



**RENEWABLE ENERGY SUPPLIER AGREEMENT**

**FOR DISTRIBUTED GENERATORS >500kW**

**Between**

**THE BARBADOS LIGHT & POWER COMPANY LIMITED ("BLPC")**

**And**

**Renewable Energy Supplier ("RE Supplier")**

**Dated the .... day of ..... 2018**



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**RENEWABLE ENERGY SUPPLIER AGREEMENT FOR DISTRIBUTED GENERATORS  
>500kW**

This Renewable Energy Supplier Agreement for Distributed Generators (DG) > 500kW ("RE Supplier Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_ (the effective Date).

The **Barbados Light & Power Company Limited** (Company Number # ), a company incorporated under the laws of Barbados with its registered office situated at Garrison Hill, St. Michael, Barbados ("**BLPC**")

And

**[Insert name of RE Supplier]**, (Company Number .....), a company incorporated under the laws of Barbados and whose principal place of business is at [ ] Barbados ("**RE Supplier**").

This Agreement shall become effective on the Effective Date and when the following conditions have been satisfied in a manner satisfactory to the BLPC:

- i. A completed BLPC application form for projects >500kW;
- ii. A license to supply energy issued pursuant to the Electric Light and Power Act;
- iii. Relevant Town and Country Planning approvals and permits;
- iv. Evidence that the proposed renewable energy project conforms to the applicable Grid Code requirements, which includes **the conclusion of any requisite studies or impact assessments.**

**Commented [A1]:** e.g. completed and accepted system impact and facility studies.

For good and valuable consideration (receipt of which is acknowledged), the Parties agree to the following commercial terms ("**COMMERCIAL TERMS**"):



1. Term
2. Site
3. Nameplate Capacity of Facility in (MW) or (kW)
4. Capacity and/or Energy Rate in (\$/MWh/kWh)
5. Energy Bid: (kWh/year)
6. Energy Source: (e.g. wind)
7. Scheduled Commercial Operation Date (COD)
8. Pre-COD Amount:
9. Post-COD Amount:
10. Equipment Certification Security Amount (if applicable):
11. Price Escalation Percent: xxxx%. **[Note: This refers to the percentage of the energy price that is subject to escalation. Only if applicable. If so: escalation clause and index to be added in Schedule 2.]**

**Commented [A2]:** NTD: To be determined and \$\$ amounts to be inserted here prior to execution of this agreement.

**Commented [A3]:** NTD: the percentage would be determined based on the technology being used. Price escalation relates to the costs/expenses associated with O&M, labour, spare parts etc. Consider tagging it to our local Consumer Retail Price index.

**Commented [A1]:** What is the TERM, proposed by BLPC?

**Commented [A2]:** NOTE: It seems that it will not be a FIXED RATE as indicated in the previous draft PPA. Now the RES must bid.

**Commented [A3]:** Why the \$\$ amounts for Pre-COD and Post-COD to be inserted prior execution of the PPA?

**Commented [A4]:** What is the Price Escalation percent for WIND technology?

The following documents form the RE Supplier Agreement and in the event of any inconsistency, the following order of precedence shall apply:

- (a) the Commercial Terms;
- (b) the Special Provisions;
- (c) the General Terms and Conditions;
- (d) the Project Description; and
- (e) the Schedules
- (f) any attachments.



NOW THEREFORE, in consideration of the mutual benefits to be derived and the representations, warranties, conditions and promises contained in this Agreement, the RE Supplier & BLPC agrees to the Terms and Conditions as detailed herein.

**IN WITNESS WHEREOF** the undersigned have executed this Agreement on the year and date hereinbefore mentioned.

SIGNED by **THE BARBADOS LIGHT & POWER** )  
**COMPANY LIMITED** ) .....  
In the presence of: ) Duly Authorized Officer  
 )  
 )  
 ) .....  
Duly Authorized Officer

Witness:  
Name:  
Abode:  
Calling or Description:

Witness:  
Name:  
Abode:  
Calling or Description:



SIGNED by RE Supplier )  
 )  
In the presence of: ) .....

Witness:  
Name:  
Abode:  
Calling or Description:

Witness:  
Name:  
Abode:  
Calling or Description:



**GENERAL TERMS AND CONDITIONS FOR THE  
PURCHASE OF RENEWABLE ENERGY**

**1.1 DEFINITIONS**

Whenever used in the Renewable Energy Supplier Agreement, the following capitalized terms have the meanings ascribed to them below:

**“Additional Interconnection Equipment”** - has the meaning set forth in Section 7.2(b)(i).

**“Affiliate”** - means any Person that: (a) controls a Party; (b) is controlled by a Party; or (c) is controlled by the same Person that controls a Party.

**“Annual Average Marginal Cost Rate”** - means, for a Contract Year, the Marginal Cost Rate for each day in the Contract Year, averaged over the Contract Year, as calculated by the BLPC.

**“BLPC”** – means Barbados Light & Power Company Limited.

**“BLPC Group”** - means any of the BLPC, the Emera Group and its Affiliates and the respective employees, representatives or agents of the BLPC and the Emera Group and its Affiliates.

**“Business Day”** - means a day other than a Saturday or a Sunday on which banks are open for business in Barbados.

**“Capacity Charge”** – a capacity charge may be applicable for facilities delivering base load to the BLPC and is as such composed of two components:

1. Capital Recovery Charge
2. Fixed Operations and Maintenance Charge

The **“Capital Recovery Charge”** covers the costs linked to the Developer's investment in the Facility, and includes (but is not limited to) debt service, equity return and taxes.

The **“Fixed Operations and Maintenance Charge”** cover the Developer's fixed costs for operating and maintaining the Facility. In addition to overheads, it includes fixed plant operation costs, maintenance, spare parts, insurance, and similar expenses.





If applicable the Capacity Charge in BDS \$ per kW is specified in Schedule 2.

“CA” – stands for Consent to Assignment. This means an agreement among the RE Supplier, the BLPC and the Facility Lender setting forth arrangements in respect of the interest of the Facility Lender in the RE Supplier Agreement by way of security for the financing provided by the Facility Lender. (Consent to Assignment to a Facility Lender – see Section 16.1(d)). The Parties acknowledge that the RE Supplier may obtain construction and long-term project financing (including refinancing) for the Facility and that Financing Parties providing such financing will require the financing to be secured by liens upon the Facility and other assets of RE Supplier, including a collateral assignment of this RE Supplier Agreement, the Interconnection Agreement, other Project Documents and Government Approvals, Land Rights and all rights and obligations of the RE Supplier hereunder and thereunder. In the event that the RE Supplier elects to use outside project financing that requires a mortgage on the RE Supplier’s owned property, the BLPC shall, if it’s reasonable costs (including internal staff time and legal fees of outside counsel) in connection with such consent are paid by the RE Supplier, execute and deliver on or before the Closing Date a consent to assignment of this RE Supplier Agreement and other related agreements (“Consent to Assignment”). The Consent to Assignment shall: (i) be governed by Barbados law; (ii) be in a form and content reasonably satisfactory to the BLPC; (iii) acknowledge the assignment and the right of the Financing Parties to receive notice of Events of Default where the RE Supplier is the defaulting party; and (iv) provide the Financing Parties an opportunity to cure such defaults, and to exercise remedies to assume the RE Supplier’s obligations under this RE Supplier Agreement.

“Commercial Operation” - means the achievement of all of the following: (a) completion of the design, construction and commissioning of the Facility in accordance with the RE Supplier Agreement; (b) interconnection of the Facility to the System in accordance with the Interconnection Requirements and tested and commissioned; (c) the Facility has demonstrated the capability to generate at the Name Plate Capacity; (d) Certification of the Facility in accordance with the RE Supplier Agreement; and (e) provision of the Performance Security required by Section 3.0.- if this provision is used. See comments in Section 3.0

“Commercial Operation Date” (COD) - means the date that the Facility achieves Commercial Operation.

**Commented [A4]:** Further consultation on this Clause is required. Government will have first refusal however if the bank takes over and assigns the project to someone else, would the utility have the right to refuse this party? How does the utility ensure that the new party has the capacity to run the project and that it can provide the power required by the utility?

**Commented [A5R4]:** Qualified Assignee definition inserted and can be tailored according to nameplate capacity and type of technology. See application in Clause 16.



**“Commercial Terms”** - means the commercial terms itemized as such in the RE Supplier Agreement.

**“Contract Energy”** - means the Energy Bid for each Contract Year during the Term, assuming no material variability in monthly generation and delivery and applying a reasonable factor for transmission losses up to the Delivery Point based on data compiled prior to the Early Termination Date. Where applicable, the Energy Bid will be prorated for any portion of a Contract Year.

**“Contract Year”** - means a twelve-month period during the Term, starting from the first day of the calendar month following the Commercial Operation Date or an anniversary thereof.

**“Control”** - means, with respect to any Person at any time, (a) holding, whether directly or indirectly, as owner or other beneficiary (other than as the beneficiary of an unrealized security interest) securities or ownership interests of that Person carrying votes or ownership interests sufficient to elect or appoint fifty percent (50%) or more of the individuals who are responsible for the supervision or management of that Person, or (b) the exercise or de facto control of that Person, whether direct or indirect and whether through the ownership of securities or ownership interests, by contract, trust or otherwise.

**“Daily Energy Bid”** - means, in respect of a Contract Year, the Energy Bid divided by the number of days in the Contract Year.

**“Delivery Point”** - means the point of interconnection between the Facility and the System where Energy from the Facility enters the System; provided that, for certainty, if Additional Interconnection Equipment is required for the interconnection between an existing portion of the System and the Point of Isolation then the Delivery Point will be where the Additional Interconnection Equipment interconnects with such portion of the existing System.

**“Dissolution Event”** - means, with respect to a Person, an effective resolution is passed or documents are filed in an office of public record in respect of, or a judgment or order is issued by a court of competent jurisdiction ordering, the dissolution, termination of existence, liquidation or winding up of that Person.

**“Distributed Generator” (DG)** – means the Facility.

**Commented [A6]:** NTD: It is anticipated that if BLPC has plans to expand in a particular area, BLPC would cover the costs of the line extension. However, even in instances where the project covers the costs for the line extension, there needs to be requirements in the grid code that assign title of the line extension to BLPC.



**“Early Termination Date”** - means any date of termination which occurs before the effective or agreed date of termination.

**“Early Termination Payment”** - shall have the meaning set forth in Section 14.5(a).

**“Effective Date” – Effective date for the purposes of this agreement is the date that the agreement is signed by parties.**

**“Emission Reductions”** - mean those benefits recognized as intangible commodities by the Parties and/or others as arising under the RE Supplier Agreement through the direct displacement by Energy from renewable sources, of the emissions from oil, petroleum, natural gas or other fossil fuelled thermal electrical generation and includes Emission Reduction Credits (ERC's). Emission Reductions under the RE Supplier Agreement relate to Greenhouse Gas Emissions (GHG) and other specific emissions known to arise from some or all fossil-fuel thermal electrical generation. GHG and other specific air emissions recognized under the RE Supplier Agreement are CO<sub>2</sub>e, NO<sub>x</sub>, SO<sub>2</sub>, particulates and heavy metals and/or their salts or combinations thereof. Emission Reductions and ERC's do not include any RE Supplier Benefits.

**“Emission Reduction Credits” (ERCs)** - means all rights, title and interest in and to all benefits, rewards, credits, premiums, incentives, and other advantages related, in whole or in part, to GHG Emission Reductions, whether in existence as of the date of the RE Supplier Agreement or arising during the Interim Period and the Term to the extent related or attributable to the operation of the Facility for the generation of Energy or otherwise, including:

- (a) any credit issued or granted by a Government Agency in connection with GHG Emission Reductions;
- (b) any tradable allowance or allocated pollution right issued or granted in connection with GHG Emission Reductions;
- (c) the sole right to claim credit in any reporting program established or maintained by any Government Agency relating to GHG Emission Reductions;
- (d) the sole right to register, claim, file or bank GHG Emission Reductions in any registry system established or maintained by any Government Agency or non-governmental organization or entity;



- (e) the sole right to any form of acknowledgment by a Government Agency that actions have been taken by any Person in connection with GHG Emission Reductions that result in the reduction, avoidance, sequestration or mitigation of anthropogenic GHG;
- (f) the sole right to claim or use GHG Emission Reductions for any and all purposes and in any manner or form whatsoever now or in the future;
- (g) the sole right to any form of acknowledgment by a Government Agency to claim tradable GHG allowance allocations when those tradable allowance allocations can be:
  - (i) banked for credit in the event of regulation requiring any reduction, avoidance or mitigation of, or compensation for, GHG,
  - (ii) claimed for credit against any compliance requirement, or
  - (iii) put to any other sanctioned use;
- (h) the sole right to any form of acknowledgment by an International Agency in respect of GHG Emission Reductions including the right to any acknowledgment that GHG Emission Reductions constitute tradable emission reduction units for the purposes of International Rules; and
- (i) the sole right to any offset of anthropogenic GHG that can be claimed by using GHG Emission Reductions.

“**Energy or Electrical Energy**” - are interchangeable terms and mean electric energy measured as units of watt hours (kWh, MWh and GWh).

“**Energy Bid**” - means the Net Output to be delivered in each Contract Year, as specified in Item 5 of the Commercial Terms.

“**Energy Rate**” - means the rate in ¢/kWh, as specified in Schedule 2.



**“Energy Source”** - means the source used to generate Energy from the Facility, as specified in Item 6 of the Commercial Terms.

**“Event of Insolvency”** - means an event or circumstance in respect of a Person where: (i) that Person admits its insolvency or makes a general assignment for the benefit of creditors or any proceeding is instituted by that Person seeking relief or giving notice of its intention to seek relief on its behalf as debtor, or to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding-up, re-organization, arrangement, adjustment or composition of it or its debts under any Insolvency Legislation, or seeking appointment of a receiver, receiver and manager, trustee, custodian or other similar official for it or any substantial part of its property and assets or that Person takes any action to authorize any of the foregoing; or (ii) any proceeding is instituted against that Person seeking to have an order for relief entered against it as a debtor or to adjudicate it a bankrupt or insolvent or seeking liquidation, winding-up, reorganization, arrangement, adjustment or composition of it or its debts under any Insolvency Legislation, or seeking appointment of a receiver, receiver and manager, trustee, custodian or similar official for that Person or any substantial part of its property and assets, and: (A) such proceeding results in an entry of an order for such relief or any such adjudication or appointment, or (B) if such proceeding is not being contested, or is being contested in good faith, such proceeding continues undismissed, or unstayed and in effect, longer than twenty (20) days from the institution of any such proceeding.

**Commented [A7]:** NTD: this section is meant to capture beyond local instances of insolvency. E.g. Local IPPs could be a subsidiary of an international company.

**“Excepted Relief Event”** – shall have the meaning set forth in Section 15.1(b).

**“Excess Energy”** - means, in respect of a rolling five-year period capped up to 500%, the amount of Energy by which the Net Output exceeds such percent.

**“Extraneous Event”** - means any failure in the generation and delivery of Energy by the Facility for which relief is afforded the RE Supplier under section 15.0 or which is attributable to any curtailment, reduction or interruption by the System Operator of such generation or delivery pursuant to the Interconnection Agreement (but, for certainty, excluding any curtailment, reduction or interruption which arises due to operation of the Facility in a manner that is inconsistent with Good Utility Practice, the or in a manner which is non-compliant with the Interconnection Agreement or the Technical Specifications).

**“Facility”** - means one or more generators described in the Project Description having, in the aggregate, the Name Plate Capacity, together with all protective and other associated



equipment and improvements (including all transmission lines and substation equipment up to the Point of Isolation), as may be modified from time to time pursuant to the terms of this Renewable Energy Supplier Agreement for Distributed Generators >500kW.

**“Facility Assets”** - means any rights, property and assets, whether real or personal and whether tangible or intangible, required to design, construct, operate, maintain, rehabilitate or modify the Facility, or required for use of the Site, including any contract or engagement for such purpose, Permits and any land tenure and land tenure agreements.

**“Facility Lender”** - means one or more Persons providing debt financing for the development, design, construction, operation, maintenance, rehabilitation or modification of the Facility and includes any agent or trustee of such Persons.

**“Financing Documents”** – means the loan and credit agreements, notes, indentures, security agreements, leases (including cross-border leases or leases involving sale-leaseback transactions) and other agreements, documents and instruments relating to the construction financing and permanent financing (including refinancing and amendments) entered into by the RE Supplier for the Facility, as the same may be modified or amended from time to time in accordance with the terms thereof.

**“Fiscal Year”** - means the fiscal year of the BLPC.

**“Force Majeure Event”** - shall have the meaning set forth in Section 15.0.

**“Forced Outage”** - means any partial or total curtailment, interruption or reduction of the generation or delivery of Energy by the Facility that is due to a total or partial breakdown or other failure of any electrical system or any machinery or equipment comprising the Facility, which failure is attributable to any defect (including latent or recurring defect) in any such system, machinery or equipment (whether related to design, manufacture or installation) or any error in the operation, maintenance or rehabilitation of any such system, machinery or equipment or which is inherent in the use or operation of that type of system, machinery or equipment over time.

