**DISTRIBUTED GENERATION STANDARD AGREEMENT**

**FOR COMMERCIAL OR INSTITUTIONAL CUSTOMER**

This DISTRIBUTED GENERATION STANDARD AGREEMENT (“Agreement”) is dated as of the \_\_\_ day of \_\_\_\_\_\_\_\_, by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a Maine corporation and transmission and distribution utility (“Standard Buyer”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a corporation under the laws of the State of \_\_\_\_\_\_\_\_\_\_ (“Project Sponsor”). This Agreement sets forth the terms and conditions under which the Project Sponsor will provide Distributed Generation Resources to the Standard Buyer in accordance with Chapter 34-C of Title 35-A of the Maine Revised Statutes during the Term as defined in this Agreement.

**Preamble**

WHEREAS, Section 3482(1) of Title 35-A of the Maine Revised Statutes authorizes the Maine Public Utilities Commission (“Commission”) to procure Distributed Generation Resources in the shared distributed generation and commercial or institutional generation market segments using statutorily specified targets and procurement methods; and

WHEREAS, pursuant to section 3484 of Title 35-A of the Maine Revised Statutes and Chapter 312 of the Commission’s Rules and Regulations, the Commission has conducted a solicitation for Distributed Generation Resources; and

WHEREAS, Project Sponsor submitted a Bid as a Commercial or Institutional Distributed Generation Resource; and

WHEREAS, the Commission selected the Project as described in Project Sponsor’s Proposal, which is attached to this Agreement as Exhibit A; and

WHEREAS, the Commission has evaluated the proposal of Project Sponsor and has selected Project Sponsor’s Project relating to the provision of Distributed Generation Resources as defined in this Agreement and pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the foregoing, the covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I

DEFINITIONS

* 1. Definitions.

As used herein, the following terms have the following meaning:

“Bill Credit” means the amount that Standard Buyer applies or caused to be applied to Project Sponsor in the form of a credit on the bill to account for the value of the Output of the distributed generation resource transferred by Project Sponsor to Standard Buyer.

“Business Day” means any day except a Saturday, Sunday, a Federal Reserve Bank holiday, a holiday recognized by the State of Maine or a holiday as defined by NERC. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant party’s principal place of business. The relevant party, in each instance unless otherwise specified, shall be the party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

“Commercial or Institutional Customer” means a nonresidential customer of an investor-owned transmission and distribution utility in the State.

“Commercial or Institutional Customer Distributed Generation Resource” means a distributed generation resource that is associated with a commercial or institutional customer.

“Commercial Operation Date” means the date on which the Project is commercially operable. The Project Sponsor shall provide electronic notice to the Standard Buyer and to the Commission’s Director of Electric and Natural Gas Industries of the Commercial Operation Date a minimum of ten (10) business days in advance of the Commercial Operation Date.

“Commercially Operable” means that the Project is has been constructed, tested, and is fully capable of operating for the purpose of generating electrical energy as contemplated in this Agreement.

“Commission” means the Maine Public Utilities Commission and any successor organization.

“Construction Period” has the meaning set forth in Section 3.1(a) of this Agreement.

“Contract Award” means the date of the Commission’s decision, by Order or otherwise, determining that the Project that is the subject of this Agreement has been selected following the procurement process set forth in Chapter 312 of the Commission’s rules.

“Credit Rate” means the rate per kilowatt-hour used to calculate the bill credits for Project Sponsor, which shall be \_\_\_, as specified in Commission Order (docket no., date]. [NOTE: This rate may vary by year depending on the escalators; attach schedule containing rates for subsequent years]

“Delivery period” has the meaning set forth in Section 3.1(b) of this Agreement.

“Distributed Generation Resource” means a discrete electric generating facility installed pursuant to Chapter 312 of the Commission’s Regulations, with a Nameplate Capacity of less than five (5) megawatts that uses a renewable fuel or technology under section 3210(2)(B-3) of Title 35-A Maine Revised Statutes and is located in the service territory of the Standard Buyer.

“Effective Date” means the date the Parties sign this Agreement.

“ISO-NE” means ISO New England, Inc. or any successor entity.

“ISO-NE Market Rules and Manuals” means Section III of the ISO-NE Tariff and its implementing Manuals adopted by ISO-NE to govern the operations of the ISO-NE markets for energy, reserves and capability, as amended from time to time.

“ISO-NE Rules” means all rules and operating procedures adopted by ISO-NE, as such rules and operating procedures many be amended from time to time, including but not limited to, the ISO-NE Market Rules and Manuals and ISO-NE Operating Procedures.

“ISO-NE Tariff” means the ISO New England, Inc. Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, effective February 1, 2006, as may be amended from time to time.

“Nameplate Capacity” means the installed or rated capacity of the Distributed Generation Resource in alternating current or direct current as applicable that is the subject of this Agreement.

“NMISA” means Northern Maine Independent System Administrator.

“NMISA Market Rules” means all rules and operating procedures adopted by NMISA, as such rules and operating procedures may be amended from time to time.

“NMISA Tariff” means the Northern Maine Independent System Administrator, Inc., FERC FPA Electric Tariff, Volume No. 1, as may be amended from time to time.

“Nonministerial permit” means a permit for which one or more officials consider various factors and exercise discretion in deciding whether to issue or deny the permit.

“Output” means the energy, capacity, renewable energy certificates and all other environmental attributes and market products that are available or may become available from the Distributed Generation Resources that are the subject of this Agreement.

