICSI 607, Standard for Telecommunications Bonding and Grounding Planning and Installation Methods for Commercial Buildings
- 3.5. ALCOA (Formerly the Aluminum Company of America)

<u>3.6.</u>	American Concrete Institute (ACI)
<u>3.7.</u>	American Institute of Steel Construction (AISC)
<u>3.8.</u>	American National Standards Institute (ANSI)
<u>3.9.</u>	American Society for Testing and Materials International (ASTM)
<u>3.10.</u>	American Society of Civil Engineers (ASCE)
<u>3.11.</u>	American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE)
<u>3.12.</u>	American Welding Society (AWS)
<u>3.13.</u>	American Wood Protection Association (AWPA)
<u>3.14.</u>	Association of Edison Illuminating Companies (AEIC)
<u>3.15.</u>	ASTM International (ASTM)
<u>3.16.</u>	Avian Power Line Interaction Committee (APLIC)
<u>3.17.</u>	Building Industry Consulting Services International (BICSI)
<u>3.18.</u>	Code of Federal Regulations (CFR)
<u>3.19.</u>	Construction Specifications Institute (CSI)
<u>3.20.</u>	Electric Power Research Institute (EPRI)
<u>3.21.</u>	Federal Aviation Administration (FAA)
<u>3.22.</u>	Federal Communications Commission (FCC)
<u>3.23.</u>	General Owner Standard References
<u>3.24.</u>	Illuminating Engineering Society (IES)
<u>3.25.</u>	Institute of Electrical and Electronics Engineers (IEEE)
<u>3.26.</u>	Insulated Cable Engineers Association (ICEA)
<u>3.27.</u>	International Electrotechnical Commission (IEC)
<u>3.28.</u>	ITSIMM 6th Edition - Information Transport Systems Installation Methods Manual.
<u>3.29.</u>	National Electrical Code (NEC)
<u>3.30.</u>	National Electrical Manufacturers Association (NEMA)
3.31.	National Electrical Safety Code (NESC)

- 3.32. National Fire Protection Association (NFPA)
- 3.33. NECA/BICSI 568, Standard for Installing Commercial Building Telecommunications cabling.
- 3.34. North American Electric Reliability Corporation (NERC)
- 3.35. OSPDRM 5th Edition Outside Plant Design Reference Manual
- **3.36.** Puerto Rico Building Code 2018
- 3.37. Puerto Rico Electric Power Authority (PREPA)
- 3.38. Regulations per the Commonwealth of Puerto Rico
- 3.39. Rural Utilities Service (RUS), United States Department of Agriculture
- 3.40. RUS 1724E-300, U.S. Dept. of Agriculture Design Guide for Rural Substations
- 3.41. TDMM 14th Edition Telecommunications Distribution Methods Manual.
- 3.42. <u>Telecommunications Industry Association (TIA)</u>
- 3.43. TIA 568-D, Generic Telecommunications Cabling for Customer Premises.
- 3.44. TIA 569-E, Telecommunication Provide the testing protocols Pathways and Spaces.
- **3.45.** TIA 606-C, Administration Standard for Telecommunications Infrastructure
- 3.46. TIA 607-D, Commercial Building Grounding (Earthing) and Bonding Requirements for Telecommunications.
- 3.47. TIA-1005-A, Telecommunications Infrastructure Standard for Industrial Premises
- **3.48.** TIA-758-B, Customer-Owned Outside Plant Telecommunications Infrastructure Standard

4. Transmission Line Requirements:

- **4.1.** Tasks to be performed by SELLER:
 - 4.1.1. <u>Inspect and remediate any deficiencies in the structures, insulators, jumpers or conductor.</u>
 For example, deficiencies would include, but not limited to:
 - 4.1.1.1. soil erosion around the structures at the ground line:
 - 4.1.1.2. <u>vegetation management</u> (i.e., any right of way should be cleared of vegetation growth above four feet in height and cleared to the extents of the easement and/or permitting documents);
 - 4.1.1.3. broken insulators and hardware shall be replaced; and
 - 4 1 1 4 any damaged conductors or jumpers shall be replaced or repaired.

- 4.1.2. Any obligation of SELLER under the Transmission Line PSA necessary to prepare the Third-Party Report and complete the Repair Work (as each term is defined in the Transmission Line PSA).
- 4.2. Tasks to be performed by PREPA, at PREPA's sole cost and expense:
 - 421 Inspect, review and provide comments to SELLER's inspection reports.

5. Transmission Center Requirements:

- **5.1.** Tasks to be performed by SELLER:
 - <u>All required repairs, upgrades or modifications resulting from calculations and studies are the responsibility of SELLER.</u>
 - 5.1.2. Short circuit study, protection system coordination studies, and settings.
 - New or replacement protection and control electrical designs shall follow the latest industry standards, e.g., IEEE Standards and PREPA's practices and applicable standards.
 - <u>Provide all materials required to interconnect the new, existing or repaired protection and control system for the Interconnection Facilities, with the existing Daguao TC system, unless existing or repaired materials otherwise complying with the requirements herein have been provided.</u>
 - 5.1.5. <u>Install and wire the new Dynamic System Monitor (DSM), unless the existing or repaired DSM otherwise complies with the requirements in Appendix H.</u>
 - 5 1 6 Install the control cables from the equipment to the control house, if required per PREPA's Design Criteria Documents (DCDs), unless the existing or repaired control cables otherwise comply with the requirements herein.
 - 5 1 7 Install the wiring for the new transient recorder as required by PREPA, unless the existing or repaired transient recorder otherwise complies with the requirements herein.

 For security reasons, PREPA's relay personnel will wire these signals from the terminal block to the transient recorder. In addition, the following signals are required for the transient recorder:
 - 5.1.7.1. Analog signals Phase A, B, and C voltage signals;
 - 5 1 7 2 Analog signals Phase A, B, and C current signals from each line CT;
 - <u>5.1.7.3.</u> <u>Digital 87L output Output TRIP signals associated with the primary protection of each line;</u>
 - 5 1 7 4 <u>Digital BU output Output TRIP signal associated with the secondary protection</u> (21/50/51) of each line:
 - 5.1.7.5. <u>Digital Output TRIP signal associated with the breaker failure protection of each line;</u>

- 5.1.7.6. Digital TRIP signal from bus differential protection; and
- 5 1 7 7 Digital Status signal from each breaker.
- <u>518</u> Programming the settings on the protection equipment for the Interconnection Facilities.

 <u>SELLER shall work with PREPA to evaluate and update the existing PLWF point list in PREPA's database.</u>
- <u>519</u> <u>Cleaning, removal, and disposal of construction and start up. debris.</u>
- 5.1.10. Implementation of a protection scheme that will automatically coordinate the curtailment, if necessary, of the total generation connected to the Daguao TC when any of the following N-2 contingency occurs:
 - <u>transmission line from Daguao TC to Rio Blanco TC (L-36200) and transmission line from Daguao TC to Fajardo TC (L-36200), or</u>
 - <u>•</u> transmission line from Canovanas TC to Palmer TC (L-36800) and transmission line from Sabana Llana TC to Canovanas TC (L-41200), or
 - transmission line from Palmer TC to Fajardo TC (L-36800) and transmission line from Sabana Llana TC to Canovanas TC (L-41200).
 - 5.1.10.1. The protection scheme shall avoid the overloading of any equipment at Daguao TC and the 38 kV system.
 - 5 1 10 2 The protection scheme shall integrate with the existing relay protection and controls settings, and communication settings.
- 5.2. Tasks to be performed by PREPA, at PREPA's sole cost and expense:
 - 521 14. Project schedule (I J or bar chart format) including but not limited to the following milestones: Project oversight, schedule evaluation, monitoring, and authorizing scope of work modifications and deviations.
 - QF status obtained
 - Engineering 30% complete
 - One line diagram approved
 - Financial Closing Date
 - Major licenses/permits
 - Major material procurement
 - Start Construction
 - Engineering 70% complete
 - Utility technical submittals complete
 - Operating procedures finalized
 - Start test and start up
 - Initial synchronizing date
 - Commercial operation

15.-PSSE Mathematical Model (Parameters and Data

- 5.2.2. Evaluate submittals and design input for all design phases for the following packages: protection and control, telecommunications, electrical design, and programming.
- 5.2.3. Evaluate all temporary and permanent modifications to the Interconnection Facilities.
- 5.2.4. Evaluate the proposed construction work outage sequence for entire project coordination.

<u>6.</u> <u>Telecommunication</u> Requirements

The Contractor shall submit to PRE PA a Siemens - PTI certified PSS/E mathematical model and data related to the proposed WTG Facility. When referred to the WTG Facility model, this shall include but is not limited to wind generator, transformers, collector systems, control systems and any other equipment necessary to properly model the WTG Facility.

The mathematical models shall be fully compatible with the latest and future versions of PSS/E. It is preferred that the models are PSS/E standard models. In the case that the Contractor submits user written models, the Contractor shall be required to keep these models current with the future versions of the PSS/E program until such time that PSS/E has implemented a standard model. The Contractor shall submit to PREPA an official report from Siemens—PTI that validates and certifies the required mathematical models, including subsequent revisions. The data and PSS/E model shall also be updated and officially certified according to PREPA requirements when final field adjustments and parameters measurements and field tests are performed to the facility by the contractor. The mathematical model (either PSS/E standard or user written model) of the WTG Facility shall be officially certified by Siemens—PTI before a specific and validated PSS/E mathematical model of the complete WTG Facility be submitted to PREPA. The Contractor shall be responsible of submitting the official reports and certifications from Siemens—PTI, otherwise the mathematical model shall not be considered valid.

The Contractor shall be responsible to submit Siemens PTI certified PSSE mathematical models of any kind of compensation devices (i.e., SVC, STATCOMs, DSTATCOMs, BESS, etc.) used on the WTG Facility. It is preferred that the models are standard models provided with PSS/E. In the case that the Contractor submits user written models, the WTG Facility Contractor shall be required to keep these models current with the future versions of the PSS/E program until such time that PSS/E has implemented a standardmodel. In its final form, the mathematical model shall be able to simulate each of the required control and operational modes available for the compensation device and shall be compatible with the latest and future versions of PSS/E. Final adjustments and parameters settings related with the control system commissioning process shall be incorporated to the PSSE mathematical model and tested accordingly by the WTG Facility Contractor and PREPA system study groups. The Contractor shall also perform on site field tests for the identification, development, and validation of the dynamic mathematical models and parameters required by PREPA for any kind of compensation devices used at the WTG-Facility. The mathematical models of the WTG Facility and its required compensation devices shall be officially certified by Siemens PTI before a specific and validated PSS/E mathematical model of the complete WIG Facility be submitted to PREPA. The Contractor shall be responsible of submitting the official reports and certifications from Siemens PTI, otherwise the mathematical models shall not be considered valid.

WTG Facility Owners that provide user written model(s) shall provide compiled code of the model and are responsible to maintain the user written model compatible with current and new releases of PSS/E until such time a standard model is provided. PREP must be permitted by the WGT Facility Owner to make available WGT Facility model if required to external consultants with an NDA in place.

7. 16. Additional data necessary for dynamic modeling. At a minimum, any necessary control system model (inverter, compensator and excitation limiter models), including the time constants, gains, limits, description, block diagrams and configuration.:

In addition to the requirements as identified in Section 8.6 of the Agreement:

- 7.1. Tasks to be performed by SELLER:
 - Install, wire and program the SCADA Remote Terminal Units (RTU)s at the Interconnection Facilities, unless the existing or repaired SCADA RTUs otherwise comply with the requirements herein.
 - 7 1 2 <u>Install and wire the telecommunication equipment for the Interconnection Facilities, unless the existing or repaired telecommunication equipment otherwise complies with the requirements herein.</u>
 - <u>713</u> Programming the communication settings for the relays, meters, and all miscellaneous equipment connected to the RTU.
 - 714 If required for the new or existing RTU, DSM, relaying, etc., installation of conduits for control cables, conduits, etc. from the equipment to the control house.
 - 7.1.5. Program the DSM with the signal list provided by PREPA.
 - The telecommunications equipment labeling, and color-coding should comply with ANSI/TIA 606 Standard
- 7.2. Tasks to be performed by PREPA, at PREPA's sole cost and expense:
 - <u>721</u> Programming the telecommunications equipment (routers, firewalls, and network equipment).
 - 7.2.2. Review and comment on all submittals and design input for all design phases for the telecommunications packages.
 - 7.2.3. Support the integration of the new equipment into the overall PREPA network
- **8.** Commissioning and Testing Requirements
 - **8.1.** Tasks to be performed by SELLER:

- 8.1.1. All outages and construction work sequence plans will be coordinated with and approved by PREPA.
- <u>Provide communication loss budget calculation and design prior to work being performed, and also as an as-built prior to testing.</u>
- <u>813</u> Provide the testing protocols and plans for PREPA's approval prior to performing any acceptance test and energization of any equipment.
- 8.1.4. Perform the acceptance and commissioning tests on the equipment and auxiliaries according to PREPA's practices and applicable standards at the SELLER's collector Site only, including but not limited to voltage signals, current signals, relay outputs, breaker status and cable continuity.
- <u>815</u> Perform grounding tests at all sites including the transmission corridor.
- <u>816</u> Perform testing on the interconnection of the transmission line.
- 8.1.7. Perform impedance testing to validate the proper installation of all transmission and high voltage conductors and bus.
- <u>818</u> Perform tests for the wiring of protection and control systems, RTU, DSM, transient recorder, and others associated services for the Interconnection Facilities.
- 8 1 9 Perform adjustments and operation tests for the protection and control systems. Submit all test reports signed and sealed by an electrical engineer licensed in Puerto Rico for PREPA's review.
- 8 1 10 Perform preliminary testing of the protection, control and telecommunication system and the integration into SELLER's SCADA system. Depending on the type of alarm or signal into SELLER's SCADA system, PREPA personnel may act as a witness to validate the input. Final validation and acceptance of the SCADA integration will be performed by PREPA.
- 8.1.11. Perform operation tests for the telecommunication systems. The tests shall be standards compliant, the testing equipment shall be calibrated, and certification of calibration provided to PREPA prior to performing tests.
- 8.1.12. Perform operation tests for the DSM.
- <u>8 1 13</u> Perform the operation tests on the equipment and auxiliaries.
- 8.1.14. Perform operation tests for the transient recorder.
- 8.1.15. <u>Verification of the Optical Time Domain Reflectometer (OTDR) tests for Fiber optic cable performed by SELLER for the following cables:</u>
 - <u>8.1.15.1.</u> fiber cable between the Interconnection Facilities;
 - 8.1.15.2. fiber cable for interconnection to PREPA's network;

- <u>8.1.15.3.</u> <u>fiber cable between the control room at the Interconnection Facilities and meter</u> cabinet located at the Interconnection Facilities; and
- 8 1 15 4 verification of telecommunications facilities and equipment installations performed by SELLER at the Interconnection Facilities. This work includes verification, testing, configuration, and inspection of equipment specified by PREPA.
- 8.1.15.5. All tests shall be standards compliant, and the testing equipment shall be calibrated, and certification of calibration provided to PREPA prior to performing tests.
- <u>8.1.16.</u> Witness all tests and commissioning of the electrical equipment installed the Interconnection Facilities.
- 8 1 17 SELLER must submit all test protocols for PREPA review.
- 8.1.18. SELLER must submit all test results in a test book in electronic format for PREPA review.
- 8.2. Tasks to be performed by PREPA, at PREPA's sole cost and expense:
 - 8.2.1. Configuration of telecommunication or security equipment.
 - <u>822</u> Evaluate the test results and settings of the protection relays for Interconnection Facilities.
 - 8.2.3. Evaluate the test results and settings of the communication equipment at the Interconnection Facilities.
 - 8.2.4. Witness all tests and commissioning of the electrical equipment installed in PREPA's Interconnection Facilities.
 - 825 At the Daguao TC, where protection and control components are being repaired, updated, modified, or interconnected with, the tests should be done exclusively by PREPA.
 - 8.2.6. Perform final SCADA tests by PREPA acceptance test personnel from the point where the SELLER consolidates SCADA data and transmits it to PREPA's SCADA system.
 - 8.2.7. Perform the acceptance and commissioning tests on the equipment and auxiliaries according to PREPA's practices and applicable standards at the Interconnection Facilities.
 - <u>828</u> Perform end to end testing of all trips and controls by PREPA's Acceptance Tests Department personnel.