**“Greenhouse Gas Emissions” (GHG)** - means any gas substance that is the subject of the Convention and related protocols, treaties, agreements and instruments and includes carbon dioxide, nitrous oxide, methane, hydro fluorocarbons, per fluorocarbons.



**“GHG Emission Reductions”** - mean reductions in Greenhouse Gas Emissions however measured and includes, for greater certainty, any reductions in Greenhouse Gas Emissions attributable to the purchase and resale by the BLPC of Energy generated from the Facility as an alternative to generating Energy by other means, which would result in higher levels of Greenhouse Gas Emissions.

**“Good Utility Practice”** - means any of those practices, methods and activities (including the practices, methods and activities adopted internationally) which are applicable to the development, design, construction, operation, maintenance, rehabilitation or modification of similar facilities and other infrastructure required for the generation, transmission or distribution of Energy (having regard, as applicable, to the Energy Source) and which, at a particular time, in the exercise of skill, diligence, foresight and reasonable judgment and having regard to the circumstances known at that time, could reasonably have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, environmental protection, expedition and Laws and Regulations.

**“Government Agency”** - means the Government of Barbados and any national or local government, organization or duly constituted authority, and includes:

- (a) any department, commission, bureau, board, administrative agency or regulatory body of the government;
- (b) any Person acting as an authorized representative of any of the foregoing.

**“Group”** - means, in the case of the BLPC, the Emera Group and Affiliates and, in the case of the RE Supplier, the RE Supplier Group and Affiliates.

**“Incidental Service”** - means, as required for the Facility, and the Site, including the Energy used to service the Site and the Facility including Energy for construction, excitation, on-site maintenance and operation of auxiliary equipment and other Facility Assets.

**“Insolvency Legislation”** - means any legislation local or international, which deals with bankruptcy, insolvency, creditor protection or other similar laws (regardless of the jurisdiction of such application or competence of such law).

**“Interconnection Agreement”** - means the form of agreement attached as Schedule 4 hereto.



**“Interconnection Facilities”** – means the facilities that interconnect the Facility to the System, which includes all of the equipment that measures capacity and Energy output from the Facility, as well as the associated protection and system control equipment specified in the Interconnection Agreement in Schedule 4.

**“Interim Period”** - means any period prior to the Commercial Operation Date, but after interconnection of the Facility to the System in accordance with the Interconnection Agreement, when the Facility is capable of generating Energy and delivering that Energy to the Delivery Point.

**“Laws and Regulations”** - means:

- (a) applicable laws, orders-in-council, by-laws, codes, rules, policies, regulations and statutes;
- (b) applicable orders, decisions, codes, judgments, injunctions, decrees, awards and writs of any court, tribunal, arbitrator, Government Agency or other Person having jurisdiction;
- (c) applicable rulings and conditions or any license, permit certificate, registration, authorization, consent and approval of any Government Agency (including the Permits); and
- (d) any requirements under or prescribed by applicable common law.

**“Marginal Cost Rate”** - means the rate in ¢/kWh, which at the relevant time, is equal to the BLPC's cost of generating or purchasing one more kWh of Energy from sources other than the Facility, as calculated by the BLPC.

**“Meter Location”** - means the physical location where Energy is measured by the revenue class meter referred to in Section 6.2 and in Schedule 5.

**“Name Plate Capacity”** - means the name plate capacity of the Facility, as specified in Item 3 of the Commercial Terms.





**“Net Output”** - means the Energy output of the Facility at the Delivery Point, as determined in accordance with Section 6.2., net of electrical usage of the Facility’s auxiliaries and net of transmission and transformer losses.

**“Non-Disclosure Agreement” (NDA)** – means the BLPC approved NDA.

**“Offer”** shall have the meaning set forth in Section 18.0

**“Offer Period”** shall have the meaning set forth in Section 18.0

**“Offer Price”** shall have the meaning set forth in Section 18.0

**“Offered Property”** shall have the meaning set forth in Section 18.0

**“Party”** - means either the RE Supplier or the BLPC.

**“Performance Security”** - means the security for the performance of the obligations of the RE Supplier under the Renewable Energy Supplier Agreement to be provided and maintained by the RE Supplier for the benefit of the BLPC in accordance with the Renewable Energy Supplier Agreement. Such performance security may be in the form of a letter of credit, or such other form as agreed by the parties. **“Performance Security Default”** - means a failure of the RE Supplier to provide and maintain the Performance Security in accordance with Section 3.0 (including, where applicable, any failure to renew or replace the Performance Security by no later than fifteen (15) Business Days prior to the expiry thereof) or an Event of Insolvency occurs in respect of the issuer of the Performance Security or the issuer fails to comply with or perform its obligations under the Performance Security or disclaims or repudiates, or challenges the validity, in whole or in part, of the Performance Security, or the Performance Security otherwise fails or ceases to be in full force and effect.

**“Permits”** - means permits, certificates, licences, consents and other approvals required for the ownership, design, construction, operation, maintenance, rehabilitation or modification of the Facility and, if applicable, the delivery of Energy to the Delivery Point, including, without limitation, those listed on Schedule 6 hereto.

**“Person”** - includes a natural person, a corporation, a partnership, a limited partnership, a joint venture, an association, a trust, a Government Agency and an unincorporated organization.



**"Point of Isolation"** - means the designated disconnect switch that securely and visibly isolates the Facility from the System.

**"Post COD Amount"** - means the aggregate amount of the Performance Security to be held as security after the COD is achieved by the RE Supplier, the appropriateness of such to be determined and agreed by the parties based on the energy bid/contract energy of the RE Supplier **"PPA"** - means the Power Purchase Agreement for Distributed Renewable Energy Suppliers with Generators >500 kW executed by the Parties to which these General Terms and Conditions are attached and includes any Special Provisions, the schedules and any other attachments to the PPA, as well as the Project Description when accepted in writing by the BLPC, as amended or supplemented from time to time in accordance with the provisions of the agreement.

Commented [A8]: To be determined on a case by case basis

**Pre-COD Amount** means the aggregate amount of the Performance Security to be held as security until the COD is achieved by the RE Supplier, the appropriateness of such to be determined and agreed by the parties based on the energy bid/contract energy of the RE Supplier **"Present Value"** - means the present value of a future stream of payments for Energy, as discounted to the Early Termination Date at the PV Discount Rate, with the timing of such payments reflecting (or substantially reflecting) the timing of payments for Energy under the PPA.

**"Prime Rate"** - means the annual rate of interest established by the [NTD: Insert name of reference bank] or its successor, from time to time, as the interest rate it will charge for demand loans in [NTD: reference currency] to its commercial customers and which it designates as its "prime rate" based on a year of 365 or 366 days, as applicable. Any change in such interest rate shall be effective automatically on the date such change is announced by the bank. Such rate of interest shall be calculated (but not compounded) daily, and compounded monthly, both before and after default, arbitral award and judgement. [Note: Consider LIBOR as reference.]

**"Project Description"** - means the specifications and description of the Facility attached to the PPA upon execution or, if not attached at such time, to be provided by the RE Supplier to the BLPC prior to the commencement of construction of the Facility in a form specified by the BLPC and to be incorporated into the PPA, by way of attachment, upon acceptance in writing by the BLPC.



**Present value (PV), "Discount rate"** is the current worth of a future sum of money or stream of cash flow given a specified rate of return. For the purposes of this contract this means, if the remaining term is one year or less, the yield of Government bonds or Treasury Bills plus basis points with a term closest to the remaining term or (b) if the remaining term is greater than one year, the yield of Government bonds or Treasury Bills plus basis points with a term closest to the remaining term. This rate will be set at the time of the COD.

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**"Qualified Assignee"** means any third party, including an Affiliate, contract operator or advisor of the third party, that has:

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i. good financial standing and net tangible assets of not less than [ x ] Seven Million Dollars (US\$7,000,000.00);

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ii. a minimum of [ x ] years of experience, or firm agreement(s) with operator(s) with such experience, successfully owning and/or operating a grid connected electrical power generating facility of any of the following types, or combination of types and capacities:

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[to be inserted according to the type of technology]

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iii. has established and implemented documented health, safety and environmental management practices and standards consistent with Good Utility Practice; and

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iv. has a record of health, safety and environmental performance consistent with other similarly situated independent power producers exercising Good Utility Practice.

**"Reactive Power"** - The wattless component of the product of voltage and current, which the Facility shall provide to or absorb from the BLPC's Grid System and which is measured in MVAR<sub>r</sub>.

**"Remaining Term"** - means the remaining Term from and after the Early Termination Date without regard to termination of the PPA.

**"Renewable Attribute Loss"** - means any of those Emission Reductions and Renewable

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Energy Credits referred to in Section [8.18.08-0](#), the benefit of which is lost relative to the



Contract Energy, relative to Shortfall Energy and/or during any period in which the RE Supplier fails to maintain the Certification for the Facility.

**“Renewable Attribute Loss Rate”** - means the value of Renewable Attribute Loss with respect to a quantity of Contract Energy or Shortfall Energy, expressed in ¢/kWh.

**“Renewable Energy Credits”** - mean those credits, benefits or other intangibles that now, or at any time in the future, convey a right in respect of those attributes (fungible or non-fungible), whether or not tradable, pertaining to the generation of Energy pursuant to the PPA, representing the renewable aspect of the source of such Energy, and include “green tags”, “tradable renewable energy credits”, “renewable portfolio standard tags”, and similar products.

**“Reporting Date”** - shall have the meaning set forth in Section 9.1.

**“Scheduled Commercial Operation Date”** - means the date scheduled for achieving the Commercial Operation Date, as specified in Item 7 of the Commercial Terms.

**“RE Supplier”** - means the Person or Persons identified as the “RE Supplier” in the PPA that is the legal and/or equitable owner of the DG >500 kW.

**“RE Supplier Benefits”** - means any tax credits, benefits, incentives, subsidies, deductions or allowances that may be available from Governmental Agencies.

**“RE Supplier Claimable Amount”** - has the meaning set forth in Section 14.4.

**“RE Supplier Group”** - means any of the RE Supplier, its Affiliates and RE Supplier Personnel.

**“RE Supplier Personnel”** - means any Person providing, on behalf of the RE Supplier, any design, construction, operation, maintenance or other services in connection with the Facility, including any Person contracted or engaged at any lower tier for such purpose, and any employees, representatives or agents thereof, and any employees, representatives or agents of the RE Supplier and its Affiliates.

**“Shortfall Energy”** - has the meaning set forth in Section 5.3.

**“Site”** - means the lands upon which the Facility will be located, as specified in Item 2 of the Commercial Terms.



**“Special Provisions”** - means any amendments or supplements to these General Terms and Conditions agreed to in writing by the parties.

**“System”** - means the Energy distribution or transmission system operated by the System Operator.

**“System Operator”** - means that functional part of the BLPC which controls and operates the electrical transmission system within Barbados.

**“Technical Specifications”** – means the technical specifications and requirements set out in Schedule 6.

**“Term”** - means the term of the PPA, as specified in Item 1 of the Commercial Terms (or any renewal thereof agreed by the Parties in writing), subject to early termination in accordance with the provisions of the PPA.

**“Termination Costs”** - means, as applicable, any costs and expenses reasonably incurred by a Party terminating the PPA with respect to terminating any arrangements relating to transactions provided for under the PPA or with respect to entering into any new arrangements to replace the PPA or taking other mitigating measures.

**“Third Party Offer”** - shall have the meaning set forth in Section 18.0

**“Third Party Offeror”** - shall have the meaning set forth in Section 18.0

**“Utility Costs”** – mean costs specific to a RE Supplier and a Facility and will be determined on a case by case basis

## **2.1 TERM AND RELATED PROVISIONS**

### **2.2 Term and Related Provisions**

- (a) The PPA shall become effective upon the date hereof (the Effective Date).
- (b) Without prejudice to the provisions of the PPA, which pertain to that period prior to the commencement of the Term, the Term shall commence



on the first day of the month following Commercial Operation Date and terminate at the end of the Term.

- (c) Any time prior to the last 6 months of the Term, the RE Supplier agrees to exclusively negotiate in good faith with the BLPC the terms of a new PPA in respect of Energy generated by the Facility.

(d)

Equipment Certification

(a) The RE Supplier confirms that the Generating Technology either (i) has been employed in commercial applications and operated reliably for three years before the date of the submission of the Proposal; or (ii) will be Certified on or before Commercial Operation.

(b) If the Generating Technology has not been employed in commercial applications and operated reliably for three years before the date of the submission of the Proposal, then

(i) if, as of the Effective Date, the Generating Technology has not yet received Certification, the Seller is required to deliver Equipment Certification Security hereunder; and

(ii) If, by Commercial Operation, the Generating Technology has not received Certification, the RE Supplier shall pay to BLPC an amount equal to the Equipment Certification Security as liquidated damages on account of the Generating Technology not being so Certified.

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3.1 PERFORMANCE SECURITY

- (a) The Performance Security secures the obligations of the RE Supplier under the PPA and, in the event of any breach by the RE Supplier of such obligations, the Performance Security may be drawn upon or otherwise enforced as provided herein without prejudice to any other rights or remedies of the BLPC in respect of such breach or any other breach of such obligations.
- (b) The Performance Security furnished under this Agreement shall be for guaranteeing the commencement and continuity of the supply of power up to the Contracted Capacity within the time specified in this Agreement
- (c) The RE Supplier shall provide and maintain Performance Security in an amount equal to the Pre-COD Amount within twenty-one (21) Business Days of the Effective date of the PPA.

Commented [A5]: ADD: If BLPC waives RE Supplier's obligation to negotiate or the Parties are unable to agree on the terms of a new PPA prior to the last 6 months of the Term, then the RE Supplier, subject to section 2.2 (d) , shall be at liberty to negotiate the sale of Energy from the Facility to others.

Commented [A6]: ADD: If, , during the last 6 months of the Term, , the RE Supplier proposes to finalize a transaction for the sale of Energy, from the Facility to any other Person then before entering into such proposed transaction the RE Supplier shall first provide BLPC with a notice describing such transaction (including all materials terms) along with the identity of the proposed counter-party and BLPC shall have the right within fifteen (15) Business Days of receipt of such notice to notify the RE Supplier whether or not it is prepared to enter into an agreement with the RE Supplier for the purchase of the Energy on such terms. If BLPC notifies the RE Supplier that BLPC is prepared to enter into such agreement with the RE Supplier then Parties will, in good faith, do all acts, matters and things required to finalize and execute such agreement before the end of the Term. If BLPC fails to provide notification to the RE Supplier within such fifteen (15) Day period or, within such period, BLPC notifies the RE Supplier that it does not intend to enter into such agreement with the RE Supplier , then the RE Supplier shall be at liberty to enter into such transaction.



- (d) Subject to the RE supplier providing the Pre-COD Performance Security in accordance with section (c) then, upon achieving the Commercial Operation Date, the amount of the Performance Security shall be reduced to the Post COD Amount for the balance of the Term.
- (e) Unless the BLPC otherwise agrees, the Performance Security shall be in a form defined in this Agreement and the RE Supplier shall (i) renew or cause the renewal of the Performance Security on a timely basis, and (ii) if the financial institution that issued the Performance Security has indicated its intention not to renew the Performance Security, the RE Supplier shall have been deemed to have defaulted and shall have twenty (20) business days to provide Performance Security from an alternative financial institution to cure the default.
- (f) **The failure on the part of the RE Supplier to furnish, maintain or replace the Performance Security shall be a material breach of the terms of this Agreement on the part of the RE Supplier. Such material breach shall render this PPA terminated. If there is a Performance Security Default then the BLPC shall be entitled to withhold payment of an amount owing by the BLPC to the RE Supplier under the PPA. Any payments withheld shall only be up to an amount sufficient to cover the Performance Security and such amount shall be held as Performance Security in lieu of Performance Security until the RE Supplier provides replacement Performance Security as provided herein at which time BLPC shall promptly return/ release the amount that was withheld.**
- (g) If the RE Supplier fails to commence supply of power on the respective COD or as specified in this Agreement, subject to conditions mentioned in Clauses of the Schedules 1-7of this Agreement the BLPC shall have the right to encash the Performance Security, in their favour as liquidated damages without prejudice to the other rights of the BLPC under this Agreement.
- (h) Fifteen (15) business days prior to the expiration of the Performance Security BLPC may be entitled to draw upon or otherwise enforce the

Commented [A9]: Material breach may result in the renegotiation of the terms of the PPA if cannot be reinstated in an agreed period.





Performance Security in the event of Performance Security Default and to hold any proceeds of such enforcement as Performance Security in lieu of Performance Security until the RE Supplier provides replacement Performance Security as provided herein at which time BLPC shall promptly return/ release the proceeds of the enforcement.

### **3.1 Return of Performance Security**

- (a) The BLPC shall promptly return / release all or any part of the Performance Security provided the RE Supplier has delivered the replacement Performance Security and such replacement Performance Security, together with any Performance Security not being returned or released, meets all the applicable requirements of this Section and there is no Performance Security Default in respect of any Performance Security not being returned or released. The return / release of the Performance Security shall be without prejudice to other rights of the RE Supplier under this Agreement.
- (b) The BLPC shall return or release all Performance Security held by the BLPC within twenty-one (21) Business Days after the end of the Term or after early termination of the PPA in accordance with the provisions of the PPA, provided all obligations and liabilities of the RE Supplier which have accrued up to such time, as well as those which have arisen upon early termination of the PPA, have been discharged.

