



Appendix C

Baseload Product

For

2012 Request For Proposals

For

Long-Term, Supply-Side

Baseload Resources

Entergy Services, Inc.

August 28, 2012

The statements contained in this Product Package are made subject to the Reservation of Rights set forth in Appendix D of the RFP and the terms and acknowledgements set forth in the Proposal Submission Agreement.

Term Sheet for Baseload Product

The following Term Sheet describes the primary terms and conditions of a potential Definitive Agreement between ESI, as agent for Buyer, and Seller for the purchase by Buyer of long-term Capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products from a Baseload resource arising out of a proposal submitted by Bidder in this RFP. **Provisions of this Term Sheet in red font offer guidance or instruction to Bidder or indicate that Bidder is required to insert the requested information in the Proposal Submission Template. The information Bidder inserts in the Proposal Submission Template will become a part of Bidder’s proposal, and evaluations of Bidder’s proposal will be performed in part on the basis of such information.** The terms and conditions set forth in this Term Sheet will be binding on Bidder (but not ESI or Buyer) and establish the basis for the negotiation and execution of a Definitive Agreement, with necessary changes to accurately reflect any exceptions set forth in Bidder’s proposal that are accepted by Buyer. Other terms of this RFP may affect the development and formulation of Bidder’s proposal, including, without limitation, numerous provisions in the Main Body. Bidders are responsible for preparing proposals that fully take into account such terms.

Bidder is discouraged from taking exceptions to the terms and conditions set forth in this Term Sheet. If Bidder cannot accept one or more of the terms and conditions set forth in this Term Sheet or wishes to propose any alternate or additional terms or conditions (such as a buy-out option at some point during the term of the Definitive Agreement), Bidder should state in the “Special Considerations” section of this Term Sheet: (i) the terms and conditions to which Bidder takes exception, describing with specificity any terms and conditions that Bidder proposes in substitution therefor and the reason(s) for the exception, and/or (ii) the additional terms and conditions that Bidder proposes as a supplement to the terms and conditions in this Term Sheet or each term or condition that Bidder proposes as modification to the terms and conditions of this Term Sheet. Bidder is advised to refer to Section 2.2 in the Main Body for important information and guidance about Special Considerations.

Buyer and Seller are sometimes hereinafter referred to individually as a “**Party**” and together as the “**Parties.**”

	Proposal Term	Description of Proposal Term
1	Product Description:	The Product described in this Term Sheet is designated as the “ Baseload Product. ” This Product provides for unit-specific Baseload generation capacity of not less than 50 MW and not more than 150 MW of nameplate capacity from a designated Baseload generating resource (such as a CCGT or a solid fuel generating unit) capable of meeting the requirements of this Product and this RFP (the “ Facility ”). In this Term Sheet, “ Baseload ” means 7 x 24, around-the-clock deliveries of capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products from the Facility as described in item 20 below, provided that Buyer’s obligation to accept Baseload deliveries from the Facility will be subject to (i) Reliability Curtailments (as defined in item 21 below) and curtailments for

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		any other circumstance, (ii) Buyer’s rights described in item 21 below and (iii) Buyer’s additional dispatch flexibility rights, if any, offered by Bidder in its proposal. Buyer will be entitled to all capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products from the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof).
2	Buyer:	If Buyer consists of multiple Included Entergy Operating Companies, the liability of each Included Entergy Operating Company for the liabilities of Buyer will be several (but <u>not</u> joint). For purposes of this RFP and the Definitive Agreement, Buyer will be considered an entity entirely separate and distinct from the Entergy transmission organization, and, without limiting the foregoing, the acts and omissions of the Entergy transmission organization shall not be deemed to be acts and omissions of Buyer for any purpose arising out of or relating to this RFP or the Definitive Agreement.
3	Seller:	<i>{insert name of proposed Seller}</i>
4	Facility:	The Facility is <i>{insert name or description of generation resource supplying transaction, including type(s) of fuel}</i> located <i>{describe location}</i> . The Facility has a nameplate capacity of <i>{insert nameplate capacity}</i> MW and consists of <i>{insert description of major equipment of Facility, including all generating units}</i> . <i>{The Facility must be an existing facility. The Facility must be a single resource and cannot be a Baseload energy profile created by a combination of resources (such as a combination of intermittent and dispatchable resources). The Facility may not be demand response, distributed generation, or powered by intermittent technologies (such as wind or solar) or any technology incapable of meeting the requirements of this Product. For additional guidance, please refer to the Main Body.}</i>
5	Energy Delivery Point:	<i>{Describe the Energy Delivery Point at which power from the Facility will be delivered to Buyer. The Energy Delivery Point must be located on the Entergy Transmission System.}</i>
6	Electric Interconnection and Transmission:	Seller will be responsible for the interconnection of the Facility and the transmission or transfer of power dispatched by Buyer to the Energy Delivery Point located on the Entergy Transmission System. Without limiting the foregoing, (i) all costs assigned to the interconnection customer under the interconnection agreement(s) for the Facility and all costs of any

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		<p>transmission service and of any transmission system addition or modification (which could include additions or modifications after¹ the Energy Delivery Point) required for the interconnection of the Facility or the transmission or transfer of power to the Energy Delivery Point (collectively, the “Interconnection/Transmission Costs”) will be borne by Seller and (ii) if the Energy Delivery Point is not the Facility’s point of interconnection, then, to the extent applicable, Seller will be responsible for any basis differential between the Facility’s point of interconnection and the Energy Delivery Point. All proposals involving Facilities that are not directly interconnected to the Energy Transmission System (or otherwise will have an Energy Delivery Point that is after the Facility’s point of interconnection) must provide for the firm transmission or transfer of power to the Energy Delivery Point.</p> <p><i>{Bidder should describe the point at which the Facility is interconnected. In addition, all proposals involving Facilities that are not directly interconnected to the Energy Transmission System (or otherwise will have an Energy Delivery Point that is after the Facility’s point of interconnection) must describe how firm transmission or transfer of power to the Energy Delivery Point will be achieved.}</i></p> <p>Buyer will be responsible for the transmission or transfer after the Energy Delivery Point of any power dispatched by Buyer and delivered to Buyer from the Facility at the Energy Delivery Point. In this regard, Buyer will be responsible for the costs of transmission system additions and/or modifications after the Energy Delivery Point that are required solely to obtain firm transmission or transfer of such power after the Energy Delivery Point (e.g., excluding those required for the interconnection of the Facility or the firm transmission or transfer of power to the Energy Delivery Point), and Bidder should not include any such costs in the pricing offered by Bidder.</p>
7	Delivery Term:	<p><i>{The Delivery Term proposed by Bidder must be at least ten (10) years and may not be for more than the lesser of the remaining commercial life of the Facility or 30 years. Bidder may include in its proposal submission terms on which Buyer would be permitted to extend the Delivery Term or acquire the Facility (or a portion thereof); however, the terms of such proposals will not be taken into consideration in any of the evaluations conducted by ESI in connection with this RFP.}</i></p> <p>[Subject to item 31 below and to the last paragraph of this item 7, the</p>

¹ For purposes of this Term Sheet, “after” (in the context of an interconnection or transmission) means on Buyer’s side of the referenced interconnection, Energy Delivery Point, or other point or location.

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		<p>Delivery Term will commence at the start of hour ending 0100 CPT on <i>{insert month} 1, 2013, {start date must be no earlier than January 1, 2013, and no later than December 31, 2013}</i> and continue until the end of hour ending 2400 CPT on [May 31], <i>{insert year} ({insert number of years} years).</i>]</p> <p>Notwithstanding the foregoing, unless Buyer otherwise elects, the Delivery Term will not commence at the time it would otherwise commence if, at such time, (1) the Facility is experiencing an outage or other limitation, including a Force Majeure (as defined in item 26 below), that reduces the amount of capacity allocated to Buyer actually available at the Energy Delivery Point by ten percent (10%) or more below the Dependable Capacity Allocated to Buyer (as defined in item 10 below) or (2) there exists a default (or event or circumstance that with the passage of time or the giving of notice or both would constitute a default) of Seller under the Definitive Agreement (in either case, a “Delivery Delay Condition”).</p>
8	Pricing:	<p>Pricing for this Product will be composed of (i) a Capacity Rate expressed in \$/kW-year specified in item 11 below; (ii) an Energy Price expressed in \$/MWh specified in item 18 below; and (iii) a Variable O&M Rate expressed in \$/MWh specified in item 19 below. Except to the extent otherwise expressly provided in this Term Sheet, Buyer will not be required to pay any amount to Seller other than the Capacity Payment (equal to the Capacity Rate multiplied by the Dependable Capacity Allocated to Buyer) and the Energy Payment (equal to the sum of the Energy Price and the Variable O&M Rate, multiplied by the energy that is dispatched by Buyer and delivered to Buyer from the Facility at the Energy Delivery Point), so the Capacity Rate, Energy Price and Variable O&M Rate proposed by Bidder should take into account all costs of generating and delivering capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products to the Energy Delivery Point and all other costs that Bidder would like to recover from Buyer, including the costs of cyclical, major and other maintenance, fuel costs (including start-up fuel), any applicable start-up cost, fuel tax or adder and any applicable Other Electric Product or other Balancing Authority service, penalty, settlement or other charge or fee. Without limiting the foregoing, Buyer will not pay to Seller any amounts associated with start-up or ramping of the Facility (or any portion thereof). All payments will be monthly in arrears.</p>
9	Nameplate Capacity Allocated to Buyer:	<p>The nameplate capacity of the Facility allocated to Buyer (expressed in MW) is <i>{insert quantity in MW for each year, subject to a minimum of 50 MW and a maximum of 150 MW in each year; ESI prefers proposals that offer a constant amount of nameplate capacity over the Delivery Term, but</i></p>

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		<p><i>will consider proposals offering amounts that vary by year of the Delivery Term}:</i></p> <table border="1"> <thead> <tr> <th><u>Contract Year</u></th> <th><u>Nameplate Capacity Allocated to Buyer</u></th> </tr> </thead> <tbody> <tr> <td>1</td> <td><i>{insert quantity in MW}</i></td> </tr> <tr> <td>2</td> <td><i>{insert quantity in MW}</i></td> </tr> <tr> <td>3</td> <td><i>{insert quantity in MW}</i></td> </tr> </tbody> </table> <p><i>{repeat for each year of the Delivery Term}. {Variations in annual nameplate capacity are expected to be founded upon nameplate capacity additions or retirements, the expiration of contracts or commitments for capacity and energy from the Facility, and similar events. Variations based on degradation of equipment or changes in ambient conditions are not contemplated by this item 9 and are not permitted.}</i></p> <p><i>{If Bidder proposes to allocate to Buyer less than all of the nameplate capacity of the Facility, please describe in detail how Bidder intends to sub-divide the capacity (e.g., by dedicating to Buyer certain generating units at the Facility), including proposed procedures for metering; tagging/scheduling with the Balancing Authority or similar action (if applicable); and settlement.}</i></p>	<u>Contract Year</u>	<u>Nameplate Capacity Allocated to Buyer</u>	1	<i>{insert quantity in MW}</i>	2	<i>{insert quantity in MW}</i>	3	<i>{insert quantity in MW}</i>
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1	<i>{insert quantity in MW}</i>									
2	<i>{insert quantity in MW}</i>									
3	<i>{insert quantity in MW}</i>									
<p>10</p>	<p>Dependable Capacity:</p>	<p>Capacity Payments and availability calculations will use the Dependable Capacity Allocated to Buyer. The “Dependable Capacity Allocated to Buyer” means the net MW that the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof) is capable of delivering reliably to Buyer at the Energy Delivery Point at reference conditions of 97° Fahrenheit and 56% relative humidity, as established and adjusted according to the following paragraph:</p> <p>The Dependable Capacity Allocated to Buyer will be established and adjusted according to (i) capacity demonstration tests conducted (unless waived by Buyer) semi-annually and as part of, or shortly after, the completion of modifications, major inspections or extraordinary repairs to the Facility, and (ii) additional capacity demonstration tests conducted at the request of Buyer from time to time; provided, however, that in no event will the Dependable Capacity Allocated to Buyer be increased above the expected Dependable Capacity Allocated to Buyer for the applicable year of the Delivery Term specified by Bidder below (the “Maximum Dependable Capacity”). The annual capacity demonstration tests will occur during the month of June or July and December or January of each</p>								