Appendix C-1 - Functional One-Line Interconnection Diagram

(attached separately)

Appendix D – CONDITIONS TO COMMERCIAL OPERATION DATE

Machine Power Performance Test

- An officer of SELLER, authorized to bind SELLER and who is familiar with the Facility, has provided written confirmation that (a) all necessary and material Permits have been obtained and are in full force and effect, (b) SELLER is in compliance with the Agreement in all material respects (including the satisfactory completion of the acceptance testing and inspection referenced in Section 9.6 thereof), (c) SELLER's Complex is in material compliance with applicable environmental laws and regulations, and (d) the Facility is available to commence normal operations in accordance with the Agreement, SELLER's construction and operation and maintenance contracts, and applicable manufacturers' warranties.
- 2 SELLER has obtained and provided to PREPA an independent registered professional engineer's certification stating the following:
 - (a) The Facility has achieved mechanical completion and the date on which it was achieved;
 - (b) All of the wind turbines at the Facility have been successfully commissioned as per SELLER's wind turbine supply agreement;
 - (c) The Facility has achieved substantial completion and the date on which it was achieved; and
 - (d) The Facility has been completed in all material respects, except for "punch list" items that do not have a material effect on the ability of the Facility to operate for its intended purpose.
 - (e) Wind turbines comprising at least 23.4 MW, which is 90% of the expected Estimated Generating Capacity of the Facility, and associated equipment sufficient to allow such wind turbines to generate and deliver energy to the Interconnection Point, have been installed and become operable.
 - (f) All arrangements for the supply of required electric services to the Facility, including the supply of wind turbine unit start-up and shutdown power and energy, house power and maintenance power have been completed by SELLER separate from the Agreement, are in effect, and are available for the supply of such electric services to the Facility.
 - (g) The Facility's communications systems and interface with PREPA's system, and the capability of the Facility to receive and respond to signals from PREPA's SCADA System, have been tested and confirmed to be operational.
 - (h) PREPA's Interconnection Facilities are operational and capable of delivering the Net Electrical Output to the Daguao Transmission Center.
 - (i) The Facility has been tested and confirmed to comply with the Minimum Technical Requirements and Definitions for Interconnection of Wind Turbine Generation (WTG) Projects set forth in Appendix G.

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(To be Developed)

Appendix <u>FE</u> WORKMEN'S COMPENSATION INSURANCE REQUIREMENTS FOR IMPORTED TECHNICAL SERVICES

A. Introduction

Act No. 16, approved on May 16, 1958, authorizes the Commonwealth State Insurance Fund Administrator to exempt employers from payment of premium for salaries paid to imported technical personnel.

The basic requirements for the exemption are:

- 1. Said technical personnel must be hired because the same special skills required for the job are not readily available in Puerto Rico.
- 2. Exemption cannot exceed two (2) years per employee.
- 3. Technical personnel must be covered for workmen's Compensation benefits equal or greater to those provided under the Puerto Rico Workmen's Compensation Act.
- B. Requirements Exemption request must be filed with the Commonwealth State Insurance Fund for each case. Therefore, every firm entering a contract with PREPA for the furnishing of services to be rendered by imported technical personnel must submit, prior to contract execution or purchase order issuance the following information:
 - 1. A list containing the following information:
 - a. Name, residence and usual place of employment of all such technical personnel temporarily transferred to Puerto Rico.
 - b. Effective date of employment in Puerto Rico for each technical employee so transferred to Puerto Rico and expected duration of their stay in the island.
 - c. Technical qualifications of each employee transferred to Puerto Rico and their job descriptions while in the island.
 - 2. If such technical personnel is covered by an insurance policy, a complete copy of each workmen's compensation insurance policy, including the endorsement pertaining to such coverage, covering such technical personnel while working in Puerto Rico.
 - 3. If item 2 above is applicable, a certified statement by the Secretary of the Insurer or insurer's issuing said policies stating that:
 - a. The copy of each policy is a true and complete copy of the policy issued by the insurer.
 - b. Each policy so certified will be in full force and effect during the entire policy period shown in the declarations of the policy.
 - c. Each policy so certified will provide workmen's compensation insurance coverage for all technical personnel of the insured while working in Puerto Rico. As part of this statement there must be indicated the name of the state under

- whose workmen's compensation law benefits will be provided for all technical personnel of the insured while working in Puerto Rico.
- 4. If Item 2 is not applicable, a certificate issued by the appropriate governmental agency having jurisdiction over workmen's compensation insurance coverage stating that their coverage is extended to such technical personnel during their entire stay in Puerto Rico. The certificate must include the effective date of approval and the conditions, if any, attached to such approval.
- 5. The exact location in Puerto Rico of the construction project where such technical personnel will be or is employed.

Appendix F - FORM OF ASSET PURCHASE AND SALE AGREEMENT

Machine Parameters Measurements and Field Tests Requirements

The Contractor shall perform on site machine parameters measurements and field tests for the identification, development and validation of the dynamic mathematical models and parameters required by PREPA for the synchronous generator, excitation system and turbine speed control and mechanical systems. Tests shall be conducted according to standardized procedures established by companies with worldwide technical expertise in the performance of machine parameters measurements and field tests for developing, improving and validating dynamic mathematical models for synchronous generators, excitation systems and turbine speed control and mechanical systems. The test procedures for the machine parameters measurements shall be submitted to PREPA officials for evaluation and final approval.

The Contractor shall coordinate with PREPA officials meetings and presentations to discuss the specific aspects related to the planning and performance of the machine parameters measurements and field tests. The bidder shall coordinate with PREPA officials for the witnessing of the machine parameters measurements and field tests. The field data and graphs accumulated by the installed data acquisition measuring systems (DSM, AQX, DCS, etc ...) shall be stored in digital media and submitted to PREPA as part of the acceptance tests and validation process. The Contractor shall submit to PREPA a comprehensive official final report with the field test results data and graphs. The document shall include a thorough description of the machine parameters measurements and field tests performed as well as correlated technical explanations for each one of the test steps and results.

The dynamic mathematical models (for synchronous generator, excitation system and turbine speed control and mechanical system) developed from the machine parameters measurements and field tests shall be compliant with the latest version of PSS/E. The Contractor shall submit to PREPA a written official certification from Power Technologies International (developers of PSS/E) that establishes the mathematical models and parameters full compliance with PSS/E dynamic simulations platform. The final mathematical models of the synchronous generator, excitation system and turbine speed control and mechanical system shall be submitted to PREPA officials for evaluation and approval.

If the mathematical models developed from the machine parameters measurements and field tests are not compliant with any dynamic mathematical model available at the PSSE dynamic models library, the Contractor shall be responsible for the development of mathematical models (for synchronous generator, excitation system, turbine speed control and mechanical system) compatible with the latest version of PSS/E dynamic simulations software package. These models shall be tested, validated and approved by Power Technologies International previous to its submittal to PREPA. The Contractor shall submit a written official certification from Power Technologies International that establishes the full compliance of any user written mathematical models developed or derived from the machine parameters measurements with the latest version of PSS/E dynamic simulations software platform.

(attached separately)

Appendix G_MINIMUM TECHNICAL REQUIREMENTS FOR WIND PROJECTS

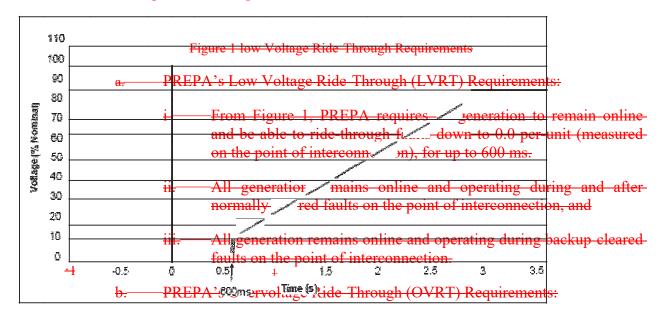
(Attached)attached separately)

MINIMUM TECHNICAL REQUIREMENTS FOR INTERCONNECTION OF WIND TURBINE GENERATION (WTG) PROJECTS Appendix H - TECHNICAL SPECIFICATIONS FOR THE DYNAMIC SYSTEM MONITOR (DSM)

L Introduction

The proponent shall comply with the following specification defines the minimum technical requirements: for an instrument used in the monitoring and register of dynamic disturbances on electric power systems and the supervision of generator performance according to Grid Codes.

1. Voltage Ride Through:



i. PREPA requires all generation to remain online and able to ride through overvoltage conditions specified by the following values:

Overvoltage (pu)	Minimum time to remain online (seconds)
1.4 1.25	4
1.25 1.15	3
1.15 or lower	indefinitely

2. Voltage Regulation and Reactive Power Compensation

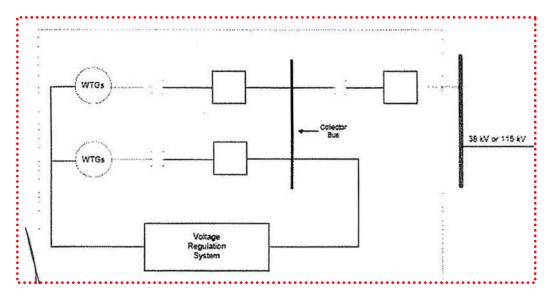
Constant voltage control shall be required. Wind Turbine Generation (WTG) technologies in combination with Static Var Controls, such as Static Var Compensators (SVC), STATCOMs, DSTATCOMs are acceptable options to comply with this requirement. A complete description of the VRS control strategy should be submitted for evaluation.

- a) Wind Generation Facilities (WGF) must have a continuously variable, continuously acting, closed loop control VRS; i.e. an equivalent to the Automatic Voltage Regulator in conventional machines.
- b) The VRS set point must be adjustable by the WGF Operator following a PREPA System Controller dispatch. The set point shall be adjustable between 95% to 105% of rated voltage at the POI.
- c) The VRS shall operate only in a voltage set point control mode.

 Controllers such as Power Factor or constant VAR are not permitted.
- d) The VHS shall be capable of adjustable Droop or adjustable gain. VRS that utilize Droop shall be adjustable from 0 to 10%.
- e) The combined settings of Droop or gain are to achieve a steady state voltage regulation of +/ 0.5% of the voltage controlled by the VRS.
- The VRS shall be calibrated such that a change in reactive power will achieve 95% of its final value no later than 1 second following a step change in voltage. The change in reactive power should not cause excessive voltage excursions or overshoot.
- The generator facility VRS must be in service at any time the WGF is electrically connected to the grid regardless of MW output from the WGF.

Examples of possible VRS configurations:

The following examples serve as possible solutions for REF voltage regulation and reactive power compensation.

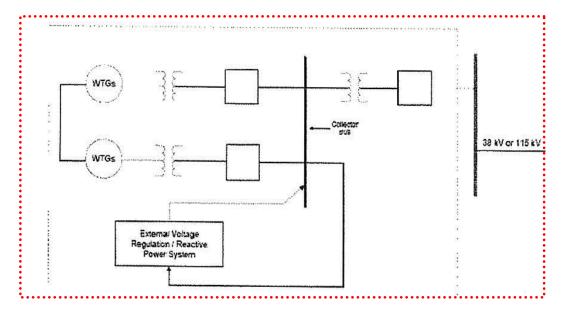


WIND POWER FACILITY

Figure 2

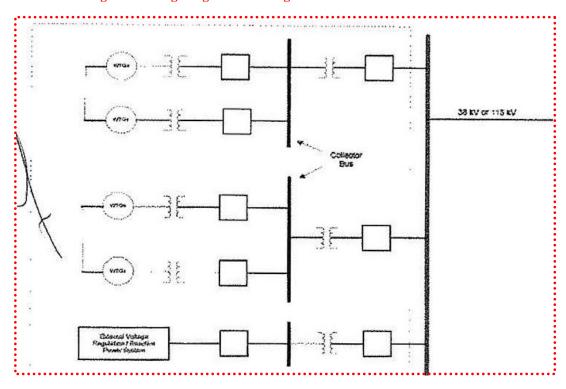
II. Hardware

- (a) Inputs:
 - The equipment shall have at least 32 analog inputs with the capacity to increase them to a minimum of 96 inputs depending in the application required analog signals. The minimum resolution for the A/D converter shall be of 16 bit. The sampling rate shall be programmable up to a minimum of 250 samples per cycle (15000 samples per second). The analog inputs shall permit at least the following types of signals:
 - <u>i</u> PT voltage (150 V rms minimum, Accuracy better or equal to 0.3%);
 - ii. CT currents (5 A rms minimum, Accuracy better or equal to 0.3%);
 - iii DC voltages of at least 800 V (Accuracy better or equal to 0.3%);
 - iv Small Analog Signals (Accuracy better or equal to 0.3%);
 - A. Current: 4 20 mA; and
 - B. Voltage Regulation at WGF



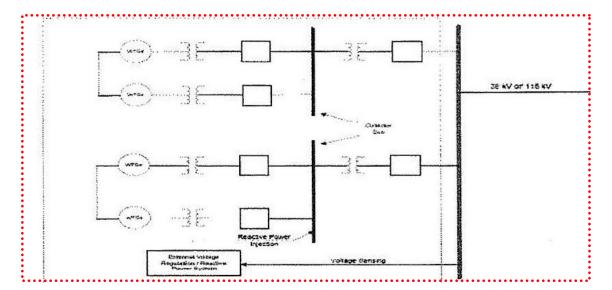
WIND POWER FACILITY

Figure 3 Voltage Regulation at single collector bus



WIND POWER FACILITY

Figure 4 Voltage regulation on a multiple collector bus injection at collector bus



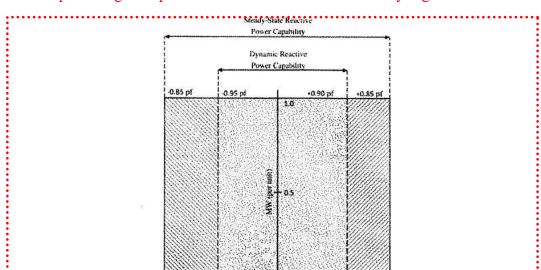
WIND POWER FACILITY

Figure 5 Shared Voltage Regulation for multiple WGF at transmission system bus

3. Reactive Power Capability and Minimum Power Factor Requirements

The total power factor range shall be from 0.85 lagging to 0.85 leading. The reactive power requirements provide flexibility for many types of technologies at the Renewable Energy Facility. The intent is that a REF can ramp the reactive power from 0.85 lagging to 0.85 leading in a smooth continuous fashion.: 0 – 200 mV, 1V, 10 V:

- The equipment shall have at least 16 digital inputs with the capacity to increase them to a minimum of 48 inputs depending in the application required digital signals. The minimum input voltage range of the digital inputs should be 0 150 V. The digital inputs should be included as a user defined software triggering input.
- The power factor range from () 0.95 to (+) 0.90 shall be dynamic and continuous. This means that the WGF has to be able to respond to power system voltage fluctuations by continuously varying the reactive output of the plant within the specified limits. The previously established power factor dynamic range could be expanded if studies indicate that additional continuous, dynamic compensation is required. It is required that the WGF reactive capability meets +/ 0.85 Power Factor (PF) range based on the WGF Aggregated MW Output, which is the maximum MVAr capability corresponding to maximum MW Output. It is understood that positive (+) PF is where the WGF is producing MVAr and negative () PF is where the WGF is absorbing MVAr. The equipment shall be able to record power system frequency with a resolution of at least 0.001Hz.



This requirement of MVAr capability at maximum output shall be sustained throughout the complete range of operation of the WGF as established by Figure 6.

Figure 6 Reactive Power Capability Curve

4. Short Circuit Ratio (SCR) Requirements:

0.62

Short Circuit Ratio values (at the point of interconnection) under 5 shall not be permitted. The constructor shall be responsible for the installation of additional equipment, such as synchronous condensers, and controls necessary to comply with PREPA's minimum short circuit requirements.

0.484 0.5 0.62

1.0 Producing MVARs p.u.

5. Frequency Ride Through (FRT):

Absorbing MVARs p.u. 1.0

- <u>■ 57.5 61.5 Hz</u> No tripping (continuous)
- 61.5 62.5 Hz 30 sec
- 56.5 57.5 Hz 10 sec
- < 56.5 or > 62.5 Hz Instantaneous trip

6. Frequency Response/Regulation:

WTG facility shall provide an immediate real power primary frequency response, proportional to frequency deviations from scheduled frequency, similar to governor response. The rate of real power response to frequency deviations shall be similar to or more responsive than the droop characteristic of 5% used by conventional generators. Wind turbine technologies, in combination with energy storage systems such as BESS, flywheels, hybrid systems are acceptable options to comply with PREPA's frequency regulation requirements.

7. Ramp Rate Control:

Ramp Rate Control is required to smoothly transition from one output level to another. The WTG facility shall be able to control the rate of change of power output during some circumstances, including but not limited to: (1) rate of increase of power output when wind speed is increasing, (2) rate of decrease of power output when wind speed is decreasing; (3) rate of increase of power when a curtailment of power output is released, (4) rate of decrease of power when a curtailment limit is engaged. A 10 % per minute rate (based on nameplate capacity) limitation shall be enforced. This limit applies both to the increase and decrease of power output.