“Project milestones” has the meaning set forth in Section 5.2(b) of this Agreement and as described in Exhibit C.

“Project Sponsor” means an entity or its successor or assignee that develops, markets, owns, manages, or operates a Distributed Generation Resource on behalf of a Commercial or Institutional Distributed Generation Resource. The Commercial or Institutional Distributed Generation Resource is deemed to be Project Sponsor unless it has designated another entity to act as Project Sponsor.

“Project Sponsor’s Proposal” means the bid, including all documents and exhibits, that the Project Sponsor submitted to the Commission and attached as Exhibit A.

“Revenue Quality Meter” means an electric meter that meets the applicable standards and requirements of the investor-owned transmission and distribution utility and the ISO-NE or NMISA, as applicable, in the service territory where the distributed generation resource is located.

“Standard Buyer” means one of the following Maine investor-owned transmission and distribution utilities: Central Maine Power Company; Emera Maine-Bangor Hydro District (EM-BHD) or Emera Maine-Maine Public District, in whose service territory the Commercial or Institutional Distributed Generation Customer Resource is located.

“Unused Credits” means Bill Credits that, in accordance with this Agreement, are created when the value of generation exceeds charges for billed usage and are credited to Project Sponsor’s account as determined for any Billing Period. Project Sponsor may accumulate Unused Credits and apply them against future bills over a rolling 24-month period. Unused Credits do not include any Credits that have expired pursuant to subsection 5.3(e).

This Agreement includes certain capitalized terms that are not explicitly defined in this Section or anywhere else in this Agreement. Such capitalized terms shall have the meanings specified in the ISO-NE Tariff and the ISO-NE Market Rules and Manuals, which meanings are incorporated herein by reference and made part hereof. In the event of any inconsistency between a definition contained in this Agreement and a definition contained in either the ISO-NE Tariff or the ISO-NE Market Rules and Manuals, the definition in this Agreement will control for purposes of this Agreement.

Further, all references to Articles, Sections and Subsections are references to those parts of this Agreement, unless the context clearly indicates otherwise.

ARTICLE II

CONDITIONS PRECEDENT, REPRESENTATIONS AND WARRANTIES

2.1 Conditions on Obligations of Standard Buyer and Project Sponsor

The obligations of Standard Buyer and Project Sponsor under this Agreement are subject to the fulfillment and satisfaction of each of the following conditions precedent:

(a) All representations of the Parties contained in this Agreement shall be true and correct in all material respects as of the date when made and as of the Effective Date.

(b) All regulatory approvals required of either Party shall have been received and are final and in full force and effect pursuant to a final, non-appealable order.

In the event the conditions set forth above are not satisfied then either Party may terminate this Agreement by delivering a notice of termination to the other Party. Notice of termination for failure of a condition must be in writing and must identify in reasonable detail the condition(s) that have not been satisfied.

2.2 Representations and Warranties of Project Sponsor

Project Sponsor hereby represents and warrants to Standard Buyer that as of the Effective Date:

(a) Project Sponsor is a [corporate form] duly organized, validly existing and in good standing under the law of the State of \_\_\_\_\_\_\_\_\_\_\_ and is duly qualified to do business in all jurisdictions where such qualification is required or where such qualification is necessary for it to perform its obligations hereunder.

(b) Project Sponsor has full power and authority to carry on its business as now being conducted, to enter into this Agreement and perform its obligations hereunder. The execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate or other organizational action and do not and will not contravene its organizational documents or conflict with, result in a breach of, or entitle Project Sponsor (with due notice or lapse of time or both) to terminate, accelerate, or declare a default under, any agreement or instrument to which it is a party or by which it is bound. The execution, delivery and performance of this Agreement by Project Sponsor will not result in any violation by it of any law, any order of any court or other agency of government, rule, or regulation applicable to it. Project Sponsor is not a party to, nor subject to or bound by, any judgment, injunction or decree of any court or other governmental entity which may restrict or interfere with its performance of this Agreement.

(c) This Agreement is the legal, valid and binding obligation of Project Sponsor, enforceable against it in accordance with its terms, except as such enforcement may be subject to bankruptcy, insolvency, reorganization, fraudulent conveyance, avoidance, preferential transfer, moratorium or other similar laws now or hereunder in effect relating to creditors’ rights generally and by general principles of equity that may limit the availability of equitable remedies and contractual obligations generally (regardless of whether the issue of enforceability is considered in a proceeding in equity or at law), and the remedy of specific performance and injunctive relief may be subject to the discretion of the court before which any proceeding therefore may be brought.

(d) No consent, waiver, order, approval, authorization, or order thereof, or registration, qualification or filing with, any court or other governmental agency or authority is required for the execution and delivery by Project Sponsor of this Agreement. Any consent, waiver, order, approval authorization, or order of or registration, qualification, or filing with, any court or other governmental agency or authority required for Project Sponsor’s performance of this Agreement and the consummation by Project Sponsor of the transactions contemplated hereby, have been obtained or Project Sponsor will exercise commercially reasonable efforts to obtain, and as to such, consents the same are or will be final, will be in full force and effect, and will not be subject to any appeal or further judicial or administrative proceedings. No consent or waiver of any party to any contract to which Project Sponsor is a party or by which Project Sponsor is bound is required for the execution, delivery, and performance by Project Sponsor of this Agreement.