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		<p>year, except to the extent waived by Buyer. Each capacity demonstration test will be performed in accordance with Accepted Electrical Practices and testing protocols (including, without limitation, ASME standards) to be set forth in the Definitive Agreement. Buyer will purchase the power delivered pursuant to any capacity demonstration tests, but all costs of any capacity demonstration tests will be borne by Seller (except that Buyer will pay the costs of the independent test for any additional capacity demonstration tests requested by Buyer pursuant to clause (ii) above). Buyer will have the right, in its sole and absolute discretion, to waive any capacity demonstration test.</p> <p>Based on the operating history of the Facility and Bidder’s knowledge of and, if applicable, experience with the Facility, Bidder expects that the Dependable Capacity Allocated to Buyer (<i>i.e.</i>, the net MW that the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof) is capable of delivering reliably to Buyer at the Energy Delivery Point at Summer Season reference conditions of 97° Fahrenheit and 56% relative humidity) will be:</p> <p><u>Contract Year</u> <u>Dependable Capacity Allocated to Buyer (Summer Season)</u></p> <table data-bbox="503 1039 1201 1207"> <tr> <td>1</td> <td><i>{insert quantity in MW}</i></td> </tr> <tr> <td>2</td> <td><i>{insert quantity in MW}</i></td> </tr> <tr> <td>3</td> <td><i>{insert quantity in MW}</i></td> </tr> </table> <p><i>{repeat for each year of the Delivery Term}.</i></p> <p>The “Summer Season” is May through September of a calendar year.</p> <p>Based on the operating history of the Facility and Bidder’s knowledge of and, if applicable, experience with the Facility, Bidder expects that the Dependable Capacity Allocated to Buyer (<i>i.e.</i>, the net MW that the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof) is capable of delivering reliably to Buyer at the Energy Delivery Point at Winter Season reference conditions of 68° Fahrenheit and 74% relative humidity) will be:</p> <p><u>Contract Year</u> <u>Dependable Capacity Allocated to Buyer (Winter Season)</u></p> <table data-bbox="503 1732 1201 1774"> <tr> <td>1</td> <td><i>{insert quantity in MW}</i></td> </tr> </table>	1	<i>{insert quantity in MW}</i>	2	<i>{insert quantity in MW}</i>	3	<i>{insert quantity in MW}</i>	1	<i>{insert quantity in MW}</i>
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		<p>2 <i>{insert quantity in MW}</i></p> <p>3 <i>{insert quantity in MW}</i></p> <p><i>{repeat for each year of the Delivery Term}.</i></p> <p>The “Winter Season” is October of one year through April of the following year.</p>																
<p>11</p>	<p>Capacity Rate:</p>	<p>The Capacity Rate (expressed in \$/kW-year) for the Dependable Capacity Allocated to Buyer in each year is:</p> <table border="0"> <thead> <tr> <th style="text-align: center;"><u>Contract Year</u></th> <th style="text-align: center;"><u>Capacity Rate</u></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;"><i>{insert rate in \$/kW-year}</i></td> </tr> <tr> <td style="text-align: center;">2</td> <td style="text-align: center;"><i>{insert rate in \$/kW-year}</i></td> </tr> <tr> <td style="text-align: center;">3</td> <td style="text-align: center;"><i>{insert rate in \$/kW-year}</i></td> </tr> </tbody> </table> <p><i>{repeat for each year of the Delivery Term}.</i></p> <p><i>{In lieu of a specific Capacity Rate, Bidder may propose (i) a base rate expressed as \$/kW-year applicable to the entire Delivery Term and (ii) an annual escalator (either CPI or PPI) applied on each anniversary of the start of the Delivery Term. The Capacity Rate will be the base rate multiplied by the percentage change in the escalator from the start of the Delivery Term through the applicable anniversary of the start of the Delivery Term on which the annual escalator is applied. If Bidder chooses this option, Bidder should specify its proposed base rate (in \$/kW-year) and whether it elects the CPI or PPI escalator.}</i></p> <p>The Capacity Rate, expressed in \$/kW-year, will be allocated to each month according to the schedule below, and the Capacity Payment (equal to the Capacity Rate for the applicable month multiplied by the Dependable Capacity Allocated to Buyer as determined according to item 10 above) will be payable monthly in arrears, provided that such payment will be subject to a Capacity Payment discount based on Monthly Availability as described in item 12 below.</p> <table border="0"> <thead> <tr> <th style="text-align: left;"><u>Month</u></th> <th style="text-align: left;"><u>% of annual Capacity Rate</u></th> </tr> </thead> <tbody> <tr> <td>January</td> <td>7%</td> </tr> <tr> <td>February</td> <td>7%</td> </tr> <tr> <td>March</td> <td>4%</td> </tr> </tbody> </table>	<u>Contract Year</u>	<u>Capacity Rate</u>	1	<i>{insert rate in \$/kW-year}</i>	2	<i>{insert rate in \$/kW-year}</i>	3	<i>{insert rate in \$/kW-year}</i>	<u>Month</u>	<u>% of annual Capacity Rate</u>	January	7%	February	7%	March	4%
<u>Contract Year</u>	<u>Capacity Rate</u>																	
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		<p>April 4%</p> <p>May 9%</p> <p>June 15%</p> <p>July 15%</p> <p>August 15%</p> <p>September 9%</p> <p>October 4%</p> <p>November 4%</p> <p>December 7%.</p>	
12	Monthly Availability Requirement:	<p>The “Monthly Availability Requirement” will be (i) for solid fuel and renewable Facilities, {___}% for each month of the Delivery Term <i>{Bidders of solid fuel and renewable Facilities must propose a Monthly Availability Requirement of at least 90%}</i> or (ii) for other Facilities, 98% for each summer month of the Delivery Term (June through August) and each winter month of the Delivery Term (December through February) and 96% for each other month of the Delivery Term.</p> <p>The “Monthly Availability” will be calculated for each month as follows:</p> $MA_m = \frac{\sum_{i=1}^n AC_i}{\sum_{i=1}^n DC_i}$ <p>where:</p> <p>MA_m= Monthly Availability for the applicable month;</p> <p><i>n</i> = total number of hours in the applicable month that occur during the Delivery Term;</p> <p><i>i</i> = each hour in the applicable month that occurs during the Delivery Term;</p> <p>AC_{<i>i</i>} = the lowest of:</p> <p style="margin-left: 40px;">(a) the amount of Dependable Capacity actually available during hour <i>i</i> (which, for the avoidance of doubt, means taken over the course of the entire hour <i>i</i> as a whole) at the Energy Delivery</p>	

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		<p>Point, whether or not scheduled or dispatched by Buyer;</p> <p>(b) the amount of Dependable Capacity set forth, or deemed to be set forth, as available in the availability notice for hour <i>i</i> provided by Seller to Buyer (but excluding any increases in availability of the Facility notified to Buyer after the day-ahead availability notice provided by Seller, unless Buyer dispatches the energy associated with the increased capacity); and</p> <p>(c) DC_i for hour <i>i</i>;</p> <p>provided, however, that (i) if the amount in clause (a) above would otherwise be less than the minimum permitted dispatch level for any of the operating configuration(s) of the Dependable Capacity Allocated to Buyer, the amount in clause (a) above will be deemed to be the Dependable Capacity Allocated to Buyer actually available during hour <i>i</i> at the Energy Delivery Point <u>excluding</u> such configuration(s), and (ii) as provided later in this item 12, capacity will be considered unavailable to the extent it is unavailable due to Force Majeure or to any curtailment or other limitation or shortcoming on, or other circumstance relating to, electric transmission or fuel delivery (without limiting the treatment of such unavailable capacity as Affected Capacity (as defined below) to the extent provided in the definition of Affected Capacity); and</p> <p>$DC_i =$ the Dependable Capacity Allocated to Buyer during hour <i>i</i> minus the Affected Capacity (as defined below) during hour <i>i</i>; provided that the Affected Capacity resulting from Planned Maintenance (as defined in item 25 below) will be disregarded to the extent the Equivalent Planned Maintenance Hours (as defined in item 25 below) in the applicable contract year in which the applicable month occurs constitute Excess Equivalent Planned Maintenance Hours (as defined in item 25 below). “Affected Capacity” means the portion of the Dependable Capacity Allocated to Buyer, if any, that is unavailable or limited during any hour due solely to (a) Planned Maintenance or (b) a lack of available transmission service occurring after the Energy Delivery Point within the Energy Transmission System, except to the extent the lack of available transmission service is due to Force Majeure or an act or omission of Seller or its Affiliates or its subcontractors or any of their respective agents or representatives.</p>
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		<p>If the Monthly Availability for a month is below the applicable Monthly Availability Requirement, a Capacity Payment discount will apply to the Capacity Payment. The Capacity Payment discount will be two percent (2%) for each one percent (1%) shortfall to the Monthly Availability Requirement; provided, however, that (a) to the extent of unavailability due solely to Force Majeure, the Capacity Payment discount will be one percent (1%) for each one percent (1%) shortfall to the Monthly Availability Requirement, and (b) in no event will the Capacity Payment be reduced below zero (0).</p> <p>Unless Buyer dispatches the energy associated with the increased capacity, any increase in availability of the Facility notified to Buyer after the day-ahead availability notice provided by Seller will not increase the AC_i value for the Monthly Availability calculation.</p>
<p>13</p>	<p>Capacity-Related Benefits and Environmental Attributes:</p>	<p>Any benefit associated with the capacity of the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof), including any capacity credit or similar right or benefit, will exclusively and solely accrue to and be owned by Buyer. Seller will be required, at its own expense, to timely execute and file all documents (including any applicable request for qualification as a capacity resource) and take all other actions (including identifying and complying with certification procedures) necessary or advisable to obtain all capacity-related benefits for which the Facility (or portion thereof allocated to Buyer) is eligible and transfer to Buyer all such capacity-related benefits, provided that Seller will not be required to pay for any system additions and/or modifications after the Energy Delivery Point that are required solely to obtain such capacity-related benefits (<i>e.g.</i>, that would not otherwise be required to allow the Facility to interconnect or for the firm transmission or transfer of power from the Facility to the Energy Delivery Point). Except as otherwise provided in the foregoing proviso, all costs required or advisable for any capacity qualification or otherwise to obtain and transfer to Buyer capacity-related benefits shall be borne by Seller and should be considered in the Capacity Rate offered by Bidder.</p> <p>Any current or future environmental attribute associated with the capacity of the Facility allocated to Buyer or the generation of energy from such capacity, including any environmental attribute related to the avoidance of the emission of any gas, chemical, or other substance into the environment, will accrue exclusively to and be owned by Buyer. Seller will be required, at its own expense, to timely execute and file all documents (including any filings and applications required to obtain and maintain accreditation or other qualification, registration and participation in all applicable</p>