8.—Power Quality

The developer shall address, in the design of their facilities potential sources and mitigation of power quality degradation prior to interconnection. Design considerations should include applicable standards including, but not limited to IEEE Standards 142, 519, 1100, 1159, ANSI C84.1, IEC 61400 21, IEC 61000 3 7 and IEC 61000 3 6. Typical forms of power quality degradation include, but are not limited to voltage regulation/unbalance, harmonic distortion, flicker, voltage sags/interruptions and transients.

The developer shall submit the Power Quality Tests Result Report of the wind turbines as described in the IEC 61400-21 standard. This report includes: general wind turbine data, wind turbine rated data at terminals, voltage fluctuations coefficients (flicker coefficients), current harmonics components, current interharmonics components, current high frequency components, response to voltage drops, active power data, reactive power data, grid protection data and reconnection time. The wind turbines shall not exceed the flicker emission limits established by the IEC 61000-3-7 standard and the harmonics emission limits of IEC 61000-3-6.

9. Wind Power Management:

WTG facility shall provide adequate technology (communicating technology and the corresponding control equipment) and implement wind power management requirements (ramp rate limits, output limits, curtailment) as established by PREPA.

10.—Special Protection Schemes:

WTG facility shall provide adequate technology and implement special protectionschemes as established by PREPA in coordination with wind power management requirements.

11. Wind Generation Forecasting Systems:

WTG facility shall provide adequate technology to support wind generation forecasting systems (short term and day ahead). Individual turbine's availability shall be included.

12. General Interconnection Substation Configuration:

An interconnecting generation producer must interconnect at an existing PREPA substation. The configuration requirements of the interconnection depend on where the physical interconnection is to occur and the performance of the system with the proposed interconnection. The interconnection must conform, at a minimum, to the original designed configuration of the substation. PREPA, at its sole discretion, may consider different configurations due to physical limitations at the site.

13. Modeling and Validation

The Contractor shall submit to PREPA a Siemens—PTI certified PSS/E mathematical model and data related to the proposed WTG facility. When referred to the WTG facility model, this shall include but is not limited to wind generator, transformers, collector systems, plant controllers, control systems

The Contractor shall be required to submit user manuals for both the Wind Turbine Generator and WTG Facility models. The mathematical models shall be fully compatible with the latest and future versions of PSS/E. It is preferred that the models are PSS/Estandard models. In the case that the Contractor submits user written models, the Contractor shall be required to keep these models, as well as its corresponding usermanual, current with the future versions of the PSS/E program until such time that PSS/E has implemented a standard model. The Contractor shall submit to PREPA an official report from Vestas that validates and certifies the required mathematical models, including subsequent revisions. The data and PSS/E model shall also be updated and officially certified according to PREPA requirements when final field adjustments and parameters measurements and field tests are performed to the facility by the contractor. The mathematical model (either PSS/E standard or user written model) of the WTGfacility shall be officially certified by Vestas before a specific and validated PSS/Emathematical model of the complete WTG facility be submitted to PREPA. The Contractor shall be responsible of submitting the official reports and certifications from Vestas. The mathematical model shall not be considered valid until PREPA's Planning team validates and certifies the submitted PSS/E mathematical model.

The Contractor shall be responsible to submit certified PSSE mathematical models of any kind of compensation devices (ie. SVC, STATCOMs, DSTATCOMs, BESS, etc.) used on the WTG facility. It is preferred that the models are standard models provided with PSS/E. In the case that the Contractor submits user written models, the WTG facility Contractor shall be required to keep these models current with the future versions of the PSS/E program until such time that PSS/E has implemented a standard model. In its final form, the mathematical model shall be able to simulate each of the required control and operational modes available for the compensation device and shall be compatible with the latest and future versions of PSSE. Final adjustments and parameters settings related with the control system commissioning process shall be incorporated to the PSSE mathematical model and tested accordingly by the WTG facility Contractor and PREPA system study groups. The Contractor shall also perform on site field tests for the identification, development, and validation of the dynamic mathematical models and

parameters required by PREPA for any kind of compensation devices used at the WIG-facility. The mathematical models of the WTG facility and its required compensation devices shall be officially certified before a specific and validated PSS/E mathematical model of the complete WTG facility be submitted to PREPA. The Contractor shall be responsible of submitting the official reports and certifications, otherwise the mathematical models shall not be considered valid.

WTG facility Owners that provide user written model(s) shall provide compiled code of the model and are responsible to maintain the user written model compatible with current and new releases of PSS/E until such time a standard model is provided. PREPA must be permitted by the WGF Owner to make available WGF models if required to external consultants with an NDA in place.

14. Transient Mathematical Model

The contractor shall be responsible of providing a detailed transient model of the WTG facility and to show that it is capable of complying with PREPA's transient Minimum Technical Requirements.

- 15. Dynamic System Monitoring
- (b) The equipment shall have a built-in microprocessing unit with color monitor, keyboard and mouse from which all commands, controls and setup parameters may be entered. All setup parameters shall be store in a non-volatile media, to prevent loss of setup data if power is interrupted. This microprocessing unit shall be of industrial grade to insure long life in a typical substation or generation plant environment.
- (c) Memory and storage capacity:

The equipment shall have a nonvolatile solid state memory (ex. SSD, flash, etc.) with the required capacity to stores at least one (1) year of continuous data based in typical recording periods and typical recording rates. Also the memory shall have a minimum storage capacity of 1,000 RMS Trigger events and 1,000 Instantaneous trigger events based in typical recording rates and recording periods. Typical recording periods and recording rates are:

- <u>i</u> RMS Trigger Recording Function (Recording rate of 1 sample per cycle on all the signals)
 - A. Pre-Trigger: 60 seconds
 - B. Post –trigger: 300 seconds
- ii Instantaneous Values Trigger Recording Function (recording rate of 250 samples per cycle on all instantaneous signals)
 - A. Pre-Trigger: 1 second
 - B. Post-Trigger: 2 seconds

iii. Continuous Recording Function—The recording rate is 1 sample per second on all the signals. This recording function is continuous, but saved in 24 hours period.

All the recording functions mentioned above shall work simultaneously. The equipment shall maintain the date and time in an internal battery-backed clock.

(d) Communication:

The equipment shall have at least two Ethernet 10/100/1000 Mbps port (LAN interface, TCP/IP Protocol) for local and remote network communication.

(e) Power Source:

The equipment shall have a redundant power supply. Two separate inputs (one AC and one DC) 100 – 240 VAC, 60 Hz and 100 – 150 DC. Some applications could require DC supply of 48 VDC +/- 10%, verify before the equipment acquisition.

- (f) Measurement accuracy:
 - <u>Voltage measurement error shall be less than +/- 0 3 % of reading</u>
 - 2. Current measurement error shall be less than +/- 0.3% of reading.
- (g) The DSM equipment to be installed and integrated to the grid shall be compatible with the existing PREPA's DSMs network and approved by PREPA.

III. Software

- (a) The software platform of the equipment shall be compatible with the latest version of windows operating system.
- (b) The equipment remote communication shall be thru TCP/IP network connectivity (LAN).

 The remote communication should permit at least the set up and data retrieval of the equipment. The equipment should have the capability to perform at least the following functions remotely:
 - 1 Modification of the configuration
 - 2. Retrieval of captured events
 - 3. Remote event triggering
- (c) The equipment shall have the capacity of time synchronization with GPS system. A GPS receiver and GPS antenna shall be included.
- (d) Triggers:
 - <u>The equipment shall support user defined programmable triggers. Triggering shall be initiated based upon primary quantities (voltage, current, and frequency).</u>

- calculated quantities (watts, Var, power factor, apparent power, etc.), digital signals or small analog signals.
- 2 The trigger thresholds shall be based on limits, gradients, equations and status.

 Examples of trigger conditions that shall be available are:
 - <u>i</u> <u>Level threshold (high level, low level, in-band, out-band, etc.)</u>
 - ii Rate of change (ex. frequency variation (df/dt))
 - iii. Manual input (keyboard trigger)
 - iv Request from remote computer
 - <u>v</u> <u>Event input status (digital signal status)</u>
- <u>A re-trigger function shall be available which permits the equipment to generate a new event register if a second disturbance is detected while the recording of the first disturbance is still in process. This process should continue if more disturbances occur in the new registers.</u>
- (e) The acquisition software shall include a user defined pre-trigger interval option as well as a user defined post trigger interval for the information captured in the case of triggered events. The minimum range of the pre-trigger interval should be from 0 to 60 seconds and the minimum range for the post trigger interval should be 0 to 300 seconds. In addition, the date, time, and type of trigger that initiated the event shall be included as part of the disturbance record.
- (f) The acquisition software shall have the following capabilities:
 - 1. Time displays (ex. Oscilloscope)
 - 2. <u>Digital Status display (ex. High/Low, 1/0)</u>
 - 3. Multiple displays and multiple signals in displays in real time and off-line
 - 4. <u>Display resizing</u>
 - 5. Programmable conversion of range and units of signals
 - 6 Independent range for signals
- (g) The acquired data shall be available in a format directly compatible with Siemens Power Technologies International (Siemens PTI) PSS/E plotting software.
- (h) The software shall support data export in ASCII, CSV and PSS/E formats.
- (i) The software shall support image export in JPG, BMP or WMF formats.
- (j) The software shall have the following analysis capabilities for the data and signals (primary and calculated):

- 1. Fast Fourier Transform (FFT)
- 2 <u>Peak analysis</u>
- 3 Filter functions
- 4. Series and scalar mathematic (square root, inversion, square, sum, gain, offset, etc.)
- (k) The software shall perform the following power engineering calculations (on-line and off-line) and measurements:
 - 1 Three phase and single phase Power (Real, reactive, apparent)
 - 2 Power Factor
 - 3. <u>Power angle</u>
 - <u>4</u> rms line and phase voltage
 - 5 rms current
 - <u>6.</u> <u>Power system frequency</u>
 - <u>7</u> <u>DC voltage and currents</u>
 - <u>8</u> <u>AC voltage and currents</u>

IV. General

- (a) Environmental Conditions:
 - 1. Operating temperature: 0° C to 50° C
 - 2. Operating humidity: 95 %, non-condensing
- (b) Equipment cabinet and corresponding accessories:
 - 1. The cabinet should have test switches at the front of the panel for the three phase voltages and currents. The test switches should have a minimum rating of 600 V rms and 30 A rms; semi flush mounted, rear connected, equal or similar to ABB FT-1, style no. 129A514G01. The test switches should be assembled horizontally in groups of three FT-1 switches per row, mounted on a 19 inches wide, three-rack unit (3RU) high panel suitable for rack mounting, similar to ABB FR3J014014014.
 - 2. The signals (analog and digital) should terminate on terminal blocks inside the cabinet, before the connection to the Dynamic System Monitor. The AC, DC, digital, exciter voltage and exciter current signals should be in different terminal blocks. The terminal blocks should have a minimum rating of 600 V rms and 30 A rms (except the exciter voltages signals, see below). Examples of terminal blocks are: GE CR151B2 and Marathon 1512 STD. The current signals should

terminate on shorting type heavy duty terminal blocks equal or similar to Marathon, catalog number 1506SC. The terminal blocks used for the excitation voltage of the generators must have a nominal voltage capacity greater than 800 V DC. A switch or breaker for isolation purposes is also required for the excitation voltage and current signals.

(c) <u>Documentation:</u>

- 1. The equipment shall include a documentation package that contains the user, operation and maintenance manuals and the mechanical and electrical equipment drawings. The documentation should be in hard copy and in digital format.
- <u>2.</u> The equipment documentation shall include a copy of the software.
- (d) Spare parts recommended by the equipment manufacturer shall be included in the dynamic system monitor (DSM) purchase order.
- (e) Warranty:

The equipment warranty shall include part and service for a period not less than 60 months from the delivery day

f Equipment

The developer of the Renewable Energy Facility shall be required to provide and install a Training, Installation Support and Commissioning:

- 1. An on-site equipment operation and configuration training should be included.
- <u>The</u> dynamic system monitoring monitor (DSM) manufacturer shall perform the equipment that conforms to PREPA's specifications commissioning and offer installation support.

Exhibit D



Memorandum Privileged and Confidential

TO: Efran Paredes Maisonet

Acting Chief Executive Officer

FROM: Fernando M. Padilla

Restructuring and Fiscal Affairs Director

Project Management Office

DATE: April 21, 2021

RE: Reconstruction of the Punta Lima Wind Farm and Related Transactions

PREPA recently reached agreement in principle with Punta Lima Wind Farm, LLC ("Punta Lima") on agreements related to the reconstruction of the Punta Lima wind-powered facility located in Naguabo, Puerto Rico (the "Project"). These included (1) an Amended and Restated Power Purchase and Operating Agreement (the "PPOA"), which amends and restates the Power Purchase and Operating Agreement, dated as of July 3, 2009 (as amended, the "Pre-Restatement PPOA"), and (2) an Asset Purchase and Sale Agreement (the "APA"), which establishes terms for the acquisition of the 115 kV electric power service transmission line (the "Transmission Line") running from the Project to PREPA's Daguao Transmission Center ("Daguao TC") in Naguabo, Puerto Rico. This justification memorandum was prepared to solicit your approval to (1) submit the PPOA and APA (collectively, the "Subject Transaction") to the Governing Board, the Financial Oversight and Management Board ("FOMB"), the Puerto Rico Energy Bureau ("PREB") and the Puerto Rico Public-Private Partnerships Authority ("P3A") for approval or authorization, as applicable, and (2) following such approval, execute and submit the PPOA to the Title III Court for assumption.

I. Executive Summary

- PREPA reached agreement in principle with Punta Lima providing for (i) the purchase of approximately 26 MW for a 20-year term commencing on the date of commercial operations of the rebuilt Project and (ii) the acquisition of the Transmission Line for a purchase price of \$3,700,000.
- The Subject Transaction would provide PREPA with cost savings of 12%, valued in excess
 of \$13 million (non-discounted), over the term of the Subject Transaction versus the PreRestatement PPOA.
- Reconstruction of the Project is consistent with the Commonwealth's renewable energy goals and policy, including (i) contribution of MW towards renewable portfolio standards ("RPS"), (ii) strong messaging to the market that PREPA will act as a reliable and committed counterparty, (iii) prioritizing projects that have a high probability of reaching completion and (iv) obtaining cost savings for the ratepayers of Puerto Rico.

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II. Background

Punta Lima initially entered in the Pre-Restatement PPOA with PREPA in 2009 and was one of the first renewable energy projects to reach commercial operations in Puerto Rico. The Pre-Restatement PPOA provided for an Energy Purchase Price of \$0.125 per kWh of Net Electrical Output (expressed in kilowatt hours) from the Project, with such amount subject to annual escalation at a rate of 1.5%. In addition, PREPA would pay a Green Credits Payment in the amount of \$0.025 per kWh of Net Electrical Output throughout the term of the Pre-Restatement PPOA. This made for an all-in price of \$0.1577 per kWh of Net Electrical Output at the time that Hurricane María hit.

On September 20, 2017, Hurricane María caused significant damage to the Project, resulting in what was effectively a total loss and leaving behind a physical reminder of the difficulties of developing projects in Puerto Rico for the world to see. The original Project sponsors tried to renegotiate and rebuild the Project but did not succeed. The Project lender, Santander, took over Punta Lima in 2019. Santander has proposed to reconstruct and operate the Project, using proceeds received from their insurers. The insurers will pay significantly more under their policies if the Project is rebuilt than if it is not, creating an incentive for Santander to complete the Project.

III. Commercial Rationale and Process

PREPA bears the responsibility not only to supply and secure reliable electric power to ratepayers in Puerto Rico but also to do so in a way that contributes to the general welfare and sustainable future of the people of Puerto Rico and complies with the laws and regulations of the Commonwealth. As recently as December 8, 2020, the PREB issued an Order and Resolution emphasizing the need for PREPA to use every effort to comply with the Integrated Resource Plan approved by the PREB on August 21, 2020 (notified August 24, 2020) ("IRP") and the 40% renewable energy generation target for 2025 as required by Act 82-2010, as amended by Act 17-2019. This RPS sets a very high bar, one that has not been achieved in such a short timeframe anywhere around the globe. To achieve the legally mandated target, PREPA must look for every opportunity to increase the amount of renewable energy generation resources connected to the Grid System as quickly and reliably as possible.

With this in mind, PREPA management saw in 2019 that the reconstruction of the Project would achieve a few interrelated goals (the "**Key Goals**"):

- **First**, the 26 MW wind project would directly contribute toward the RPS goals outlined under the Puerto Rico law mentioned above. Every MW of renewable generation that PREPA can integrate into the grid brings PREPA that much closer to achieving the high bar set by the PREB and legislature.
- Second, supporting the rebuilding and continuation of the Project sends a strong message to the market that PREPA is a reliable and committed counterparty. PREPA's reputation has suffered in recent years as a potential investment location due to difficulties in moving projects forward and a variety of circumstances outside of its control. These difficulties, in the aggregate, make it very hard to attract financiers, investors and developers willing to support the projects needed to meet the RPS requirements. A demonstrated commitment to Punta Lima and their eventual success could go a long way to change that perception, bringing more investment capital and interested parties to the island. This is not as abstract as it may seem either, given that Santander would be one of the most likely international banks willing to finance projects in Puerto Rico. Also, and by contrast, rejecting the PPOA



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and/or not permitting the rebuild for a Project that, due to a force majeure, was completely destroyed, would likely magnify the perception of Puerto Rico as a risky investment location and PREPA as a risky counterparty, which would negatively impact investor appetite and risk pricing going forward.