(e) There is no action, suit, grievance, arbitration, or proceeding (other than proceedings of general applicability to the electrical generation, transmission, and distribution industry and proceedings in the ordinary course of business to obtain authorizations, approvals, and permits) pending or, to the knowledge of Project Sponsor, threatened against or affecting Project Sponsor at law or in equity, before any federal, state, municipal, or other governmental court, department, commission, board, arbitrator, bureau, agency, or instrumentality that prohibits or impairs Project Sponsor’s ability to execute and deliver this Agreement or to consummate any of the transactions contemplated hereby.

(f) There are no bankruptcy or insolvency proceedings pending or being contemplated by Project Sponsor or, to its knowledge, threatened against Project Sponsor.

(g) No event of Default with respect to Project Sponsor has occurred and is continuing and no such event or circumstance would occur as a result of Project Sponsor entering into or performing its obligations under this Agreement.

2.3 Representations and Warranties of Standard Buyer

Standard Buyer hereby represents and warrants to Project Sponsor that as of the Effective Date:

(a) Standard Buyer is a [corporate form] duly organized, validly existing and in good standing under the law of the State of \_\_\_\_\_\_\_\_\_\_\_ and is duly qualified to do business in all jurisdictions where such qualification is required or where such qualification is necessary for it to perform its obligations hereunder.

(b) Standard Buyer has full power and authority to carry on its business as now being conducted, to enter into this Agreement and perform its obligations hereunder. The execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate or other organizational action and do not and will not contravene its organizational documents or conflict with, result in a breach of, or entitle Standard Buyer (with due notice or lapse of time or both) to terminate, accelerate, or declare a default under, any agreement or instrument to which it is a party or by which it is bound. The execution, delivery and performance of this Agreement by Standard Buyer will not result in any violation by it of any law, any order of any court or other agency of government, rule, or regulation applicable to it. Standard Buyer is not a party to, nor subject to or bound by, any judgment, injunction or decree of any court or other governmental entity which may restrict or interfere with its performance of this Agreement.

(c) This Agreement is the legal, valid and binding obligation of Standard Buyer, enforceable against it in accordance with its terms, except as such enforcement may be subject to bankruptcy, insolvency, reorganization, fraudulent conveyance, avoidance, preferential transfer, moratorium or other similar laws now or hereunder in effect relating to creditors’ rights generally and by general principles of equity that may limit the availability of equitable remedies and contractual obligations generally (regardless of whether the issue of enforceability is considered in a proceeding in equity or at law), and the remedy of specific performance and injunctive relief may be subject to the discretion of the court before which any proceeding therefore may be brought.

(d) No consent, waiver, order, approval, authorization, or order thereof, or registration, qualification or filing with, any court or other governmental agency or authority is required for the execution and delivery by Standard Buyer of this Agreement. Any consent, waiver, order, approval authorization, or order of or registration, qualification, or filing with, any court or other governmental agency or authority required for Standard Buyer’s performance of this Agreement and the consummation by Standard Buyer of the transactions contemplated hereby, have been or Standard Buyer will exercise commercially reasonable efforts to obtain, and as to such, consents the same are or will be final, will be in full force and effect, and will not be subject to any appeal or further judicial or administrative proceedings. No consent or waiver of any party to any contract to which Standard Buyer is a party or by which Standard Buyer is bound is required for the execution, delivery, and performance by Standard Buyer of this Agreement.

(e) There is no action, suit, grievance, arbitration, or proceeding (other than proceedings of general applicability to the electrical generation, transmission, and distribution industry and proceedings in the ordinary course of business to obtain authorizations, approvals, and permits) pending or, to the knowledge of Standard Buyer threatened against or affecting Standard Buyer at law or in equity, before any federal, state, municipal, or other governmental court, department, commission, board, arbitrator, bureau, agency, or instrumentality that prohibits or impairs Standard Buyer’s ability to execute and deliver this Agreement or to consummate any of the transactions contemplated hereby.

(f) There are no bankruptcy or insolvency proceedings pending or being contemplated by Standard Buyer or, to its knowledge, threatened against Standard Buyer.

(g) No event of Default with respect to Standard Buyer has occurred and is continuing and no such event or circumstance would occur as a result of Standard Buyer entering into or performing its obligations under this Agreement.

ARTICLE III

TERM, EFFECTIVE DATE, PRICE, INTERCONNECTION

3.1 Term and Effective Date

This Agreement has two periods that together comprise the Term of the Agreement.

(a) The Construction Period is the period of time during which Project Sponsor will complete construction of the Project pursuant to milestones set forth in this Agreement and in Exhibits B and C. The Construction Period commences on the Effective Date, which, as defined above, is the date this Agreement is signed by the Parties. The Construction Period is completed when the Project has become commercially operable, which is the Commercial Operation Date. The Construction Period must be completed within 18 months from the Contract Award. Either individually or jointly the Parties may seek an extension of the Construction Period by filing a petition with the Commission.

(b) The Delivery Period commences on the Commercial Operation Date and shall terminate at 00:00 Eastern Prevailing Time on the twentieth (20th) anniversary of the Commercial Operation Date.

At the expiration of the Term, the Parties shall no longer be bound by the terms and conditions of this Agreement, except to the extent necessary to enforce the rights and obligations of the Parties arising under this Agreement prior to the expiration of the Term.