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		<p>environmental attribute programs) and take all other actions necessary or advisable to obtain all environmental attributes for which the Facility (or portion thereof allocated to Buyer) or associated capacity or energy is eligible and transfer to Buyer all such environmental attributes. All costs required or advisable for any environmental attribute qualification or otherwise to obtain and transfer to Buyer environmental attributes shall be borne by Seller and should be considered in the Capacity Rate, Energy Price and Variable O&M Rate offered by Bidder.</p> <p><i>{Bidder should indicate whether the Facility is or will be eligible for capacity credits or other capacity-related benefits and environmental attributes and, if so, which ones and the basis of that belief. Bidder should describe any studies or other actions needed to qualify the Facility for capacity-related benefits or environmental attributes. Bidder should also describe the status and any results of any such actions.}</i></p>
<p>14</p>	<p>Additional Testing/ Required Data:</p>	<p>Without limiting item 13 above, to the extent Buyer is required by applicable laws (including Balancing Authority rules) to demonstrate the capability of, or otherwise test, the Facility for purposes of capacity qualification or for any other purpose (including to meet requirements imposed by Buyer’s participation in a reliability group or Balancing Authority (including any ISO or RTO)) after the capacity demonstration tests contemplated by item 10 above, Seller will perform such tests (including any deliverability tests and capability tests) according to applicable requirements. In such event, Buyer will purchase the power delivered pursuant to any such tests from the Facility (or portion thereof allocated to Buyer). In addition, Seller will provide to Buyer (in the form and timeframe reasonably requested by Buyer) all data and other information relating to the Facility, or the delivery of capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products under the Definitive Agreement, necessary or advisable for Buyer to (i) participate fully in any markets (including any marketplace administered by the Balancing Authority) in which Buyer is participating or otherwise realize the benefits of the capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products provided under the Definitive Agreement, (ii) exercise its rights or perform its obligations set forth in item 6 above and item 17 below or (iii) otherwise comply with applicable laws or its obligations under the Definitive Agreement. In addition, to the extent that, in Buyer’s good faith judgment, any of the matters described in clauses (i)-(iii) of the preceding sentence require modification or amendment of the Definitive Agreement or the development or implementation of, or agreement upon, protocols, procedures, processes, or terms and such modification or amendment of this</p>

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		<p>Agreement or protocol, procedure, process, or term desired by Buyer is consistent with the rights and obligations of the parties expressed in this provision, and Buyer so requests, the parties will make such modifications or amendments, and/or shall develop, agree upon, and implement such protocols, procedures, processes, or terms, as expeditiously as practicable.</p>
15	Other Electric Products:	<p>Seller will be required to qualify the Facility for, and (upon Buyer’s dispatch pursuant to the Definitive Agreement) provide for Buyer’s account at Seller’s own expense, any Other Electric Products, including regulation or contingency response capability, capable of being provided by the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof) at the applicable time. Seller will be required, at its own expense, to timely execute and file all documents (including any applicable requests for qualification to provide each of the Other Electric Products) and take all other actions necessary or advisable to qualify to provide, and (to the extent dispatched by Buyer) sell and deliver to Buyer at the Energy Delivery Point, all Other Electric Products capable of being provided by the Facility (or portion thereof allocated to Buyer), including, if applicable, for Buyer to be able to tag, schedule, offer and bid the Other Electric Products into the Balancing Authorit(y)(ies) applicable to the portion of the Energy Transmission System in which the Energy Delivery Point is located). All costs required for qualification to provide each of the Other Electric Products or otherwise to sell and deliver to Buyer at the Energy Delivery Point all Other Electric Products shall be borne by Seller and should be considered in the Capacity Rate, Energy Price and Variable O&M Rate offered by Bidder.</p> <p><i>{Bidder should indicate whether the Facility is or will be capable of providing any Other Electric Products and, if so, which ones and the basis of that belief.}</i></p>
16	Exclusivity:	<p>Buyer’s rights to the capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products from the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof) are exclusive, and Seller may not offer, sell, deliver or make available during the Delivery Term any of such capacity, capacity-related benefits, energy, environmental attributes or Other Electric Products to any Person other than Buyer (whether or not Buyer dispatches the same).</p>
17	Tagging, Participation	<p>If (a) the Balancing Authority area that includes the Energy Delivery Point becomes subject to an RTO or ISO or (b) “tagging,” scheduling, offering and/or bidding of capacity or capacity-related benefits, energy,</p>

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<p>in RTO/ISO:</p>	<p>environmental attributes or Other Electric Products with such Balancing Authority (including into a marketplace administered by the Balancing Authority) is otherwise permitted or required, then:</p> <ul style="list-style-type: none"> • Buyer will be entitled to (and, to the extent required by the rules, procedures and protocols of such Balancing Authority or other applicable Laws, Buyer will) “tag,” schedule, offer and/or bid (on an exclusive basis) the capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products at the Energy Delivery Point in its sole and absolute discretion, provided that Buyer schedules and dispatches the capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products that are expressly “tagged,” scheduled, offered and/or bid by Buyer in a manner that complies with any Balancing Authority requirement to generate (or not generate) each such product that is triggered solely by Buyer’s “tags,” schedules, offers and/or bids; and • to the maximum extent permitted by applicable Balancing Authority rules, procedures and protocols and other laws, Seller will continue to perform all other functions with respect to the Facility before the applicable Balancing Authority (including any applicable RTO or ISO), including, to the extent applicable, transmitting to the applicable Balancing Authority (including any applicable RTO or ISO) operational data or information (including derating and outage notices) and coordinating outages; provided, however, that, to the extent that, under applicable Balancing Authority rules, procedures and protocols and other laws, such functions cannot be performed by a different Person than the Person that performs the functions described in the first bullet point above, Buyer will perform such functions at Seller’s expense and with a full release and full indemnification from Seller. <p>To the extent that, under applicable Balancing Authority rules, procedures and protocols and other applicable laws, the functions described in the preceding two bullet points are or may be performed by a “market participant” or other representative for the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof) before the Balancing Authority area that includes the Energy Delivery Point (including any applicable RTO or ISO), Buyer (or an Affiliate designated by Buyer) will be entitled to (and, to the extent required by the rules, procedures and protocols of such Balancing Authority or other applicable laws, Buyer (or an Affiliate designated by Buyer) will) represent the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the</p>
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		<p>Facility, the corresponding portion thereof) on an exclusive basis before such Balancing Authority for such purposes. In such event, Seller shall designate Buyer (or an Affiliate designated by Buyer) as the exclusive representative of the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof) before such Balancing Authority (including any applicable RTO or ISO) for such purposes and maintain such designation throughout the remainder of the Delivery Term.</p> <p>If the Facility is interconnected to the Entergy Transmission System, Seller shall cause, at all times during the Delivery Term, the local Balancing Authority applicable to the Facility to be the smallest Balancing Authority that, as of such time, includes the portion of the Entergy Transmission System in which the Energy Delivery Point is located. Further, Seller will ensure that at all times the Balancing Authorit(y)(ies) applicable to the portion of the Entergy Transmission System in which the Energy Delivery Point is located recognize the Facility (or portion thereof allocated to Buyer) as a separate generating resource for settlement purposes (including that such Balancing Authorit(y)(ies) determine separately for settlement purposes the amount of energy actually delivered specifically from the Facility or portion thereof allocated to Buyer to the Energy Delivery Point and, if applicable, recognize the Facility or portion thereof allocated to Buyer as a separate generating resource for tagging, scheduling, offering and bidding purposes), including by establishing a separate commercial pricing node for the Facility or portion thereof allocated to Buyer (if applicable). To the extent that the arrangements contemplated by this paragraph require an agreement on any “behind-the-fence” metering or other methodology, Seller will keep Buyer reasonably apprised of the progress and will obtain Buyer’s approval (not to be unreasonably withheld, conditioned or delayed) prior to entering into such arrangements.</p> <p>Buyer will be entitled to any payment from any Balancing Authority or other Person for capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products provided under the Definitive Agreement and to any other payments from the Balancing Authority in respect of the Facility or portion thereof allocated to Buyer (including the curtailment thereof), and, if any such payments are received by Seller, Seller will promptly pay (or cause to be paid) to Buyer any such payments so received.</p> <p>Notwithstanding the foregoing, Seller will be entitled to any payment for (and will be responsible for any settlement at negative prices of or other settlement charge for) capacity, capacity-related benefits, energy,</p>
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Term Sheet for Baseload Product

		<p>environmental attributes and Other Electric Products (i) required by any Balancing Authority or other Governmental Authority or the interconnection agreement(s) or applicable law to be provided from the Facility that (A) were not dispatched by Buyer and (B) were not both (1) expressly “tagged,” scheduled, offered and/or bid by Buyer pursuant to this item 17 and (2) dispatched by the Balancing Authority solely as a result of such “tags,” schedules, offers and/or bids or (ii) to the extent applicable, if the Energy Delivery Point is not the Facility’s point of interconnection, “tagged,” scheduled, offered and/or bid by Seller at the Facility’s point of interconnection for purposes of meeting Buyer’s dispatch, provided that, in furtherance of Seller’s obligations pursuant to item 6 above, if the Balancing Authority at the Energy Delivery Point does not recognize physical delivery at the Energy Delivery Point (e.g., because there is neither a generation resource nor a point of importation into such Balancing Authority at the Energy Delivery Point), Seller will be required to pay to Buyer the real-time price at the Energy Delivery Point for each MWh dispatched by Buyer. For the avoidance of doubt, any settlement at negative prices of, and other imbalance charges for, positive imbalance energy will be allocated according to item 24 below.</p>
18	Energy Price:	<p><i>{Subject to the next sentence, Bidder may propose (a) a specific Energy Price (or base Energy Price applicable to the entire Delivery Term and an annual escalator, as described below) for each year of the Delivery Term (a “Fixed Energy Price”), (b) an Energy Price consisting of a specified heat rate multiplied by the applicable fuel price, which may include a Fuel Adder (defined below) (a “Floating Energy Price”), and (c) an Energy Price consisting of a specific Energy Price (or base Energy Price applicable to the entire Delivery Term and an annual escalator, as described below) for each year of the Delivery Term for all but the Fuel Adder (defined below) and a price for the Fuel Adder as specified by Bidder in its proposal (a “Hybrid Energy Price”). For a renewable energy Facility, Bidder must propose a Fixed Energy Price and not a Floating Energy Price or a Hybrid Energy Price. Bidder should complete the single-bracketed provision below if Bidder elects to propose a Fixed Energy Price, the double-bracketed provision below if Bidder elects to propose a Floating Energy Price, and the triple-bracketed provision below if Bidder elects a Hybrid Energy Price.}</i></p> <p>{Fixed Energy Price} [For each MWh of energy dispatched by Buyer and delivered to Buyer from the Facility at the Energy Delivery Point, Buyer will pay the “Energy Price” for the applicable year of the Delivery Term (expressed in \$/MWh) equal to:</p>

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<u>Contract Year</u>	<u>Energy Price</u>						
1	<i>{insert rate in \$/MWh}</i>						
2	<i>{insert rate in \$/MWh}</i>						
3	<i>{insert rate in \$/MWh}</i>						
<i>{repeat for each year of the Delivery Term}.</i>							
<i>{In lieu of a specific Energy Price for each year, Bidder may propose (a) a base energy price expressed as \$/MWh applicable to the entire Delivery Term and (b) an annual escalator (either CPI or PPI) applied on each anniversary of the start of the Delivery Term. The Energy Price will be the base energy price multiplied by the percentage change in the escalator from the start of the Delivery Term through the applicable anniversary of the start of the Delivery Term on which the annual escalator is applied. If Bidder chooses this option, Bidder should specify its proposed base energy price (in \$/MWh) and whether it elects the CPI or PPI escalator.}</i>							
<p><i>{Floating Energy Price}</i> [[For each MWh of energy dispatched by Buyer and delivered to Buyer from the Facility at the Energy Delivery Point, Buyer will pay the “Energy Price” equal to the applicable heat rate specified below (expressed in MMBtu/MWh) multiplied by the applicable fuel price (expressed in \$/MMBtu), except that if the Facility is a resource based upon nuclear technology, the Energy Price payable by Buyer will be as set forth below in clause (z).</p> <p>Except as provided in clause (z) below, the applicable heat rate for the Energy Price will be the heat rate set forth in the table below corresponding to the season in which the corresponding energy is delivered to Buyer at the Energy Delivery Point:</p> <table border="1"> <thead> <tr> <th><u>Season</u></th> <th><u>Heat Rate</u> (MMBtu (HHV)/MWh)</th> </tr> </thead> <tbody> <tr> <td>Summer Season</td> <td><i>{insert HR in MMBtu (HHV)/MWh}</i></td> </tr> <tr> <td>Winter Season</td> <td><i>{insert HR in MMBtu (HHV)/MWh}</i>.</td> </tr> </tbody> </table> <p>The applicable fuel price (expressed in \$/MMBtu) will be:</p> <p>(v) for coal Facilities, (i) the index price published by Platts <i>Coal Trader</i> (in the internet publication currently accessed through www.platts.com) in the table entitled “OTC Broker Index” under the column heading “Final Monthly Average” for PRB – 8,800 Btu/lb. for the month of delivery of the applicable energy (for PRB coal) divided by 17.60</p>		<u>Season</u>	<u>Heat Rate</u> (MMBtu (HHV)/MWh)	Summer Season	<i>{insert HR in MMBtu (HHV)/MWh}</i>	Winter Season	<i>{insert HR in MMBtu (HHV)/MWh}</i> .
<u>Season</u>	<u>Heat Rate</u> (MMBtu (HHV)/MWh)						
Summer Season	<i>{insert HR in MMBtu (HHV)/MWh}</i>						
Winter Season	<i>{insert HR in MMBtu (HHV)/MWh}</i> .						