- Third, Punta Lima would represent one of the most reliable counterparties with whom PREPA was negotiating and the Project most likely to be completed. Santander has funds available for financing, and a significant incentive to move forward quickly given the insurance proceeds available. Punta Lima has completed a project before, and is well accustomed to working in Puerto Rico. Reliable, timely completion of projects helps PREPA achieve RPS standards faster, which in turn contributes to better market perception and facilitates additional, more targeted RFPs to attract the next wave of renewables and energy storage.
- Fourth, PREPA could negotiate cost reductions in exchange for allowing the rebuilding of the Project. The cost savings would help better align PREPA's finances with the objectives of PREPA's Fiscal Plan.

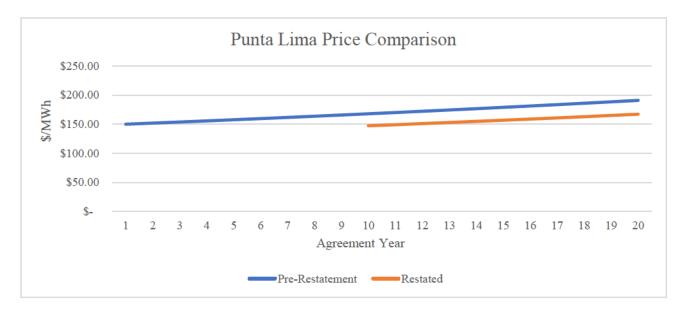
These Key Goals provided a solid rationale for PREPA to initiate arms-length negotiations with Punta Lima in late 2019. Fernando Padilla and Francisco Santos of PREPA's Project Management Office led the negotiations for PREPA. PREPA engaged Sargent & Lundy ("S&L") to advise on limited technical matters, King & Spalding ("K&S") for negotiation support and advice on non-Puerto Rico law matters, and Mara Vázquez, now with Diaz & Vázquez ("D&V"), for advice on Puerto Rico law matters. Over the course of negotiations, PREPA's representatives consulted these advisors, as well as PREPA planning, operations, and other departments, as needed on relevant issues. The team conducted these negotiations via conference calls, exchange of documents and in-person meetings.

IV. Subject Transaction Savings

The Subject Transaction, now agreed in principle, delivers 26 MW of renewable energy generation for a 20-year term together with a price reduction (when compared to the Pre-Restatement PPOA) of 12%. This will produce approximately \$13 million in savings (non-discounted) over the life of the PPOA. The savings achieved under the PPOA versus the Pre-Restatement PPOA are roughly equivalent to that achieved for other operating projects that the FOMB has previously approved. The agreed price will become an all-in price under the Amended PPOA of \$0.14728 / kWh for the initial year following commercial operations (as adjusted for future Agreement Years in accordance with the table set out in Annex E). The total amount to be paid to Punta Lima by PREPA under the amended and restated PPOA is expected to be approximately \$162 million (non-discounted) or \$78 million (NPV). Annex A includes data showing the price comparison between the Pre-Restatement PPOA and Punta Lima's offer for the amended and restated PPOA, which the chart below depicts as well.

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We note that, in arriving at the above renegotiated pricing, PREPA considered whether to approach the Project as a continuation of an operating project or as a new project (akin to a shovel-ready) for the purposes of renegotiations. PREPA chose to frame the deal as the continuation of an operating project, mainly for reasons consistent with the second and third commercial rationale set out above. PREPA did attempt to negotiate a deal closer to the shovel-ready Projects, but this was summarily rejected by Punta Lima and Santander.

V. Asset Acquisition

In addition, as part of the Subject Transaction, PREPA has agreed to acquire, pursuant to the APA, the Transmission Line running from the Project to PREPA's Daguao TC, for a purchase price of \$3,700,000 (the "Transmission Line Purchase").

Possession of the Transmission Line will likely unlock multiple benefits for PREPA in a scenario where other renewable energy projects seek to interconnect in the same vicinity as Punta Lima. In that scenario, one or more other projects could interconnect with the grid system by tapping into the Transmission Line directly rather than by developing and constructing additional transmission lines in the area back to the Daguao TC. (Annex B depicts how this scenario might look.)

Benefits accruing to PREPA in this scenario include:

- **Potential Future Cost Savings** S&L estimates some potential additional cost savings for PREPA where a new project interconnects via tapping a PREPA-owned Transmission Line (including cost of the sectionalizer) versus constructing a new line (including work at the Daguao TC). <u>Annex B</u> sets these out in more detail.
- Infrastructure Optimization to Further Promote Renewables Having multiple projects interconnecting to the Daguao TC via a single Transmission Line frees up existing



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bays and infrastructure at the Daguao TC, allowing PREPA to use those resources for more projects without requiring expansion or as much investment at the Daguao TC.

• Decreased Permitting Risk to Ensure Timely Project Development – Allowing interconnection via a short transmission line and sectionalizer into an existing Transmission Line significantly reduces the risk to the project (and to PREPA through it) of delays in permitting and acquiring land rights for the additional, longer transmission line that would otherwise be needed. Land acquisition represents a significant hurdle for projects in Puerto Rico, and this arrangement reduces that risk.

PREPA management supports the acquisition of the Transmission Line as part of the Subject Transaction for each of these reasons, as well as the opportunity to get Punta Lima back up and running.

For additional information on the acquisition, please see (i) <u>Annex B</u> for an explanation of the potential benefits that the Transmission Line Purchase offers PREPA and (ii) <u>Annex C</u> for a report prepared by S&L setting out S&L's valuation of the Transmission Line.

VI. Conclusion

PREPA reached commercial agreement in principle on the Subject Transaction documentation, based on the terms and rationale discussed above. D&V reviewed the PPOA and APA and, as detailed in Annex D, concluded that, assuming (i) PREPA secures Governing Board, FOMB, PREB, P3A approval of the PPOA, (ii) PREPA uses funds in connection with the PPOA for a public purpose, such as providing electricity to the public, and (iii) the PPOA is duly executed by the parties, the PPOA constitutes a valid and binding obligation enforceable against the counterparty in accordance with its terms, and complies with and is enforceable under the laws of the Commonwealth of Puerto Rico.

Given the above, and the fact that the Subject Transaction would enable PREPA to achieve all of its Key Goals, the PMO Office recommends that the Board approve (1) submission of the Subject Transaction to the FOMB, PREB and the P3A for their approval and (2) following such approval, finalization and execution of the Subject Transaction and submission of such transactions to the Title III court.

Sincerely,
Fernando M. Padilla
Deputy Executive Director

Annexes:

Annex A – Price Comparison Data

Annex B – Transmission Line Future Benefit

Annex C – Transmission Line Valuation



GOVERNMENT OF PUERTO RICO Puerto Rico Electric Power Authority



Annex D – Legal Opinion

Annex E – Renegotiated Pricing



Annex A

Price Comparison Data

Pricing

	Original Contract (2013 \$)	Renegotiated Contract (est. 2022 \$)
Energy Price (\$/MWh)	\$125.00	\$147.28
Green Credit Price (\$/MWh)	\$25.00	N/A
Energy Escalation Rate (%)	1.5%	1.5%
Green Credit Escalation Rate (%)	0.0%	N/A

Estimated Cost

Year	Original Contract All-in Cost (\$/MWh)	Renegotiated Contract All- in Cost (\$/MWh)	Original Contract Estimated Total Cost (Million \$)	Renegotiated Contract Estimated Total Cost (Million \$)	Difference	
2013	\$ 150.00					
2014	\$151.88					
2015	\$153.78					
2016	\$155.71					
2017	\$157.67					
2018	\$159.66					
2019	\$161.68					
2020	\$163.73					
2021	\$165.81					
2022	\$167.92	\$147.28	\$9.2	\$8.1	\$(1.13)	
2023	\$170.07	\$149.14	\$9.3	\$8.2	\$(1.14)	
2024	\$172.24	\$151.02	\$9.4	\$8.3	\$(1.16)	
2025	\$174.45	\$152.94	\$9.5	\$8.4	\$(1.18)	
2026	\$176.69	\$154.88	\$9.7	\$8.5	\$(1.19)	
2027	\$178.97	\$156.85	\$9.8	\$8.6	\$(1.21)	
2028	\$181.28	\$158.86	\$9.9	\$8.7	\$(1.23)	
2029	\$183.62	\$160.89	\$10.0	\$8.8	\$(1.24)	
2030	\$186.00	\$162.95	\$10.2	\$8.9	\$(1.26)	
2031	\$188.42	\$165.05	\$10.3	\$9.0	\$(1.28)	
2032	\$190.87	\$167.17	\$10.4	\$9.1	\$(1.30)	
2022 -			\$107.7	\$94.4	\$(13.3)	12.4%
2032						
TOTAL						



Annex B

Transmission Line Future Benefit

The diagram on the following page shows a potential use for the Transmission Line (yellow line), if acquired by PREPA. A new renewable energy project could tap into a PREPA-owned Transmission Line via sectionalizer ("Scenario 1") and a short interconnection line (red line).* In doing so, the new project would avoid having to build a parallel transmission line to the Daguao TC ("Scenario 2"). With the influx of renewable energy and other generation projects coming into the grid during the next few years, PREPA believes this is reasonably likely to occur.

The cost comparison of Scenario 1 and Scenario 2 below suggests that failing to purchase the Transmission Line now (Scenario 2) could result in costs equivalent to or slightly higher than purchasing the line (Scenario 1) for PREPA in the long run.

Scenario 1

PREPA buys the Transmission Line (yellow line)

Future renewable project connects to the line through a new sectionalizer (red line)

\$ 4,000,000 est. cost of new sectionalizer and related work

Scenario 2

PREPA does not buy the Transmission Line (yellow line)

Future renewable project has to build a new line to the Daguao TC

2.75 miles (est. distance of new line) at \$2,500,000 \$/mile (for 115 kV line)

\$6,875,000 est. cost of new line

\$1,200,000 est. cost to connect new line to TC

\$ 8,075,000 total est. cost of new line and related work

\$4,075,000 difference between Scenario 1 and 2

^{*} PREPA has also negotiated arrangements with Punta Lima to connect to the Transmission Line near Punta Lima's existing switchyard or substation. PREPA will need to ensure that Punta Lima does not incur any costs or performance degradation as a result of any third party interconnection into the Transmission Line..



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Rev. 11/17





Annex C

Transmission Line Valuation

Punta Lima Wind Farm Transmission Line Valuation

Prepared for the Puerto Rico Electric Power Authority

Final – Rev. 1 February 19, 2021

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ISSUE SUMMARY AND APPROVAL PAGE

This is to certify that this document has been prepared, reviewed, and approved in accordance with Sargent & Lundy's Standard Operating Procedure SOP-0405, which is based on ANSI/ISO/ASSQC Q9001 Quality Management Systems.

Contributors

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Reviewed by:

Name	Title	Section(s) Reviewed	Signature	Date
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Approved by:	
	February 19, 2021
Matthew Thibodeau	Date
Conjer Vice President	

1. INTRODUCTION

The Puerto Rico Electric Power Authority (PREPA) requested Sargent & Lundy to perform a replacement cost analysis and financial valuation of the existing 115-kV transmission line (Line 42000) that connects the Punta Lima Wind Farm (Punta Lima) to the Daguao Transmission Center (TC). Below we provide the methodology we used to estimate the replacement cost and current value of the Punta Lima transmission line and the result of our analysis.

2. METHODOLOGY

The current fair market value presented in this report for Punta Lima's transmission line was derived using the replacement cost method. The cost approach to valuation is applicable to situations in which the buyer and seller consider "value" to be closely related to "cost". It also applies in cases where the property is not frequently traded in the market or when the property is unique or has a specialized purpose, as is the case with Punta Lima's transmission line. This approach is based on the principle that a prudent seller would not sell for less and a prudent buyer would not pay more for the item than the cost of the least-cost substitute asset having comparable utility.

Replacement cost is the current cost of new equipment that has a functionality or utility equivalent to that of the equipment being appraised. Sargent & Lundy first performed an independent estimate of the cost to build a new transmission line, in accordance with an AACE¹ Class 4 Estimate Classification. Then, it adjusted this value to account for depreciation of the asset. The depreciation adjustment of the replacement cost for a new line is applied because the existing asset is worth less than the new asset due to reductions in functionality or remaining useful life from such causes as wear and tear, weather, obsolescence, and inadequacy (i.e., due to physical deterioration, functional obsolescence, and economic obsolescence).

The depreciation adjustment was calculated using methodology derived from a comprehensive set of depreciation studies of physical property that was undertaken at Iowa State University in the 1930s and 1940s². The result of these studies was a set of survivor curves and probable-life curves that continue to be used in utility rate work and valuation cases.

The generalized expression used in these studies for measuring the ratio of the present depreciable value to the depreciable value of the asset when new is as follows:

¹ Association for the Advancement of Cost Engineering (AACE) International, a project controls and cost engineering professional association.

² Statistical Analyses of Industrial Property Retirements (1935, revised 1967), Depreciation of Group Properties (1942), and Condition-Percent Tables of Unit and Group Properties (1942), Iowa State University Engineering Research Institute, Ames, Iowa.

$$V_P = (V_N - V_S) \{ [(1+r)^n - (1+r)^x] / [(1+r)^n - 1] \} + V_S$$

Where,

V_P = Present value (fair market value)

V_N = Value new

V_S = Estimated net salvage value at retirement

r = Rate of return per annum (real) n = Probable life of facility in years

x = Age of facility in years

This expression is based on the principle that the value of a facility or asset is the present worth of its probable operation returns yet to be earned by future service during its probable remaining service life. In the case where r = 0, the expression reduces to straight-line depreciation.

The following table provides the inputs that were used in the above equation.

Variable	Value Used	Basis
V _N , Value new	\$4 Million	Based on the Sargent & Lundy's independent estimate of the cost to rebuild the Punta Lima transmission line and associated equipment (approximately \$1.22 million per mile)
V _S , Estimated net salvage value at retirement	\$0	Consistent with the approved and audited Sargent & Lundy report titled "PREPA Depreciation Study of Electric Plant in Service as of June 30, 2016; June 30, 2017; and June 30, 2018" (dated December 2018)
r, Rate of return per annum (real)	6.86%	Value is consistent with PREPA draft Integrated Resource Plan dated June 7, 2019 (page 8-2)
n, Probable life of facility in years	35 years	Value is consistent with Sargent & Lundy's industry experience and with the approved and audited Sargent & Lundy report titled "PREPA Depreciation Study of Electric Plant in Service as of June 30, 2016; June30, 2017; and June 30, 2018" (dated December 2018)
x, Age of facility in years	8 years	Based on actual asset information

3. RESULTS

In summary, Sargent & Lundy has estimated the replacement cost of the Punta Lima transmission line to be \$4.0 million and the estimated depreciated cost of the existing line to be \$3.7 million.

Considering the AACE Class 4 Estimate Classification expected accuracy range of -20% to +30%, the estimated range of the replacement cost is from \$3.2 million to \$5.2 million and the estimated range of the depreciated cost is from \$3.0 million to \$4.8 million.

Rev. 11/17





Annex D

Legal Opinion



TO: Mr. Fernando Padilla

Director of Program Management, Restructuring and Fiscal Affairs

FROM: Díaz & Vázquez Law Firm, P.S.C.

DATE : October 6, 2020

RE: Opinion on Enforceability Pursuant to Puerto Rico Law of the Punta Lima

A&R PPOA and Transmission Line Purchase

PREPA recently reached agreement in principle with Punta Lima Wind Farm, LLC ("Punta Lima") on matters related to the reconstruction of the Punta Lima wind-powered facility located in Naguabo, Puerto Rico (the "Project"). These included (1) an Amended and Restated Power Purchase and Operating Agreement (the "A&R PPOA"), and (2) an Asset Purchase and Sale Agreement (the "APA"). As background, on September 20, 2017, Hurricane María caused significant damages not only to PREPA's energy transmission and distribution infrastructure but also to the Project. Punta Lima, now controlled by Banco Santander, has proposed to reconstruct and operate the Project, using proceeds received from their insurers.

The PPOA amends and restates the Power Purchase and Operating Agreement, dated as of July 3, 2009 (as amended, the "**Pre-Restatement PPOA**"). The Pre-Restatement PPOA provided for an Energy Purchase Price of \$0.125 per kWh of Net Electrical Output (expressed in kilowatt hours) from the Project, with such amount subject to annual escalation at a rate of one and a half percent (1.5%). In addition, PREPA would pay a Green Credits Payment in the amount of \$0.025 per kWh of Net Electrical Output throughout the term of the Pre-Restatement PPOA. This made for an all-in price of \$0.1577 per kWh of Net Electrical Output at the time that Hurricane Maria hit.