## **4.1 PRE-COMMERCIAL OPERATION OBLIGATIONS**

### **4.2 Construction of the Facility**

- (a) The RE Supplier shall perform, or cause to be performed, all activities necessary to complete the design, construction and commissioning of the Facility, at the Site, using Good Utility Practice and in compliance with all Laws and Regulations and all applicable provisions of the PPA (including the Project Description and Technical Specifications), and so as to achieve the Commercial Operation Date by the Scheduled Commercial Operation Date. Without limitation, the RE Supplier shall ensure that the



Facility is designed and constructed to operate in accordance with the requirements of the PPA from the Commercial Operation Date until expiry of the Term.

- (b) Prior to interconnection of the Facility to the System, the RE Supplier shall execute the Interconnection Agreement, which is part of the PPA as described in Schedule 4.

#### **4.3 Delay in Achieving Commercial Operation Date**

- (a) If the RE Supplier fails to achieve the Commercial Operation Date by the Scheduled Commercial Operation Date or has reasonable grounds for concluding that it is unlikely to achieve that objective, then the RE Supplier shall promptly give the BLPC written notice of such failure or anticipated failure, expeditiously provide the BLPC with a written explanation of the reason for such failure or anticipated failure, and provide the BLPC with written weekly progress reports describing the actions taken to achieve the Commercial Operation Date and the estimated time frame for completion of such actions.
- (b) If the Commercial Operation Date fails to occur by the Scheduled Commercial Operation Date, then the pre-COD performance security amount shall be forfeited by the RE Supplier. BLPC shall also notify the FTC of the failure to achieve the COD. The BLPC shall be awarded liquidated damages in respect of such delay in achieving the Commercial Operation Date. It is the right of the BLPC to recover such liquidated damages as described in paragraph 3.2 (b) (including interest thereon), by seeking recourse against the RE Supplier.

#### **4.4 Permits**

The RE Supplier shall obtain and maintain all relevant Permits. The RE Supplier shall provide proof of all permits to the BLPC as part of its reporting requirements.



#### **4.5 Modifications to Facility**

Subject to the provisions of this PPA, the RE Supplier shall not make any material modification to the Facility during the Term without the prior written consent of the BLPC, which consent may be given subject to conditions including the condition that any such modification be carried out using Good Utility Practice and in compliance with Laws and Regulations and all applicable provisions of the PPA. For certainty, the BLPC shall not be obliged to provide any such consent if the modification could reasonably be expected to have a material adverse effect on the rights or benefits of the BLPC under the PPA or on the Energy Bid or the Name Plate Capacity.

#### **4.6 BLPC Information During Design and Construction**

By the fifteenth (15th) day of each calendar quarter following the Effective date of this PPA and continuing until the Commercial Operation Date, the RE Supplier shall provide the BLPC with quarterly progress reports in a form agreed to by the Parties describing the status of efforts made by the RE Supplier to meet the Scheduled Commercial Operation Date and the progress of the design and construction work. At the BLPC's request, the RE Supplier shall provide an opportunity for the BLPC to meet with appropriate personnel of the RE Supplier to discuss and assess the contents of any such quarterly progress report.

#### **4.7 Inspection and Access**

The BLPC and/or its representatives shall have the right (i) to observe the construction of the Facility and the equipment to be installed therein, as well as the commissioning and testing of the Facility and (ii) to inspect the Facility and the Site following the completion of construction and/or modifications during the course of this PPA, provided that such activities do not materially interfere with RE Supplier's construction or operation of the Facility. The RE Supplier shall comply with all reasonable requests of the BLPC for, and assist in arranging, any such observation visits to and inspections of the Site and the Facility. In no event shall any observation or inspection by the BLPC be deemed to be an endorsement, warranty or waiver of any right by the BLPC. In no event shall any failure by the BLPC to exercise its rights under Section 4.6 constitute a waiver by



the BLPC or otherwise release the RE Supplier from, any other provision of this PPA.

5.1 DELIVERY AND ACCEPTANCE OF ENERGY

5.2 Required Sale and Delivery of Energy

- (a) Subject to, and in accordance with, the terms and conditions of the PPA, the RE Supplier shall sell and deliver to the BLPC and the BLPC shall purchase and take delivery at the Delivery Point, the entire Net Output of the Facility as of the Commercial Operation Date equal to the Energy Bid. The Net Output shall be sold and delivered by the RE Supplier free of any liens, encumbrances or adverse claims.

[Note: An alternative purchase obligation for base load technologies may be added if necessary: entire Net Output of the Facility under BLPC Dispatch.]

- (b) Subject to, and in accordance with, the terms and conditions of the PPA, the BLPC shall make available and sell to the RE Supplier, and the RE Supplier may purchase from the BLPC, capacity and Energy, on the same basis as the BLPC's prevailing tariff for Energy sold to industrial customers.

5.3 Acceptance of Energy

- (a) Prior to the Commercial Operation Date, the BLPC shall use reasonable efforts but does not guarantee acceptance of the Net Output from the Facility produced during the Interim Period. If accepted by BLPC the rate for such Energy shall be (NTD: to be determined by the FTC) and set out in Schedule XXX".

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- (b)

- (c) Notwithstanding Section 5.1 (a) in respect of an Energy Bid in a rolling five-year period the Net Output provided by an RE Supplier shall be capped at 500%. The BLPC shall have no obligation to accept Energy in excess of the 500% in any rolling five-year period. This percentage may be adjusted in the case of systems providing base load capacity.

Commented [A7]: What about energy delivered during the interim period? Contract Year starts on the first day of the following calendar month. BLPC should pay for this energy as well.

Commented [A8]: DELETE 5.3 (a) and REPLACE by: (a) Subject to, and in accordance with, the terms and conditions of the PPA, BLPC shall purchase or take the entire Net Output of the Facility (including the entire Net Output during the Interim Period), provided that BLPC may, on seven (7) days prior written notice to the Seller, acting reasonably and in good faith, suspend such obligation for so long as the Facility is not operated, maintained or rehabilitated in a manner consistent with Good Utility Practice or in a manner which is non-compliant with the Generator Interconnection Agreement.

Commented [A9]: Add (b): Recognizing that the availability of the Energy Source may vary and, consequently, the resulting Net Output may vary, the Facility shall be designed and constructed so as to generate and deliver, throughout the Term, an average reasonable commercial effort to operate, maintain and rehabilitate the Facility in a manner which meets such Energy requirement.

Commented [A10]: 5.3 (c): This is not realistic due to the variability of the wind from year to year. For example, In NS Net Output during the Term of up to 120% of the annual net output is permitted on a 3-year rolling average. This is too restrictive and not realistic. The net output is based upon the wind assessment and yield analysis undertaken by third party consultants and the manufacturer in parallel. Due to the variability of the wind from one year to the next, it is recommended for planning and financing purposes to use P75 transgression probability. Thus, there is good science behind the estimate. REPLACE 500% into 600%.



- (d)
- (e)
- (f)
- (g)
- (h) Notwithstanding Section 5.1(a), the BLPC may, on seven (7) calendar days prior written notice to the RE Supplier, acting reasonably and in good faith, suspend its obligations therein for so long as the Facility is not operated, maintained or rehabilitated in a manner consistent with Good Utility Practice or in a manner which is non-compliant with the Interconnection Agreement.
- (i) The RE Supplier's exclusive remedy for any failure of the BLPC to take or purchase any Net Output in accordance with the PPA (which Net Output in such case will be calculated by the RE Supplier, acting reasonably, using reasonable assumptions, data and conversion factors) is a claim for the price payable by the BLPC for such Net Output in accordance with Schedule 2 (and any interest on any such amount owing by the BLPC to the RE Supplier), provided that the foregoing does not affect any rights of the RE Supplier under the PPA. The BLPC shall be given reasonable rights of access to applicable RE Supplier books, records and conversion factors in order to verify the data and Net Output calculations of the RE Supplier.
- (j) Notwithstanding anything to the contrary, the RE Supplier shall not be entitled to any claim (for compensation or otherwise) in respect of any curtailment, interruption or reduction of the generation or delivery of Energy by the Facility (whether partial or total) which is effected pursuant to the Commercial Operations Date.

#### 5.4 Facility Performance – Net Output

- (a) Recognizing that the availability of the Energy Source may vary and, consequently, the resulting Net Output may vary, the Facility shall be designed and constructed so as to generate and deliver, throughout the Term, an average yearly Net Output not less than the Energy Bid and the RE Supplier shall use all reasonable commercial efforts to operate, maintain and rehabilitate the Facility in a manner which meets such Energy requirement.

**Commented [A11]:** 5.3 (d): If the Net Output of the Facility during any Contract Year is less than ninety percent (90%) of the Energy Bid (excluding from such determination any deficiency in Net Output due to an Extraneous Event), then the RE Supplier shall be liable to BLPC, as liquidated damages on account of the Renewable Attribute Loss, together with any incremental cost of replacement of Energy, resulting from such deficiency ("Shortfall Energy") for (i) an amount equal to the Renewable Attribute Loss Rate times the Shortfall Energy, plus (ii) an amount equal to the Shortfall Energy times the difference between Annual Average Marginal Cost Rate for that Contract Year and the Energy Rate (if Annual Average Marginal Cost Rate for that Contract Year is greater than the Energy Rate). Such liquidated damages shall be payable by the RE Supplier upon the demand of BLPC, which demand shall include a calculation of such liquidated damages. Other than any right of BLPC to terminate the PPA pursuant to Article 14.1 (and without prejudice to the rights of BLPC under section 5.3 (e), the right of BLPC to recover such liquidated damages (including accrued interest thereon), either by drawing upon the Performance Security or seeking recourse against the RE Supplier for payment thereof, shall be the sole and exclusive remedy of BLPC in respect of such Renewable Attribute Loss and any incremental cost of replacement Energy; provided that, for certainty, any recovery of such liquidated damages shall not be construed as: (A) relieving the RE Supplier of its other obligations under the PPA or (B) affecting any other rights and remedies of BLPC in respect of any breach by the RE Supplier of such obligations.

**Commented [A12]:** 5.3 (e): If the Net Output during any period of 24 months is less than an amount equal to eighty percent (80%) of twice the Energy Bid (if the Facility has a capacity factor of less than fifty percent (50%) as set out in the Project Description), or is less than ninety percent (90%) of twice the Energy Bid (if the Facility has a capacity factor equal to or greater than fifty percent (50%) as set out in the Project Description), or is less than ninety percent (90%) of twice the Energy Bid (if the Facility has a capacity factor equal to or greater than fifty percent (50%) as set out in the Project Description), having excluded from such determination any deficiency in Net Output due to an Extraneous Event, then, upon the request of BLPC, the Seller shall be required to demonstrate to the satisfaction of BLPC (acting reasonably) within 60 days of receipt of such request: (i) that the Facility was designed and constructed to maintain an average yearly Net Output equal to the Energy Bid; (ii) that the design and construction of the Facility was based upon adequate meteorological studies specific to the Site which were compiled and interpreted in accordance with Good Utility Practice, and (iii) that the deficient Net Output was attributable to recorded anomalies in the availability of ...

**Commented [A13]:** 5.3 (f): With respect to sections 5.3 (d) and 5.3 (e), the records BLPC shall, in the absence of manifest error, be conclusive for the purposes of determining whether there is any deficiency in Net Output.

**Commented [A14]:** For purposes of calculating Net Output under section 5.3 (d) or section 5.3 (c), the RE Supplier will be deemed to be delivering Energy in an amount equal to the Daily Energy Bid during each day an Extraneous Event is ongoing.

**Commented [A15]:** Delete and replace by INTERCONNECTION AGREEMENT.



- (b) "If the Net Output of the Facility during any rolling five (5) year period is less than ninety (90%) of the 500% (excluding from such determination any deficiency in the Net Output due to an Extraneous Event or Force Majeure) then the RE Supplier may be liable to the BLPC, in the form of liquidated damages resulting from such deficiency ("Shortfall Energy for (1) an amount equal to the Short fall Energy, plus (ii) an amount equal to the Shortfall Energy times the difference between Annual Average Marginal Cost Rate for that Contract Year and the Energy Rate (if the Annual Average Marginal Cost Rate for that Contract Year is greater than the Energy Rate). Such liquidated damages shall be payable by the RE Supplier upon the demand of the BLPC, which demand shall include a calculation of such liquidated damages. Other than any right of the BLPC to terminate the PPA (and without prejudice to the rights of the BLPC under Section 4.0), the right of the BLPC to recover such liquidated damages (including accrued interest thereon), either by drawing upon the Performance Security or seeking recourse against the RE Supplier for payment thereof, shall be the sole and exclusive remedy of the BLPC in respect of such and any incremental cost of replacement Energy; provided that, for certainty, any recovery of such liquidated damages shall not be construed as: (A) relieving the RE Supplier of its other obligations under the PPA or (B) affecting any other rights and remedies of the BLPC in respect of any breach by the RE Supplier of such obligations.
- (c) If the Net Output during any period of 24 months is less than ninety percent (90%) of twice the Energy Bid (if the Facility has a capacity factor equal to or greater than fifty percent (50%) as set out in the Project Description), having excluded from such determination any deficiency in Net Output due to an Extraneous Event, then, upon the request of the BLPC, the RE Supplier shall be required to demonstrate to the satisfaction of the BLPC (acting reasonably) within 60 days of receipt of such request: (i) that the Facility was designed and constructed to maintain an average yearly Net Output equal to the Energy Bid; (ii) that the design and construction of the Facility was based upon adequate meteorological studies specific to the Site which were compiled and

Commented [A10]: Liquidated damages being called upon within a contract year would reflect the impact of the deficiency/shortfall on BLPC



interpreted in accordance with Good Utility Practice, and (iii) that the deficient Net Output was attributable to recorded anomalies in the availability of the Energy Source which could not have been reasonably anticipated based upon such interpretation, failing which the generating capacity of the Facility will be deemed insufficient and, unless otherwise agreed in writing, the RE Supplier shall, within ninety (90) days of such request, take the necessary steps to commence installation of additional generating capacity for the Facility and thereafter diligently continue with such installation through to completion in accordance with a schedule which is acceptable to the BLPC (acting reasonably), using Good Utility Practice and in compliance with Laws and Regulations and all applicable provisions of the PPA (including any requirements of the PPA for Certification of the Facility), so that, upon completion of such installation, the generating capacity of the Facility is sufficient to sustain an average yearly Net Output not less than the Energy Bid.

- (d) With respect to Sections 5.3(b) and 5.3(c), the records of the BLPC shall, in the absence of manifest error, be conclusive for the purposes of determining whether there is any deficiency in Net Output.
- (e) For purposes of calculating Net Output under Section (b) or Section (c), the RE Supplier will be deemed to be delivering Energy in an amount equal to the Daily Energy Bid during each day an Extraneous Event is ongoing.

## 6.1 PRICE AND PAYMENTS

### 6.2 Energy Payment

Subject to, and in accordance with, the terms and conditions of the PPA:

- (a) for Net Output during the Interim Period (before COD) and for Excess Energy during the Term up to the agreed percentage in accordance with Clause 5.2 (b),

**Commented [A16]:** DELETE section 5.4. Refer to section 5.3.



- (b) for Net Output during the Term (other than Excess Energy), the BLPC shall pay the RE Supplier **(NTD:at a rate as determined by the FTC such rate shall be set out in Clause ### of Schedule ##.)**

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Such amounts payable shall be billed monthly in arrears in accordance with the provisions of Section 6.2.

### 6.3 Billing, Meter Reading and Payment

- (a) BLPC shall design, finance, construct and install the metering system according to the requirements in Schedule 5 and the Grid Code.
- (b) The amount of Energy delivered by the RE Supplier to the Delivery Point will be determined by the BLPC through revenue class metering installed or approved by the BLPC, with adjustment for Energy losses between the Meter Location and the Delivery Point. The BLPC shall read the meters on a monthly basis for determination of the Energy purchased from the RE Supplier during that month and shall supply the results of such meter readings (including time and date of reading) to the RE Supplier within five (5) Business Days following the end of the month to which the meter readings relate. The RE Supplier will, in turn, issue an invoice to the BLPC within ten (10) Business Days of receiving meter information from the BLPC for that month and the BLPC shall pay the amount of such invoice within thirty (30) days after receipt. In the event that the BLPC is late reading the meters for any month then such thirty (30) day period will be reduced by the number of days of that delay. RE Supplier shall have access to meters for reading and verification purposes.
- (c) In the event that a meter reading error has occurred, the Party benefiting from such error shall account to the other Party for the amount which is in error.
- (d) In the event of any failure of the metering equipment which prevents a determination pursuant to this Section, the BLPC and the RE Supplier agree to accept a reasonable estimate of the Net Output during the period

**Commented [A17]:** ADD: providing the SCADA data information during the period of the metering equipment failure





of such failure, which is based on other recognized metering or measurement equipment at the Facility.

- (e) Notwithstanding anything to the contrary, if the aggregate Net Output during any Contract Year exceeds the Energy Bid then the Excess Energy for the balance of that Contract Year shall be subject to the pricing provisions of Section 6.1(a).