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		<p>MMBtu/ton or (ii) the index price published by Platts <i>Coal Trader</i> (in the internet publication currently accessed through www.platts.com) in the table entitled “OTC Broker Index” under the column heading “Final Monthly Average” for CSX BS/K – 12,500 Btu/lb. -1% for the month of delivery of the applicable energy (for Central Appalachian coal) divided by 25 MMBtu/ton, [plus the Fuel Adder (as defined below)] <i>{include bracketed language only if Bidder proposes to include a Fuel Adder as provided in the last paragraph of this double-bracketed provision}</i>;</p> <p>(x) for pet coke Facilities, the average of the weekly midpoints of the index published by Platts <i>Coal Outlook</i> (in the internet publication currently accessed through www.platts.com) in the table entitled “Petcoke Spot Price Assessments” under the column heading “Current Price Range” for US Gulf 6%-6.5% Sulfur, 40 HGI for the month of delivery of the applicable energy divided by 30.9 MMBtu/mt., [plus the Fuel Adder (as defined below)] <i>{include bracketed language only if Bidder proposes to include a Fuel Adder as provided in the last paragraph of this double-bracketed provision}</i>;</p> <p>(y) for gas-fired Facilities, the first-of-month gas price of gas (expressed in \$/MMBtu) published by Platts <i>Inside FERC’s Gas Market Report</i> (in the internet publication currently accessed through www.platts.com) in the table entitled “Market Center Spot-Gas Prices” under the column heading “Index” for gas to flow at <i>{either Henry Hub or Houston Ship Channel}</i> on the first gas day of the month of delivery of the applicable energy [plus the Fuel Adder (as defined below)] <i>{include bracketed language only if Bidder proposes to include a Fuel Adder as provided in the last paragraph of this double-bracketed provision}</i>; and</p> <p>(z) for nuclear Facilities, the actual variable cost of fuel delivered to Buyer at the Facility and related costs (expressed in \$/MWh) <i>{Bidder must provide its good faith estimate of:</i></p> <p style="padding-left: 40px;"><i>the energy price in each year of the Delivery Term:</i></p> <table style="margin-left: 40px; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;"><u>Contract Year</u></th> <th style="text-align: left; border-bottom: 1px solid black;"><u>Energy Price</u></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;"><i>{insert rate in \$/MWh}</i></td> </tr> <tr> <td style="text-align: center;">2</td> <td style="text-align: center;"><i>{insert rate in \$/MWh}</i></td> </tr> <tr> <td style="text-align: center;">3</td> <td style="text-align: center;"><i>{insert rate in \$/MWh}</i></td> </tr> </tbody> </table> <p><i>{repeat for each year of the Delivery Term}.</i></p>	<u>Contract Year</u>	<u>Energy Price</u>	1	<i>{insert rate in \$/MWh}</i>	2	<i>{insert rate in \$/MWh}</i>	3	<i>{insert rate in \$/MWh}</i>
<u>Contract Year</u>	<u>Energy Price</u>									
1	<i>{insert rate in \$/MWh}</i>									
2	<i>{insert rate in \$/MWh}</i>									
3	<i>{insert rate in \$/MWh}</i>									

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		<p><i>{With respect to clauses (v), (x), and (y) above, Bidder may, but is not required to, propose to include in the applicable fuel price all or any portion of the actual amount (expressed in \$ per MWh) incurred by Seller for (i) sales or use taxes on its purchase of fuel used to generate the energy dispatched by Buyer, (ii) third-party transportation and delivery of such fuel to the Facility, and/or (iii) material fuel reagents, such as lime or limestone (a “Fuel Adder”). If Bidder desires for the applicable fuel price to include a Fuel Adder, Bidder should so indicate and specify a proposed mechanism/formula for determination of, or the fixed amount of, the Fuel Adder. Any proposed mechanism/formula should be clear, transparent and capable of verification by Buyer. Further, the projected result of any proposed mechanism/formula for determination of, or the fixed amount of, the Fuel Adder may not exceed the projected actual costs to Seller of the items described in clauses (i), (ii), and (iii) above (as applicable). Double recovery of Fuel Adder costs is not permitted, and Bidders should ensure that, if the election provided for above is made, no such double recovery is possible under the terms of its proposal. With respect to clause (z) above, Bidder may not propose a Fuel Adder and should include in its estimates of the energy price and the fuel price required in clause (z) any cost that otherwise could be included in the Fuel Adder.}}</i></p> <p><i>{Hybrid Energy Price}</i> [[[For each MWh of energy dispatched by Buyer and delivered to Buyer from the Facility at the Energy Delivery Point, Buyer will pay the “Energy Price” for the applicable year of the Delivery Term (expressed in \$/MWh) equal to the Base Energy Price plus the Fuel Adder. The “Base Energy Price” is the Energy Price for the applicable year of the Delivery Term <i>excluding</i> any amount included in the Fuel Adder. The Base Energy Price for each year of the Delivery Term is:</p> <table border="0"> <thead> <tr> <th><u>Contract Year</u></th> <th><u>Base Energy Price</u></th> </tr> </thead> <tbody> <tr> <td>1</td> <td><i>{insert rate in \$/MWh}</i></td> </tr> <tr> <td>2</td> <td><i>{insert rate in \$/MWh}</i></td> </tr> <tr> <td>3</td> <td><i>{insert rate in \$/MWh}</i></td> </tr> </tbody> </table> <p><i>{repeat for each year of the Delivery Term}.</i></p> <p><i>{In lieu of a specific Base Energy Price for each year, Bidder may propose (a) a base energy price expressed as \$/MWh applicable to the entire Delivery Term and (b) an annual escalator (either CPI or PPI) applied on each anniversary of the start of the Delivery Term. The Base Energy Price will be the base energy price multiplied by the percentage change in the escalator from the start of the Delivery Term through the applicable</i></p>	<u>Contract Year</u>	<u>Base Energy Price</u>	1	<i>{insert rate in \$/MWh}</i>	2	<i>{insert rate in \$/MWh}</i>	3	<i>{insert rate in \$/MWh}</i>
<u>Contract Year</u>	<u>Base Energy Price</u>									
1	<i>{insert rate in \$/MWh}</i>									
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3	<i>{insert rate in \$/MWh}</i>									

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		<p><i>anniversary of the start of the Delivery Term on which the annual escalator is applied. If Bidder chooses this option, Bidder should specify its proposed base energy price (in \$/MWh) and whether it elects the CPI or PPI escalator.}</i></p> <p><i>Bidder should indicate and specify a proposed mechanism/formula for determination of the Fuel Adder to be added to the Base Energy Price. Any proposed mechanism/formula should be clear, transparent and capable of verification by Buyer. Further, the projected result of any proposed mechanism/formula for determination, or the fixed amount, of the Fuel Adder may not exceed the projected actual costs to Seller of the items described in clauses (i), (ii), and (iii) in the definition of Fuel Adder above. Double recovery of Fuel Adder costs is not permitted, and Bidders should ensure that, if the election provided for above is made, no such double recovery is possible under the terms of its proposal.}]]]</i></p> <p>Buyer may require the inclusion of meaningful Buyer rights and/or Seller obligations in the Definitive Agreement to ensure the reasonableness of costs passed through or transferred to Buyer in any Fuel Adder proposed by Bidder. Such rights or obligations may include, without limitation, the right of Buyer to vote on, participate in or direct Seller’s actions with respect to transportation-related commitments or decisions to at least a degree commensurate with the Dependable Capacity Allocated to Buyer and the obligation of Seller to consult with Buyer or obtain Buyer’s consent prior to entering into transportation-related decisions or commitments and/or to use commercially reasonable efforts to minimize Fuel Adder costs.</p> <p>The Energy Price will not apply to ramp energy delivered by Seller to Buyer during any start-up or shutdown.</p>								
19	<p>Variable O&M Rate:</p>	<p>For each MWh of energy dispatched by Buyer and delivered to Buyer from the Facility at the Energy Delivery Point, Buyer will pay the “Variable O&M Rate.” The Variable O&M Rate (expressed in \$/MWh) for each year of the Delivery Term is:</p> <table border="0"> <thead> <tr> <th style="text-align: center;"><u>Contract Year</u></th> <th style="text-align: center;"><u>Variable O&M Rate</u></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;"><i>{insert rate in \$/MWh}</i></td> </tr> <tr> <td style="text-align: center;">2</td> <td style="text-align: center;"><i>{insert rate in \$/MWh}</i></td> </tr> <tr> <td style="text-align: center;">3</td> <td style="text-align: center;"><i>{insert rate in \$/MWh}</i></td> </tr> </tbody> </table> <p><i>{repeat for each year of the Delivery Term}.</i></p> <p><i>{In lieu of a specific Variable O&M Rate for each year, Bidder may</i></p>	<u>Contract Year</u>	<u>Variable O&M Rate</u>	1	<i>{insert rate in \$/MWh}</i>	2	<i>{insert rate in \$/MWh}</i>	3	<i>{insert rate in \$/MWh}</i>
<u>Contract Year</u>	<u>Variable O&M Rate</u>									
1	<i>{insert rate in \$/MWh}</i>									
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		<p><i>propose (for all or a portion of the Variable O&M Rate) (a) a base rate, expressed as \$/MWh, applicable to the entire Delivery Term and (b) an annual escalator (either CPI or PPI) applied on each anniversary of the start of the Delivery Term. The Variable O&M Rate (or the applicable portion thereof) will be the base rate multiplied by the percentage change in the escalator from the start of the Delivery Term through the applicable anniversary of the start of the Delivery Term on which the annual escalator is applied. If Bidder chooses this option, Bidder should specify its proposed base Variable O&M Rate (in \$/MWh) and whether it elects the CPI or PPI escalator.}</i></p> <p>The Variable O&M Rate will not apply to ramp energy delivered by Seller to Buyer during any start-up or shutdown, unless due solely to a curtailment by Buyer described in item 21.</p>
<p>20</p>	<p>Delivery/ Receipt Commitment:</p>	<p>Subject to the other terms hereof (including items 21 and 22 below), Seller will be required to provide, sell and deliver to Buyer, and Buyer will be required to purchase and accept from Seller, during each hour of the Delivery Term, a quantity of energy at the Energy Delivery Point equal to the Dependable Capacity Allocated to Buyer, multiplied by one hour. In addition, Seller will be required to make available to Buyer any capacity of the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof) in excess of the Dependable Capacity Allocated to Buyer that the Facility (or portion thereof) is capable of delivering to the Energy Delivery Point at any time and any associated capacity-related benefits and Other Electric Products, and, to the extent dispatched by Buyer (in its sole and absolute discretion), Seller will deliver to Buyer at the Energy Delivery Point the energy and Other Electric Products associated with such excess capacity. Notwithstanding the foregoing two sentences, Seller will not be required to provide, sell or deliver and Buyer will not be required to purchase or accept any energy (and any associated capacity-related benefits and Other Electric Products) associated with increases in capacity that are notified to Buyer after the day-ahead availability notice provided by Seller, unless Buyer dispatches the energy associated with such increased capacity. Except to the extent required by a unit contingency, Seller will not interrupt, curtail or otherwise reduce the availability or deliveries of the capacity allocated to Buyer or any associated capacity-related benefits, energy, environmental attributes and Other Electric Products, even if Seller is otherwise above the availability requirements of the Definitive Agreement.</p> <p><i>{ESI prefers proposals that offer Buyer enhanced dispatch and/or curtailment flexibility. Any Bidder wishing to propose enhanced dispatch</i></p>