In connection with the A&R PPOA, PREPA will enter into an APA to acquire the 115 kV electric power service transmission line (the "Transmission Line") running from the Project to PREPA's Daguao Transmission Center in Naguabo, Puerto Rico (the "Transmission Line Purchase" and, together with the A&R PPOA, the "Subject Transaction"). The Subject Transaction comprises approximately 26 MW of renewable energy generation and delivers a price reduction (when compared to the Pre-Restatement PPOA) of 12%, which will produce approximately \$10 million in savings (non-discounted) over the life of the PPOA

Punta Lima offered a twelve percent (12%) discount on pricing for consideration of a new twenty (20) year term commencing with the commercial operation date of the newly built facility. The price will be \$0.12392 / kWh for energy (escalating at 1.5% each subsequent year) and \$0.02335 / kWh for Green Credits (with no escalation in subsequent years), for an effective price of \$0.14727 / kWh for the initial year following commercial operations. In addition, pursuant to the Transmission Line Purchase, PREPA will purchase the Transmission Line for no more than four million dollars

(\$4,000,000), to provide Punta Lima with the necessary funds to cause the new facility to comply with the 2020 Minimum Technical Requirements.

Regarding the above, we have been tasked, as counsel for PREPA, to render an opinion letter concerning the enforceability of the Subject Transaction under Puerto Rico law including necessary approvals by (1) the FOMB, PREB and the P3A and (2) following such approval, finalization and execution of the Subject Transaction and submission of such transactions to the Title III court.

In rendering this opinion letter, we have assumed, without independent corroboration, that (i) the representations and warranties made by PREPA are true and correct in all material respects, (ii) the representations and warranties made by PREPA about the reasonableness of the negotiations and are true and correct in all material respects, (iii) the execution, delivery and performance by each of the parties of the Subject Transactions does not and will not conflict with, or result in a breach of, or result in a violation of, or constitute a default or require any consent under, any agreement or instrument, or any order, writ, judgment or decree of any governmental authority or court.

a. PREPA's Organic Act and Puerto Rico Government Contracting Principles

PREPA's faculty in law to enter into contracts arises out of Act No. 83-1941, as amended, in Section 6 (22 L.P.R.A. 196), which grants PREPA the power to conserve, develop and utilize, and aid in the conservation, development and utilization of water and energy resources of Puerto Rico, for the purpose of making available to the inhabitants of the Commonwealth, in the widest economic manner, the benefits thereof, and by this means to promote the general welfare and increase commerce and prosperity. In furtherance of this intent, PREPA "is granted and shall have and may exercise all rights and powers necessary or convenient to carry out the aforesaid purposes, including (but without limiting the generality of the foregoing) the following:

(f) To make contracts and to execute all instruments necessary or convenient in the exercise of any of its powers.

As applicable to Puerto Rico governmental contracting principles, contracts law is governed by the provisions of the Puerto Rico Civil Code and the case law of the Puerto Rico Supreme Court. Article 1207, Permissible Clauses and Conditions, of the Puerto Rico Civil Code (31 L.P.R.A. sec. 3372), states:

The contracting parties may establish the covenants, clauses and conditions they deem convenient, provided they are not contrary to the laws, morals or the public order. (Unofficial translation)

In our legal system, the principle of contractual autonomy allows contracting parties to establish the covenants, clauses and conditions that they deem convenient. Art. 1207 del C6digo Civil, 31 L.P.R.A. sec. 3372. See: <u>Torres, Torres v. Torres Serrano</u>, 179 D.P.R. 481, 493 (2010); <u>Oriental Finances Services v. Nieves</u>, 172 D.P.R. 462, 470-471 (2007). However, the contract will be null and void if it is contrary to the law, morals or public order. <u>Pepsi-</u>



Cola v. Mun. Cidra, 186 D.P.R. 713, 752 (2012); Oriental Finances Services v. Nieves, supra; Morales v. Municipio de Toa Baja, 119 D.P.R. 682, 692-693 (1987).

Regarding government contracting, the State is bound by the Constitution to manage public funds with the highest fiduciary and ethical principles. <u>Jaap Corp. v. Depto. Estado</u> et al., 187 D.P.R. 730, 739 (2013); <u>C.F.S.E. V. Unión de Médicos</u>, 170 D.P.R. 443, 452 (2007). In particular, Sec. 9 of Art. VI of our Constitution establishes that "public property and funds shall only be used for public purposes and for the funding and operation of the State's institutions and in any case, authorized by law". See: Art. VI, Sec. 9, Const. E.L.A., L.P.R.A., Tome 1. (Unofficial translation). Accordingly, any PREPA transaction must comply with these general contracting principles to be enforceable pursuant to Puerto Rico law.

b. Government of Puerto Rico Public Private Partnership Authority ("P3") Approval

With the approval of Act 120-2018 (Puerto Rico Electric System Transformation Act) the Puerto Rico Public-Private Partnership Authority (P3) was designated as the only Government Entity authorized to, and responsible for implementing the public policy of Act 120-2018, determining the functions, services and facilities for which Partnerships will be established; and determining which PREPA Assets related to energy generation will be sold or transferred through one or more Sale Contracts. As a part of this delegation, P3 is responsible for the development and management of all the procurement process of PREPA Transactions, that include: all transactions determined by P3 pursuant to which PREPA or the Government of Puerto Rico enters into one or more Partnerships with respect to any Function, Service or Facility of PREPA or one or more Sale Contracts involving PREPA Assets related to energy generation, and that is carried out pursuant to the provision of Act 29-2009 (Public-Private Partnership Act) and Act 120-2018.

Pursuant to the "Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Partnership Contracts and Sale Contracts for the Transformation of the Electric System Under Act No. 120-2018, as amended" P3 approval is required for all those PREPA projects covered by the definition of a PREPA Transaction as set forth in Act 120-2018 and this Regulation. A PREPA Transaction has been defined as "any and all transactions determined by the [P3] pursuant to which PREPA or the Government of Puerto Rico enters into one (1) or more Partnerships with respect to any Function, Service or Facility of PREPA or one (1) or more Sale Contracts involving PREPA Assets related to energy generation, and that is carried out pursuant to the provisions of Act 29-2009 and Act 120-2018.

As relevant to the above, PREPA shall submit to P3 approval of the Subject Transaction to ascertain that it does not conflict or affect a PREPA Transaction. Accordingly, final approval by P3 is necessary for enforceability of the Subject Transactions.

c. Act No. 57-2014, as amended, known as the "Puerto Rico Energy Transformation and RELIEF Act"

The Puerto Rico Energy Bureau ("PREB") was created to be an independent government entity in charge of regulating, overseeing, and enforcing the public policy on energy of the



Commonwealth of Puerto Rico. As part of the energy reform, and as relevant to its contract approval rights, PREB has various provisions that grant it the power in law to exercise authority over PREPA's processes related to contract approval. As applicable to the Subject Transactions, both PREPA's Organic Act and PREB's enabling statute requires PREB approval for contracts regarding purchase of energy. See, sections 6B(a)(ii) and (iii) of PREPA's Organic Act and Act 57-2014 § 6.3(c), 9 LPRA § 1054b(c) ("Before execution, any contract for the purchase of energy will be submitted for the evaluation and approval of the PREB, to ensure that the price, adjustment, escalators and profit margin comply with the parameters established by PREB"). Thus, PREB must approve the Subject Transactions for enforceability by PREPA.

Likewise, and as applicable to the Subject Transaction, PREB has the faculty in law to oversee compliance with the Integrated Resource Plan ("IRP") and PREPA can only execute those necessary projects *provided* these are consistent with the PREB approved IRP. Act 83-1941 § 6(bb) and (dd), 9 LPRA § 196(bb) and (dd). Given the most recently approved IRP, it is necessary that PREB approve the Subject Transaction to certify compliance with the IRP and allow it to be enforceable.

d. Effects of PROMESA and Title III on the Subject Transactions

Regarding the effects of the Puerto Rico Oversight, Management, and Economic Stability Act, also known as PROMESA, in PREPA's business operations, Section 305 of PROMESA, equivalent to Section 904 of the Bankruptcy Code, allows PREPA to continue implementing the duties conferred to it by law, including the power of self-administration and governance. Section 305 of PROMESA provides that the court may not, "by any stay, order, or decree, in the case or otherwise, interfere with (1) any of the political or governmental powers of the debtor; (2) any of the property or revenues of the debtor; or (3) the use or enjoyment by the debtor of any income-producing property. "48 USCS § 2165. Thus, a debtor under Title III of PROMESA, such as PREPA, may continue administering its business and may continue making the necessary determinations to carry out its duties and responsibilities in furtherance of its ongoing operations. This remaining power includes the ability by PREPA to carry out the purposes of Act 83-1941 and other state laws applicable to PREPA. Further, PROMESA section 301 incorporates section 365 of the Bankruptcy Code governing the assumption and rejection of the executory contracts and provides that a debtor-in-possession, "subject to the court's approval, may assume or reject an executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a). "The purpose behind allowing the assumption or rejection of executory contracts is to permit the trustee or debtor in possession to use valuable property of the estate and to 'renounce title to and abandon burdensome property." Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.), 4 F.3d 1095, 1098 (2d Cir. 1993) (quoting 2 Collier on Bankruptcy ¶ 365.01[1] (15th ed. 1993)). Accordingly, and as part of the Title III process PREPA can submit for Title III Court approval the Subject Transactions.

e. Federal Oversight and Management Board for Puerto Rico ("FOMB"), Fiscal Plan and Contract Review Policy

The Oversight Board has broad powers over public corporations that are designated as covered territorial instrumentalities under PROMESA. This power becomes even broader in the context of a Title III petition given that the FOMB is the representative of the debtor in such.

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¹ 11 USCS § 904

Additionally, once a covered instrumentality files a Fiscal Plan, the FOMB has the faculty in law to regulate the entity to guarantee compliance with the Plan. In this context, PREPA is a covered entity under PROMESA, a Title III debtor and has filed a Fiscal Plan which has been certified by the FOMB. Thus, PREPA is subject to the broad powers ascribed to the Oversight Board by PROMESA and as a general matter, PREPA cannot pursue transactions that are contrary to the Fiscal Plan.

On June 29, 2020, the FOMB certified the Fiscal Plan for PREPA ("**Fiscal Plan**"). The Fiscal Plan is comprehensive in nature and sets forth how the transformation of the energy sector will take place. It further discusses and establishes models to set a new industry structure, achieves the restoration of power generation, the rebuilding and modernizing of the power grid, the transformation of operations and how to provide for capital investment. Once certified, PREPA is bound to follow the requirements of the Fiscal Plan.

Pursuant to Section 204(b)(2) of PROMESA, FOMB has implemented a contract review policy that requires "[a]ll contracts or series of related contracts, inclusive of any amendments, modifications, or extensions, with an aggregate expected value of \$10 million or more, including any professional advisory or personal services contracts, [to] be submitted to the FOMB for its approval before execution". See, FOMB Contract Review Policy, dated November 6, 2017 as modified on July 3, 2018.

Accordingly, evaluation of the Subject Transaction by FOMB is necessary for corroboration of compliance with the Fiscal Plan and pursuant to FOMB's contract review policy.

f. Conclusion on Enforceability

The Subject Transaction includes an amended and restated PPOA and Transmission Line Purchase that has been thoroughly negotiated as disclosed by PREPA, is fully documented and responds to the best interests of PREPA and its clients. As noted above, PREPA's Governing Board, PREB, the FOMB and the P3 Authority all must approve the Subject Transaction. Assuming (i) PREPA secures the required approvals set out above, (ii) PREPA uses funds in connection with the Subject Transactions for a public purpose, such as providing electricity to the public, and (iii), the relevant parties duly execute each of the Subject Transactions, (1) the Subject Transaction shall constitute a valid and binding obligation and (2) the Subject Transaction complies with the laws of the Commonwealth of Puerto Rico.





$\frac{\textbf{Annex E}}{\textbf{Renegotiated Pricing}}$

Agreement Year	Energy Purchase Price (\$/kWh)
1	
2	
3	
4	
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Exhibit E



GOVERNMENT OF PUERTO RICO

Puerto Rico Electric Power Authority Governing Board

RESOLUTION 4879 APPROVAL OF AMENDED OPERATING RENEWABLE ENERGY PPOA

WHEREAS

The Puerto Rico Electric Power Authority ("PREPA") is a public corporation and an instrumentality of the Government of Puerto Rico created by Act No. 83 of May 2, 1941, as amended ("Act No. 83"). PREPA was created to provide electrical energy in a reliable way contributing to the general welfare and sustainable future of the people of Puerto Rico, maximizing benefits and minimizing social, environmental, and economic impacts. In addition, it provides a service based on affordable, fair, reasonable, and non-discriminatory cost that is consonant with environmental protection, non-profit, focused on citizen participation, and its clients;

WHEREAS

Act No. 83, *supra* authorizes PREPA, in the management of its purposes, to grant contracts and formalize all the instruments that are necessary or convenient in the exercise of any of its powers;

WHEREAS

On July 2, 2017, PREPA commenced proceedings under Title III of the Puerto Rico Oversight, Management and Economic Stability Act ("PROMESA") before the District Court for the District of Puerto Rico (the "PROMESA Court"), which is being administered under Case No. 17-4780 (LTS);

WHEREAS

Under Title III of the PROMESA Act, subject to the court's approval, PREPA may assume or reject any executory contract, such as a power purchase and operating agreement, and may further modify, renegotiate or other otherwise resolve these power purchase and operating agreements if such action is for the benefit of PREPA and the people of Puerto Rico;

WHEREAS

Act 82-2010, titled "Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico Act", as amended, creates a Renewable Energy Portfolio to establish short, mid, and long term compulsory compliance goals in matters of energy production by means of sustainable or alternative renewable energy;

WHEREAS

Act 17-2019, titled "Puerto Rico Energy Public Policy Act," requires 40% of the production of energy in Puerto Rico, to be based on renewable sources by the year 2025;

Resolution 4879 Page 2 ler

WHEREAS

In September 2017, Hurricane María completely destroyed the Punta Lima Wind Farm, which was at the time in commercial operation;

WHEREAS

In order to (i) achieve the renewable energy objectives under Puerto Rico law, (ii) signal to the market that PREPA will act as a reliable partner, committed to the success of renewable energy projects in Puerto Rico, and (iii) better align PREPA's finances with the objectives of PREPA's Fiscal Plan pursuant to the Title III process, PREPA's management engaged in direct negotiations with Punta Lima Wind Farm, LLC ("Punta Lima"), beginning in mid-2019, in connection with the reconstruction and operation of the Punta Lima wind-powered facility located in Naguabo, Puerto Rico;

WHEREAS

Given the long-term relationship and prior operations of Punta Lima in Puerto Rico, PREPA management accepted to view the project similar to operating renewable energy projects, and pursued similar terms to what PREPA had offered to those projects, *i.e.* a 10% NPV discount;

WHEREAS

Through the foregoing negotiations, and pursuant to the recommendations of PREPA's Governing Board, PREPA reached agreement with Punta Lima on an Amended and Restated Power Purchase and Operating Agreement (the "**PPOA**"), on the terms set forth in the memo relating to operating projects from Fernando Padilla to Efran Paredes Maisonet dated March 29, 2021, including an all-in price for the initial Agreement Year of \$0.14728 / kWh, and adjusted for future Agreement Years as set out in Annex A; and

WHEREAS

PREPA also agreed to purchase the interconnection line related to the project for \$3.7 million under a separate asset purchase and sale agreement (the "APA") to be executed following receipt of the order of the Title III Court referenced below.

THEREFORE

In accordance with Act 83, PREPA's Governing Board resolves to approve and authorize:

- 1. the submission of the PPOA and APA to the Financial Oversight and Management Board, the Puerto Rico Energy Bureau and the Puerto Rico Public Private Partnerships Authority for approval;
- following such approval, finalization and execution of the PPOA and APA, and submission of the PPOA to the Title III Court for assumption; and

3. the execution of the PPOA and APA, as well as such ancillary documentation and carrying out of such other steps as reasonably necessary to effect the foregoing.

Approved in San Juan, Puerto Rico, on the 16th day of April, two thousand twenty one.

Annex A - Renegotiated Pricing

Eduardo Arosemena-Muñoz Secretary of the Board

Exhibit F



17 de mayo de 2016

Sr. Gonzalo Rodríguez Punta Lima Wind Farm, LLC 5120 Woodway Dr, Suite 9004 Houston, TX 77056

Estimado Sr. Rodríguez:

CERTIFICACIÓN DE COMPAÑÍA DE SERVICIO ELÉCTRICO

Luego de presentada la Solicitud de Certificación de la compañía **Punta Lima Wind Farm, LLC**, la Comisión de Energía de Puerto Rico ("Comisión") procedió a evaluar la misma a la luz de lo dispuesto en el Reglamento Núm. 8701, Enmienda al Reglamento Núm. 8618, sobre Certificaciones, Cargos Anuales y Planes Operacionales de Compañías de Servicio Eléctrico en Puerto Rico.