#### 6.4 Disputed Payments and Netting

In respect of amounts owing by one Party to the other pursuant to the PPA:

- (a) Both Parties have the right to withhold that portion of payment in dispute until the dispute is resolved by the FTC.
- (b) If a dispute with respect to any payment to be made by the BLPC is resolved in favour of the RE Supplier, the BLPC will pay such disputed and withheld amount, plus interest thereon at the Prime Rate, compounded monthly, from the due date to the date payment is made. If resolution is in favour of the BLPC with respect to any payment to be made by the RE Supplier, the RE Supplier will pay any disputed and withheld amount, plus interest thereon at the Prime Rate, compounded monthly, from the due date to the date the payment is made. All such payments shall be made within thirty (30) days of the date of such resolution.
- (c) The BLPC reserves the right to net amounts previously invoiced and owed to the RE Supplier against amounts owed by the RE Supplier to the BLPC; however, if there is a dispute over the amounts involved, then the BLPC shall not net any amounts without the dispute being resolved.
- (d) The RE Supplier reserves the right to net amounts previously invoiced and owed to the BLPC against amounts owed by the BLPC to the RE Supplier; however, if there is a dispute over the amounts involved, then the RE Supplier shall not net any amounts without the dispute being resolved.



- (e) For certainty, nothing in this Section 6.3 shall derogate from or affect any right of set off of either Party under the PPA.

#### 6.5 Other Costs

Unless otherwise expressly provided herein, the RE Supplier shall pay all taxes, levies, charges, costs and expenses whatsoever in respect of the Facility or the Facility Assets, and shall be solely responsible for all liabilities associated with performing or fulfilling its obligations hereunder; including payment of:

- (a) real property taxes levied in respect of the Site;
- (b) other taxes levied in respect of the personal property of the RE Supplier comprised in the lands used by the RE Supplier or any occupancy thereof;
- (c) rent, charges, levies or fees levied in respect of the availability or use of lands and the Energy Source by the RE Supplier; and
- (d) costs associated with the design, construction, maintenance, operating, rehabilitation and modification of the Facility, including any utility costs.

The RE Supplier shall indemnify and hold the BLPC, its officers, employees, directors and parent companies harmless from and against any demand, claim, payment, liability, fine, penalty, cost or expense, including accrued interest thereon, relating to any taxes for which the RE Supplier is responsible hereunder.

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#### 6.6 Premiums and Incentives

Rates payable by the BLPC for the purchase of Energy by the BLPC pursuant to the PPA shall be as set forth in the PPA and, without limitation:

- (a) the RE Supplier shall not be entitled to any remuneration which the BLPC receives from any of its customers on the re-sale of such Energy,
- (b) Except for recovery of any expense incurred by the RE Supplier under Section 8.1, the BLPC shall be entitled to the full benefit of all premiums and incentives associated with any such re-sale,



## 7.1 INTERCONNECTION

### 7.2 Interconnection Agreement

- (a) In the Interconnection Agreement, being part of this PPA, as described in Schedule 4, responsibilities with respect to the Interconnection of RE Supplier and BLPC are described, as well as, technical requirements.

### 7.3 Interconnection Costs

- (a) Subject to Schedule 4 the costs of interconnecting the Facility to the System are the responsibility of the RE Supplier. Such costs comprise all costs incurred by the BLPC (as computed in accordance with the normal accounting procedures of the BLPC which are approved by the FTC) that are directly related to the interconnection of the Facility to the System consistent with Good Utility Practice and include the costs of any Interconnection Study or Optional Interconnection Study (if defined in the Interconnection Agreement), installation of equipment, metering, and all incremental modifications to the System (to the extent that such modifications are for the sole benefit of the Facility and are necessary to interconnect the Facility to the System).
- (b) For clarification, but without limiting the provisions of this Section, the interconnection process can be split into two distinct categories, as follows:
  - (i) **Facility Side:** The electrical equipment between the generators of the Facility and the Point of Isolation including all line work/cablings, voltage transformation, metering, protection, control & isolating equipment as set out in the Interconnection Requirements.

If required for interconnection, the BLPC shall, at the cost of the RE Supplier, be responsible for construction and shall assume ownership of the interconnection equipment from the Delivery Point to the Point of Isolation ("Additional Interconnection Equipment").



- (ii) **System Side:** The final connection leads and any other modifications required to the System to accommodate interconnection of the Facility, including line upgrades, protection modifications at the origins of the line being connected to, telemetry equipment at receiving end and a System Control Center to receive necessary information/control for System operation purposes.
- (c) By way of further clarification, interconnection costs exclude costs associated with conforming the generating and other equipment of the Facility to the System compatibility requirements set forth in Schedule 6: Technical Requirements (such as, but not limited to, voltage management, ride-through and flicker parameters), which costs shall form part of the costs to be borne by the RE Supplier in the design and construction of the Facility.
- (d) the BLPC may, at any time after final determination of the total amount of such interconnection costs and prior to the RE Supplier reimbursing the BLPC for such costs, notify the RE Supplier of the BLPC's intention to assume such costs and, within fifteen (15) days of receipt of such notice, the RE Supplier will submit to the BLPC the RE Supplier's calculation of the amount by which the Energy Rate will be reduced on the assumption that such costs will be assumed by the BLPC. If the RE Supplier fails to submit such calculation within such fifteen (15) day period or, within thirty (30) days after receipt of such calculation, the Parties are unable to agree to the amount of such reduction, then the BLPC may, within fifteen (15) days following the end of such fifteen (15) day period or thirty (30) day period, as the case may be, by further notice to the RE Supplier, require the RE Supplier to reimburse the BLPC for such interconnection costs or, in the alternative, refer such matter for resolution pursuant to Section 17.0 (Dispute Resolution). If the Parties agree to the amount of such reduction or, failing agreement, such amount is determined pursuant to Section 17.1, then: (i) the BLPC will assume such interconnection costs, (ii) the Energy Rate will be deemed reduced by the amount so agreed or determined, and (iii) if the BLPC has made any payment to the RE Supplier based on the Energy Rate without taking into account such



reduction, the RE Supplier shall, within thirty (30) days of the BLPC making a demand therefor, reimburse the amount of such overpayment to the BLPC.

## 8.1 RENEWABLE AND EMISSIONS ATTRIBUTES

### 8.2 Assignment of Emission Reductions and Renewable Energy Credits

- (a) The RE Supplier hereby assigns, unconditionally and absolutely, all of its right, title and interest in and to all of the Emission Reductions and Renewable Energy Credits attributable to all of the Energy purchased by the BL&P from the RE Supplier pursuant to the PPA (including any Energy purchased during the Interim Period). The Emission Reductions and Renewable Energy Credits shall be assigned by the RE Supplier free of any liens, encumbrances or adverse claims. The RE Supplier shall, upon the request of the BL&P from time to time, execute and deliver (or cause to be executed and delivered) all such further documents and instruments and do all acts and things as the BL&P may reasonably require to better effect, evidence or perfect such assignment (or if such assignment is not permitted, to hold such right, title and interest in trust for the BL&P) or to otherwise deal with the Emission Reductions and Renewable Energy Credits. Any expense incurred by the RE Supplier pursuant to any such request of the BL&P shall be for the account of the BL&P and the BL&P shall promptly reimburse the RE Supplier for any such expenditure upon the RE Supplier providing to the BL&P evidence satisfactory to the BL&P (acting reasonably) of the amount and purpose of the expenditure.
- (b) Unless requested by the BL&P, the RE Supplier shall not participate in any voluntary program with respect to the Emission Reductions or Renewable Energy Credits without the prior written consent of the BL&P, which consent may, subject to this Section, be arbitrarily withheld.
- (c) The provisions of this Section shall not apply to any RE Supplier Benefits, provided the RE Supplier shall not participate in any program giving rise to RE Supplier Benefits if such participation reduces the amount of any

**Commented [A19]:** The Emissions credits are very important and have value. If the BL&P wishes to have these then they should pay for them. However, we propose an equitable solution to also benefit the people of Barbados:  
1/3 to Emera/ BL&P  
1/3 to IPP (the actual creator of the emission reductions  
1/3 to the people of Barbados via a yet to be determined vehicle



Emission Reductions and Renewable Energy Credits to which the BL&P would otherwise be entitled

## 9.1 ENERGY PRODUCTION SCHEDULE

### 9.2 Reporting of RE Supplier

The RE Supplier shall:

- (a) provide to the BLPC, no later than that date ("Reporting Date") which is six (6) months prior to each Fiscal Year during the Term, with an estimate of the Net Output for each month during that Fiscal Year together with a schedule of any outages of the Facility which are planned during that Fiscal Year, and, in addition:
  - (i) with respect to any part of a Contract Year which does not fall within each such Fiscal Year, the RE Supplier shall provide to the BLPC an estimate and schedule of outages for that period no later than six (6) months prior to the commencement of such period, and
  - (ii) with respect to the Interim Period, provide to the BLPC an estimate of the Net Output for that period no later than ten (10) days prior to the commencement of that period;
- (b) promptly update and report to the BLPC any material changes to the information provided pursuant to this Section upon the RE Supplier becoming aware of any such change;
- (c) comply with reasonable requirements and requests by the BLPC for information in respect of the daily operation of the Facility;
- (d) provide to the BLPC an hourly production forecast of Net Output for each day of the Interim Period and the Term, by 8:30 am Atlantic Prevailing Time of the previous day;
- (e) provide to the BLPC a mid-day and/or morning same day updated forecast with respect to any anticipated material variation from the

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Commented [A21]: REPLACE by four (4) months



previous forecast if the variation is attributable to sudden changes in Energy Source availability; and

- (f) in the case of an Energy Source which is wind, make available to the BLPC electronic access on a real time basis to actual wind speed and wind direction information affecting the operation of the Facility, as well as to the daily wind forecasting information which is used by RE Supplier to provide the hourly production forecast as mentioned above under (d).

Commented [A11]: Further to discussion with the FTC the reasonableness of these clauses to be determined.

Commented [A22]: ADD: Only when the size of the FACILITY is greater than 5MW will d, e, f apply. Extremely onerous.

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## 10.1 OWNERSHIP, RISK AND INSURANCE

### 10.2 Ownership, Risk and Responsibility

- (a) Property in and all risk relating to the Energy generated and delivered to the BLPC by the RE Supplier pursuant to the PPA will pass from the RE Supplier to the BLPC at the Delivery Point. The RE Supplier shall be responsible for all costs and losses of transmission of such Energy up to the Delivery Point and the BLPC shall be responsible for all costs and losses of transmission of such Energy from and beyond the Delivery Point.
- (b) For the purposes of the PPA, as between the RE Supplier and the BLPC, the RE Supplier reserves all property rights and interests with respect to the Facility and the Site, and the RE Supplier shall be solely responsible for the development, design, construction, operation, maintenance, rehabilitation and modification of the Facility, and, except as otherwise expressly provided in the PPA or the Interconnection Agreement or by Laws and Regulations or by subsequent written agreement of the Parties, the BLPC shall have no property rights or interests with respect to the Facility or the Site or any authority to affect or control any such activities which are the responsibility of the RE Supplier.

### 10.3 Insurance

- (a) The RE Supplier shall, at all times during the Term and throughout any period when the Facility is being constructed, place and maintain all risks



marine cargo insurance in an amount sufficient to cover the replacement cost of all plant and equipment shipped to the RE Supplier to, and intended to become part of, the Facility, on a warehouse to warehouse basis; all risk property insurance and boiler and machinery insurance with respect to the Facility; and commercial general liability insurance with respect to the use and occupancy of the Facility and the Site (including any activities of the RE Supplier Group on the Site or in connection with the Facility whether during the course of construction or thereafter), all according to the terms and conditions as would be implemented by a reasonably prudent owner of infrastructure and land, and subject to conditions, similar to the Facility and Site (such terms and conditions and the underwriters of such insurance to be acceptable to the BLPC, acting reasonably); provided that, with respect to the public liability insurance, such insurance shall be on an occurrence basis and will be based on the extent of the risk to be covered and other applicable factors as agreed by the parties.

- (b) The BLPC Group shall be named as an additional insured on each policy providing coverage for public liability. Each such policy shall contain cross liability and severability of interests provisions and shall provide primary coverage without any contribution from any insurance carried by the BLPC Group. No limitation or disclaimer of liability in favour of the RE Supplier under the PPA shall preclude or limit any claim or entitlement of the BLPC Group under any policies providing coverage for public liability. Each policy providing the all risk property coverage and boiler and machinery coverage shall contain a waiver of subrogation in favour of the BLPC Group.
- (c) All such policies shall be endorsed to provide the BLPC with not less than thirty (30) days advance written notice of any cancellation or any material amendment or change restricting coverage.
- (d) If the insurance specified in this Section is not available in markets utilized by reputable insurance brokers experienced in the placement of coverage for similar risks, or is not available upon reasonable commercial

**Commented [A12]:** BLPC has noted the concerns raised by potential IPPs around securing insurance for such projects hence this would be determined on a case by case basis and in agreement with the RE supplier and the FTC





terms in such markets, then the RE Supplier may propose alternate insurance specifications consistent with Good Utility Practice for the approval of the BLPC (acting reasonably).

- (e) If the Facility is totally or partially damaged due to an event for which the RE Supplier is insured, the RE Supplier shall repair or cause to be repaired and if not repairable shall cause to be replaced such damage with all reasonable speed and due diligence. Except where such damage is caused by a Force Majeure Event entitling the RE Supplier to relief under Section 15.1, this provision shall not be construed as relieving the RE Supplier from any of its other obligations under the PPA.
- (f) The RE Supplier shall promptly provide the BLPC with valid copies of certificates issued by insurers evidencing the insurance coverage specified in this Section 10.2 during the term.

## 11.1 INDEMNIFICATION

### 11.2 Indemnification

- (a) Each Party (an "Indemnitor") shall indemnify and hold harmless the other Party and the other members of such other Party's Group (each an "Indemnatee") from and against all losses, damages and liabilities suffered by the Indemnatee and all judgments, fines, penalties, charges, settlement amounts, costs, expenses and reasonable legal fees (on a solicitor and own client basis, including reasonable disbursements) incurred by the Indemnatee in connection with any causes of action, action, claim, suit, inquiry, proceeding or, investigation or appeal therefrom, to the extent attributable to the wilful acts or omissions, fault or negligence of the Indemnitor or any other member of its Group, or the breach of its obligations under the PPA, or, in the case of the RE Supplier, arising in connection with any emissions from the Facility, or relating or attributable to Energy prior to its delivery to the Delivery Point, or in the case of the BLPC, relating or attributable to Energy after it has been delivered to the Delivery Point.



(b) In respect of any indemnity obligation of the Indemnitor under the PPA, the Indemnitee shall give notice to the Indemnitor of any claim or other proceeding which may give rise to such obligation within such period which does not materially prejudice the rights of the Indemnitor under this Section, whereupon the Indemnitor shall, at its own cost, be entitled to take carriage of the defence of any such claim or other proceeding, provided the Indemnitor undertakes such defence promptly upon receiving such notice or otherwise becoming aware of any such claim or other proceeding. If, within a reasonable time after becoming aware of such claim or other proceeding (having regard to any limitation period for responding to same), the Indemnitor fails to undertake, without any reservation of rights, the defence of such claim or other proceeding, the Indemnitee shall have the right, for the account of Indemnitor, to undertake the defence, settlement or compromise of such claim or other proceeding. If the Indemnitor has undertaken such defence and:

- (i) there is reasonable expectation that the claim or other proceeding may materially and adversely affect the Indemnitee other than as the result of monetary damages or payments, or
- (ii) there is reasonable expectation that the outcome of the claim or proceeding will be beyond any limit of liability of the Indemnitor set forth in the PPA, or
- (iii) there is reasonable expectation that Indemnitor does not have sufficient resources, financial or otherwise, to satisfy its indemnity obligation, or
- (iv) the Indemnitee has legal defences or counter-claims available that are different from or additional to any defences or counter-claims available to the Indemnitor, or
- (v) the insurers of the Indemnitee exercise any right of defence under any policy responding to such claim or other proceeding,



then the Indemnitee shall have the right, at the cost and expense of the Indemnitor (if and to the extent the proceeds of any such insurance do not cover such cost and expense), to participate in the negotiation, settlement, compromise or defence of the claim or other proceeding and to retain counsel to act on behalf of the Indemnitee; provided that, in any other circumstance, the Indemnitee shall reserve the right to such participation at its own cost and expense. In any event, the Indemnitor shall not, without the consent of the Indemnitee, which consent will not be unreasonably withheld, conditioned or delayed, admit liability, settle, compromise or take any similar action in respect of the claim or other proceeding. At all times, the Indemnitor shall keep the Indemnitee apprised of the carriage of the defence and provide the Indemnitee with such other information in respect thereof as the Indemnitee may reasonably require.

- (c) In respect of any indemnity obligation of a Party under the PPA, the other Party holds the benefit of such indemnity in its own right and in trust for the other members of its Group.