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		<p><i>and/or curtailment flexibility should do so here. For each such enhanced dispatch and/or curtailment right (or collection of dispatch and/or curtailment rights), Bidder must separately set out and specify in its proposal the enhanced dispatch and/or curtailment right (or collection of dispatch and/or curtailment rights).}</i></p>
<p>21</p>	<p>Buyer Right to Curtail:</p>	<p>Buyer will have the right to schedule and dispatch less than the minimum dispatch requirements set forth in item 20 above (<i>i.e.</i>, below the Dependable Capacity Allocated to Buyer, multiplied by one hour) in its sole and absolute discretion. If, however, Buyer exercises such curtailment rights, then:</p> <p>(1) Seller will provide to Buyer a calculation of the quantity of energy that would have been generated by the Facility and delivered to Buyer at the Energy Delivery Point (up to the Dependable Capacity Allocated to Buyer, multiplied by one hour) had Buyer not exercised such curtailment rights (determined in accordance with Accepted Electrical Practices), which calculation will be subject to audit and dispute by Buyer; and</p> <p>(2) Buyer will pay to Seller, for each MWh of such curtailed energy, (i) the Energy Price and Variable O&M Rate that would have been applicable to such curtailed energy, minus (ii) (A) if, using commercially reasonable efforts, Seller could re-sell such curtailed energy to another purchaser for a price that exceeds the amount in clause (B) below (and Buyer does not expressly direct Seller not to re-sell such curtailed energy), the price obtained by Seller by re-selling such curtailed energy (or that would have been obtained by Seller had it used commercially reasonable efforts to re-sell such curtailed energy) and/or (B) otherwise, the costs saved by Seller as a result of not generating such curtailed energy (or that would have been saved by Seller had it not generated such curtailed energy and used commercially reasonable efforts to maximize its cost savings), the calculation of such savings (determined in accordance with Accepted Electrical Practices) to be provided by Seller to Buyer and subject to audit and dispute by Buyer. The amount set forth in clause (ii) above may not be less than zero (0) as a result of the sale of any such curtailed energy at negative prices or otherwise (and Buyer will not otherwise be responsible for any such negative amounts if Seller incurs them).</p> <p>For the avoidance of doubt, and without limiting the last sentence of item 2 above, any curtailment made, initiated, directed or ordered by the Entergy transmission organization (or the Independent Coordinator of Transmission, FERC, any RTO, ISO or other entity other than Buyer) or resulting, in whole or in part, from curtailments on the Entergy Transmission System or any distribution system of any of the Entergy Operating Companies,</p>

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		<p>emergencies or reliability events or conditions (even if any order, directive or other communications from the Entergy transmission organization or the occurrence of any such event or condition is communicated to Seller through Buyer) (each a “Reliability Curtailment”), will not be considered an exercise of Buyer’s rights under this item 21, a breach, default or event of default by Buyer or otherwise an act or omission of Buyer and, except to the extent set forth in clause (b) in item 22 below, will not give rise to the compensation for curtailed energy set forth above.</p>
22	Other Curtailment:	<p>Notwithstanding anything to the contrary, Buyer will have no obligation to pay for (and will have no other liability for and will not be considered in breach or default under the Definitive Agreement, and no event of default of Buyer will arise, as a result of) any energy that, regardless of the reason (including Force Majeure or any Reliability Curtailment), has not actually been delivered to Buyer at the Energy Delivery Point, except to the extent (a) set forth in item 21 above or (b) resulting solely from Buyer’s failure to contract for firm transmission after the Energy Delivery Point to load of the lesser of (i) the amount of energy scheduled by Seller for delivery to Buyer at the Energy Delivery Point or (ii) the Maximum Dependable Capacity. Clause (b) above will apply only to the extent the concept of a firm contract for electric transmission exists in the relevant context. For the avoidance of doubt, clause (b) will not apply if Buyer contracts for non-firm transmission, and such non-firm transmission is curtailed but would have nonetheless been curtailed if it had been firm transmission. Any curtailment to which clause (b) above applies will be deemed an exercise by Buyer of its curtailment rights in item 21 above (including for purposes of compensation to Seller).</p> <p>For purposes of clause (b) above, Buyer typically seeks to obtain an amount of firm transmission from the Energy Delivery Point equal to the Dependable Capacity Allocated to Buyer expected by Buyer in each year of the Delivery Term. However, Buyer may not obtain firm transmission for the full amount in the preceding sentence, and any failure of Buyer to obtain firm network transmission service shall not constitute or give rise to a breach or default of Buyer (without limiting Buyer’s obligations in the immediately preceding paragraph, if applicable).</p>
23	Fuel Supply and Transport:	<p>Without limiting Buyer’s Energy Payment obligations provided in this Term Sheet, Seller will have sole responsibility for and bear the full costs (including any applicable fuel taxes) of the arrangement, procurement, transportation, nomination, delivery, storage, use, loss and disposition of fuel for the Facility. Without limiting the foregoing, Seller will bear all risk associated with any decision not to procure firm fuel supply and</p>

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		<p>transportation. If the capacity allocated to Buyer is or will be unavailable as a result of Seller’s failure to procure firm fuel supply or transportation, Buyer will have the right, but not the obligation, to obtain replacement capacity or to start-up or increase the output of its own generating resources to replace any portion of the capacity that is not or will not be provided by Seller. In such event, Seller will pay to Buyer the positive difference, if any, obtained by subtracting (i) any amount that would have been paid by Buyer under the Definitive Agreement for the equivalent output from the Facility that is not paid by Buyer from (ii) the sum of all costs incurred by Buyer in connection with or relating to the provision or purchase, and use (including incremental transmission costs), of the replacement capacity and associated capacity-related benefits, energy, environmental attributes and/or Other Electric Products that would not have been incurred if the capacity and associated capacity-related benefits, energy, environmental attributes and/or Other Electric Products had been provided by Seller according to the Definitive Agreement.</p> <p><i>{ESI prefers proposals that offer fuel supply flexibility (e.g., multiple fuel supply sources, alternative fuels, etc.).}</i></p>
<p>24</p>	<p>Operation and Maintenance Costs; Balancing Authority Fees, Imbalances, Penalties, and Charges:</p>	<p>Without limiting Buyer’s Capacity Payment and Energy Payment obligations provided in this Term Sheet and except to the extent otherwise expressly provided in this Term Sheet, Seller will bear all costs and expenses of any kind or character incurred in connection with the ownership, leasing, financing, engineering, procurement of equipment for, design, operation, maintenance, use, studying, testing, repair or replacement of the Facility (or any part thereof), including the real property interests related thereto, or the conduct of business by Seller or the provision or delivery of capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products under the Definitive Agreement.</p> <p>Without limiting the foregoing, Seller will be responsible for:</p> <ul style="list-style-type: none"> • any Balancing Authority (including applicable RTO or ISO) or other transmission provider membership, transaction or other fees or charges; • any Seller Imbalance Charges and BA Penalties (defined below), integration charges, and the cost of any ancillary services and other Balancing Authority (including any applicable RTO or ISO) or other transmission provider services (including regulation); and • similar costs and charges associated with the ownership, leasing, financing, engineering, procurement of equipment for, design, operation, maintenance, use, studying, testing, repair or replacement of

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		<p>the Facility (or any part thereof), including the real property interests related thereto, or the conduct of business by Seller or the provision or delivery of capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products under the Definitive Agreement (including costs or charges associated with any offer or bid made by Buyer at the Energy Delivery Point and, if the Balancing Authority at the Energy Delivery Point does not recognize physical delivery at the Energy Delivery Point (e.g., because there is neither a generation resource nor a point of importation into such Balancing Authority at the Energy Delivery Point), costs or charges associated with any virtual offer or bid made by Buyer at the Energy Delivery Point to synthetically create such physical delivery), in each case as now or in the future assessed (including, if applicable, after the Balancing Authority area that includes the Energy Delivery Point becomes subject to an RTO or ISO or any other implementation of a marketplace).</p> <p>For purposes of this Term Sheet, “Seller Imbalance Charges and BA Penalties” means all fuel and electric imbalance charges and BA Penalties (regardless of whether assessed against Seller or Buyer) arising out of or in connection with the Definitive Agreement, except Buyer Imbalance Charges and BA Penalties, and “Buyer Imbalance Charges and BA Penalties” means imbalance charges and/or BA Penalties incurred by Seller or Buyer solely as a result of:</p> <ul style="list-style-type: none">(i) Seller’s compliance with a dispatch notice issued by Buyer that requires Seller to violate (a) a directive or other instruction communicated by the Balancing Authority to Buyer (or an Affiliate designated by Buyer) in its role as market participant pursuant to item 17 above that has not been communicated to Seller or (b) a Balancing Authority requirement to generate (or not generate) a product expressly “tagged,” scheduled, offered and/or bid by Buyer pursuant to item 17 above that is triggered solely by Buyer’s “tags,” schedules, offers and/or bids, or(ii) except to the extent arising out of, in connection with, or resulting from a unit contingency or other outage or act or omission of Seller (or its Affiliates or its subcontractors or any of their respective agents or representatives), Buyer “tagging,” scheduling, offering and/or bidding the capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products in a manner that violates applicable Balancing Authority requirements. <p>If Buyer is invoiced for or otherwise assessed any amounts that are the responsibility of Seller under this item 24, Seller will promptly pay such</p>
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		amounts to Buyer.
25	Planned Maintenance:	<p>“Planned Maintenance” refers to maintenance of the Facility (or any portion thereof) that (i) is scheduled in advance with Buyer in accordance with the terms of the Definitive Agreement and included in an agreed Planned Maintenance schedule and has a predetermined start date and duration (<i>e.g.</i>, annual overhaul, inspections, testing) and (ii) includes a reduction in the availability of the capacity or operation of the Facility.</p> <p>All maintenance of the Facility (or any portion thereof) that has a predetermined start date and duration and includes a reduction in the availability of the capacity or operation of the Facility is required to be coordinated and scheduled in accordance with the Definitive Agreement as Planned Maintenance. Seller will have the right to schedule and conduct Planned Maintenance only during a March/April maintenance period and an October/November maintenance period.</p> <p>During the Delivery Term, Seller will deliver to Buyer its proposed schedule for Planned Maintenance on or before (i) in respect of the March/April maintenance period, September 1 of the preceding year, and (ii) in respect of the October/November maintenance period, February 1 of the calendar year in which such maintenance period will occur. The Parties will then finalize a mutually acceptable schedule for Planned Maintenance.</p> <p>Affected Capacity resulting from Planned Maintenance will be excluded in determining DC_i for purposes of the calculating Monthly Availability, except to the extent of Equivalent Planned Maintenance Hours exceeding a maximum number of Equivalent Planned Maintenance Hours per contract year (“Excess Equivalent Planned Maintenance Hours”), all as set forth in item 12 above.</p> <p>“Equivalent Planned Maintenance Hours” means (i) the product of (a) the Dependable Capacity Allocated to Buyer that is unavailable or limited due to Planned Maintenance, expressed in MW, multiplied by (b) the period of such Planned Maintenance, expressed in hours (or any portion thereof), divided by (ii) the Dependable Capacity Allocated to Buyer.</p> <p>The number of Equivalent Planned Maintenance Hours in each contract year after which any incremental Equivalent Planned Maintenance Hour will become an Excess Equivalent Planned Maintenance Hour will be as set forth or calculated as set forth in Attachment 1 to this Term Sheet.</p>
26	Force Majeure:	<p>“Force Majeure” means any event that meets all of the following criteria: (i) the event occurs after the effective date of the Definitive Agreement; (ii)</p>