3.2 Payment to Project Sponsor

(a) During the Delivery Period, Standard Buyer shall pay the Credit Rate in the form of Bill Credits to Project Sponsor, which shall reflect the total energy production of Project Sponsor’s Distributed Generation Resource in the prior month. Standard Buyer may adjust a commercial or institutional customer’s billing cycle to administer the bill credits.

(b) Project Sponsor shall pay Standard Buyer’s costs for metering the hourly energy production of the Project, which must be determined using a Revenue-Quality meter.

3.3 Interconnection

(a) The Parties have previously entered into an Interconnection Agreement, attached to this Agreement as Exhibit B. To the extent any obligations of the Parties have not been satisfied as of the Effective Date of this Agreement, these obligations continue and are incorporated in this Agreement.

(b) The interconnection milestones contained in this section are separate from the Project Milestones relating to construction of the Project set forth in section 5.2(b)

ARTICLE IV

ISO-NE, NMISA AND GIS OBLIGATIONS

4.1 ISO-NE and NEPOOL Accounts Required

To the extent required to perform obligations in this Agreement, Standard Buyer shall, during the Term of this Agreement, (i) maintain an effective Market Participant Service Agreement pursuant to the ISO-NE Tariff and (ii) maintain a settlement account established in accordance with the ISO-NE Rules, which is sufficient to implement this Agreement.

4.2 ISO-NE or NMISA Market Participant Obligations

(a) Standard Buyer acting as Lead Market Participant (LMP)

At the election of Project Sponsor, Standard Buyer will become the LMP and Lead Asset Owner for the Distributed Generation Resource and assume all associated reporting and market settlement obligations. Standard Buyer will be responsible for registering the Distributed Generation Resource as a generating asset and with ISO-NE and will be responsible for all ISO-NE market administration obligations associated with its registration and participation in the wholesale markets administrated by ISO-NE and will use commercially reasonable efforts to do so.

Project Sponsor will be responsible for providing Standard Buyer with information that is accurate and complete as requested by Standard Buyer, which is necessary to complete the ISO-NE Generator Asset Registration Form, including but not limited to identification of the Designated Entity Contact from Project Sponsor, who will be responsible for all obligations associated with this designation pursuant to the ISO-NE Tariff and ISO-NE Rules.

If Standard Buyer elects to qualify the Distributed Generation Resource into the Forward Capacity Market (FCM) and seek a Capacity Obligation in the FCM, Standard Buyer will be responsible for all costs associated with qualifying the Resource or any subsequent performance penalties associated with the Resource’s operation as a Capacity Resource. Project Sponsor will act in a commercially reasonable manner to assist Standard Buyer’s efforts to participate in the FCM, including but not limited to timely provision of information needed to qualify for participation.

Standard Buyer may elect to qualify the Distributed Generation Resource as a Settlement-Only Generator. Standard Buyer’s administrative costs associated with serving as the LMP for the Resource as a Settlement-Only Generator are governed by section 5.3(h).

Standard Buyer and Project Sponsor must make commercially reasonable efforts to ensure that the Distributed Generation Resource is registered in a timely fashion to allow monetization of the Output. Standard Buyer is not responsible for applying Bill Credits until the Distributed Generation Resource is registered with the ISO-NE and capable of participation in the ISO-NE wholesale markets.

(b) Project Sponsor as LMP

If Project Sponsor elects to function as the LMP, energy and ancillary services products from the Distributed Generation Resource will be transferred to the Project Sponsor pursuant to a Real-Time Internal Bilateral Transaction, which will be negotiated by the Parties in good faith.

Project Sponsor may elect a Buyout Option to retain rights for Capacity and participate in the ISO-NE wholesale energy markets. Project Sponsor may make this election no later than ninety (90) days prior to the Commercial Operation Date.

Project Sponsor must make payment to Standard Buyer at a price and pursuant to terms negotiated in good faith by the Parties during the 90-day period prior to the Commercial Operation Date.

Project Sponsor and Standard Buyer will each maintain a NEPOOL Generation Information System (GIS) account to facilitate the transfer of Renewable Energy Credits (RECs) from Project Sponsor to Standard Buyer. On a quarterly basis, Project Sponsor will accept the transfer in the GIS.

(c) Application to NMISA

The foregoing obligations apply with respect to participation in the wholesale markets under the jurisdiction of NMISA. To the extent that NMISA has obligations that are distinct from those described above, this Agreement may be modified to reflect those obligations.

(d) ISO-NE Rules

Standard Buyer and Project Sponsor shall each comply with the ISO-NE Rules and the ISO-NE Tariff, or with the NMISA Rules or Tariff, as they may apply to the transactions contemplated in this Agreement.

ARTICLE V

OBLIGATIONS OF THE PARTIES

5.1 Parties’ Joint Obligations

(a) Each Party agrees to cooperate in good faith with the other Party and shall take all practicable actions and devote resources reasonably necessary to obtain satisfaction of the conditions set forth above as soon as reasonably possible.

(b) In accordance with section 3484(7) of Title 35-A of Maine Revised Statutes, each Party commits to engage in commercially reasonable behavior to ensure the Project proceeds to commercially operable status within eighteen (18) months of the date of the Contract Award, unless the Commission has granted an extension.

(c) In the event that either of the Parties becomes aware of a change in federal tax laws, regulations or policy that materially modifies the burdens or costs to customers or utilities associated with the delivery of Distributed Generation Resources pursuant to this Agreement, either of the Parties, or the Parties together shall notify the Commission of such change in law within five (5) business days of becoming aware of the change.