### **11.3 Consequential Loss**

Neither Party shall be liable to the other Party under any theory of liability for any punitive, consequential or indirect damages, of any nature whatsoever, arising out of or in connection with the PPA, including loss of use, loss of revenue, loss of profit, loss of contract, loss of goodwill or any other loss or damage of an indirect or consequential nature suffered by the other Party. For certainty, this provision shall not apply to liability for liquidated damages, the right of the RE Supplier to claim payment for Net Output purchased or taken by the BLPC hereunder, the right of the RE Supplier to claim the RE Supplier's Claimable Amount or the right of the BLPC to claim the Early Termination Payment.

## **12.1 REPRESENTATIONS AND WARRANTIES**

### **12.2 Representations and Warranties of the RE Supplier**

The RE Supplier represents and warrants to the BLPC as follows, and acknowledges that the BLPC is relying on such representations and warranties in entering into the PPA:



- (a) It has the requisite power, authority and capacity to enter into the PPA and to carry out its obligations under the PPA.
- (b) The PPA has been duly authorized, executed, and delivered by it and, assuming the due execution and delivery by the other Party, the PPA constitutes the legal, valid and binding obligation enforceable against it in accordance with its terms, except as such enforcement may be limited by Insolvency Legislation or other laws affecting the rights of creditors generally and except that equitable remedies may only be granted in the discretion of a court of competent jurisdiction.
- (c) The execution and delivery of the PPA by it and the consummation of the transactions contemplated hereby will not result in the breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the termination, cancellation or acceleration of, its material obligations or any judgment, decree, order or award to which it is subject or any licence, permit, approval, consent or authorization held by it.
- (d) It is not subject to an Event of Insolvency.
- (e) There are no actions, suits, proceedings, judgments, rulings or orders by or before any Government Agency or arbitrator, or, to its knowledge, threatened against it, that could have a material adverse effect on its ability to perform its obligations under the PPA.
- (f) All requirements for it to make any declaration, filing or registration with, give any notice to, or to obtain any Permit from or by any Government Agency as a condition to entering into the PPA have been satisfied.
- (g) It is the legal and beneficial owner of the Emission Reductions and Renewable Energy Credits free and clear of all liens, encumbrances and adverse claims.
- (h) It has procured, or will have procured prior to commencement of construction of the Facility, all land tenure or land tenure agreements in



respect of the Site which are required to carry out its obligations under the PPA.

### 12.3 Representations and Warranties of the BLPC

The BLPC represents and warrants to the RE Supplier, and acknowledges that the RE Supplier is relying on such representations and warranties in entering into the PPA:

- (a) It has the requisite power, authority and capacity to enter into the PPA and to carry out its obligations under the PPA.
- (b) The PPA has been duly authorized, executed, and delivered by it and, assuming the due execution and delivery by the other Party, the PPA constitutes the legal, valid and binding obligation enforceable against it in accordance with its terms, except as such enforcement may be limited by Insolvency Legislation or other laws affecting the rights of creditors generally and except that equitable remedies may only be granted in the discretion of a court of competent jurisdiction.
- (c) The execution and delivery of the PPA by it and the consummation of the transactions contemplated hereby will not result in the breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the termination, cancellation or acceleration of, its material obligations or any judgment, decree, order or award to which it is subject or any licence, permit, approval, consent or authorization held by it.
- (d) It is not subject to an Event of Insolvency.
- (e) There are no actions, suits, proceedings, judgments, rulings or orders by or before any Government Agency or arbitrator, or, to its knowledge, threatened against it, that could have a material adverse effect on its ability to perform its obligations under the PPA.
- (f) All requirements for it to make any declaration, filing or registration with, give any notice to, or to obtain any Permit from or of any Government Agency as a condition to entering into the PPA have been satisfied.



### 13.1 OPERATION AND MAINTENANCE, RECORDS & METERS

#### 13.2 Operations and Maintenance

- (a) The RE Supplier shall, throughout the Term, operate, maintain and rehabilitate (or cause to operate, maintain and rehabilitate) the Facility using Good Utility Practice and in compliance with Laws and Regulations and the applicable provisions of the PPA (including the Project Description and Technical Specifications). The RE Supplier shall be solely responsible for protecting the Facility and the Facility Assets from any damage caused by faults or disturbances of the System.
- (b) Except for Incidental Service, the RE Supplier shall not permit the Facility to use any source for generation other than the Energy Source. The RE Supplier shall not permit the Facility to draw any Energy from the System, directly or indirectly, other than for Incidental Service.

#### 13.3 Operating Personnel

- (a) Qualifications and Coverage.

For the purposes of (a) operating and monitoring the Facility and (b) coordinating operations of the Facility with the BLPC's grid, RE Supplier shall employ, directly or indirectly, only personnel who are qualified and experienced. BLPC shall ensure that the Facility is being monitored 14 days prior to the Commercial Operations Date.

- (b) Long Term Service Agreement (LTSA).

RE Supplier may enter in a long term service agreement to maintain the Facility throughout the term of this Agreement.

#### 13.4 Records, Audit Rights

- (a) The RE Supplier and the BLPC shall both keep complete and accurate records and all other data required by either of them for the purpose of proper administration of the PPA and, without limitation, the RE Supplier

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shall keep all records and other documentary evidence of any production incentives and payments contemplated in Section 8.1 and which may be necessary to establish, substantiate or maintain any claim or title of the BLPC to Emission Reductions and Renewable Energy Credits pursuant to Section 8.0. All such records shall be maintained as required by Laws and Regulations but for no less than seven (7) years after the creation of the record or data. Each Party shall provide or cause to be provided to the other Party reasonable access to the relevant and appropriate financial and operating records or data kept by it or on its behalf relating to the PPA reasonably required for the other Party to comply with its obligations to Government Agencies or to verify billings or to verify information provided in accordance with the PPA or to verify compliance with the PPA. Either Party may use its own employees for purposes of any such review of records provided that those employees are bound by the confidentiality requirements provided for in Section 19.5. Alternatively, and at the election of either Party, access shall be through the use of a mutually agreed upon third party auditor provided that the auditor is bound by the confidentiality requirements provided for in Section 19.5. Each Party shall pay the fees and expenses associated with use of its own third party auditor, as applicable.

#### **13.5 Meters**

Requirements and arrangements with respect to Meters and Metering are described in Schedule 5.

### **14.1 DEFAULT AND TERMINATION**

#### **14.2 RE Supplier Events of Default**

Each of the following will constitute an event of default by the RE Supplier ("RE Supplier Event of Default"):

- (a) The provisions of Section 5.3 (c) are triggered and the RE Supplier is either (i) unable to demonstrate to the satisfaction of the BLPC that the criteria in clauses (i) – (iii) of Section (c) are satisfied; or (ii) does not take



the steps to install additional generating capacity as required thereunder.  
[Note: Performance-related defaults to be discussed and agreed between the Parties.]

- (b) The RE Supplier fails to make any payment when due (other than a payment which is subject to a bona fide dispute) and such failure or default is not remedied within ten (10) Business Days after written notice of such failure or default from the BLPC.
- (c) Following the expiration of the written notice period, the time to cure the default may be extended by twenty (20) Business Days if the RE Supplier is diligently remedying the failure.
- (d) There is a Performance Security Default relating to the Pre-COD Amount.
- (e) There is a Performance Security Default relating to the Post-COD Amount and the failure or default is not remedied within ten (10) Business Days after written notice of such failure or default from the BLPC.
- (f) An Event of Insolvency occurs with respect to the RE Supplier.
- (g) A Dissolution Event occurs with respect to the RE Supplier unless there has been a permitted and valid assignment of the entire interest of the RE Supplier in the PPA (along with the Facility and the Facility Assets) pursuant to Section 16.1.
- (h) The RE Supplier breaches the provisions of Section 4.4 or Section 16.1.
- (i) The RE Supplier wrongfully repudiates the Interconnection Agreement or such agreement is terminated in accordance with its terms other than for a default of the BLPC thereunder.
- (j) The RE Supplier is in breach of any of its representations, warranties or obligations (other than RE Supplier Event of Default set forth above), which breach has, or could reasonably be expected to have, a material adverse effect on the rights, benefits and interests of the BLPC under the PPA, and the breach is not remedied within thirty (30) days after written





notice of such breach from the BLPC or, if the breach cannot be remedied within such thirty (30) day period, the RE Supplier fails to demonstrate to the reasonable satisfaction of the BLPC that the RE Supplier is diligently and expeditiously taking steps to remedy the breach and, in any event, within ninety (90) days after such notice from the BLPC.

- (k) The RE Supplier is in deliberate or persistent breach of any of its obligations (including any breach previously remedied pursuant to Section ~~(h)(4)~~ herein) and, within ten (10) Business Days of the request of the BLPC, has not provided an undertaking satisfactory to the BLPC (acting reasonably) that effects a remedy of the breach and assures the BLPC (acting reasonably) the breach is not likely to recur.

#### 14.3 Remedies of the BLPC

**[Note: This draft wording does not give the BLPC the right to take ownership of the Facility in the event the PPA is terminated for default by RE Supplier. To be added only if desired by the Parties.]**

- (a) If a RE Supplier Event of Default (other than a RE Supplier Event of Default under Sections 14.1~~(f)(g)~~ and 14.1~~(g)(h)~~) occurs and has not been remedied or cured within the time allowed pursuant to this PPA and, after such additional time, is continuing, the BLPC may, subject to this section, upon fifteen (15) business days advance notice to the RE Supplier, terminate the PPA. Such notice shall be given no later than sixty (60) business days after the discovery of the RE Supplier Event of Default. The termination shall be effective upon receipt (or deemed receipt) of such notice as provided in section 20.0
- (b) If a RE Supplier Event of Default occurs under Section 14.1~~(f)(g)~~, the BLPC may, upon notice to the RE Supplier within fifteen (15) days after the discovery of such RE Supplier Event of Default, terminate the PPA, in which case the PPA shall be deemed terminated effective immediately before the occurrence of such RE Supplier Event of Default and the obligations of the BLPC under the PPA shall be deemed suspended after the Early Termination Date.



- (c) Upon the occurrence of a RE Supplier Event of Default under Section 14.1(a)(b), the PPA shall automatically terminate effective immediately before the occurrence of such RE Supplier Event of Default and the obligations of the BLPC under the PPA shall be deemed suspended after the Early Termination Date.
- (d) If the PPA is terminated pursuant to Sections (a), (b) or (c) herein then the BLPC may demand the Early Termination Payment.
- (e) If a RE Supplier Event of Default occurs and has not been remedied or cured within the time allowed pursuant to this PPA and, after such additional time, is continuing, the BLPC may:
- (i) set off any payments due to the RE Supplier against any amounts payable by the RE Supplier to the BLPC;
  - (ii) draw upon or otherwise enforce the Performance Security and, if the BLPC has not exercised its rights of termination, require the RE Supplier to provide additional or replacement Performance Security in accordance with Section 3.0 and/or
  - (iii) suspend its obligations under the PPA, including the suspension of any further payments to the RE Supplier and any other obligation which is not otherwise suspended pursuant to Section (b) herein.

#### 14.4 BLPC Events of Default

Each of the following will constitute an event of default by the BLPC ("BLPC Event of Default"):

- (a) the BLPC fails to make any payment when due (other than a payment which is subject to a bona fide dispute) and the failure is not remedied within ten (10) Business Days after written notice of such failure from the RE Supplier.
- (b) An Event of Insolvency occurs with respect to the BLPC.

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- (c) A Dissolution Event occurs with respect to the BLPC unless there has been a permitted and valid assignment of the entire interest of the BLPC in the PPA pursuant to Section 16.1.
- (d) The BLPC breaches the provisions of Section 16.1.
- (e) the BLPC is in breach of any of its representations, warranties or obligations (other than a BLPC Event of Default set forth above), which breach has, or could reasonably be expected to have, a material adverse effect on the rights and interests of the RE Supplier under the PPA, and the breach is not remedied within thirty (30) days after written notice of such breach from the RE Supplier or, if the breach cannot be remedied within such thirty (30) day period, the BLPC fails to demonstrate to the reasonable satisfaction of the RE Supplier that the BLPC is diligently and expeditiously taking steps to remedy the breach or the breach is not remedied within ninety (90) days after such notice from the RE Supplier.

#### **14.5 Remedies of the RE Supplier**

- (a) If a BLPC Event of Default (other than a BLPC Event of Default under Section 14.3 (b) and Section 14.3(c)) occurs and has not been remedied or cured within the time allowed pursuant to this PPA and, after such additional time, is continuing, the RE Supplier may, subject to this Section, upon five (5) days advance notice to the BLPC, terminate the PPA. Such notice of termination shall be given no later than sixty (60) days after the discovery of the BLPC Event of Default. The termination shall be effective upon receipt (or deemed receipt) of such notice as provided in Section 20.0.
- (b) If a BLPC Event of Default occurs under Section 14.3(b), the RE Supplier may, upon notice to the BLPC within fifteen (15) days after the discovery of such BLPC Event of Default, terminate the PPA, in which case the PPA shall be deemed terminated effective immediately before the occurrence of such BLPC Event of Default and the obligations of the RE Supplier under the PPA shall be deemed suspended after the Early Termination Date.



- (c) Upon the occurrence of a BLPC Event of Default under Section 14.3(c), the PPA shall automatically terminate effective immediately and the obligations of the RE Supplier under the PPA shall be deemed suspended in relation to the Early Termination Date.
- (d) If a BLPC Event of Default occurs and has not been remedied or cured within the time allowed pursuant to this PPA and, after such additional time, is continuing, the RE Supplier may set off any payments due to the BLPC against any amounts payable by the BLPC to the RE Supplier and suspend the performance of its obligations under the PPA including any obligation which is not otherwise suspended pursuant to Section (b) herein.
- (e) Upon termination of the PPA pursuant to this Section 14.4, the RE Supplier shall be entitled to claim, in addition to its Termination Costs, the loss of the economic benefit of the PPA based on the Present Value for Contract Energy at the Energy Rate having regard to any mitigative measures available (or which reasonably could be expected to be available) to the RE Supplier including, as applicable, replacement revenue which reduces or eliminates such loss, avoided costs and salvage as determined in a commercially reasonable manner ("RE Supplier Claimable Amount"), provided that:
- (i) if the total Net Output during the 12 months immediately preceding the Early Termination Date is less than the Energy Bid, or
  - (ii) if, at such time, two or more Contract Years have expired, the average Net Output for those Contract Years is less than the Energy Bid,

(excluding from either determination any deficiency in Net Output due to an Extraneous Event or due to the exercise by the RE Supplier of its rights under Section 14.0) then the Energy Bid shall be reduced to such total or average, as the case may be, for the purpose of determining Contract Energy. If, within fifteen (15) Business Days of presentation of the RE Supplier Claimable Amount to the BLPC, the BLPC notifies the RE Supplier

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that it is disputing the RE Supplier Claimable Amount or the BLPC fails to notify the RE Supplier of its acceptance of the RE Supplier Claimable Amount (in which case the RE Supplier Claimable Amount shall be deemed in dispute), then the RE Supplier may refer the dispute for resolution pursuant to Section 17.0. During such period, the RE Supplier shall promptly provide such information relative to the determination of the RE Supplier Claimable Amount as the BLPC may reasonably require. If the BLPC notifies the RE Supplier of its acceptance of the RE Supplier Claimable Amount or the Parties agree to another amount then, within ten (10) Business Days of such notice or agreement, or upon other resolution of any dispute under this Section (e), the BLPC shall pay to the RE Supplier the RE Supplier Claimable Amount or such other amount, as the case may be, together with interest at the Prime Rate from and including the Early Termination Date until and including the date of payment.

- (f) Notwithstanding anything to the contrary, but without prejudice to Section (b) or to the RE Supplier's rights under Section (e), upon termination of the PPA pursuant to this Section 14.4, the BLPC shall only be responsible for payment of amounts accruing to the RE Supplier under the PPA up to the Early Termination Date.

#### **14.6 Early Termination Payment**

- (a) If the BLPC terminates the PPA pursuant to Section 14.2, the BLPC shall, in good faith, determine its Termination Costs and calculate its claim for liquidated damages with respect to Renewable Attribute Loss, and otherwise the loss of the economic benefit of the PPA, for the Remaining Term (the "Early Termination Payment") in accordance with this Section 14.5.
- (b) The Early Termination Payment will be an amount equal to the Termination Costs of the BLPC, plus an amount equal to the Renewable Attribute Loss Rate times the Contract Energy, plus the amount (if any) by which:



**[Note: Early Termination Payment is meant to capture the value to the BLPC of the remaining term of the contract. Here it is calculated with reference to market pricing. To be discussed whether this is appropriate for Barbados and use appropriate alternative if necessary.]**

- (i) the Present Value for the Contract Energy at relevant market pricing (either quoted by a bona fide third party offer or which is reasonably expected to be available in the market under a replacement contract for the PPA that does not include replacement of the Renewable Attribute Loss), exceeds
- (ii) the Present Value for the Contract Energy at the Energy Rate.

To ascertain the market pricing of a replacement contract for purposes of calculating the Early Termination Payment, the BLPC shall consider, among other valuations, at least two (2) quotations from leading dealers or brokers in power purchase and sale contracts and other bona fide third party offers, all adjusted for the length of the Remaining Term and any transmission differential. The RE Supplier agrees that the BLPC shall not be required to enter into any replacement contract or transaction in order to calculate or be entitled to the Early Termination Payment.