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		<p>the event and its effects are not within the reasonable control, directly or indirectly, of the Party claiming Force Majeure (including its subcontractors); (iii) the event and its effects are unavoidable or could not be prevented, overcome or removed by the reasonable efforts and diligence of the Party claiming Force Majeure (including its subcontractors); (iv) the event and its effects do not result from the negligence or fault of the Party claiming Force Majeure (including any breach by such Party of the Definitive Agreement) or the negligence or fault of its subcontractors; and (v) the event causes the Party claiming Force Majeure, despite such Party's (including its subcontractors) use of reasonable efforts and diligence, to be actually delayed in performing, or unable to perform, its obligations under the Definitive Agreement, in whole or in part (for reasons other than economic hardship, including lack of money).</p> <p>Provided the event meets all of the criteria described above, Force Majeure will include: natural disasters; landslides; droughts; fires; floods; earthquakes; hurricanes; tornados; tsunamis; hail and ice and ice storms that are abnormally severe for the period of time when, and the area where, such weather event or condition occurs; epidemics; wars (whether declared or undeclared) or other armed conflicts; riots; explosions; civil disturbances; sabotage; vandalism; terrorism; documented threats of terrorism; and blockades.</p> <p>Force Majeure will not include:</p> <p>(a) mechanical failure or other breakdown, flaw, defect, or failure of equipment or systems not the direct or proximate result of, subject to clauses (d) and (f) of this sentence, acts of God (which acts of God will include floods, earthquakes, hurricanes and tornadoes), epidemics, wars, riots, civil disturbances or, subject to clause (b) of this sentence, sabotage;</p> <p>(b) sabotage by employees, agents, representatives or subcontractors (including their employees, agents, representatives) of the Party claiming Force Majeure;</p> <p>(c) delay in obtaining, or failure to obtain or revocation of, a governmental approval;</p> <p>(d) any event stated in the technical specifications of the Facility to be within the tolerance of the Facility;</p> <p>(e) the failure or other act or omission of employees, agents, representatives or subcontractors (including their employees, agents and representatives) of the Party claiming Force Majeure (including the failure of a subcontractor to furnish machinery, spare parts, materials, consumables (including fuel),</p>
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		<p>labor, equipment or services in accordance with its contractual obligations) or any other non-delivery, delayed delivery, shortages or other unavailability of machinery, spare parts, materials, consumables (including fuel), labor, equipment or services (including any interruption or curtailment of electric transmission or fuel transportation), unless (1) the Party claiming Force Majeure has a firm contract for the applicable service or item (provided that this clause (1) shall apply with respect to electric transmission only to the extent the concept of a firm contract for electric transmission exists in the relevant context), (2) in the case of gas transportation, the transportation curtailed is primary, in-path firm transportation and (3) (A) in any case other than interruption or curtailment of electric transmission or gas transportation, the provider, if it were a party hereto, would be entitled to Force Majeure protection as an affected party or (B) in any case of interruption or curtailment of electric transmission or gas transportation, the interruption or curtailment is due to “force majeure” or “uncontrollable force” or similar term as defined under the applicable transmission provider’s or gas transporter’s tariff;</p> <p>(f) any weather event or condition that is not abnormally severe for the period of time when, and the area where, such weather event or condition occurs;</p> <p>(g) Seller’s ability to sell the capacity, capacity-related benefits, environmental attributes, energy and/or Other Electric Products at a price greater than provided for in the Definitive Agreement;</p> <p>(h) a Party’s financial inability to perform;</p> <p>(i) events that affect the cost of equipment or materials or other costs of owning, engineering, procuring equipment for, designing, operating, maintaining, replacing, repairing, studying or testing the Facility or changes in market conditions affecting the economics of either Party (including a change in commodity prices or increased inflation) or any other economic hardship (including lack of money); or</p> <p>(j) labor strikes, slowdowns or stoppages;</p> <p><u>provided, however</u>, that the existence of one or more of the factors listed in the exceptions to clauses (a), (e) and (f) will not be sufficient to conclusively or presumptively prove the existence of a Force Majeure if the event does not meet the criteria described in the first paragraph of this definition.</p> <p>Neither Party will have any liability arising out of a termination effectuated</p>
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		in accordance with this item 26.
27	Replacement Products:	When Seller is not capable of providing the full availability of capacity, capacity-related benefits, energy, environmental attributes and/or Other Electric Products from the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof), Seller may, but will not be obligated to, offer to provide and deliver replacement capacity, capacity-related benefits, energy, environmental attributes and/or Other Electric Products. In such event, Buyer will, in its sole and absolute discretion, have the right to accept or reject the offer of replacement. If Buyer receives such an offer and Buyer, in its sole and absolute discretion, accepts such offer in writing, such replacement product(s) will be treated the same as if Seller provided the product(s) from the Facility for the period for which Buyer has agreed that Seller may provide such replacement product(s), except to the extent the parties have agreed otherwise in writing (including in the agreement(s) permitting Seller to provide such replacement product(s)). Without limiting and subject to the foregoing, replacement capacity will be treated as Dependable Capacity for all purposes under the Definitive Agreement, including the availability calculations.
28	No QF Put:	Notwithstanding any other provision of the Definitive Agreement, Seller waives any and all rights to deliver “qualifying facility” energy from the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof) to the host utility at any time during the Delivery Term and expressly agrees not to deliver “qualifying facility” energy from the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof) to the host utility at any time during the Delivery Term, except for energy curtailed by Buyer pursuant to item 21, ramp energy from the Facility during start-ups and shutdowns, and excess energy not dispatched by Buyer.
29	Change in Law:	The Parties acknowledge the possibility that a change in law may occur that requires or will require one or both of the Parties to incur additional costs (including environmental costs) during the Delivery Term above those projected to be incurred by such Party as of the date of execution of the Definitive Agreement. Notwithstanding the foregoing, if such a change in law occurs, the other Party will not be required to share in, reimburse or otherwise pay all or any portion of such additional costs, except as otherwise expressly provided in Attachment 2.
30	Credit	Seller will be expected to meet the credit support requirements detailed in this RFP, including Appendix E, all of which will be more fully developed

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	Support:	in the Definitive Agreement.
31	Conditions Precedent:	<p>Buyer’s obligations under the Definitive Agreement will be conditioned upon the fulfillment or express waiver, by Buyer, of all of the following conditions:</p> <ol style="list-style-type: none"> 1. Buyer has obtained from FERC and/or each of the state and local governmental authorities having jurisdiction over Buyer or Buyer’s operations (i) regulatory approval of the Definitive Agreement and the transaction thereunder or contemplated thereby, including approval of the full recovery of all Buyer costs associated with the Definitive Agreement and all related agreements and transactions (through base rates, fuel adjustment charges, and/or such other rates or charges as may be applied pursuant to a rider or otherwise) pursuant to a finding that the participation by Buyer in the Definitive Agreement is prudent and in the public interest, and (ii) any other regulatory treatment in connection with the Definitive Agreement and any transaction contemplated thereby desired by Buyer, including with respect to timing, scope, means of recovery, and any certificate of convenience and necessity, which approvals are, in each case, final and non-appealable (and not otherwise subject to challenge) and on terms and conditions acceptable to Buyer in its sole and absolute discretion; 2. Buyer has obtained the governmental approvals and other third-party consents, approvals and authorizations that are necessary or prudent for Buyer to enter into the Definitive Agreement or perform its obligations thereunder, which approvals and consents are, in each case, final and non-appealable (and not otherwise subject to challenge) and on terms and conditions acceptable to Buyer in its sole and absolute discretion; 3. Buyer has obtained the consents, approvals and authorizations contemplated by item 32 below on terms and conditions acceptable to Buyer in its sole and absolute discretion;² 4. the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof) has qualified as a firm network resource with deliverability on a firm network resource basis to Buyer’s load served from the Entergy Transmission System and Buyer shall have otherwise obtained transmission service from the Energy Delivery Point in respect

² This condition is not expected to apply. It would be included only in the unlikely event that Buyer needed to execute the Definitive Agreement prior to receipt of the approval of the Board of Directors of Entergy Corporation and other internal approvals.

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		<p>of the capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products to be provided under the Definitive Agreement on terms and conditions acceptable to Buyer in its sole and absolute discretion, including terms and conditions (a) concerning the timing, installation, location, cost, or cost recovery of transmission upgrades or other transmission improvements, (b) relating to deliverability, re-dispatch or outages of any generation resource of any of the Entergy operating companies (including any resource under contract), or (c) that may, if accepted or given effect, adversely affect reliability or operation of the Entergy Transmission System or resources therein;</p> <ol style="list-style-type: none"> 5. if the Facility is not directly interconnected to the Entergy Transmission System (or otherwise has an Energy Delivery Point that is after the Facility’s point of interconnection), Seller has obtained firm transmission service to the Energy Delivery Point in respect of the capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products to be provided under the Definitive Agreement; 6. if the Facility is interconnected to the Entergy Transmission System, the local Balancing Authority applicable to the Facility is the smallest Balancing Authority that, as of such time, includes the portion of the Entergy Transmission System in which the Energy Delivery Point is located; 7. the Balancing Authorit(y)(ies) applicable to the portion of the Entergy Transmission System in which the Energy Delivery Point is located recognize the Facility (or portion thereof allocated to Buyer) as a separate generating resource for settlement purposes (including that such Balancing Authorit(y)(ies) determine separately for settlement purposes the amount of energy actually delivered specifically from the Facility or portion thereof allocated to Buyer to the Energy Delivery Point and, if applicable, recognize the Facility or portion thereof allocated to Buyer as a separate generating resource for tagging, scheduling, offering and bidding purposes); 8. if applicable, Buyer has been designated (with effect as of the start of the Delivery Term) as the exclusive representative of the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof) before each Balancing Authority applicable to the portion of the Entergy Transmission System in which the Energy Delivery Point is located (including any applicable RTO or ISO) for purposes of the functions
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		<p>described in item 17 above;</p> <p>9. unless “tagging” of the capacity, capacity-related benefits, energy, environmental attributes and Other Electric Products to be provided under the Definitive Agreement is required by applicable laws as of the start of the Delivery Term, then, effective as of no later than (and with effect continuing on) the start of the Delivery Term, the Facility has been removed from coverage by the Generator Imbalance Agreement of ESI or other arrangement serving a similar function and from any applicable generator imbalance billing applications and otherwise not be required to be “tagged;”</p> <p>10. if required, credit support meeting the requirements of the Definitive Agreement has been posted by Seller; and</p> <p>11. certificates of insurance evidencing the coverages required by the Definitive Agreement have been obtained and submitted to Seller.</p> <p>In addition, other Buyer conditions precedent may be required, depending on the transmission path, operational aspects of the specific proposed generating units, the results of diligence, the status of applicable laws, rules and regulations, and other factors as Buyer deems relevant in its sole and absolute discretion.</p> <p><i>{Bidder should indicate whether Seller will require any conditions precedent to Seller’s obligations under the Definitive Agreement and describe with reasonable specificity each such condition precedent.}</i></p>
32	Buyer Management Approval:	<p>The Definitive Agreement is subject to review and approval by the Entergy Operating Committee, the Entergy Corporate Risk office, the Board of Directors of Entergy Corporation and Buyer and other governing bodies. Buyer will not execute or deliver the Definitive Agreement without such review and approval, and such approval may be granted or denied in such bodies’ sole and absolute discretion.</p>