5.2 Obligations of Project Sponsor

(a) Project as proposed. In the event the Project deviates from the description of the Project in Project Sponsor’s Proposal in any material manner, due to circumstances outside Project Sponsor’s control, Project Sponsor must notify the Commission and seek approval of the Project in its modified form. Material changes to the Project include, but are not limited to, the location, size, type of generation, and Output of the Project.

(b) Project Milestones. Project Sponsor must make all commercially reasonable efforts to ensure the Project is commercially operable within 18 months of the Effective Date. The Project Sponsor must adhere to the Project Milestones set forth in Exhibit C and incorporated herein. Project Sponsor will notify Standard Buyer, with copy to the Commission, when it has met a Project Milestone.

(c) Failure to Meet Project Milestones. In the event that Project Sponsor fails to meet any milestones set forth above, then Project Sponsor shall notify the Commission and Standard Buyer, setting forth the reasons for such delay. Upon receipt of such notification, the Commission staff may convene a meeting of representatives of Project Sponsor and Standard Buyer to discuss the reasons for the delay and formulate a plan for completing the outstanding milestone. Upon written notice to Standard Buyer that the delay was caused by an event of force majeure, breach of covenant of this Agreement by Standard Buyer, or a delay in the issuance of a permit or other consent that is beyond Project Sponsor’s control, the deadline to complete the outstanding milestone shall be extended for a period of 90 days. A failure to complete the outstanding milestone within 90 days shall be considered a default and may lead to termination of this Agreement unless otherwise ordered by the Commission. Project Sponsor shall notify the Commission and Standard Buyer upon the expiration of the 90-day period of failure to cure or the completion of the outstanding milestone.

(d) Financial Assurance. Not more than five (5) days after the Effective Date of this Agreement, Project Sponsor shall provide to Standard Buyer the financial assurance deposit of $\_\_\_\_, as established by the Commission at the time of the Contract Award. Funds that were provided by Project Sponsor at the time it submitted its bid in the procurement process will be made available to satisfy Project Sponsors Financial Assurance. Project Sponsor may satisfy the financial assurance requirement through an irrevocable letter of credit or cash perfected as security in a form that is acceptable to the Commission and in accordance with the following:

(i) Letter of credit: An irrevocable letter of credit must unconditionally obligate the issuing financial institution to honor drafts drawn on such letters for the purpose of paying the obligations of Project Sponsor pursuant to the governing statute, rules of the Commission and the terms of this Agreement and must specify that the issuing institution will notify the Commission 30 days in advance of the expiration or cancellation of a letter of credit. The letter of credit must include the following language: that the letter of credit binds the issuing financial institution to pay one or more drafts drawn by the Commission as long as the draft does not exceed the total amount of the letter of credit; and that any draft presented by the Commission will be honored by the issuer upon presentation. The letter of credit must be issued by a financial institution with a minimum corporate credit rating of “BBB+” by Standard & Poor’s or Fitch or “Baa1” by Moody’s Investors Service, or an equivalent short-term credit rating by one of these agencies. If at any time the corporate debt rating of an issuing financial institution drops below the above specified levels, Project Sponsor shall notify the Commission’s Director of Electric and Gas in writing and provide replacement financial assurance that satisfies the requirements of the Commission and this Agreement.

(ii) Cash: To satisfy the financial assurance requirement of this Agreement, cash must be perfected as a security interest. Project Sponsor must pledge to Standard Buyer a present and continuing first priority security interest in and lien upon all cash deposited as financial assurance. Project Sponsor further pledges to take such actions necessary to perfect Standard Buyer’s security interest in all cash deposited as financial assurance.

Project Sponsor shall assume all responsibility for any costs associated with obtaining financial assurance to secure this Agreement.

(e) Administrative Costs. The Project Sponsor must pay Standard Buyer’s costs associated with billing and collecting from Subscribers. Project Sponsor may request Standard Buyer to bill Subscribers on its behalf for these costs.

5.3 Obligations of the Standard Buyer

(a) Pursuant to section 3483 and Section 4 of Chapter 312 of the Commission’s Rules, Standard Buyer shall aggregate and acquire the Output of Distributed Generation Resources procured in accordance with this Agreement and sell or use the Output in a manner that maximizes value for ratepayers.

(b) Standard Buyer shall accumulate hourly generation and determine the total amount of Distributed Generation generated over the calendar month.

(c) Metering and Billing. Standard Buyer shall provide Bill Credits on a monthly basis to Project Sponsor. If the value of the credit to be applied to Project Sponsor’s bill is less than the amount owed by Project Sponsor, Standard Buyer shall bill Project Sponsor for the difference between the amount shown on the bill and the value of the available credit. If the value of the credit to be applied to Project Sponsor’s bill is greater than the amount owed by Project Sponsor at the end of the billing period, the remaining value of the credit shall be carried forward to the next month. Any credits carried forward that remain unused after 24 months shall have expired.

(d) Standard Buyer will apply the Bill Credits to Project Sponsor’s account(s) no later than the first day of the second month following the calendar month in which the generation was produced. Standard Buyer will display the Distributed Generation Bill Credit as a line item printed on Project Sponsor’s monthly invoice. Bill Credits from the Distributed Generation Facility will be distributed using either a percent allocation to all of Project Sponsor’s secondary accounts, as set forth in Exhibit \_\_ or on a cascading basis according to the priority order in the Facility as set forth on Exhibit \_\_.