Se ha determinado que la compañía Punta Lima Wind Farm, LLC cumple con los requisitos establecidos por la Comisión para ofrecer la prestación del servicio de generación de energía por medio de fuentes de energía renovable para venderla a la Autoridad de Energía Eléctrica, a tenor con un contrato de compraventa de energía.

Como anejo a esta comunicación podrá encontrar la Certificación expedida por la Comisión para tales fines.

Atentamente,

Vanessa I. Acarón Toro

Directora

Oficina de Planificación e Ingeniería

Varera J. acara too



CERTIFICACIÓN COMPAÑÍAS DE SERVICIO ELÉCTRICO

Yo, **VANESSA I. ACARÓN TORO**, Directora de la Oficina de Planificación e Ingeniería de la Comisión de Energía de Puerto Rico,

CERTIFICO: Que, luego de evaluar la Solicitud de Certificación emitida por Punta Lima Wind Farm, LLC para ofrecer la prestación del servicio de generación de energía por medio de fuentes de energía renovable para venderla a la Autoridad de Energía Eléctrica, a tenor con un contrato de compraventa de energía, según las disposiciones establecidas por el Reglamento Núm. 8701, Enmienda al Reglamento Núm. 8618, sobre Certificaciones, Cargos Anuales y Planes Operacionales de Compañías de Servicio Eléctrico en Puerto Rico, la misma está completa y cumple con los requisitos establecidos por la Comisión de Energía de Puerto Rico para ofrecer los servicios antes mencionados.

Certificación Número: CEPR-CT-2016-0007



EN TESTIMONIO DE LO CUAL, firmo el presente y hago estampar el sello de la Comisión de Energía de Puerto Rico, en la ciudad de San Juan, Puerto Rico, hoy, 17 de mayo de 2016.

Carcinal acarollos

VANESSA I. ACARÓN TORO

Directora

Oficina de Planificación e Ingeniería

Exhibit G

ASSET PURCHASE AND SALE AGREEMENT

This ASSET PURCHASE AND SALE AGREEMENT (this "Agreement") between Puerto Rico Electric Power Authority (the "Buyer"), and Punta Lima Wind Farm, LLC (the "Seller"), is effective as of [•] (the "Effective Date"). Buyer and Seller are referred to individually as a "Party" and collectively as the "Parties."

RECITAL

WHEREAS, Seller is the owner of a 115 kV electric power service transmission line of approximately three point five (3.5) miles of length (the "115 kV Line") running from SELLER's Original Complex (as defined in the PPOA (defined below)) to Buyer's Daguao Transmission Center in Naguabo, Puerto Rico, crossing State Road PR-53 and utilizing portions of Buyer's right-of-way along State Road PR-53 and other rights-of-way; and

WHEREAS, pursuant to the PPOA, Seller desires to sell, assign, transfer and otherwise convey all of its rights title and interest in and to, and Buyer desires to purchase and assume, all of the Assets and the Buyer Liabilities (each as defined below), subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the benefits to be derived by each Party hereunder, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

AGREEMENT

In consideration of the above recitals and the promises set forth in this Agreement, the Parties agree as follows:

ARTICLE I: DEFINITIONS

"115 kV Line" has the meaning set forth in the recital.

"Affiliate" means, with respect to a Person, each such other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person, where, for purposes of this definition, "controls" (including "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or otherwise.

"Agreement" has the meaning set forth in the preamble.

"Assets" has the meaning set forth in Section 2.1.

"Assumption Order Date" has the meaning set forth in the PPOA.

"Business Day" has the meaning set forth in Section 7.11.

"Buyer" has the meaning set forth in the preamble.

"Buyer Liabilities" are the following: (i) all Losses to the extent arising out of or attributable to the ownership, use, maintenance or operation of any of the Assets after Closing, and (ii) any and all Environmental Liabilities to the extent attributable to actions, facts or circumstances first occurring after Closing; provided that the Buyer Liabilities shall not include any Loss resulting from any breach or nonfulfillment of any representation, warranty, covenant or agreement on the part of Seller hereunder for which Seller is obligated to indemnify Buyer pursuant to Section 6.2.

"Claim" or "Claims" means liabilities, judgments, losses, costs (including court costs, reasonable attorneys' fees and costs of investigation), fines, penalties, expenses, damages, claims, suits and demands, of whatsoever kind or nature.

"Closing" has the meaning set forth in Section 2.3.

"Commercial Operation Date" has the meaning set forth in the PPOA.

"Deed of Conveyance" has the meaning set forth in Section 2.4.

"Effective Date" has the meaning set forth in the preamble.

"Encumbrance" or "Encumbrances" means any charge, claim, condition, equitable interest, lien, option, pledge, security interest, mortgage, any conditional sale or title retention agreement, any lease or sublease in the nature thereof, or the filing of or agreement to give any financing statement under the Uniform Commercial Code of any jurisdiction.

"Environmental Laws" shall mean all Laws relating to (i) the control or regulation of waste, pollutant, contaminant, toxic substance, special waste or hazardous substance, or protection of the air, water or land or other natural resources, (ii) solid, gaseous or liquid waste generation, handling, treatment, storage, disposal or transportation, and (iii) exposure to hazardous, toxic or other substances alleged to be harmful. "Environmental Laws" shall include the Clean Air Act, the Clean Water Act, the Resource Conservation Recovery Act, the Superfund Amendments and Reauthorization Act, the Toxic Substances Control Act, the Safe Drinking Water Act, and CERCLA and shall also include all state, local and municipal Laws dealing with the subject matter of the above listed federal statutes or promulgated by any governmental or quasi-governmental agency thereunder.

"Environmental Liabilities" shall mean any and all Losses (including costs of remediation) incurred or imposed (i) pursuant to any order, notice of responsibility, directive (including requirements embodied in Environmental Laws), injunction, judgment or similar act (including settlements) by any Governmental Authority to the extent arising out of or under Environmental Laws (excluding any claim or cause of action of Buyer or any Affiliate of Buyer) or (ii) pursuant to any Claim or cause of action by a Governmental Authority or other third Person (other than Buyer and any Affiliate of Buyer) for property damage, damage to natural resources, remediation or response costs to the extent arising out of or attributable to any violation of, or any remedial obligation under, any Environmental Law.

"Governmental Authority" means any court, tribunal or governmental or quasi-governmental body, regulatory body, agency, authority, office, department, commission, board, bureau, public corporation, municipality or instrumentality, in each case at any federal, state, Commonwealth of Puerto Rico, county, municipal, or local level, having jurisdiction over a Party, the Facility (as defined in the PPOA) or the Site (as defined in the PPOA).

"Interconnection Facilities Construction Agreement" means that certain Agreement between Seller and Buyer dated November 18, 2011 (as amended by Amendment No. 1 dated December 18, 2012).

"Law" means any federal, state, local or foreign constitution, law, code, plan, statute, rule, regulation, ordinance, order, writ, injunction, ruling, judgment, decree, charge, restriction or permit of any Governmental Authority, each as amended and in effect, now or in the future.

"Liability" means any liability (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due), including any liability for Taxes.

"Loss" or "Losses" shall mean all losses, costs, charges, expenses (including interest and penalties due and payable with respect thereto, and reasonable attorneys' fees and other professional fees and expenses in connection with any Claim, action or proceeding), obligations, Liabilities, settlement payments, awards, judgments, fines, penalties, assessments, deficiencies, demands, Claims, causes of action, actions or proceedings.

"Parties" has the meaning set forth in the preamble.

"Permitted Liens" means Encumbrances for Taxes (limited to ad valorem taxes on the Assets) and other governmental charges and assessments that are not yet due and payable.

"Person" means an individual, partnership, corporation, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, or a government or agency or political subdivision thereof.

"PPOA" means that certain Amended and Restated Power Purchase and Operating Agreement by and between Seller and Buyer dated the Effective Date, as it may be amended.

"PREPA Easements" means those certain easements constituted by Buyer in connection with the 115 kV Line, as further specified in the Interconnection Facilities Construction Agreement.

"Purchase Price" means

"Records" has the meaning set forth in Section 2.1(d).

"Repair Work" has the meaning set forth in Section 5.4.

"Rights of Use" means the easements, licenses, franchises, rights to use, approvals, authorizations or consents required by applicable Laws for Seller to own, operate, maintain and repair the 115 kV Line and appurtenant facilities, including the PREPA Easements and the ROW Easements.

"ROW Easements" means those certain easements acquired through the Master Utility Agreement dated November 18, 2011 between the Buyer, the Department of Transportation and Public Works, and the Puerto Rico Highway and Transportation Authority, as further specified in the Interconnection Facilities Construction Agreement.

"Seller" has the meaning set forth in the preamble.

"Seller Indemnified Persons" has the meaning set forth in Section 6.1.

"Seller's Knowledge" shall mean and refer only to actual knowledge of [INSERT], after reasonable inquiry, and shall not be construed to refer to the knowledge of any other partner, officer, director, agent, employee or representative of Seller, or any affiliate of such Seller, or to impose upon such [INSERT NAME OF PERSON] any individual personal liability.

"Seller Liabilities" are the following: (i) all Losses to the extent arising out of or attributable to the ownership, use, maintenance or operation of any of the Assets prior to Closing, and (ii) any and all Environmental Liabilities to the extent attributable to actions, facts or circumstances first occurring prior to Closing.

"Tax" or "Taxes" means any shall mean any and all taxes, fees or other charges of any nature, excluding income taxes and repatriation (tollgate) taxes, that are imposed or assessed on or as a result of the ownership or operations of the Assets by a Governmental Authority responsible for implementing tax laws, rules, regulations or orders.

"Tax Return" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule, attachment or amendment.

"Third-Party Report" has the meaning set forth in Section 2.4(b)(vii).

"Transaction Documents" means this Agreement and all documents and agreements to be entered into by one or more of the Parties in connection with the transactions contemplated by this Agreement.

ARTICLE II: Sale Transaction

- 2.1 <u>Purchase and Sale of Assets.</u> On the terms and subject to the conditions of this Agreement, Buyer agrees to purchase from Seller, and Seller agrees to sell, transfer, convey and deliver to Buyer, the Assets free and clear of all Encumbrances except Permitted Liens at the Closing in exchange for the Purchase Price. The "Assets" shall include the following:
 - (a) the 115 kV Line;
 - (b) all of the materials, pole foundations, guy anchors and guy wires necessary for the operation and maintenance of the 115 kV Line, and any and all warranties relating thereto;
 - (c) the Rights of Use;

- (d) any documents, records, books, reports, title information, blueprints, data, plans, equipment, materials and/or other technical or environmental information related to or developed in connection with the Assets (the "Records"); and
- (e) any right, title and interest in any other assets associated with the ownership or operation of the 115 kV Line.
- 2.2 <u>Consideration</u>. At or prior to the Closing, Buyer shall wire transfer the Purchase Price in immediately available funds to the bank account identified in a written notice from Seller no later than five (5) Business Days prior to the Closing.
- 2.3 <u>Closing</u>. The closing of the transactions contemplated by this Agreement will occur no later than the date that is thirty (30) days after the Assumption Order Date through the transmission of electronic signatures and execution of the documents described in Section 2.4 by each Party (the "Closing"); provided that the Deed of Conveyance referenced in Section 2.4(a) shall be executed in person as required pursuant to applicable notarial requirements.

2.4 <u>Deliveries at the Closing</u>. At the Closing:

(a) the Parties shall execute a Deed of Conveyance, whereby Seller shall convey to Buyer all of Buyer's right, title and interest in the PREPA Easements and ROW Easements;

(b) the Seller shall deliver to Buyer:

- (i) a certificate of good standing, existence, or similar document with respect to Seller issued by the appropriate Governmental Authority of the jurisdiction of its formation as of a date not more than thirty (30) days prior to the Effective Date:
- (ii) a certificate of the Secretary of Seller dated the Effective Date: (A) setting forth the resolutions of the member of Seller authorizing the execution and delivery by Seller of this Agreement and the consummation by Seller of the transactions contemplated hereby, and certifying such resolutions were duly adopted and have not been rescinded or amended as of the Effective Date, and (B) attesting as to the incumbency and signature of each officer of Seller who will execute this Agreement;
- (iii) an executed counterpart to the [assignment and assumption agreement and bill of sale]¹, in the form attached hereto as <u>Exhibit A</u> transferring to Buyer all of the Seller's right, title and interest in and to the Assets (except for those Assets comprising real property, which shall be transferred through the Deed of Conveyance), together with possession of the Assets;

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NTD: To be confirmed with PR counsel.

- (iv) [a detailed allocation of the Purchase Price which shall be in the form of a completed Internal Revenue Service Form 8594]²;
 - (v) the Records;
- (vi) all documentation, required by any regulatory and/or licensing agencies responsible for overseeing the operations of the Assets, to transfer the Assets from Seller to Buyer;
- (vii) evidence, to the reasonable satisfaction of Buyer, that all Encumbrances on the Assets (other than the Permitted Liens) have been released and are no longer in effect and the Assets are free and clear of all Encumbrances except Permitted Liens; and.
- (viii) a report from a third-party Puerto Rico-licensed engineer, reasonably acceptable to PREPA, providing a description of the condition of the 115 kV Line, including necessary repair works and an estimate of the cost thereof (the "Third-Party Report"), which report shall be rendered at Seller's sole cost and expense.
- (c) the Buyer shall deliver to Seller:
 - (i) if not previously delivered, the Purchase Price;
- (ii) an executed counterpart to the assignment and assumption agreement and bill of sale, in the form attached hereto as Exhibit A;
- (iii) [a detailed allocation of the Purchase Price which shall be in the form of a completed Internal Revenue Service Form 8594]³; and
- (iv) Uniform Commercial Code and search report and title search for the Assets, in each case, dated no earlier than ten (10) days prior to the date of Closing for all jurisdictions in which Uniform Commercial Code financing statements would be filed with respect to the Assets.
- 2.5 <u>Buyer Liabilities</u>. In connection with the purchase by Buyer of the Assets, Buyer shall, from and after the Closing, assume and thereafter pay, perform and discharge all Buyer Liabilities.
- 2.6 <u>Seller Liabilities</u>. In connection with the purchase by Buyer of the Assets, Seller shall retain and thereafter pay, perform and discharge all Seller Liabilities.
- 2.7 <u>Taxes</u>. [Seller and Buyer shall mutually agree at Closing to a proration of ad valorem or other Taxes in respect of the Assets for the Tax year in which Closing occurs based on the most recent real property Tax information available. If such agreed upon amount differs more

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NTD: To be confirmed with PR tax counsel.

NTD: To be confirmed with PR tax counsel.

than twenty percent (20%) from the actual real property Taxes payable for such year, upon request by either Party, the other Party shall pay, or, if already paid by the overpaying Party, reimburse such requesting Party for, the difference between the agreed upon proration amount and the actual calculated prorated share of such Taxes.]⁴

- 2.8 <u>Further Assurances</u>. The Parties agree to (a) furnish upon request to each other such further information, (b) execute, acknowledge and deliver to each other such other documents and (c) do such other acts and things, all as the other Party may reasonably request for the purpose of effectuating the transactions contemplated by this Agreement and the Transaction Documents.
- 2.9 <u>Filing Details</u>. Buyer will charge all payments that it owes under this Agreement to its budget account number [•] and estimates that its costs under this Agreement will not exceed [•]. For the avoidance of doubt, the Parties have set out the expected account number and estimate of costs for informational purposes to satisfy the requirements of the Puerto Rico Controller. This paragraph does not bind the Parties or modify any other provision of this Agreement.

ARTICLE III: Representations and Warranties of Seller

Seller represents and warrants to Buyer that the statements contained in this Article III are correct and complete as of the Effective Date.

- 3.1 <u>Organization, Qualification and Power</u>. Seller is duly organized, validly existing and in good standing under the Laws of Delaware. Seller is duly authorized to conduct business and is in good standing under the Laws of the Commonwealth of Puerto Rico.
- Authorization of Transaction. Seller has the requisite corporate (or similar) power 3.2 and authority necessary to enter into and perform its obligations under this Agreement and the other Transaction Documents to which Seller is a party and to consummate the transactions contemplated hereby and thereby, the execution, delivery and performance of this Agreement and such other Transaction Documents by Seller and the consummation by Seller of the transactions contemplated herein and therein have been duly and validly authorized by all requisite corporate (or similar) action on the part of Seller. This Agreement has been duly and validly executed and delivered by Seller and each other Transaction Document required to be executed and delivered by Seller at the Closing will be duly and validly executed and delivered by Seller. This Agreement and the other Transaction Documents constitute the legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other Law affecting the enforcement of creditors' rights generally and by general principles of equity, regardless of whether such principles are considered in a proceeding at law or in equity. Seller is not required to give any notice to, make any filing with or obtain any consent from any Governmental Authority in connection with the execution and delivery of this Agreement and the other Transaction Documents or the consummation or performance of any of the transactions contemplated hereby and thereby, except as would not, individually or in the

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NTD: Pending information on property tax assessments, if any.

aggregate, reasonably be expected to be material to the Assets and Seller Liabilities, taken as a whole, or impair, prevent, or materially delay the ability of Seller to consummate the Closing.