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33	Select Contract Terms and Conditions:	<p>The Definitive Agreement will also include, among others, the following covenants, terms and/or conditions:</p> <ul style="list-style-type: none"> • Seller will operate, maintain, replace, repair and test the Facility in accordance with (i) Accepted Electrical Practices, (ii) applicable permits, consents and laws (including, without limitation, requirements of Governmental Authorities), (iii) the interconnection agreement(s) and other project documents and (iv) the Definitive Agreement; • Seller will maintain adequate reserves for, and schedule and perform according to the Definitive Agreement, required maintenance; and • Seller will insure against all insurable risks with coverage in an amount not less than full replacement cost and on terms specified in the Definitive Agreement.
34	Events of Default:	<p>The Definitive Agreement will include the following events of default of Seller:</p> <ul style="list-style-type: none"> • failure to pay amounts due; • breach of Seller representations and warranties; • breach of Seller covenants; • the average of the Monthly Availabilities during any Rolling 12 Month Period is less than the Rolling 12 Month Availability Requirement of (a) for solid fuel resources, seventy-five percent (75%) or (b) for all other resources, eighty-five percent (85%), where “Rolling 12 Month Period” means, as of the end of any month during the Delivery Term, the twelve (12)-month period that includes such month and the preceding eleven (11) months that occurred during the Delivery Term, provided that, for the first contract year, the measurement of the Rolling 12 Month Period will begin at the end of the sixth (6th) month of such contract year, at which time and thereafter for the remainder of the first contract year, the Rolling 12 Month Period will be determined using the months then elapsed in the Delivery Term; • bankruptcy, dissolution or liquidation of Seller; • failure to provide or maintain required credit support; • failure of the resulting, surviving or transferee entity in a merger or sale of all or substantially all of the assets of Seller to assume such party’s obligations under the Definitive Agreement; • assignment by Seller of the Definitive Agreement or sale or transfer of the Facility (or the direct or indirect equity interests in Seller) by Seller

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		<p>(or any direct or indirect parent or Affiliate of Seller), including by merger, consolidation or sale of all or substantially all of its assets, except as permitted by the Definitive Agreement;</p> <ul style="list-style-type: none"> • Seller sells, assigns or otherwise transfers, or commits to sell, assign or otherwise transfer, the capacity, capacity-related benefits, energy, environmental attributes or Other Electric Products that are subject to the Definitive Agreement, or any portion thereof, to any Person other than Buyer; • Seller makes any material misrepresentation or material omission in any availability report, metering report or invoice required to be made or furnished by Seller pursuant to the Definitive Agreement or Seller’s actual fraud, tampering with Buyer-owned facilities or material intentional misrepresentation or misconduct in connection with the Definitive Agreement or operation of the Facility; • default of Seller under any agreement relating to indebtedness for borrowed money in excess of a specified aggregate amount; • default of Seller under, or failure to maintain in effect, any project document (including the interconnection agreement(s) and any transmission service agreement); • Seller’s abandonment of operation of the Facility (or any portion thereof affecting its obligations under the Definitive Agreement); • if applicable, Seller’s failure to maintain any necessary qualification for, or any necessary account to obtain and transfer to Buyer, any environmental attributes for which the Facility is eligible; • the commencement of the Delivery Term is delayed as a result of the occurrence of one or more Delivery Delay Conditions for a period of six (6) months or more from the date that the Delivery Term would have commenced without the occurrence thereof; and • Seller’s failure to maintain in effect any agreement required to deliver energy to the Energy Delivery Point.
35	Termination Rights:	<p>The Definitive Agreement will contain provisions entitling a Party the right to terminate the Definitive Agreement upon the occurrence and continuation of an event of default by the other Party and to calculate termination damages based on the costs, gains or losses incurred by the non-defaulting Party arising out of termination of the Definitive Agreement. If the termination damages are negative, the non-defaulting Party will not be obligated to pay such amount to the defaulting Party.</p>

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		<p>If, at any time, any portion of the Contract Capacity no longer qualifies as a firm capacity resource with the Balancing Authorit(y)(ies) applicable to the portion of the Entergy Transmission System in which the Energy Delivery Point is located or otherwise for capacity-related benefits from such Balancing Authorit(y)(ies), Buyer may, by notice to Seller, terminate this Agreement without liability to either Party arising out of such termination. For the avoidance of doubt, such a termination will not limit any remedies of Buyer in the event the reason any portion of the Contract Capacity no longer qualifies as a firm capacity resource or otherwise for capacity-related benefits constitutes a breach or default of Seller.</p>
<p>36</p>	<p>Audit Rights:</p>	<p>Buyer will have the right to examine the books and records of Seller and any Affiliates of Seller involved, directly or indirectly, in the transactions or actions contemplated by the Definitive Agreement, including the records for the Facility (<i>e.g.</i>, (i) actual generating records for the Facility and (ii) copies of contracts evidencing Seller’s fuel supply, transportation and (if applicable) interconnection arrangements, in each case to the extent reasonably necessary or appropriate to verify, among other things, (a) the accuracy of any statement, charge or computation made pursuant to the provisions of the Definitive Agreement or (b) Seller’s performance under or compliance with the terms and provisions of the Definitive Agreement). Seller will be responsible for ensuring that all first-tier and lower-tier suppliers, vendors, agents, contractors and representatives of Seller or its Affiliates performing work or providing services relating to the Facility (and, to the extent that Seller is not the owner of the Facility, the owner(s)) commit to supply to Seller, and allow Seller to freely provide to Buyer, the records supporting any cost or charge paid by Seller and passed on to Buyer according to the terms of the Definitive Agreement. Any information obtained by Buyer under its audit rights will be required to be kept confidential pursuant to the confidentiality section of the Definitive Agreement. As a condition precedent to the Definitive Agreement becoming effective, to the extent that Seller is not the owner of the Facility, Seller will provide to Buyer evidence satisfactory to Buyer of its ability and rights to facilitate Buyer’s access to the books and records of such owner pursuant to the provisions of the audit section of the Definitive Agreement.</p>
<p>37</p>	<p>Seller’s Use of Real-time Information:</p>	<p>Seller will limit the availability of real-time generation, dispatch and outage information related to the Facility (or, in the event Bidder proposes to allocate to Buyer a portion of the nameplate capacity of the Facility, the corresponding portion thereof) to its designated asset management personnel primarily responsible for operation and management of the Facility. Seller and such personnel may use all such real-time information only for the limited purpose of operating the Facility and otherwise</p>

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		performing its obligations under the Definitive Agreement. Seller and such personnel will not use such real-time generation, dispatch and outage information to enable Seller to engage in any other activity.
38	Transfer Restrictions:	Seller will not (and will not permit any direct or indirect parent or Affiliate of Seller to) sell or transfer the Facility or any portion thereof or any undivided interest therein (or any direct or indirect equity interests in Seller), including by merger, consolidation or sale of all or substantially all of its assets, without Buyer's prior written consent, which will not be unreasonably withheld or delayed, provided that it will be deemed reasonable for Buyer to withhold its consent if (a) the proposed transferee is not a qualified operator, (b) the proposed transferee has a creditworthiness that is below that of Seller, (c) the proposed transferee is, or during the period commencing five (5) years prior to the date of Seller's notice requesting consent to the transfer until the date of the transfer has been, involved in material litigation or arbitration with Buyer or any Entergy operating company, (d) any credit support provided by Seller prior to such sale or transfer would not remain in effect or be substituted with credit support acceptable to Buyer or (e) in the case of a direct transfer of the Facility, Seller does not concurrently assign its rights and obligations under the Definitive Agreement according to the assignment provisions thereof on terms acceptable to Buyer in its sole and absolute discretion.
39	Confidentiality:	Each Party will be required to keep the terms and provisions of the Definitive Agreement confidential and will be prohibited from disclosing such terms to any third party, subject to certain limited exceptions specified in the Definitive Agreement.
40	Special Exceptions:	<i>{If Bidder is unable or unwilling to accept one or more of the terms and conditions set forth in this Term Sheet or wishes to propose any alternate or additional terms or conditions (such as a buy-out option at some point during the term of the Definitive Agreement), Bidder should indicate here: (i) the terms and conditions to which Bidder takes exception, describing with specificity any terms and conditions that Bidder proposes in substitution therefor and the reason(s) for the exception, and/or (ii) the additional terms and conditions that Bidder proposes as a supplement to the terms and conditions in this Term Sheet or each term or condition that Bidder proposes as modification to the terms and conditions of this Term Sheet. Bidder is advised to refer to Section 2.2 in the Main Body for important information and guidance about Special Considerations.}</i>

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ATTACHMENT 1

Planned Maintenance Requirements

Nuclear Facilities

{The following applies to nuclear Facilities}

The number of Equivalent Planned Maintenance Hours for each outage after which any incremental Equivalent Planned Maintenance Hour is an Excess Equivalent Planned Maintenance Hour is {____}. The Facility is on a {____}-month refueling outage cycle. The first planned refueling outage during the Delivery Term is {_____}.

{Bidder may propose up to up to 720 Equivalent Planned Maintenance Hours per contract year. Bidder should propose an amount of Equivalent Planned Maintenance Hours that approximates the expected Equivalent Planned Maintenance Hours required for Seller to perform Planned Maintenance in a refueling outage over the Delivery Term in accordance with the Term Sheet. Bidder should not include in such proposal Equivalent Planned Maintenance Hours for work that would be (or would reasonably be expected to be) performed at the same time as other Planned Maintenance during the same Planned Maintenance period.}

Solid Fuel and Renewable Facilities

{The following applies to coal, pet coke, and renewable Facilities}

The number of Equivalent Planned Maintenance Hours in each contract year after which any incremental Equivalent Planned Maintenance Hour is an Excess Equivalent Planned Maintenance Hour is {____}. *{Bidder may propose up to 720 Equivalent Planned Maintenance Hours per contract year. Bidder should propose an amount of Equivalent Planned Maintenance Hours that approximates the expected Equivalent Planned Maintenance Hours required for Seller to perform Planned Maintenance in any contract year over the Delivery Term in accordance with the Term Sheet. Bidder should not include in such proposal Equivalent Planned Maintenance Hours for work that would be (or would reasonably be expected to be) performed at the same time as other Planned Maintenance Work during the same Planned Maintenance period.}*

Gas-fired Facilities

{The following applies to gas-fired Facilities}

One combustion inspection may be performed for each combustion turbine providing the Dependable Capacity Allocated to Buyer after every *{insert number of run hours}* run hours of such combustion turbine for up to *{insert number of EPMHs}* Equivalent Planned Maintenance Hours for each inspection; provided, however, that this clause (i) will not apply during multipliers of run hours when clause (ii) or clause (iii) below applies;

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(ii) one hot gas inspection may be performed for each combustion turbine providing the Dependable Capacity Allocated to Buyer after every *{insert number of run hours}* run hours of such combustion turbine for up to *{insert number of EPMHs}* Equivalent Planned Maintenance Hours for each inspection; provided, however, that this clause (ii) will not apply during multipliers of run hours when clause (iii) below applies;

(iii) one “major” inspection may be performed for each combustion turbine providing the Dependable Capacity Allocated to Buyer after every *{insert number of run hours}* run hours of such combustion turbine for up to *{insert number of EPMHs}* Equivalent Planned Maintenance Hours for each inspection;

(iv) a steam turbine “minor” inspection may be performed for each steam turbine providing the Dependable Capacity Allocated to Buyer after every *{insert number of run hours}* run hours of such steam turbine for up to *{insert number of EPMHs}* Equivalent Planned Maintenance Hours for each “minor” inspection; provided, however, that this clause (iv) will not apply during multipliers of run hours when clause (v) below applies;

(v) a steam turbine “major” inspection may be performed for each steam turbine providing the Dependable Capacity Allocated to Buyer after every *{insert number of run hours}* run hours of such steam turbine for up to *{insert number of EPMHs}* Equivalent Planned Maintenance Hours for each “major” inspection; and

(vi) compressor water washes and/or borescope inspections that are scheduled upon at least six (6) weeks’ prior written notice to Buyer and in consultation with Buyer to minimize the effect upon Buyer and performed on weekends may be performed, to the extent consistent with recommendations by the original equipment manufacturer, for up to *{insert number of EPMHs}* Equivalent Planned Maintenance Hours in each contract year.