(e) As Standard Buyer bills Project Sponsor each month, it will apply the current month’s Bill Credits first and then, if applicable, Standard Buyer will draw Unused Credits from Project Sponsor’s bank. Standard Buyer will calculate Unused Credits for each designated account listed in Exhibit \_\_ using the percentage allocation. If Project Sponsor has elected to use cascading allocation, the Unused Credits will be stored with the Facility account. Once accrued on an account, credits cannot be moved to another account. In applying Unused Credits to Project Sponsor’s account, Standard Buyer will draw from oldest Unused Credits first. Unused Credits expire on a rolling 24-month basis. Any Unused Credits remaining in Project Sponsor’s account bank will expire after the twenty-fourth month and will not be applied against any account invoices. Project Sponsor will receive no compensation from expired Unused Credits.

(f) Only Project Sponsor’s contact person or designee identified in Article X has the authority to request modification to the allocation method set forth in subsection (d). Project Sponsor’s contact person or designee must provide notice of a change to the allocation and accompanying Exhibit in a reasonable period of time. Standard Buyer will modify the allocation of Bill Credits to sub-accounts as directed by Project Sponsor on a prospective basis only. Standard Buyer will have two Billing Periods within which to implement the requested changes.

(g) Financial Assurance Deposit. Standard Buyer shall accept Project Sponsor’s deposit of financial assurance in the form of a letter of credit or cash as described in section \_\_\_. Standard Buyer must hold any cash provided by Project Sponsor in an interest-bearing deposit account. Interest shall accrue on the cash at the daily Federal Funds Rate and shall be retained in that account.

(h) Recording and Reporting of Costs and Benefits. Standard Buyer shall track and record the eligible costs and benefits it incurs in undertaking its obligations to act as Standard Buyer pursuant to 35-A M.R.S. § 3483(3). Those costs include:

(i) Incremental costs of serving as Standard Buyer;

(ii) All payments or Bill Credits to Project Sponsor;

(iii) All revenue from sale of the Output of the Shared Distributed Generation Resource.

Standard Buyer will report these costs to the Commission on an annual basis as part of its submission relating to stranded costs.

ARTICLE VI

EVENTS OF DEFAULT

6.1 Events of Default by Project Sponsor

Any one or more of the following shall constitute an event of default of this Agreement with respect to Project Sponsor:

(a) Default shall occur in the failure to pay any amounts due from Project Sponsor to Standard Buyer hereunder and such failure continues for more than thirty (30) days after written notice of such failure;

(b) Project Sponsor ceases to hold any regulatory approval, the failure or cessation of which results in a lack of legal right on the part of Project Sponsor to continue to operate the Project and such failure continues for more than thirty (30) days. Project Sponsor may file a request to extend the 30-day cure period by filing a petition with the Commission;

(c) Project Sponsor shall fail to deliver and maintain any financial assurance as described and required in this Agreement, and such failure continues for more than ten (10) business days after written notice of such failure;

(d) Project Sponsor shall fail to meet project milestones as described in this Agreement, or as may be extended pursuant to the terms of this Agreement, or to notify the Commission and Standard Buyer of such failure and to seek relief in the form of an extension;

(e) A custodian, receiver, liquidator or trustee of Project Sponsor is appointed or takes possession and such appointment or possession remains uncontested or in effect for more than sixty (60) days; or Project Sponsor makes an assignment for the benefit of creditors or admits in writing its inability to pay its debts as they mature; or Project Sponsor is adjudicated bankrupt or insolvent; or an order for relief is entered pursuant to the Federal Bankruptcy Code against Project Sponsor; or any of the material property of Project Sponsor is sequestered by court order and the order remains in effect for more than sixty (60) days; or a petition is filed against Project Sponsor pursuant to any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction and is not stayed or dismissed within sixty (60) days of filing;

(f) Project Sponsor files a voluntary petition in bankruptcy or seeking relief pursuant to any provision of any bankruptcy reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction; or consents to the filing of any petition against it under any such law; or consents to the appointment of or taking possession by a custodian, receiver, trustee or liquidator of Project Sponsor;

(g) Default shall occur in the performance of any other covenant or condition to be performed by Project Sponsor hereunder and such default is not cured within thirty (30) days after written notice from Standard Buyer specifying the nature of the default.

6.2 Events of Default by Standard Buyer

Any one or more of the following shall constitute an event of default of this Agreement with respect to Standard Buyer:

(a) Default shall occur in the payment of any amounts due from Standard Buyer to Project Sponsor, including payment in the form of Bill Credits, hereunder and such failure continues for more than thirty (30) days after written notice of such failure;

(b) A custodian, receiver, liquidator or trustee of Standard Buyer is appointed or takes possession and such appointment or possession remains uncontested or in effect for more than sixty (60) days; or Standard Buyer makes an assignment for the benefit of creditors or admits in writing its inability to pay its debts as they mature; or Standard Buyer is adjudicated bankrupt or insolvent; or an order for relief is entered pursuant to the Federal Bankruptcy Code against Standard Buyer; or any of the material property of Standard Buyer is sequestered by court order and the order remains in effect for more than sixty (60) days; or a petition is filed against Standard Buyer pursuant to any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction and is not stayed or dismissed within sixty (60) days of filing;

(c) Standard Buyer files a voluntary petition in bankruptcy or seeking relief pursuant to any provision of any bankruptcy reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction; or consents to the filing of any petition against it under any such law; or consents to the appointment of or taking possession by a custodian, receiver, trustee or liquidator of Standard Buyer;

(d) Default shall occur in the performance of any other covenant or condition to be performed by Standard Buyer hereunder and such default is not cured within thirty (30) days after written notice from Project Sponsor specifying the nature of the default.