- 3.3 <u>Taxes</u>. Prior to the execution of this Agreement, Seller shall have submitted the following documents or certifications to Buyer:
- (a) Certification by Seller, which indicates that it has filed its Income Tax Returns during the five (5) previous years, if required, and that it does not owe taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan in full compliance with its terms.
- (b) An Income Tax Return Filing Certificate, issued by the Treasury Department of Puerto Rico, Area of Internal Revenues, assuring that Seller has filed his Income Tax Return for the last five (5) years, if required. To acquire such Certificate, Seller will use the Request for Copy and/or Certification of Income Tax Returns Form issued by the Treasury Department of Puerto Rico. In addition, Seller shall submit a Certification of Debt issued by the Area of Internal Revenues.
- (c) Certification issued by the Municipal Revenues Collection Center, assuring that Seller does not owe any tax to such governmental agency. To acquire such Certificate, Seller Will use the form issued by the Municipal Revenues Collection Center.
- (d) Certificate issued by the Department of Labor and Human Resources of Puerto Rico assuring that Seller has paid to the Department of Labor and Human Resources of Puerto Rico its employees' contributions, in accordance with the Puerto Rico Employment Security Act (unemployment, temporary disability or sickness or social security for chauffeurs); or is paying such contributions by an installment plan in full compliance with its terms. To acquire such Certificate, Seller will use the form issued by the Department of Labor and Human Resources of Puerto Rico.
- (e) A sworn statement that neither Seller nor any of its partners or owners have been convicted, nor have they plead guilty of any felony or misdemeanor involving fraud, misuse or illegal appropriation of public funds as enumerated in Article 3 of Public Law number 428 of September 22, 2004, as amended.
- 3.4 <u>Compliance with Laws and Rights of Use</u>. Seller is and the Assets are in compliance, in all material respects, with all applicable Laws. Except where the failure to do so would not, singularly or in the aggregate, have a material adverse effect on the ownership or operation of the Assets, to Seller's Knowledge, Seller holds all Rights of Use of and from all Governmental Authorities or third parties necessary for the ownership and operation of the Assets, and each such Right of Use is valid and in full force and effect. Seller has not received any written notice from any Governmental Authority or third party that it is in material default under or breach of, and no condition exists that with notice or lapse of time or both could constitute a default or could give rise to a right of termination, cancellation or acceleration under, any material Right of Use.
- 3.5 <u>Litigation</u>. There is no pending or threatened litigation, adverse claim or action of any kind or nature pending against the Seller.

- 3.6 <u>Consent or Approval</u>. There is no requirement applicable to Seller to obtain the consent or approval of any Person to assign or convey any portion of the Assets as a condition to the consummation of the transactions contemplated hereunder that has not been obtained prior to the Closing.
- 3.7 Ownership and Condition of the Assets. Seller has valid title, rights or interest in or to the Assets free and clear of all Encumbrances other than Permitted Liens. Except where the failure to do so would not, singularly or in the aggregate, have a material adverse effect on the ownership or operation of the Assets, to Seller's Knowledge, Seller possesses all Rights of Use or other rights necessary for the ownership or operation of the Assets. Seller has made available to Buyer true and correct copies of the available Records that relate to the ownership, operation and maintenance of the Assets. The condition of the 115 kV Line is as described in the Third-Party Report. Upon completion of the Repair Work, the 115 kV Line shall be in a condition of good operation and repair (subject to normal wear and tear consistent with its age) and, in all material respects, sufficient for PREPA to operate and maintain the 115 kV Line as part of PREPA's Interconnection Facilities (as defined in the PPOA) and interconnect at the Interconnection Point (as defined in the PPOA) with SELLER's Complex (as defined in the PPOA).
- 3.8 Environmental Matters. Except where the failure to do so would not, singularly or in the aggregate, have a material adverse effect on the ownership or operation of the Assets, to Seller's Knowledge, Seller (a) has complied, and is in compliance, with all Environmental Laws affecting the Assets, and (b) has no Liability, whether contingent or actual, under any Environmental Laws for noncompliance related to the Assets. To the Seller's Knowledge there is no action, suit, proceeding, hearing, investigation, charge, complaint, claim, demand or notice has been filed or commenced or threatened against Seller alleging any failure to comply with any applicable Environmental Law related to the Assets. To the Seller's Knowledge there are no facts, events, circumstances or occurrences that reasonably would be anticipated to give rise to, or serve as a basis for, any such material action, suit proceeding, hearing, investigation, charge, complaint, claim, demand or notice.
- 3.9 <u>Contractor Certification Requirement</u>. Seller represents and warrants that the information included in the Contractor Certification Requirement, as included in Appendix C of the Contract Submission Questionnaire required by the Financial Oversight & Management Board for Puerto Rico, is complete, accurate and correct, and that any misrepresentation, inaccuracy of falseness in such Contractor Certification Requirement will render this Agreement null and void and Seller will have the obligation to reimburse immediately to PREPA any amounts, payments or benefits received from PREPA hereunder.

ARTICLE IV: Representations and Warranties of Buyer

- 4.1 <u>Representations and Warranties of Buyer</u>. Buyer represents and warrants to Seller that the statements contained in this Article IV are correct and complete as of the Effective Date.
- 4.2 <u>Organization of Buyer</u>. Buyer is a public corporation duly organized and validly existing under the laws of the Commonwealth of Puerto Rico. Buyer is duly authorized to conduct business and is in good standing under the Laws of each jurisdiction where such qualification is required.

4.3 <u>Authorization of Transaction</u>. Buyer has the requisite corporate (or similar) power and authority necessary to enter into and perform its obligations under this Agreement and the other Transaction Documents to which Buyer is a party and to consummate the transactions contemplated hereby and thereby, and the execution, delivery and performance of this Agreement and such other Transaction Documents by Buyer and the consummation by Buyer of the transactions contemplated herein and therein have been duly and validly authorized by all requisite corporate (or similar) action on the part of Buyer. This Agreement has been duly and validly executed and delivered by Buyer and each other Transaction Document required to be executed and delivered by Buyer will be duly and validly executed and delivered by Buyer before or on the Closing. This Agreement and the other Transaction Documents constitute the legal, valid and binding obligations of Buyer, enforceable against Buyer in accordance with their respective terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other Law affecting the enforcement of creditors' rights generally and by general principles of equity, regardless of whether such principles are considered in a proceeding at law or in equity. Buyer is not required to give any notice to, make any filing with or obtain any consent from any Governmental Authority in connection with the execution and delivery of this Agreement and the other Transaction Documents or the consummation or performance of any of the transactions contemplated hereby and thereby, except as would not, individually or in the aggregate, reasonably be expected to be material to the Assets and Buyer Liabilities, taken as a whole, or impair, prevent, or materially delay the ability of Buyer to consummate the Closing.

ARTICLE V: Covenants of Buyer and Seller

- 5.1 <u>Confidentiality</u>. The Parties shall be bound by the confidentiality obligations pursuant to the PPOA.
- 5.2 Remedies. The Parties acknowledge and agree that, in the event of any breach of the covenants and provisions of this Agreement, the non-breaching Party would be irreparably and immediately harmed and could not be made whole by monetary damages alone. Accordingly, it is agreed that, in addition to any other remedy to which it may be entitled at law or in equity, the non-breaching Party shall be entitled to an injunction or injunctions (without the posting of any bond and without proof of actual damages) to prevent breaches or threatened breaches of this Article V and/or to compel specific performance of the terms of this Agreement, and that the breaching Party will not oppose the granting of such relief. The breaching Party also agrees to reimburse the non-breaching Party for all costs and expenses, including reasonable attorneys' fees, incurred by the non-breaching Party in attempting to enforce the breaching Party's obligations under this Article V.
- 5.3 <u>Unwinding of the Transaction</u>. Notwithstanding anything to the contrary herein, if Buyer terminates the PPOA due to Seller's failure to achieve the Commercial Operation Date as per Section 16.1(e) thereof, then the transactions described in this Agreement shall be unwound and, no later than five (5) Business Days following the date that the PPOA is terminated, Buyer shall transfer, convey and deliver all of the Assets to Seller, and Seller shall accept transfer, conveyance and delivery of such Assets, subject to the execution of the corresponding conveyance documents, including any required notarial instruments, and Seller will reimburse to Buyer the full

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amount of the Purchase Price plus interest, calculated at an annual rate of eight and a half percent (8.5%), accruing on such amount from the date of Closing to the date that the PPOA is terminated.

5.4 <u>Repair Work.</u> Notwithstanding anything to the contrary herein, from Closing and through the Commercial Operation Date, Seller shall have the right to access the site of the 115 kV Line in order to conduct any necessary repair work on the 115 kV Line identified in the Third-Party Report or otherwise required in order for the 115 kV Line to be in the condition described in the last sentence of Section 3.7 on the Commercial Operation Date (the "<u>Repair Work</u>"). Seller shall diligently undertake the Repair Work, at its sole cost, consistent with the timetables provided in the PPOA and in compliance with Prudent Electrical Practices and Prudent Utility Practices (as such terms are defined in the PPOA) and Appendix C (Interconnection) to the PPOA. Unless the PPOA is terminated, Seller shall complete the Repair Work prior to the Commercial Operation Date.

ARTICLE VI: Indemnification

- 6.1 <u>Indemnification by Buyer</u>. From and after the Closing, Buyer shall assume, pay, perform, fulfill and discharge all Buyer Liabilities and shall indemnify and hold harmless Seller, Seller's Affiliates, each of Seller's and its Affiliates' respective past, present and future directors, officers, employees, consultants and agents, and each of the heirs, executors, successors and permitted assigns of any of the foregoing (collectively, the "Seller Indemnified Persons") from and against (i) any and all Buyer Liabilities incurred by or asserted against any of the Seller Indemnified Persons and (ii) any Loss suffered by a Seller Indemnified Person and resulting from any breach or nonfulfillment of any representation, warranty, covenant or agreement on the part of Buyer which is expressly set forth in this Agreement.
- 6.2 <u>Indemnification by Seller</u>. From and after the Closing, Seller shall assume, pay, perform, fulfill and discharge all Seller Liabilities and shall indemnify and hold harmless Buyer, Buyer's Affiliates, each of Buyer's and its Affiliates' respective past, present and future directors, officers, employees, consultants and agents, and each of the heirs, executors, successors and permitted assigns of any of the foregoing (collectively, the "Buyer Indemnified Persons") from and against (i) any and all Seller Liabilities incurred by or asserted against any of the Buyer Indemnified Persons and (ii) any Loss suffered by a Buyer Indemnified Person and resulting from any breach or nonfulfillment of any representation, warranty, covenant or agreement on the part of Seller which is expressly set forth in this Agreement unless such Loss was caused by any action or omission of any of the Buyer Indemnified Persons.
- 6.3 <u>Surviving Obligations</u>. This Article VI shall survive the Closing or the earlier termination of this Agreement.

ARTICLE VII: Miscellaneous

- 7.1 <u>No Third-Party Beneficiaries</u>. This Agreement will not confer any rights or remedies upon any Person (including without limitation employees of Seller) other than the Parties and their respective successors and permitted assigns.
- 7.2 <u>Entire Agreement</u>. This Agreement (including the documents referred to in this Agreement) and the Transaction Documents constitute the entire agreement between the Parties

and supersede any prior understandings, agreements or representations by or between the Parties, written or oral, to the extent they related in any way to the subject matter of this Agreement.

- Succession and Assignment. This Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party may assign either this Agreement or any of its rights, interests or obligations under this Agreement without the prior written approval of the other Party. Any assignment made without such consent shall be null and void.
- 7.4 Counterparts. This Agreement may be executed in multiple counterparts, and all executed counterparts taken together shall constitute one and the same Agreement. Signature pages from separate counterparts may be sent by electronic means (such as an email exchange of .pdf, .tif or similar files) and may be combined to form a single counterpart.
- Headings. The section headings contained in this Agreement are for convenience only and will not affect in any way the meaning or interpretation of this Agreement.
- Notices. All notices, requests, demands, Claims and other communications under this Agreement will be in writing. Any notice, request, demand, claim or other communication under this Agreement will be deemed duly given two (2) Business Days after it is sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the intended recipient as set forth below:

If to Seller: Punta Lima Wind Farm, LLC	With a copy, which shall not constitute notice, to:
[] Attention: []	McConnell Valdes, LLC Attention: Carlos J. Fernández Lugo 270 Muñoz Rivera Avenue, Suite 900 San Juan, Puerto Rico 00918 email: cfl@mcvpr.com
If to Buyer:	With a copy to:
Puerto Rico Electric Power Authority 1110 Ponce de Leon Avenue Santurce, Puerto Rico Attention: Director of Planning and Environmental	Puerto Rico Electric Power Authority G.P.O. Box 364267 San Juan, Puerto Rico 00936-4267 Attention: Director of Planning and Environmental

Any Party may send any notice, request, demand, claim or other communication to the intended recipient at the address set forth above using any other means (including personal delivery, expedited courier, messenger service, ordinary mail or electronic mail), but no such notice, request, demand, claim or other communication will be deemed to have been duly given unless and until it actually is received by the intended recipient. Any Party may change the address

to which notices, requests, demands, Claims and other communications hereunder are to be delivered by giving all other Parties notice in the manner set forth in this Agreement.

- 7.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico and, to the extent applicable, the laws of the United States of America, excluding any choice-of-law provisions that would require application of the laws of a different jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods (the Vienna Sales Convention 1980) and the Convention on the Limitation Period in the International Sale of Goods shall not apply to this Agreement or to the performance thereof or to any aspect of any dispute arising therefrom.
- 7.8 Amendments and Waivers. No amendment of any provision of this Agreement will be valid unless the same is in writing and signed by Buyer and Seller. No waiver by any Party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, will be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant under this Agreement or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.
- 7.9 <u>Severability</u>. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions of this Agreement or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.
- 7.10 <u>Expenses</u>. Buyer and Seller will bear its own costs and expenses (including legal fees and expenses) incurred in connection with this Agreement and the contemplated transactions.
- 7.11 <u>Construction</u>. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. The term "including" and its derivatives mean "including, but not limited to" and corresponding derivative expressions. Unless otherwise expressly provided, all periods for delivery or review and the like shall be determined on a "calendar" day basis. If any date for performance, approval, delivery or Closing falls on a day which is not a Business Day, the time therefor shall be extended to the next Business Day. The term "Business Day" shall mean Monday through Friday except legal holidays on which commercial banks located in San Juan, Puerto Rico are required or authorized to be closed.
- 7.12 <u>Incorporation of Exhibits and Schedules</u>. The Exhibits and Schedules identified in this Agreement are incorporated by reference and are made a part of this Agreement.

[THE REMAINDER OF THIS PAGE IS BLANK. SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the Parties hereto have agreed to execute this Agreement in San Juan, Puerto Rico, as of the date first written above.

SELLER:	
PUNTA LIMA WIND FARM, LLC	
By:	
Name:	
Title:	
Tax ID Number:	
BUYER:	
PUERTO RICO ELECTRIC POWER AUTHOR	ITY
By:	
Name:	
Title:	
Tax ID Number:	

Exhibit A

[Assignment and Assumption Agreement and Bill of Sale]

[Form to be generated by PR Counsel]

Exhibit H

MINIMUM TECHNICAL REQUIREMENTS FOR INTERCONNECTION OF WIND TURBINE GENERATION (WTG) PROJECTS

The Seller shall comply with the following minimum technical requirements:

1. VOLTAGE RIDE-THROUGH:

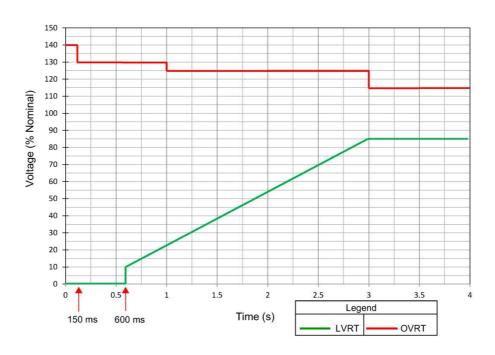


Figure 1 Voltage Ride-Through Requirements

- a. PREPA's Low Voltage Ride-Through (LVRT) Requirements:
 - From Figure 1, PREPA requires all generation to remain online and be able to ride-through three phase and single phase faults down to 0.0 per-unit (measured at the point of interconnection), for up to 600 ms.
 - ii. All generation remains online and operating during and after normally cleared faults on the point of interconnection.