- (c) the BLPC shall give to the RE Supplier the amount of the Early Termination Payment, together with a statement showing the determination of the amount thereof. If, within fifteen (15) Business Days of presentation of the Early Termination Amount to the RE Supplier, the RE Supplier notifies the BLPC that it is disputing the Early Termination Amount or the RE Supplier fails to notify the BLPC of its acceptance of the Early Termination Amount (in which case the Early Termination Amount shall be deemed in dispute), then the BLPC may refer the dispute for resolution pursuant to Section 17.0. During such period, the BLPC shall promptly provide such information relative to the determination of the Early Termination Amount as the RE Supplier may reasonably require. If the RE Supplier notifies the BLPC of its acceptance of the Early Termination Amount or the Parties agree to another amount then,



within ten (10) Business Days of such notice or agreement, or upon other resolution of any dispute under this Section (c) herein, the RE Supplier shall pay to the BLPC the Early Termination Amount or such other amount, as the case may be, together with interest at the Prime Rate from and including the Early Termination Date until and including the date of payment.

- (d) For certainty, the RE Supplier shall not be entitled to dispute the methodology for calculating the Early Termination Payment as set forth in this Section 14.5 but may dispute the reasonableness of the inputs to the calculation or any material departure from such methodology.

#### **14.7 Termination for Force Majeure**

Where the RE Supplier is entitled to relief from its obligations under Section 15.1, and the occurrence or impact of the Force Majeure Event has a material adverse effect on the performance by the RE Supplier of its obligations under the PPA for a continuous period of more than twelve (12) months (including any delay in achieving the Commercial Operation Date by the Scheduled Commercial Operation Date, prior to any extension of the Scheduled Commercial Operation Date pursuant to Section 15.1(e)) from the date the RE Supplier gives notice of the occurrence of the Force Majeure Event pursuant to Section 15.1(c) (i), then, while such circumstance is continuing beyond such period, either Party may terminate the PPA upon fifteen (15) days advance notice to the other Party without any costs or payments of any kind to either Party, and all Performance Security shall be returned forthwith. Any notice given in this section shall be in writing.

#### **14.8 Saving Provision**

For certainty, the rights of the Parties under this Section 14.0 will be in addition to the rights of the Parties set forth in Section 21.0 (b), provided this provision shall not be deemed to allow any double recovery.



## 15.1 FORCE MAJEURE

### 15.2 Force Majeure

- (a) For purposes of the PPA, "Force Majeure Event" means any event or circumstance that is beyond the control of the affected Party ("Affected Party"), which is not an Excepted Relief Event, and includes:
- (i) acts of God (including storms, lightning, floods, earthquakes, volcanic eruptions and landslides),
  - (ii) epidemics, labour disputes, war (whether declared or not), blockades, acts of public enemies, acts of sabotage, civil insurrection, riots and civil disobedience,
  - (iii) explosions and fires,
  - (iv) an order, judgement, legislation, ruling or direction by any Government Agency prohibiting a Party from performing its obligations under this PPA, provided that the Affected Party has not applied for or assisted in the application for and has used commercially reasonable efforts to oppose said order, judgement, legislation, ruling or direction,
  - (v) action or non-action caused solely by a Governmental Agency, including expropriation, requisition, regulatory required curtailment, and failure to grant, or revocation of, any governmental Permit, provided that:
    - A. such action or non-action was caused solely by the applicable Governmental Agency,
    - B. the Party invoking relief on account of the Force Majeure Event did not, in any way, contribute to or cause such action or non-action, and





- C. the Party invoking relief on account of the Force Majeure Event did not consent or acquiesce to such action or non-action.

(vi)

- (b) Notwithstanding anything to the contrary, the Affected Party shall not be entitled to claim any relief under this Section 15.1 in respect of any of the following events or circumstances (an "Excepted Relief Event"):

- (i) Economic hardship or lack of funds.
- (ii) Forced Outage.
- (iii) During the construction of the Facility (including any modification thereof), any weather condition which (A) could be anticipated by an experienced Person familiar with constructing projects similar to the Facility and at locations and under conditions similar to those pertaining to the Facility and/or (B) does not exceed the twenty (20) year severity for that weather condition in the area where the Facility is located, as determined by, or according to the records of, an internationally recognized Meteorological Agency, or any event or circumstance arising from such weather condition.
- (iv) Any strikes, work stoppages (or deteriorations), slowdowns or other labour actions directed solely at the Affected Party or at all or any other members of its Group.
- (v) Any direct or indirect delay in obtaining, or failure to obtain, any labour, materials, equipment or other resources, except where such delay or failure is caused by another event which is not an Excepted Relief Event but otherwise falls within the definition of Force Majeure Event.
- (vi) Any failure (financial or otherwise) or delay of any RE Supplier Personnel, including any breach by any RE Supplier Personnel of their contractual obligations or the terms upon which they are engaged, except where such failure or delay is caused by another

**Commented [A27]:** ADD: IMPORTANT!!!  
Any delay in the completion of or inability to complete the interconnection to the Facility to the System, caused solely by BLPC.



event which is not an Excepted Relief Event but otherwise would fall within the definition of Force Majeure Event if any such RE Supplier Personnel were the Affected Party.

- (vii) Any event or circumstance attributable to the unreasonable delay or lack of reasonable diligence of the Affected Party or any other member of its Group, including any event or circumstance which the Affected Party (or any other member of its Group), acting diligently, could reasonably have been expected to avoid or overcome in the performance of its obligations, provided that nothing herein shall be construed to require either Party to settle any strike or labour dispute.
  - (viii) Any event or circumstance caused by the breach of the obligations of the Affected Party or its fault or negligence or the fault or negligence of any other member of its Group, or by violation of Laws or Regulations by the Affected Party or any other member of its Group.
  - (ix) Any unavailability of the Energy Source or variation in the availability of the Energy Source except: (A) where the Energy Source is transported to the place of generation, such transport is prevented, hindered or delayed by an event which is not an Excepted Relief Event but otherwise falls within the definition of Force Majeure Event; or (B) in the case of an Energy Source which is water, there is a significant reduction in the availability of the Energy Source caused by landslide, earthquake or volcanic eruption; or (C) in the case of an Energy Source which is solar, there is a significant reduction in the availability of the Energy Source caused by volcanic eruption.
- (c) If an Affected Party is unable, by reason of a Force Majeure Event or Extraneous Event, to perform its obligations under the PPA, either wholly or in part, the Affected Party shall be excused from such performance to the extent such performance is impacted by the Force Majeure Event or



Extraneous Event, provided in the case of a Force Majeure Event the Affected Party shall:

- (i) give prompt notice to the other Party of the occurrence of the Force Majeure Event (including a description of the Force Majeure Event and reasonable evidence verifying its occurrence) together with an estimation of its expected duration and the probable impact of the Force Majeure Event on the performance of the obligations of the Affected Party;
  - (ii) provide regular reports updating any information previously submitted regarding the expected duration or impact of the Force Majeure Event;
  - (iii) exercise all reasonable efforts to mitigate the impact of the Force Majeure Event including, to the extent reasonably practicable, continuing with its obligations which are partially impacted by the Force Majeure Event and, as soon as reasonably practicable, resuming the performance of its obligations which are wholly impacted by the Force Majeure Event; and
  - (iv) provide prompt notice to the other Party of the cessation of the Force Majeure Event or the impact of the Force Majeure Event on the performance of the obligations of the Affected Party.
- (d) Nothing in this Section 15.0 shall relieve a Party of its obligation to make any payment of any amount that was due and owing before the occurrence of the Force Majeure Event or that otherwise becomes due and payable during any period when the Force Majeure Event is continuing or while the obligations of the Affected Party are impacted by the Force Majeure Event.
- (e) If a Force Majeure Event causes the RE Supplier to fail to achieve the Commercial Operation Date by the Scheduled Commercial Operation Date, then the Scheduled Commercial Operation Date shall be extended for such reasonable period of delay directly resulting from the impact of



the Force Majeure Event. After the commencement of the Term, the occurrence of a Force Majeure Event shall not extend the Term.

- (f) In the event that the Parties, each acting reasonably and in good faith, do not agree that a Force Majeure Event has occurred, the Parties shall resolve the dispute in accordance with Section 17.0, provided that the burden of proof as to whether a Force Majeure Event has occurred shall be upon the Party claiming a Force Majeure Event.

#### **16.1 ASSIGNMENT, RE SUPPLIER'S FINANCING SECURITY**

##### **16.2 Assignment**

- (a) Subject to Section (b) herein, a Party shall not assign or dispose of the PPA, or any direct or indirect interest in the PPA, except with the written consent of the other Party, such consent not to be unreasonably withheld, delayed or conditioned.

Notice of a request for written consent to assign to a Qualified Assignee shall be given by the assignor to the other Party not less than thirty (30) days before the date of assignment and, except where Section (c) herein applies and except in the case of assignment to a Facility Lender, shall be accompanied by a proposed form of assignment and assumption agreement and evidence of the capability of the assignee as required by Section (b) herein. Any sale or other disposition of all of the RE Supplier's ownership interest in the Facility or the Facility Assets (or any portion thereof which is material to the RE Supplier's compliance with its obligations under the PPA), or of all or any interest of the RE Supplier in the PPA or revenue derived from the PPA, including by way of mortgage, pledge, charge or grant of a security interest, as well as any change of Control, merger, amalgamation or reorganization of the RE Supplier, is deemed to be an assignment by the RE Supplier for the purposes of this Section 16.1. Where Control is transferred to an Affiliate or where the RE Supplier merges or amalgamates with an Affiliate or enters into a reorganization with an Affiliate, the BLPC may require, upon notice to the



RE Supplier, that either Section (b) or (c) herein shall apply to any such transaction having regard to the nature or structure of the transaction.

For the purpose of the preceding paragraph, a change of Control shall exclude a change in the ownership of shares or units of ownership that are listed on a recognized stock exchange.

- (b) Any assignment contemplated in Section (a) herein (other than an assignment to a Facility Lender and except as otherwise provided in Section (a)) is subject to the following conditions:
- (i) the assignor not being in default of its obligations under the PPA;
  - (ii) the assignee entering into and becoming bound by the PPA, assuming all the obligations and liabilities of the assignor under the PPA (arising both before and after the assignment) and providing, in the case of an assignment by the RE Supplier, replacement Performance Security in accordance with the provisions of Section 3.0 at the time of assignment;
  - (iii) the assignee demonstrating to the reasonable satisfaction of the other Party its capability (financial, technical and otherwise) to fulfil and assume all such obligations and liabilities of the assignor or, in the case of a change of Control, merger, amalgamation or reorganization of the RE Supplier, the parties to that transaction demonstrating to the reasonable satisfaction of the BLPC, the continued ability of the RE Supplier, or the party arising out of the change of Control, merger, amalgamation or reorganization, to perform and discharge its obligations and liabilities under the PPA;
  - (iv) the assignee's past dealings with the BLPC or any the BLPC Affiliates were acceptable to the BLPC acting reasonably; and
  - (v) the assignment would not have a material adverse effect on the BLPC or the BLPC's customers.



and, upon satisfaction of such conditions, the assignor shall be released from its obligations and liabilities under the PPA and any Performance Security provided by it will be returned or released.

- (c) Notwithstanding anything to the contrary, in the case of an assignment to an Affiliate of the assignor, the consenting or notified Party may require, as a condition of such consent, where such consent is required, that the assignor and assignee agree to assume, jointly and severally, all of the obligations and liabilities of the assignor under the PPA (arising both before and after the assignment), in which case the provisions of Section (b) herein, except for Section 16.1 (b) (i), shall not apply and the existing Performance Security shall remain in place unless the assignee provides replacement Performance Security in accordance with the provisions of Section 3.0 at the time of the assignment.
- (d) If the RE Supplier seeks consent to assign to a Facility Lender, the RE Supplier acknowledges that the BLPC is entitled to require, as a condition of the BLPC's consent to such assignment, that the RE Supplier and the Facility Lender enter into a CAA with the BLPC in form and substance acceptable to the BLPC (acting reasonably). Without limitation, as a condition to entering into a CAA, the BLPC shall be entitled to require that the CAA be subject to Section (e) and Section (f) herein, and:
  - (i) be governed by Barbados law,
  - (ii) acknowledge the assignment and the right of the Facility Lenders to receive notice of any RE Supplier Event of Default,
  - (iii) provide the Facility Lenders with an opportunity to cure any such RE Supplier Event of Default and to exercise remedies to assume the RE Supplier's obligations under this PPA.
- (e) No consent to any assignment given by the BLPC under this Section 16.1 implies or constitutes a consent to the exercise by the assignee, or any Affiliate of the assignee, whether or not a Facility Lender, of any right, if the exercise of that right, at the time it was acquired, would require the



consent of the BLPC under this Section 16.1, and the exercise of any such right will require the further consent of the BLPC.

- (f) Nothing in this Section 16.1 shall be construed as requiring the BLPC to consent to any assignment that results (or could reasonably be expected to result) in the alienation of the Facility and/or the Facility Assets (or any portion thereof which is material to the RE Supplier's compliance with its obligations under the PPA) apart from the entire interest of the RE Supplier in the PPA.
- (g) The assignor shall reimburse the other Party for all costs reasonably incurred in connection with an assignment.
- (h) Notwithstanding Section 16.1, the RE Supplier shall not effect any assignment or other disposition of its interest in the PPA, including any event or action that is deemed an assignment under Section (a), prior to the Commercial Operation Date, except: (i) to an Affiliate or a Facility Lender as permitted under this Section 16.1; or (ii) with the prior consent of the BLPC, which consent may be given, withheld or conditioned once the BLPC is acting reasonably.

### **16.3 RE Supplier's Financing Security**

The RE Supplier shall use its commercially reasonable efforts to obtain Financing Documents in a form reasonably satisfactory to the BLPC which contain the following provisions for the BLPC's benefit:

- (a) Each Facility Lender shall agree, in a manner legally enforceable by the BLPC, that so long as this PPA is in effect and there shall not exist and remain continuing any BLPC Event of Default, such Facility Lender will take no action (except pursuant to rights granted to the RE Supplier under this PPA) to disturb, affect or impair the BLPC's rights under this PPA, including without limitation its rights to delivery of Energy from the Facility, nor to terminate or otherwise adversely affect this PPA, by means of: (i) the exercise of any of its rights and remedies of foreclosure or sale afforded by the terms of the Financing Documents or by law in respect of



the Facility; or (ii) any other suit, action or proceeding upon the Financing Documents or the exercise of any other rights of such Facility Lender pursuant to any other documents or as a matter of law.

- (b) Each Facility Lender shall agree: (i) to give written notice to the BLPC of any event of default by RE Supplier and any event known to such Facility Lender which, with notice or the passage of time or both, would constitute an event of default by RE Supplier, under any Financing Documents; and (ii) to afford the BLPC the right to cure any such event of default within sixty (60) days after notice to the BLPC of such event of default, and to forbear from exercising any right or remedy available to such Facility Lender in respect of such event of default during such cure period.
- (c) Each Facility Lender shall agree that in the event of default by RE Supplier under any Financing Documents, the BLPC shall have the option in the BLPC's sole discretion to do one or more of the following: (i) cure RE Supplier's default without assuming RE Supplier's obligations under the Financing Documents; (ii) cure RE Supplier's default and directly or by an affiliate assume RE Supplier's obligations under the Financing Documents; and (iii) directly or by an affiliate acquire all of the Facility Lender's interest under the Financing Documents.
- (d) The RE Supplier shall reimburse the BLPC for costs incurred by the BLPC in responding to Facility Lenders' requests or as a result of any event of default by the RE Supplier under the Financing Documents, including but not limited to any attempt to cure such event of default undertaken by the BLPC as provided in this Section 16.2.

## 17.1 DISPUTE RESOLUTION

### 17.2 Amicable Settlement

- (a) In the event of a dispute arising between the Parties as to the subject matter of the PPA, the Parties shall attempt in good faith to settle the dispute within thirty (30) days or such longer period as may be agreed by the Parties.





#### **17.3 Dispute referred to the Fair Trading Commission**

- (a) If, despite good faith efforts of the Parties pursuant to Section 17.1 the dispute remains unresolved after the period specified therein, the Parties shall submit the dispute to the Fair Trading Commission for determination.
- (b) The dispute referred to in Section (a) shall be settled by dispute resolution in accordance with any procedural directions issued by the Fair Trading Commission for the purpose of settling disputes as a result of PPAs.
- (c) The standard administrative procedures for the dispute as well as any costs to be borne by the Parties shall be determined by the Fair Trading Commission and shall apply.
- (d) The place of the dispute resolution shall be Barbados and the language to be used in the dispute resolution proceedings shall be English.
- (e) Where a party is not satisfied with a decision made by the Fair Trading Commission arising out of the dispute resolution process the party may appeal to a judge of the High Court from a decision or order of the Commission. An appeal shall only lie on a question of law.

#### **17.4 Continued Performance**

- (a) All performance required under the PPA shall continue during the dispute resolution proceeding contemplated by Section 17.0, provided that, unless otherwise expressly provided, and other than with respect to the matter in dispute, such process shall not be interpreted or applied to delay or restrict the exercise of any rights or remedies of the Parties under the PPA. With respect to any dispute regarding amounts owed under the PPA, the Parties agree to pay any undisputed amounts in accordance with the provisions of the PPA.