ARTICLE VII

REMEDIES IN AN EVENT OF DEFAULT; TERMINATE PAYMENT

7.1 Exercise of Remedies in an Event of Default

During the continuance of an event of default by either Party hereunder, the non-defaulting Party shall have the right to (i) accelerate all amounts currently accrued and owing between Parties; (ii) cease making payments that are or may become due hereunder; and (iii) terminate this Agreement any time during the continuation of such event of default.

7.2 Calculation of Termination Payment

The non-defaulting Party shall calculate, in a commercially reasonable manner, the losses, costs and gains incurred or not realized as a result of the termination of the Agreement. To the extent the non-defaulting Party’s losses and costs, net of gains, are greater than zero, there shall be a termination payment due to the non-defaulting Party from the defaulting Party in an amount equal to the non-defaulting Party’s losses and costs, net of gains, which shall be the termination payment.

7.3 Notice of Termination Payment

As soon as practicable after termination, notice shall be given by the non-defaulting Party of the amount of the termination payment and whether the termination payment is due to or due from the non-defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The termination payment shall be made by the Party that owes it within ten (10) business days after such notice is effective.

In the event a termination payment is due to Standard Buyer, Standard Buyer may draw upon the financial assurance deposit provided by Project Sponsor for this amount. If the financial assurance deposit exceeds the termination payment, Standard Buyer shall return or release this excess, with interest if applicable, to Project Sponsor. If the termination payment exceeds the financial assurance deposit, Project Sponsor shall pay to Standard Buyer the amount of this excess termination payment.

7.4 Disputes with Respect to Termination Payment

If the defaulting Party disputes the non-defaulting Party’s calculation of the termination payment in whole or in part, the defaulting Party shall, within five (5) Business Days of receipt of the non-defaulting Party’s calculation of the termination payment provide to the non-defaulting Party a detail written explanation of the basis for such dispute; provided, however, that if the termination payment is due from the defaulting Party, the defaulting Party first shall pay the undisputed portion of the termination payment to the non-defaulting Party, and then deposit in an interest-bearing escrow account for the benefit of the prevailing Party and amount equal to the disputed portion of the termination payment.

7.5 Indirect, Special or Consequential Damages

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE EXCLUSIVE REMEDY, THE OBLIGOR’S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY HEREIN PROVIDED, THE OBLIGOR’S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT IN THE EVENT OF AN ACTION COVERED BY THE INDEMNIFICATION PROVISIONS OF THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

ARTICLE VIII

DISPUTE RESOLUTION

8.1 Resolution by Officers of the Parties. In the event of a dispute between the Parties arising out of this Agreement, the Parties shall refer the matter to their duly authorized officers for resolution, or if a party does not have officers, an individual who has authority to bind the party. The officers may delegate the matter to a non-officer, but only if such delegate is granted authority to resolve such dispute. If such officers of the respective Parties acting in good faith fail to resolve the dispute within ten (10) Business Days, the Parties shall notify the Commission of the dispute.

8.2 Resolution by the Commission. If officers or delegates of the Parties, acting in good faith, fail to resolve the dispute within ten (10) Business Days, the Parties shall notify the Commission of the dispute pursuant to section 10 of Chapter 312 of the Commission’s rules. The Commission or the Consumer Assistance Safety Division shall commence proceedings to resolve the dispute.

Pursuant to section 10 of Chapter 312 of the Commission’s rule, either Party or both Parties may dispute any matter governed by this Chapter by filing a Notice of Dispute with the Commission.

ARTICLE IX

CONFIDENTIALITY

9.1 Obligations of the Parties

The Parties agree not to disclose to any third person and to keep confidential and to cause and instruct their affiliates, officers, directors, members, employees and representatives not to disclose to any third party and to keep confidential all information designated in writing by a Party as confidential, proprietary or trade secret and obtained by either Party from the other relating to this Agreement or the underlying transactions without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided, however, that any information may be disclosed by a receiving Party (i) to the extent required by applicable laws and regulations or by a subpoena or similar legal process so long as the Party whose information is being disclosed is given written notice, if such notice is practicable, at least five (5) Business Days prior to such disclosure; (ii) to the extent the information is in the public domain or the disclosing Party shall have otherwise made the information public or shall have consented in writing prior to any such disclosure; (iii) in connection with the required submission or disclosure of this Agreement or any of its terms to the Commission; or (iv) to the extent the information was known to the receiving Party independent of receipt from the disclosing Party and without violation of this Agreement by the receiving Party.

9.2 Public Record

Notwithstanding the provisions of the paragraph above, the Parties agree that, upon execution, this Agreement shall be a public record of the Commission. In addition, the Parties agree that either Party may file reports with the Commission relating to the transactions pursuant to this Agreement and the content of such reports shall not be confidential unless the Commission orders that such reports are confidential.

ARTICLE X

MISCELLANEOUS PROVISIONS

10.1 Assignment

(a) No assignment by either Party (or any successor or assignee thereof) of its rights and obligations hereunder may be made or become effective without the prior written consent of the other Party, which consent may not be unreasonably withheld, conditioned or delayed. Any assignments by either Party shall be in such form as to assure that such Party’s obligations under this Agreement will be honored fully and timely by any succeeding party. Any attempted assignment in violation of this Section shall be null and void.