Notwithstanding the foregoing limitations, if the number of run hours indicated above are expected by Seller to occur during periods other than the March/April maintenance period or October/November maintenance period, Seller will schedule any performance of the applicable inspection during the March/April maintenance period or October/November maintenance period immediately preceding their occurrence. Further, in the event that two or more of a major inspection under clause (iii) above or a steam turbine “minor” inspection or “major” inspection under clause (iv) or clause (v) above are expected to occur within the same twelve (12)-month period according to the parameters set forth above, Seller will use commercially reasonable efforts to schedule the outages related thereto to occur during the same period, and, in order to do so, may perform the affected outages earlier than would apply according to the foregoing limitations. For the avoidance of doubt, the obligations of Seller described in the previous two sentences will not apply if the result of giving effect to such obligations would be the acceleration of maintenance that would otherwise be performed by or for Seller after the expiration of the Delivery Term.

{The run-hour intervals and maximum Equivalent Planned Maintenance Hours per inspection proposed by Bidder in clauses (i)-(vi) above should be reasonable and should track the original equipment

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manufacturer requirements. Seller will be required to provide and certify the applicable run hours of the generating unit(s) providing the Dependable Capacity (since first operation of such generating unit and since the most recent inspection of each applicable type described in clauses (i)-(vi) above) as of the execution of any Definitive Agreement arising herefrom, the commencement of the Delivery Term and at periodic intervals thereafter. Bidder must provide with its proposal the applicable run hours of the generating unit(s) providing the Dependable Capacity (since first operation of such generating unit and since the most recent inspection of each applicable type described in clauses (i)-(vi) above) as of the time of such proposal.}

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ATTACHMENT 2

Environmental Change in Law³

For purposes of this Attachment 2 and item 29, “**Environmental Change in Law**” means (i) the enactment, promulgation, issuance or adoption by a Governmental Authority with jurisdiction of new environmental legislation, rules or regulations or (ii) the amendment by a Governmental Authority with jurisdiction of existing environmental legislation, rules or regulations, in the case of each of clause (i) and (ii), that occurs after the date of execution of the Definitive Agreement, is binding upon Seller, applies to or in respect of the Facility, modifies the requirements in respect of the Facility with respect to Covered Matters, and is of general applicability to electric power generation facilities located in the state where the Facility is located (or the owners thereof). “Environmental Change In Law” excludes, without limitation, any enactment, promulgation, issuance, adoption, or amendment described in clause (i) or (ii) above that (A) results from any action or omission of (1) Seller, its Affiliates, or any of their respective contractors or subcontractors of any tier (including the operator of the Facility), employees, agents or representatives or (2) any steam host or other offtaker or customer (other than Buyer) of the Facility, including any violation of law or permit or modification of the Facility by any such Person, (B) was not within the reasonable control of any such Person or, with the exercise of due diligence, could reasonably have been prevented, avoided, overcome or removed by such Person, or (C) was enacted, promulgated, issued, adopted, or amended, or was pending or officially proposed, as of the date of execution of the Definitive Agreement but takes effect after the date of execution of the Definitive Agreement.

Also for purposes of this Attachment 2 and item 29, “**Covered Matters**” means *{Bidders offering proposals based on non-renewable technologies (e.g., solid fuel, nuclear, natural gas) must describe with specificity the proposed scope of the Environmental Change in Law matters, if any, for which Buyer would be required, under Seller’s proposal, to share in ECIL Costs (defined below), subject to the other terms hereof. (The scope of “Covered Matters” for Bidders offering proposals based on renewable technologies is “none.”) For example, if the proposal is supported by a Facility that is a gas-fired Facility, Seller may choose to propose that “Covered Matters” means (i) taxes imposed by a Governmental Authority with jurisdiction the payment of which is based specifically on the carbon content of the fuel for, or of emissions into the atmosphere from, an electric power generation facility, (ii) allowances required by a Governmental Authority with jurisdiction under a mandatory federal, regional or state cap and trade program to emit up to a specific quantity of CO or CO₂ during a specified period, and (iii) those matters resulting from an Environmental Change In Law the principal objective of which is the reduction or regulation of carbon-based emissions and that directly affects the cost for Seller to provide power to Buyer from the Facility}*.

³ Attachment 2 to Appendix C to this RFP requires Bidder to include in its proposal proposed terms for certain matters relating to Environmental Change in Law. Without limiting the generality or application elsewhere of Sections 2.2 and 6 of the Main Body, Appendix D, and the other terms of this RFP, the terms relating to Environmental Change in Law proposed by Bidder in its proposal will not be binding on Buyer, Buyer will have no obligation whatsoever to accept such proposed terms in any Definitive Agreement arising out of such proposal, and such terms will be considered in the evaluation of such proposal.

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On and subject to the other terms herein and in the Definitive Agreement, Buyer will pay the net increase or decrease (as the case may be) in the reasonable, actual, direct, and verifiable out-of-pocket costs, without mark-up, that Seller incurs in the provision to Buyer of, and only to the extent incurred in the provision to Buyer of, Dependable Capacity Allocated to Buyer (in the case of capital costs) or associated energy and Other Electric Products (in the case of variable costs) as a direct and proximate result of, and only to the extent required by, the Environmental Change In Law (“**ECIL Costs**”). ECIL Costs exclude, without limitation, any costs that would not have been incurred but for other uses of the Facility. If more than one commercially reasonable option is available to comply with an Environmental Change In Law, the least cost option will serve as and establish the basis for determining the ECIL Costs payable by Buyer irrespective of the option actually selected. Buyer will have at least 180 days after the receipt of a prescribed notice from Seller of an Environmental Change In Law to diligence the proposed Environmental Change In Law and associated ECIL Costs. Seller will be required to cooperate with Buyer during the diligence phase. If the Parties are unable to agree on an ECIL Cost, either Party may refer the matter to specialists for resolution of the dispute.

ECIL Costs may be either amortized (capital) or unamortized (expensed). The calculation of Buyer’s share of amortized ECIL Costs for each amortized item will be based on (i) the item’s total net cost amortized on a levelized basis over the item’s useful economic life at a rate of 6.5%, (ii) Buyer’s share (using Dependable Capacity Allocated to Buyer) of the total capability of the Facility (whether or not used), including, if applicable, thermal capability, but in no event greater than such share at the conclusion of Buyer’s diligence of the Environmental Change In Law, and (iii) a ratio determined by dividing the balance of the Delivery Term at the time of permanent placement into service (after installation, testing and acceptance) of the capital item by the item’s useful economic life. (Useful economic life will be determined without regard to the ownership of the item, the terms of the Definitive Agreement (including the Delivery Term), or any other term or condition of any lease, financing, or other agreement affecting the Facility.) Unamortized ECIL costs will be based on Buyer’s share of total consumption (electric and thermal) from the Facility. ECIL Costs (whether capital or expensed, amortized or unamortized) payable by Buyer will be rolled into Buyer’s monthly energy payment and segregated according to Environmental Change In Law event. Buyer will have the right to audit all ECIL Costs passed through to Buyer, including the right to verify the amount of ECIL Costs allocated to the Facility’s other customers, including steam hosts.

For ECIL Costs otherwise payable by Buyer, Seller will bear the first *\${insert amount}* million in the aggregate. If and when the Seller deductible for a particular ECIL Cost is exceeded, then, and only then, Buyer will bear, subject to the other terms hereof, its share of future ECIL Costs until its share of such costs equals (i) for amortized costs, *\${insert amount}* million in the aggregate, (ii) for unamortized costs, *\${insert amount}* million in the aggregate, or (iii) for any combination of amortized and unamortized costs, *\${insert amount}* million in the aggregate. Thereafter, subject to the other terms hereof, Seller will bear all ECIL Costs with respect to any Environmental Change In Law.

Once any of the ECIL Cost caps are reached, or Buyer reasonably expects and so notifies Seller at any point during the Delivery Term that any of the ECIL Cost caps will be reached, Seller will have a period of sixty (60) days to elect to terminate the Definitive Agreement and notify Buyer of such election. If

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Buyer does not receive such notice within such sixty (60)-day period, Seller will be deemed to have waived such termination right with respect to all Environmental Changes In Law to date. If Buyer receives such notice within such sixty (60)-day period, Buyer will have a period of thirty (30) days thereafter to elect to pre-empt such termination by agreeing to pay its share of ECIL Costs incurred after Buyer's notice with respect to all Environmental Changes In Law to date (excluding all Environmental Changes in Law with respect to which Seller has previously waived its termination rights). If Buyer has elected to pre-empt termination, Buyer will have the right to terminate the Definitive Agreement on a rolling basis, upon three (3) months' prior notice to Seller.

If compliance with an Environmental Change In Law involves covered emission allowances, Buyer and Seller will use commercially reasonable efforts to develop and agree upon a written plan to govern the procurement, disposition, transfer, use, and market price determinations (including applicable indices) of, and accounting and billing for, such allowances required for the production of energy from Dependable Capacity for the applicable time period (as modified from time to time hereunder, "**Emission Allowance Plan**") or, if an Emission Allowance Plan is already in place, appropriate modifications to such plan. The Emission Allowance Plan will include terms and provisions with respect to sales, procurement, deposits, surrenders, transfers, records, and reports of covered emission allowances, including amounts, pricing, timing and sourcing and such other matters that the Parties agree to include in the plan. To the extent that, despite the use of commercially reasonable efforts and compliance with the terms hereof, the Parties do not agree upon a term of the Emission Allowance Plan or any modification thereof, Buyer will determine the terms of such Emission Allowance Plan or modification thereof in its sole discretion, provided that (i) any such terms determined by Buyer may not prevent Seller from complying with the requirements of applicable laws or cause Seller to be in breach of its obligations hereunder or, if and to the extent applicable, to a steam host of the Facility and (y) if Buyer does not determine and notify Seller of the terms of an Emission Allowance Plan or a modification thereof, as applicable, at least five (5) Business Days prior to the date on which Seller must begin to incur ECIL Costs under the applicable Environmental Change In Law, then Seller will determine the terms of the Emission Allowance Plan or modification thereof, as applicable, in its reasonable discretion, subject to Buyer's rights herein to supersede or modify such Emission Allowance Plan. Any Emission Allowance Plan or modification thereof will remain in effect until superseded by another Emission Allowance Plan or modification thereof agreed upon by the Parties in accordance with the terms hereof. Seller will procure, allocate, and manage the procurement of covered emission allowances for the Facility in conformity with the Emission Allowance Plan and, to the extent not modified by the Emission Allowance Plan, the requirements of the Definitive Agreement and Accepted Electrical Practices. Seller will be responsible for timely making available to Buyer hereunder, at no cost to Buyer, Buyer's pro rata share (calculated using the ratio used to calculate unamortized ECIL costs) of any covered emission allowance granted or allocated by a Governmental Authority in respect of the Facility relating to any period during the Delivery Term. Costs not incurred in accordance with the Emission Allowance Plan may not be included as ECIL Costs payable by Buyer.

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