#### **18.0 RIGHT OF FIRST REFUSAL (ROFR)**

**[Note: ROFR is subject to discussion between the Parties.]**



**[Note: The ROFR only pertains to asset sales and does not pre-empt a change of control of the RE Supplier through sale of shares or interests in RE Supplier. That is covered by the assignment provisions in Section 16.0.]**

If at any time after the Commercial Operation Date the RE Supplier receives a bona fide written offer (a "Third Party Offer") from any Person dealing at arm's length with parties to the PPA (the "Third Party Offeror") to purchase all or substantially all of the Facility (the "Offered Property"), which Third Party Offer is acceptable to the RE Supplier, the RE Supplier shall by notice in writing to the BLPC offer (the "Offer") to sell the Offered Property to the BLPC, based on the same price (the "Offer Price") and upon the same terms and conditions as are contained in the Third Party Offer. The Offer shall not be revocable except with the consent of the BLPC and shall be open for acceptance by the BLPC for a period (the "Offer Period") of twenty-one (21) Business Days from the date received by the BLPC. If the Offer is accepted by the BLPC within the Offer Period, the RE Supplier shall agree to sell and the BLPC shall agree to purchase the Offered Property upon the terms and conditions contained in the Offer. If the BLPC elects in writing not to purchase, the RE Supplier shall be permitted to sell the Offered Property to the Third Party Offeror in accordance with the Third Party Offer.

## 19.1 MISCELLANEOUS PROVISIONS

### 19.2 General

- (a) For the purposes of interpreting the PPA:
  - (i) Words in the singular include the plural and vice versa.
  - (ii) The use of the words "including" and "include" are not limiting.
  - (iii) The words "herein", "hereof" and "hereunder" and other words of similar import refer to the PPA as a whole and not to any particular Section or other subdivision.
  - (iv) The division of the PPA into Sections or other parts and the insertion of headings are for convenience only and do not affect the interpretation of the PPA.



- (v) Reference to monetary amounts is in Barbados Dollars and Cents, as applicable, unless otherwise stated.
- (vi) Reference to any legislation (including regulations) is a reference to that legislation in force from time to time and to any subsequent legislation which has the effect of supplementing or superseding that legislation.
- (vii) No consent or approval contemplated under the PPA shall be effective unless given in writing.
- (viii) Time shall be of the essence.
- (b) The Parties shall, at all times, comply with all Laws and Regulations in the performance or fulfilment of their obligations hereunder.
- (c) The relationship between the Parties shall be that of independent contractors for the sale and purchase of the Net Output. Nothing in the PPA shall be interpreted as creating between the Parties any partnership, joint venture, fiduciary or similar relationship, or any other arrangement regarding the conduct of their respective affairs which is not expressly stated herein.
- (d) The PPA may be executed by the Parties in counterparts, each of which, when so executed and delivered to the other, shall be deemed an original and when taken together shall be deemed one and the same instrument.
- (e) The facsimile transmission of any signed original of the PPA shall be the same as the delivery of an original hereunder. At the request of any Party, the Parties shall immediately deliver to each other, an original executed copy of the PPA.
- (f) Each Party shall, from time to time, execute and deliver all such further documents and instruments and do all acts and things as the other Party may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of the PPA.



- (g) In connection with the negotiation of, the entering into, and the performance under, the PPA, each Party represents to the other party that: (i) it is acting as principal (and not as agent or in any other capacity, fiduciary or otherwise); (ii) it is not relying upon any representations (whether written or oral) of the other Party other than the representations expressly set forth in the PPA; (iii) the other Party has not given to it (directly or indirectly through any other Person) any advice, counsel, assurance, guarantee, or representation whatsoever as to the expected or projected success, profitability, return, performance, result, effect, consequence, or benefit (either legal, regulatory, tax, financial, accounting or otherwise) of the PPA; (iv) it has consulted with its own legal, financial, technical and other advisors to the extent it has deemed necessary; (v) it is entering into the PPA with a full understanding of all the risks associated with the transactions hereunder and it is capable of assuming and willing to assume those risks. In this regard, and without limitation, the RE Supplier shall be solely responsible for determining the suitability of the Site for the purposes of the PPA.

#### **19.3 Interest**

If either Party fails to make payments as they become due under the PPA or pursuant to an arbitral award, interest on such unpaid amounts shall also become due and payable until paid at a rate equal to that agreed by the Parties.

#### **19.4 Liquidated Damages**

The Parties acknowledge and agree that, in the circumstances where liquidated damages are payable by one Party to the other, the other Party will suffer financial damage in such circumstances and that such financial damage will be proximate and substantial, but the actual amount thereof will be very difficult, if not impossible to ascertain, and, accordingly, the amount, or method of determining the amount, of the liquidated damages is a genuine pre-estimate, or a methodology for arriving at a genuine pre-estimate, of the amount of such financial damage and shall not be considered penal.



#### **19.5 Remedies**

Unless otherwise expressly provided, any duties and obligations imposed by the PPA and any rights and remedies available under the PPA shall be in addition to and not a limitation of any other duties, obligations, rights and remedies imposed or available under the PPA or under Laws and Regulations of Barbados.

#### **19.6 Confidential Information**

- (a) Notwithstanding Section 19.5, Parties to the PPA shall negotiate and execute a Non-Disclosure Agreement (NDA). The NDA shall form a part of the PPA.
- (b) Any and all information and knowledge relating to the Facility, the Energy generated therefrom, the ownership or use of the Facility, and any and all information emanating from the other Party's business in any form that a Party may acquire under the terms of the PPA, or by virtue of the relationship between the Parties created by the PPA (collectively, "Confidential Information"), shall be considered confidential and, except as permitted elsewhere in this Section 19.5, shall not be used, revealed or divulged to any other Person, or published in any manner whatsoever, without first obtaining the written consent of the other Party.
- (c) Notwithstanding the provisions of Section 19.5(a), a Party may reveal or divulge Confidential Information:
  - (i) that is already in the public domain when disclosed to a Party or becomes, after having been disclosed to a Party, generally available to the public through publication or otherwise unless the publication or other disclosure was made directly or indirectly by a Party in breach of this PPA;
  - (ii) to its Affiliates and to its and their officers, directors, employees, agents or other representatives on a need to know basis provided they have agreed to maintain such Confidential Information in confidence;



- (iii) as required by applicable laws, including, without limitation, as required by the Fair Trading Commission the orders or directions of tribunals having jurisdiction or stock exchange or clearing house requirements, provided that where circumstances permit, and where such disclosure is not made in the ordinary course to such persons, prior to any disclosure, the other party shall be notified of any such proposed divulgence and the divulging Party shall at the other Party's request, take reasonable steps to allow the other Party to contest the requirement for disclosure or to obtain an order or ruling to preserve the confidentiality of such Confidential Information;
  - (iv) as necessary in connection with any dispute resolution commenced pursuant to this PPA or any litigation commenced in respect of this PPA; or
  - (v) in confidence, to the extent necessary, to any consultants, contractors, lenders, financial institutions or advisors of such Party, Facility Lenders or any potential investors in the RE Supplier or the Facility.
- (d) The confidentiality obligations of the Parties under this Section 19.5 shall not extend beyond that date which is the fifth (5th) anniversary of the end of the Term or the Early Termination Date, however, this provision shall not affect any rights of either Party in respect of any breach by the other Party of its obligations under this Section 19.5 which arises prior thereto.

#### **19.7 Applicable Law and Jurisdiction**

The laws of Barbados (without regard to any conflict of law principles which would apply the laws of another jurisdiction) shall govern all matters arising out of or related to the PPA including damages and enforcement. For such matters, the Parties shall, subject to Section 19.4, submit to the non-exclusive jurisdiction of the courts of Barbados.



#### 19.8 Preparation of PPA

#### 19.9 Severability

If any provision of the PPA is declared or held to be illegal, invalid or unenforceable, such provision shall be considered stricken and the remainder of the PPA shall remain in full force and effect. The Parties shall negotiate in good faith to replace the stricken provision with a legal, valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

#### 19.10 Complete Agreement

All previous communications or agreements between the Parties, whether verbal or written, with reference to the subject matter of the PPA are superseded by the PPA and the PPA constitutes the entire agreement between the Parties with respect to such subject matter. The PPA shall not be amended or supplemented except by subsequent written agreement between the Parties.

#### 19.11 Waiver

No waiver of any provision of the PPA shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any provision of the PPA shall constitute a waiver of any other provision thereof, nor shall any such waiver constitute a continuing waiver or waiver of any subsequent failure to comply, unless otherwise expressly provided in such written waiver. No inspection, review, comment, approval, verification, confirmation, acknowledgement or audit by the BLPC or any Governmental Agency, or anyone on their behalf, nor any failure to do so, shall relieve the RE Supplier from performing or fulfilling any of its obligations under the PPA.

**Commented [A13]:** The section (Preparation of PPA) has been removed as it suggests that the PPA shall be deemed to have been jointly prepared by the parties and that neither party can hold against or **challenge** the other with respect to its construction, validity of interpretation. The document in reality has been authored by BL&P, and even now with BREAs input it cannot speak for all persons who may become parties to this agreement in the future. Based on the current construction of this clause, it means that no future party to this agreement can question any segment of this agreement in its relation to its interpretation, construction or validity because of the restriction being placed on their legal rights in this clause. It begs the question whether this document will remain in the strict application of section 13 of the ELPA where the parties are to agree a PPA or whether with the current process i.e. engagement with the FTC, we are saying that it will be the FTC whose approval of this document as a standard form of PPA will be the legal authors of the PPA and therefore any legal challenge against any portion of the document may rest with them.



#### **19.12 Change In Fiscal Year**

The current Fiscal Year is January 1 to December 31. If during the Term, the BLPC is required to change the Fiscal Year, it will do so only upon giving written notice to the RE Supplier advising the RE Supplier of such change, provided such notice shall be given not less than thirty (30) days prior to the Reporting Date.

#### **19.13 Joint and Several Liability**

If the RE Supplier is not a single entity then all entities comprising the RE Supplier shall be jointly and severally liable to the BLPC for all representations, warranties, indemnities, obligations and liabilities of the RE Supplier under the PPA.

#### **19.14 Prevention of Corruption**

The RE Supplier declares and affirms that it has not paid nor has it undertaken to pay any commission, bribe, pay-off or kick-back and that it has not in any other way or manner paid any sums, whether in currency of Barbados or foreign currency and whether in Barbados or abroad, or in any other manner given or offered to give any gifts and presents in Barbados or abroad, to any person or the RE Supplier and, generally, has not made any payment or accepted any gift or in any way whatsoever acted in breach of any obligation, prohibition or requirement of any Laws and Regulations (including, without limitation, the Barbados Prevention of Corruption Act), to procure this PPA. The RE Supplier undertakes not to engage in any of the said or similar acts during the term of, and relative to, this PPA.

### **20.0 NOTICES**

Every communication provided for herein shall be in writing and delivered to, sent by recognized overnight delivery service or mailed by postage prepaid, or faxed, or e-mailed to, the Party to whom it is intended to be given at the address stipulated on the cover page or such other address (or facsimile number or e-mail) as a Party shall hereafter designate in writing from time to time. Notice shall be given when received on





a Business Day of the addressee. In the absence of proof of the actual receipt date, the following presumptions shall apply. Any communication personally delivered shall be deemed to have been received upon actual delivery. Any communication sent by overnight delivery service shall be deemed to have been received two (2) Business Days after being sent. Any communication sent by mail shall be deemed to have been received five (5) Business Days after having been mailed. Any communication sent by facsimile shall be deemed to have been received on the Business Day following the date of transmission, provided that the sending Party has received a positive transmittal record of such transmission and has promptly sent the original of such communication by prepaid mail or recognized overnight delivery service. Any communication sent by e-mail shall be deemed to have been received on the Business Day following the date of sending, provided that the sending Party has not received a delivery failure notification with respect to the e-mail and has promptly sent the original of such communication by prepaid mail or recognized overnight delivery service.

#### 21.1 SURVIVAL AND ENUREMENT

- (a) Except as otherwise expressly provided in the PPA, the PPA shall not confer upon any other Person, except the Parties and, subject to Section 16.0, their respective successors and assigns, any rights, interests, obligations or remedies under the PPA. The PPA shall be binding upon and enure to the benefit of the Parties and, subject to Section 16.1, their respective successors and assigns.
- (b) All provisions of the PPA which by their express terms or nature are continuing shall survive expiration or termination of the PPA, including this provision, the provisions of Sections 3.0, 11.0, 12.0, 14.0, 17.0 and 19.0 which are provisions relating to performance security, confidentiality, indemnification, termination, dispute resolution, as well as any provisions which are required to determine, or which exclude or limit, any liability or which are otherwise required to give effect to or interpret any such provisions which are continuing. For certainty expiration or termination of the PPA shall not affect or prejudice (i) any rights or obligations of the Parties that have accrued or arisen under the PPA prior to the time of expiration or termination, including any amounts owing by



one Party to the other (whether or not due at the time of expiration or termination) together with interest thereon, (ii) the right of either Party (or, as the case may be, any other member of its Group) to the benefit of any indemnity given by the other Party in respect of any event or circumstance occurring before the time of expiration or termination to which any such indemnity applies, even though such event or circumstance or any claim or liability in respect thereof does not manifest until after the time of expiration or termination, (iii) the right of either Party to the benefit of any confidentiality provisions whether the breach of such provisions by the other Party occurs before or after the time of expiration or termination, or (iv) the right of either Party to claim the reasonable cost of enforcing its rights under the PPA, whether such enforcement arises prior to or after the time of expiration or termination.



## 22.0 LIST OF SCHEDULES

Schedule 1 – Project Description, including Technical Standards and Requirements

[Schedule 2 - Tariffs, Calculation of payments](#)

[Schedule 3 - Testing and commissioning](#)

[Schedule 4 - Interconnection Agreement](#)

[Schedule 5 - Metering](#)

[Schedule 6 - Technical Standards and Requirements related to the Grid Connection](#)

[Schedule 7 - Operating Committee](#)



## **SCHEDULE 1**

### **PROJECT DESCRIPTION INCLUDING TECHNICAL STANDARDS AND REQUIREMENTS**

The project description is dependent on the Facility to be built and technologies to be used and is very diverse for the different technologies. Important differences exist for example between solar PV and wind turbine projects – making use of certain types of equipment for producing electricity from energy sources readily available (wind, solar irradiation) - and for example Waste to Energy and Biomass projects where next to equipment also different processes are of great importance such as waste or feedstock collection, separation and/or recycling processes, flue gas treatment, control of steam production, disposal or commercialization of ashes, etc.

For each technology the project description basically consists of:

- A general description and lay-out of the renewable energy generating facility outlining major equipment and major processes at the Facility and indicating major data characterizing the facility (kW or MW per generating unit, output data, important equipment such as solar panels, wind turbine types, inverters, transformers, steam turbines, gasification or incineration units, major information on availability and operations and maintenance, requirements for construction, site information, battery limits at the Delivery Point, Metering, taking into account the definitions and requirements as described in this Power Purchase Agreement, etc).
- Specification of all relevant equipment, showing that equipment types used are proven technologies by means of at least five references in the past five years of similar sized projects, showing that the equipment is to be considered proven technologies.
- Specification and description of Facility processes used showing that processes used are proven processes by means of at least five references in the past five years of similar sized projects, showing that the processes are to be considered proven technologies.



- International and National Standards as well as Rules and Regulations which are applicable for equipment and processes in the Facility, while the Facility also needs to comply with Standards and Requirements as mentioned in Schedule 6 regarding the Grid Connection, including power quality requirements.
- A description of Operations & Maintenance procedures taking into account the clauses in Section 13.0 of this PPA, Schedule 7 and requirements on operations and maintenance as described in Schedule 6 regarding the Grid Connection.
- A description of procedures and policies to be maintained with respect to the Environment, Health and Safety.



## SCHEDULE 2

### TARIFFS, CALCULATION OF PAYMENTS

This schedule defines the tariffs for the calculation of the specified payments and other monetary values that may be required by the provisions of this Agreement. In particular, it defines: the calculation of the payments by BLPC to RE Supplier for Capacity and/or Net Energy Output as measured monthly by the Metering System of the Facility, dependent on the Tariff Schedule to be agreed upon by Parties, and the calculation of liquidated damages payments.

Tariff computations have resulted in the following tariff schedule:

- a) Monthly Capacity Charge at BD\$ xxx per month  
Energy Charge at BD\$ xxx per kWh

or:

- b) Capacity Charge at BD\$ xxx per kW per month  
Energy Charge at BD\$ xxx per kWh

and/or:

- c) Energy Charge Only at BD\$ xxx per kWh

Energy supplied with a power factor below 0.95 will be charged by BLPC to RE Supplier at a tariff of BD\$ xxx per kWh (example from a Caribbean island: this tariff has been set at 50% of the utility's retail rate for its commercial customers).

For Excess Energy if accepted as described in Section 5.2 (b) the Incremental Rate as referred to in Section 6.1. (a) has been set at BD\$ xxx per kWh.