(b) Nothwithstanding Section 10.1(a), either Party may assign this Agreement without the prior written consent of the other Party as collateral security to any lenders, investors, or financial institutions in connection with any financing (including, without limitation, in any sale leaseback or leveraged leasing structure or tax equity investment) by assigning Party and the non-assigning Party shall execute and deliver a consent to collateral assignment, estoppel certificates and opinions as may be reasonably required by the lenders, investors, or financial institutions. Any reassignment of this Agreement by such lenders, investors, or financial institutions shall be subject to the assignee assuming all of the obligations of the assigning party under the Agreement. Standard Buyer shall execute and deliver estoppel certificates and opinions as may be reasonably requested by investors or financial institutions in connection with tax equity transactions in respect of the Project, providing that Project Sponsor shall be responsible for all reasonable, documented costs of such requests. Standard Buyer acknowledges and agrees that any consent requested by Seller’s lenders, investors, or financial institutions shall include customary provisions reasonably requested by such lenders, investors, or financial institutions, including but not limited to: (i) providing notice to such lender, investor, or financial institution of a breach or default that could lead to an event of default by Project Sponsor; and (ii) Standard Buyer will allow such lender, investor or financial institution to cure a Project Sponsor breach or default under this Agreement.

(c) Notwithstanding Section 10.1(a), Standard Buyer may assign this Agreement without prior written consent of Project Sponsor in connecting with (i) any restructuring, disaggregation, or divestiture involving the separation of any of the generation, transmission, or distribution functions of Standard Buyer into separate entities or the divestiture of all or a major portion of the assets of Standard Buyer that serve any one of such functions, provided that the assignee of this Agreement must be capable of performing Standard Buyer’s obligations under this Agreement; (ii) any acquisition, consolidation, merger, or other form of combination of Standard Buyer by or with any person or entity; (iii) the purchase, lease or other acquisition (in one or a series of transactions) of all or substantially all of the assets of any other person or entity; (iv) the conveyance, sale, lease, transfer or other disposition (in one or a series of transactions) of all or substantially all of the assets of Standard Buyer; or (v) as collateral security to any lenders or financing party in connection with any financing by Standard Buyer; provided, however, that the assignee shall fully assume Standard Buyer’s obligations under this Agreement.

10.2 Notice to Each Party

All notices, requests and other communications hereunder, other than invoices, shall be deemed to have been delivered to any Party if in writing and delivered by hand or by certified or registered mail, postage pre-paid, return receipt requested, or to a courier who guarantees next Business Day delivery to such Party at its address set forth below or to such other address as such Party may provide through Notice pursuant to this provision.

If to Standard Buyer:

Name, address

If to Project Sponsor:

Name, address

10.3 Compliance with Laws

At all times during the Term of this Agreement, the Parties shall comply with all laws, rules and codes of governmental authorities having jurisdiction over each of their respective businesses, now applicable or may be applicable hereafter. The Parties shall maintain all licenses, permits and other consents from all governmental authorities having jurisdiction for the necessary use and operation of their respective businesses, which the failure to maintain will result in material adverse effect on the other Party.

10.4 Changes in Law

If and to the extent that during the Term, any laws or regulations shall change that govern any transaction contemplated herein or business operations so as to make either unlawful or impossible to perform, the Parties agree to effect such modifications to this Agreement as shall be reasonably necessary for the Agreement to accommodate any such legal or regulatory changes and to preserve, as closely as possible, the basis intent and substance of this Agreement and the economic benefits and burdens allocated to each Party under this Agreement. In the event the Parties are unable to agree to such amendments, the matter shall be submitted the Commission for dispute resolution.

10.5 Applicable Law and Forum

When not in conflict with federal laws, interpretation and performance of this Agreement shall be in accordance with and shall be controlled by the laws of the State of Maine. Any legal action or proceeding arising under or relating to this Agreement must, if is not subject to arbitration hereunder, be brought in a court of the State of Maine or a federal court of the United States of America located in the State of Maine.

10.6 Force Majeure

Neither Party shall be considered in default under this Agreement or responsible in tort, strict liability, contract or other legal theory to the other Party for damages of any description for any event or circumstance that causes any interruption or failure of service or deficiency in the quality or quantity of service, or any other failure to perform if such failure is not caused by the affected Party’s fault or negligence, is caused by circumstances beyond the Party’s reasonable control and that the Party is unable to prevent or overcome (a “Force Majeure”), which may include but is not limited to storm, flood, lightning, earthquake, explosion, sabotage, terrorism, war, insurrection, or act of God of the public enemy.

10.7 Indemnification

Each Party shall indemnify, defend and hold the other Party and its partners, shareholders, members, directors, officers, employees and agents (including, but not limited to, affiliates and contractors and their employees), harmless from and against all claims arising from any act or incident occurring when title to the Distributed Generation Resource is vested in the indemnifying party, unless such claims are caused by the sole negligence, gross negligence, or willful misconduct of any Party. In the event injury or damage results from the joint or concurrent negligent and willful misconduct of the Parties, each Party shall be liable under this indemnification in proportion to its relative degree of fault. Such duty to indemnify shall not apply to any claims that arise or are first asserted more than two (2) years after the termination of this Agreement.