- iii. All generation remains online and operating during backup-cleared faults on the point of interconnection.
- iv. During the low voltage fault conditions, the wind generation facility shall operate on reactive current injection mode. This mode of operation shall be implemented with a reactive current droop characteristic which shall have an adjustable slope from 1 to 5%. A dead band of 15 % is required.
- b. PREPA's Overvoltage Ride-Through (OVRT) Requirements:
 - i. PREPA requires all generation to remain online and able to ridethrough symmetrical and asymmetrical overvoltage conditions specified by the following values illustrated in Figure 1:

Overvoltage (pu)	Minimum time to remain online
1.4 – 1.3	150 ms
1.3 – 1.25	1 s
1.25 – 1.15	3 s
1.15 or lower	indefinitely

2. VOLTAGE REGULATION SYSTEM (VRS)

Constant voltage control shall be required. Wind Turbine Generation (WTG) technologies in combination with Static Var Controls, such as Static Var Compensators (SVCs) and STATCOMs are acceptable options to comply with this requirement. A complete and detailed description of the VRS control strategy shall be submitted for evaluation.

- a) Wind Generation Facilities (WGF) must have a continuously-variable, continuously-acting, closed loop control VRS; i.e. an equivalent to the Automatic Voltage Regulator in conventional machines.
- b) The VRS set-point shall be adjustable between 95% to 105% of rated voltage at the Interconnection Facility (connection to PREPA TC or sectionalizer). The VRS set-point must also be adjustable by PREPA's Energy Control Center via SCADA.
- c) The voltage regulation at the Interconnection Facility (connection to PREPA TC or sectionalizer) shall be based in direct measurement of the Interconnection Facility Interconnection Facility (connection to PREPA TC or sectionalizer) voltage. Line drop compensation or similar strategies shall not be permitted.
- d) The VRS shall operate only in a voltage set point control mode. Controllers such as Power Factor or constant VAR are not permitted.
- e) The VRS controller regulation strategy shall be based on proportional plus integral (PI) control actions with parallel reactive droop compensation. The VRS Droop shall be adjustable from 0 to 10%.
- f) At zero percent (0%) droop, the VRS shall achieve a steady-state voltage regulation accuracy of +/- 0.5% of the controlled voltage at the Interconnection Facility (connection to PREPA TC or sectionalizer).
- g) The VRS shall be calibrated such that a change in reactive power will achieve 95% of its final value no later than 1 second following a step change in voltage. The change in reactive power should not cause excessive voltage excursions or overshoot. If a voltage overshoot is generated during a change in reactive power its value shall be less than 1%.
- h) The generator facility VRS must be in service at any time the WGF is electrically connected to the grid regardless of MW output from the WGF.
- i) The VRS dead band shall not exceed 0.1%.

3. REACTIVE POWER CAPABILITY AND MINIMUM POWER FACTOR REQUIREMENTS

The total power factor range shall be from 0.85 lagging to 0.85 leading at the Interconnection Facility (connection to PREPA TC or sectionalizer). The reactive power requirements are necessary to provide support to the system operation based on the voltage profile and reactive power needs. The intent is that a WGF can ramp the reactive power from 0.85 lagging to 0.85 leading in a smooth continuous fashion at the Interconnection Facility (connection to PREPA TC or sectionalizer).

The +/- 0.85 power factor range should be dynamic and continuous at the point of interconnection Interconnection Facility (connection to PREPA TC or sectionalizer). This means that the WGF has to be able to respond to power system voltage fluctuations by continuously varying the reactive output of the plant within the specified limits. The previously established power factor dynamic range could be expanded if studies indicate that additional continuous, dynamic compensation is required. It is required that the WGF reactive capability meets +/- 0.85 Power Factor (PF) range based on the WGF Aggregated MW Output, which is the maximum MVAr capability corresponding to maximum MW Output. It is understood that positive (+) PF is where the WGF is producing MVAr and negative (-) PF is where the WGF is absorbing MVAr.

This requirement of MVAr capability at maximum output shall be sustained throughout the complete range of operation of the WGF as established by Figure 2. The MVAr capability shall also be sustained throughout the complete Interconnection Facility (connection to PREPA TC or sectionalizer) voltage regulation range (95% to 105% of rated voltage at the Interconnection Facility).

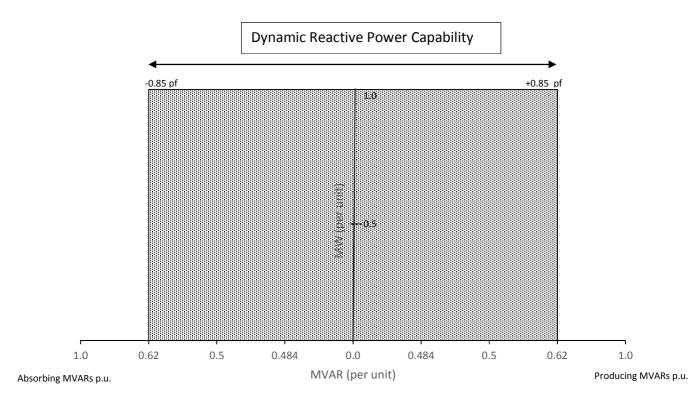


Figure 2 Reactive Power Capability Curve

4. SHORT CIRCUIT RATIO (SCR) REQUIREMENTS:

Short Circuit Ratio values (System Short Circuit MVA at POI/WGF MVA Capacity) under 5 shall not be permitted. The Seller shall be responsible for the installation of additional equipment, such as synchronous condensers, and controls necessary to comply with PREPA's minimum short circuit requirements.

5. Frequency Ride Through (FRT):

• 57.5 - 61.5 Hz No tripping (continuous)

• 61.5 - 62.5 Hz 30 sec • 56.5 - 57.5 Hz 10 sec

• < 56.5 or > 62.5 Hz Instantaneous trip

6. Frequency Response/Regulation:

WTG facility shall provide an immediate real power primary frequency response, proportional to frequency deviations from scheduled frequency, similar to governor response. The rate of real power response to frequency deviations shall be similar to or more responsive than the droop characteristic of 3-5% range used by conventional generators. WTG facility shall have controls that provide both for down-regulation and upregulation. Wind turbine technologies, in combination with energy storage systems such as, but not limited to battery energy storage systems (BESS), and flywheels are acceptable options to comply with PREPA's frequency response and regulation requirements.

The WTG facility response shall be proportional to the frequency deviation, based on the specified 3-5% range droop characteristic. The droop shall be configurable from 3% to 5% in steps of 0.5% (3.0%, 3.5%, 4.0%, 4.5%, 5.0%). The frequency response dead band shall not exceed 0.02%. For large frequency deviations (for example in excess of 0.3 Hz), the WGF shall provide an immediate real power primary frequency response of at least 10% of the maximum AC active power capacity (established in the contract). The time response (full 10% frequency response) shall be less than 1 second. Frequency response shall not be limited by, and shall be decoupled from, the ramp rate control. The frequency response of the facility shall be continuously in operation, even during ramp rate events. After the two decoupled functions are added together, the facility shall be able to simultaneously comply with both requirements.

If energy storage systems are utilized to comply with the frequency regulation requirements, and during a disturbance the system frequency stays below 59.7 Hz, the facility frequency response shall be maintained for at least 9 minutes. After the ninth minute the real power primary frequency response shall not decrease at a ramp rate higher than 10% of the maximum AC active power capacity per minute. The energy storage systems utilized to comply with the frequency regulation requirement shall be designed based on a storage capacity equivalent to at least 9.5 minutes of the 10 % AC contracted capacity measured at the Interconnection Facility (connection to PREPA TC or sectionalizer) for downward frequency events, and a similar amount for upward frequency events. This represents an equivalent of 9 minutes full participation, plus one minute ramp down complying with the ramp rate requirement. This energy will be used on a continuous basis for regulation against frequency deviations. During

periods of time were the energy storage system utilized to comply with the frequency regulation requirement is completely charged (cannot absorb more power), the WTGs inverters will assume the responsibility of the upward frequency events. If the energy available for frequency regulation is drained, the function shall be restored in a time period less than 10 minutes and with at least 95% of the energy capacity restored. The energy charging process shall not affect the ramp rate control requirement or the frequency regulation of the grid.

The operational range of the frequency response and regulation system shall be from 10% to 110% of the maximum AC active power capacity (established in the contract). The WGF power output at the POI shall not exceed the maximum AC active power (established in the contract) except to comply with the frequency response requirement.

7. RAMP RATE CONTROL:

Ramp Rate Control is required to smoothly transition from one output level to another. The WTG facility shall be able to control the rate of change of power output during some circumstances, including but not limited to: (1) rate of increase of power, (2) rate of decrease of power, (3) rate of increase of power when a curtailment of power output is released; and (4) rate of decrease in power when curtailment limit is engaged. A 10 % per minute (0.1667 % per second) rate (based on AC contracted capacity) limitation shall be enforced. This ramp rate limit applies both to the increase and decrease of power output and is independent of meteorological conditions. The ramp rate control tolerance shall be +10%.

The energy storage system utilized to comply with the ramp rate control requirement shall be designed based on a minimum storage capacity equivalent to 25 minutes of the 30 % AC contracted capacity measured at the Interconnection Facility (connection to PREPA TC or sectionalizer). The minimum nominal power output capacity of the energy storage system utilized to comply with the ramp rate control requirement shall be 30% of AC contracted capacity measured at Interconnection Facility (connection to PREPA TC or sectionalizer); and for at least one (1) minute, a minimum effective power output capacity of 45% of AC contracted capacity measured at the Interconnection Facility (connection to PREPA TC or sectionalizer). The transition from effective power output capacity to nominal power output capacity shall not exceed the ramp rate requirement of 10% per minute.

The Frequency Response/Regulation and Ramp Rate Control functions shall be decoupled, continuously in operation and the facility shall be able to comply simultaneously with both requirements, while the wind generation facility is generating and injecting power to the grid. This means that the energy storage system shall include, as a minimum: 10% of the contracted capacity for Frequency Response/Regulation for at least 9.5 minutes (see section 6 for details) and 30% of contracted capacity for Ramp Rate Control for at least 25 minutes. The energy storage system shall also be able to provide a minimum effective capacity of 45% of the contracted capacity for at least one (1) minute at the Interconnection Facility (connection to PREPA TC or sectionalizer). Therefore, the minimum acceptable capacity for the energy storage system is a total combined size of 40% of contracted capacity, and for at least one (1) minute, the system has to have an effective capacity of 45% of the contracted capacity.

Rates of change in active power at the wind generation facility's Interconnection Facility (connection to PREPATC or sectionalizer) in excess of the 10 % per minute rate requirement caused by the loss of generating resource (wind availability) that require more than the minimum storage capacity defined in this MTRs document, will not be considered in noncompliance with the ramp rate control requirement. Therefore, if the ramp is controlled within the limits specified in the requirement, or if the storage system cannot control the ramp rate because it is outside of its minimum required capabilities, but performs as specified, the wind generation facility will not be considered in non-compliance. However, if the energy storage system cannot control the ramp rate as required because does not perform according to at least with the minimum required capabilities specified in this MTRs document, the wind generation facility will be considered in non-compliance.

8. AUTO-CURTAILMENT

The Seller shall implement an auto-curtailment strategy for the WTG Facility to address and compensate deficiencies that can affect the Plant compliance with the MTRs. Some of the conditions to apply auto-curtailment are:

- a. A reduction on the reactive power capacity of the facility (by example due to WTGs out of service, any other condition that can reduce the required reactive power capacity of the facility).
- b. A reduction in the active power capacity of the storage system (by example loss of some of the battery strings, a BESS inverter out of service, any other condition that can reduce the required active power capacity of the energy storage system).
- c. Loss of the Interconnection Facility (connection to PREPA TC or sectionalizer) readings used for the different controls (voltage, frequency, ramp, etc.) of the facility. This can happen due to a malfunction of the equipment used for the Interconnection Facility (connection to PREPA TC or sectionalizer) readings. In this case the curtailment should be to zero.
- d. A fault in the Voltage Control, Frequency Response Control, Ramp Rate Control. In this case the facility should be curtailed to zero output.
- e. Any other condition not mentioned here but that based in the facility design can cause a non-compliance with the MTRs.

A complete and detailed description of the auto-curtailment strategy shall be submitted for evaluation.

9. Power Quality Requirements:

The Seller shall address, in the design of their facilities potential sources and mitigation of power quality degradation prior to interconnection. Design considerations should include applicable standards including, but not limited to IEEE Standards 142, 519, 1100, 1159, and ANSI C84.1, IEC 61400-21, IEC 61000-3-7 and IEC 61000-3-6. Typical forms of power quality degradation include, but are not limited to voltage regulation, voltage unbalance, harmonic distortion, flicker, voltage sags/interruptions and transients.

10. WIND POWER MANAGEMENT

WTG facility shall provide adequate technology (communicating technology and the corresponding control equipment) and implement

wind power management requirements (ramp rate limits, output limits, curtailment) as established by PREPA.

11. Special Protection Schemes:

WTG facility shall provide adequate technology and implement special protection schemes as established by PREPA in coordination with wind power management requirements.

12. WIND GENERATION FORECASTING SYSTEMS

WTG facility shall provide adequate technology to support wind generation forecasting systems (short term and day-ahead) as established by PREPA. Individual turbine's availability shall be included.

13. GENERAL INTERCONNECTION SUBSTATION CONFIGURATION:

An interconnecting generation producer must interconnect at an existing PREPA switchyard, unless otherwise approved by PREPA in the contract. The configuration requirements of the interconnection depend on where the physical interconnection is to occur and the performance of the system with the proposed interconnection. The interconnection must conform, at a minimum, to the original designed configuration of the switchyard. PREPA, at its sole discretion, may consider different configurations due to physical limitations at the site.

14. MODELING AND VALIDATION

Once final adjustments and parameter settings related with commissioning and MTR compliance tests are completed, the Seller shall submit a PSS/e Siemens — PTI Certified mathematical model in the version required by PREPA, and validation report.

When referred to the mathematical model, this shall include but is not limited to wind generator, transformers, collector systems, plant

controllers, control systems and any other equipment necessary to properly model the WTG facility for both steady-state and dynamic simulation modules.

The Seller shall be required to submit user manuals for both the Wind Turbine Generator and WTG Facility models including a complete and detailed description of the voltage regulation system (VRS) and frequency regulation system model implementation. The mathematical models shall be fully compatible with the latest and future versions of PSS/E. It is preferred that the models are PSS/E standard models. In the case that the Seller submits user written models, the Seller shall be required to keep these models current with the future versions of the PSS/E program until such time that PSS/E has implemented a standard model. The Seller shall submit to PREPA an official report from Siemens - PTI that validates and certifies the required mathematical models, including subsequent revisions. The Seller shall be responsible of submitting the official reports and certifications from Siemens - PTI, otherwise the mathematical model shall not be considered valid.

The Seller shall be responsible to submit Siemens – PTI certified PSSE mathematical models of any kind of compensation devices (ie. SVC, STATCOMs, BESS, etc.) used on the WTG facility. It is preferred that the models are standard models provided with PSS/E. In the case that the Seller submits user written models, the WTG facility Seller shall be required to keep these models current with the future versions of the PSS/E program until such time that PSS/E has implemented a standard model. In its final form, the mathematical model shall be able to simulate each of the required control and operational modes available for the compensation device and shall be compatible with the latest and future versions of PSSE. The model shall reflect final adjustments and parameters settings related with the control system commissioning process and shall be incorporated to the PSSE mathematical model and tested accordingly by the WTG facility Seller and PREPA system study groups. The Seller shall be responsible of submitting the official reports and certifications from Siemens - PTI, otherwise the mathematical models shall not be considered valid.

WTG facility Owners that provide user written model(s) shall provide compiled code of the model and are responsible to maintain the user written model compatible with current and new releases of PSS/E until such time a standard model is provided. PREPA must be permitted by the

Owner to make available WGF models if required to external consultants with an NDA in place.

The Seller shall submit a PSS/e model validation report. This report shall demonstrate PSS/e simulation results that show the model MTR compliance and performance, based on final adjustment and parameter settings of MTR and commissioning field tests. The Seller shall be responsible of submitting the official reports and certifications from Siemens — PTI, otherwise the mathematical models shall not be considered valid.

Additional details for the adequate PSS/e modeling and the contents of the PSS/e validation report can be found in PREPA's "Guidelines on PSS/e Mathematical Models" document.

15. Transient Mathematical Model

The Seller shall be responsible of providing a detailed transient model of the WTG facility and to show that it is capable of complying with PREPA's transient Minimum Technical Requirements.

16. DYNAMIC SYSTEM MONITORING EQUIPMENT

The Seller of the Renewable Energy Facility shall be required to provide, install and commission a dynamic system monitoring equipment that conforms to PREPA's specifications.