**Note: sometimes tariffs are subject to yearly correction for inflation as far as the portion of the tariff which is related to Operations and Maintenance).**

Payments related to liquidated damages have to be calculated in case of:



- Commercial operations delay by RE Supplier, as determined in Section 4.2(b) where the Average Annual Marginal Cost Rate is set at BD\$ xxx per kWh;
- If the Net Output of the Facility during any Contract Year is less than 98 percent (98%) of the Energy Bid (excluding from such determination any deficiency in Net Output due to an Extraneous Event), the calculation of liquidated damages should be according to Section 5.3(b), where the Renewable Attribute Loss Rate is set at BD\$ xxx Per kWh and the Annual Average Marginal Cost rate at BD\$ xxx per kWh.
- In the event of failure of the BLPC to take or purchase any Net Output in accordance with the PPA (which Net Output in such case will be calculated by the RE Supplier, acting reasonably, using reasonable assumptions, data and conversion factors) is a claim for the price payable by the BLPC for such Net Output against the Capacity Charge and/or Energy Charge as specified in this Schedule (and any interest on any such amount owing by the BLPC to the RE Supplier).

**Optional:** If curtailment of Energy Take by BLPC leads to an Energy Take below 98% of the Contract Energy, RE Supplier is entitled to charge the amount of not taken energy at the Capacity Charge and/or Energy Charge.

**(Note: The Clause above should not be invoked when grid stability may be endangered and curtailment has to occur.**

**(Note: For Solar Power the Contract Energy should be defined per year since the capacity of solar PV panels gradually diminishes slightly throughout the years.)**



## SCHEDULE 3

### TESTING AND COMMISSIONING

*This schedule is a technical document that necessarily varies from Facility to Facility. It must take account not only of the characteristics of the renewable energy technology being utilised, but also the capabilities and limitations of the Facility's design and equipment. The specific testing steps and the test criteria must be negotiated by the RE Supplier and BLPC with the specific design, equipment, and operational characteristics of the Facility and the BLPC's Grid taken into account.*

RE Supplier shall, at its own expense, carry out the testing and commissioning of the Facility and the connecting transmission infrastructure in accordance with the provisions of Schedule 4, the specifications set out in Schedule 6 (Technical Specifications), and Prudent Utility Practice. BLPC shall be given 5 days prior written notice of any testing or commissioning procedure and BLPC shall be entitled to have representatives present for purposes of observing any such procedures. If BLPC's representatives are unable to attend for any reason, the testing may proceed without them.

- 3.1 **Test prior to initial commercial operation** (such as Initial tests, Energizing tests, Synchronizing tests but not limited to)

(details to be agreed, example given in attachment)

- 3.2 **Testing and guarantees** such as Acceptance and Performance tests, Reliability tests, Capacity tests, Net Electrical Output Tests but not limited to)

(details to be agreed, example given in attachment)

- 3.3 **Testing of Interconnection Facilities and Transmission Line** such as testing of transformers, cables, protection and monitoring equipment, communication equipment, transmission lines and etc. but not limited to

(details to be agreed, example given in attachment)





3.4 Testing of Metering system

(details to be agreed)

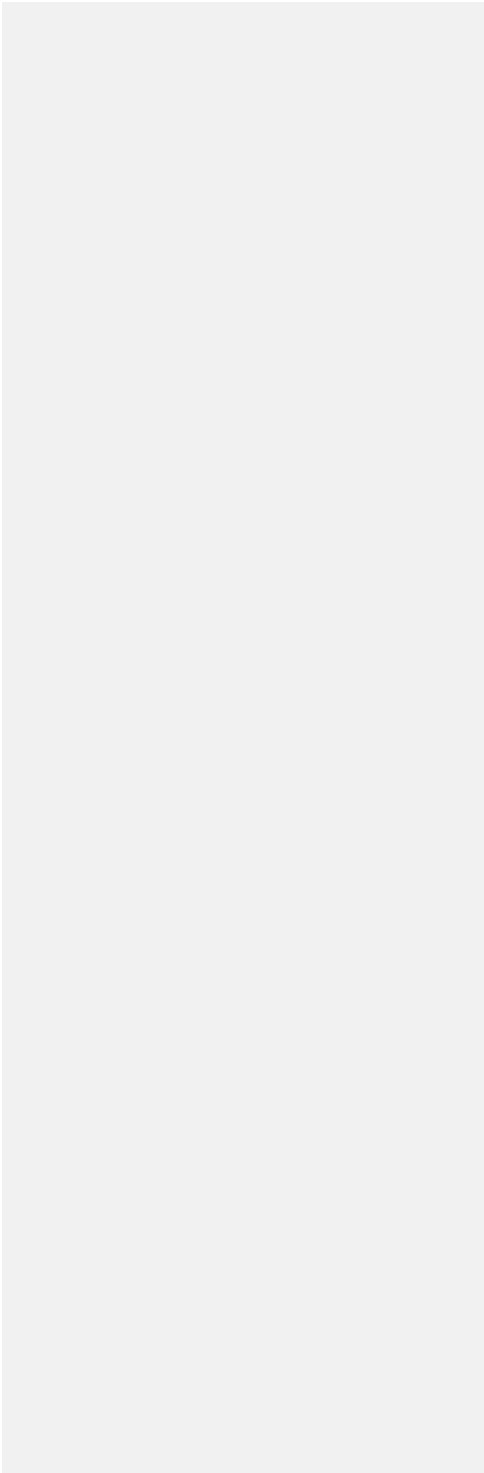
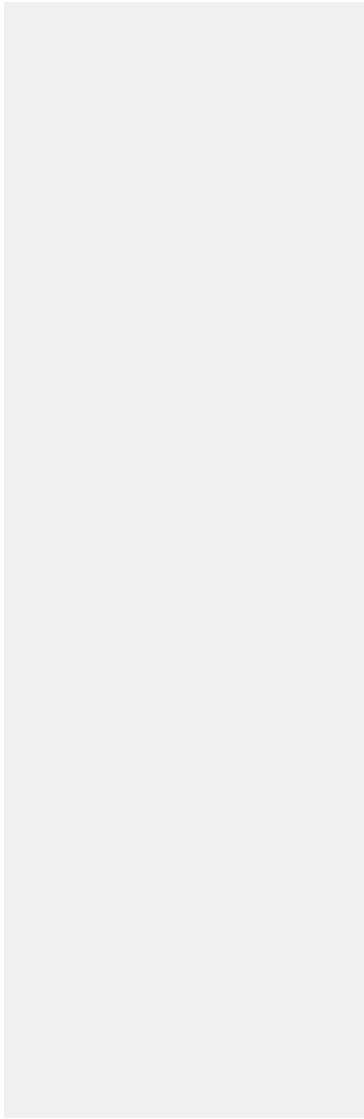




Exhibit A in the Attachment to this PPA template gives an overview of Acceptance Tests for a large scale solar plant.

In Exhibit B Commissioning Requirements are given, both for a large scale solar plant as for Grid Connection Facilities.

**For each Renewable Energy Technology the Exhibits with Acceptance Tests and Commissioning Requirements are to be prepared by subject matter experts.**



## SCHEDULE 4

### INTERCONNECTION AGREEMENT

This Interconnection Agreement (this "IA") is made this \_ day of \_ (the "Effective Date") BETWEEN \_ the party described in this IA (the "RE Supplier) and **THE BARBADOS LIGHT & POWER COMPANY LIMITED**, a company incorporated under the Companies Act, Cap. 308 of the Laws of Barbados and having its registered office situate at Garrison Hill, St Michael, Barbados ("BLPC").

#### RECITALS:

#### WHEREAS:

- A. The BLPC carries on the business of producing and distributing electrical energy pursuant to the Electric Light and Power Act, (ELPA) 2013 of the Laws of Barbados.
- B. By virtue of Section 13(3) of the ELPA the BLPC is currently engaged in a process which facilitates the interconnection of RE suppliers. Whereby the BLPC agrees to interconnect with any RE Supplier that has been awarded an ELPA licence and has been approved by the BLPC to interconnect and the BLPC shall purchase electrical energy generated by the Facility at the agreed and approved tariff.
- C. The BLPC wishes to purchase electrical energy generated by the Facility pursuant to the terms and conditions of the Renewable Energy Supplier Agreement <500kW (PPA) and the IA.
- D. The parties are desirous of executing a PPA to facilitate the sale of renewable energy from the RE Supplier to the BLPC. The IA forms a part of the PPA and should be read along with the Renewable Energy Supplier Agreement
- E. The RE supplier agrees to negotiate, in good faith, with the BLPC, a tariff and agrees pursuant to the terms of the PPA and the IA to meet the eligibility requirements of the BLPC's Grid Code. The applicable sections of the Grid Code are hereto identified and attached and form a part of the IA.



NOW THEREFORE, in consideration of the mutual benefits to be derived and the representations, warranties, conditions and promises contained in the IA and the Grid Code, the RE Supplier and BLPC agrees to the Terms and Conditions as detailed herein.

**IN WITNESS WHEREOF** the undersigned have executed this IA on the year and date hereinbefore mentioned.

SIGNED by **THE BARBADOS LIGHT & POWER** )  
**COMPANY LIMITED** ) .....  
in the presence of: ) Duly Authorized Officer

Witness:

Name:

Abode:

Calling or Description:

Witness:

Name:

Abode:

Calling or Description:

SIGNED by **RE Supplier** )  
)



In the presence of:

) .....

Witness:

Name:

Abode:

Calling or Description:

Witness:

Name:

Abode:

Calling or Description:



## 1. INTERPRETATION

### 1.1 Definitions

Any terms used in the IA shall have the same meanings as those set forth in the PPA.

### Interconnection

- (a) The Interconnection between RE Supplier's Facility and BLPC's System Grid, including the locations of the Delivery Point and the location of the Metering System is represented at the attached One Line Diagram, nr. ...., dated .....

### RE Supplier Responsibilities

- (b) In accordance with the requirements of the Interconnection Agreement, the RE Supplier shall design, construct, install, commission, own, operate and maintain the Interconnection Facilities, and any parts thereof, in accordance with the terms and relevant Schedules of this PPA.
- (c) The RE Supplier shall design, construct, install, commission, own, operate and maintain all auxiliary and interconnecting equipment on the RE Supplier's side of the Delivery Point, provided that the BLPC shall have the right to set requirements to the interconnection facilities, such as technical, operational and safety requirements, and shall furthermore have the right to view such equipment and to object to the use of any equipment if, in the reasonable opinion of the BLPC, the use of such equipment would adversely affect the System.
- (d) The RE Supplier shall complete construction of the Interconnection Facilities fifteen (15) days prior to the Scheduled Commercial Operation Date.
- (e) Upon completion of the interconnection facilities described in (a) and (b) above, the RE Supplier shall test such Interconnection Facilities in accordance with the procedures set forth in Schedule 3 (Testing and Commissioning).
- (f) The RE Supplier's Interconnection Facilities shall be connected to the System by means of suitable switchgear and protective devices, subject to BLPC's approval and in accordance with technical standards as applicable for BLPC's System Grid as further described in Schedule 6.



#### **BLPC Responsibilities**

- (g) The BLPC will cooperate in good faith with the RE Supplier in obtaining, in a timely manner and at a reasonable cost, all permits, permissions and way leaves necessary for the construction of the Interconnection Facilities and associated equipment. Such assistance shall not be unreasonably withheld. The reasonable expenses of the BLPC's assistance shall be the responsibility of the RE Supplier.
- (h) The BLPC will be responsible for the design, construction, installation, commissioning and testing of any new lines (and associated switchgear and protective devices) needed to connect the Facilities at their Interconnection Points to the System, in accordance with BLPC's technical standards as applicable for BLPC's System Grid as further described in Schedule 6.
- (i) The BLPC shall own, operate and maintain such lines and associated equipment.
- (j) The BLPC shall complete construction and testing of the lines fifteen (15) days prior to the Scheduled Commercial Operation Date.

#### **Access to Facility**

The RE Supplier shall permit the BLPC such access to the Facilities as the BLPC shall require for the testing of Interconnection Facilities and the RE Supplier shall cooperate with the BLPC in such testing, provided that no testing, carried out by the BLPC, shall impose upon the BLPC any liability, or relieve the RE Supplier from any liability that it would otherwise have had for its negligence or other wrongful act in the design, construction, operation or maintenance of the Interconnection Facilities.

#### **Protective Devices and System Control**

- (k) Each Party shall provide the other Party, in advance, written notice of any changes to be made to the Facilities or to any facility on the System that may affect the proper coordination of protective devices between the two systems.
- (l) The RE Supplier shall not disable or otherwise change or modify any protective equipment in its Interconnection Facilities or change or modify the operation or settings thereof without first requesting and receiving the written approval of the BLPC, which approval shall not be unreasonably withheld.
- (m) With reasonable notice to the RE Supplier, the BLPC may require the RE Supplier to modify or to expand the protective devices by means of which the



Facilities are connected to the System or the Facility's electrical system. In such event, the RE Supplier shall be responsible for costs to modification or expansion.

- (n) RE Supplier and BLPC will agree upon interconnection facilities by means of communication lines for connecting the RE Supplier's electrical control system with BLPC's SCADA system, for the purpose of remote monitoring, switching and generation dispatching as to be designed and agreed upon by Parties.





## SCHEDULE 5

### METERING

#### 5.1 Metering Equipment and Accuracies

RE Supplier shall design, finance, construct and install the Main Metering System at each facility and shall design, finance, construct and install a Metering System at each facility. The Metering Systems shall be owned, operated and maintained by RE Supplier.

The Main Metering Systems (at each facility, a "meter" and together, the "meters") shall meet the following specifications at all times during the term of this Agreement.

- 5.1.1 The Metering Systems shall be constructed to accumulate the outputs and/or inputs as measured at the Interconnection Facility of each Facility connecting the Facility to the BLPC's Grid.
- 5.1.2 The Metering Systems shall measure on a daily basis active and reactive energy in both directions. The accuracy of the Metering System components shall be:
  - voltage and current transformers: class 0.2
  - kWh meter: class :0.2
  - kVArh meter: class 2
  - Maximum voltage deviation caused by wiring : magnitude 0.02% , angle 1 minute
- 5.1.3 All metering and accumulating equipment shall have sufficient accuracy so that any error resulting from such equipment shall not exceed the lesser of 0.2% of full-scale rating or the equipment manufacturer's stated maximum tolerable error level (the "Allowable Error").
- 5.1.4 Both Metering Systems at each Interconnection Facility shall be constructed with a capability to be read remotely through a communication line. Both Parties shall have the right to read the Main Meter which shall have provisions to record the



accumulated kilowatt-hours and other parameters as indicated in this Schedule 5 for each demand interval with identification of time and date.

## 5.2 Sealing, Field Testing and Inspection

- 5.2.1 RE Supplier and BLPC shall - prior to the Performance Testing (Schedule 3) - be present during accuracy/calibration tests on the Metering Systems, by the equipment maker's representative. The test equipment will have been checked by an accredited test facility within 6 months supported by a certificate from the testing agency. RE Supplier shall provide at least five (5) days' notice of such testing and BLPC shall have the right to have a representative present at such test at its own expense. Thereafter RE Supplier at its sole expense may test the Metering Systems at intervals of not less than twelve (12) months apart, or as frequently as RE Supplier desires, after giving BLPC sufficient notice but in no case less than forty eight (48) hours advance notice. BLPC may have a representative present during any such testing, as well during any inspection as well as during inspection of the Metering Systems or adjustment thereof.
- 5.2.2 RE Supplier shall test the Metering Systems at any other time reasonably requested by BLPC. BLPC shall compensate the IPP for such additional testing, provided however if the test indicates that one or more the Metering Systems when referred to datum is inaccurate by the more than zero point three percent (0.3%) then RE Supplier will pay for the additional test. BLPC may have a representative present during any such testing, as well as during inspection of the Metering Systems or adjustment thereof.
- 5.2.3 After any testing or recalibration of a Metering System, the Metering System shall be sealed and locked in the presence of both Parties.
- 5.2.4 Repair, Replacement or Recalibration of Metering Systems. When any component of a Metering System is found to be outside the specified limits of accuracy or otherwise not functioning properly, RE Supplier shall forthwith repair, re-calibrate, or replace such component of this particular Metering System at its expense. Upon the completion of any examination, maintenance, repair or recalibration of, or replacement of any component in this Metering System, this Metering System shall be sealed in the presence of both Parties.



5.2.5 Seals shall not be broken by anyone except RE Supplier's personnel when either meter is to be inspected, tested or adjusted. RE Supplier shall notify BLPC in advance of such inspection, testing or adjustment, and BLPC shall be allowed to have a representative present.

5.2.6 RE Supplier shall test both meters at an Interconnection Facility within 10 days after (a) the detection of a difference larger than the Allowable Error in the readings of the meters, (b) the repair of all or part of a meter caused by the failure of one or more parts to operate in accordance with the specifications; and (c) each anniversary of the Commercial Operations Date. If any errors in the readings of the meters are discovered by such testing, RE Supplier shall repair, recalibrate or replace the meter and shall give BLPC reasonable advance notice so that the BLPC receiving notice may have a representative present during any such corrective activity.

### **5.3 Measurement of Net Energy Output**

If a Metering System is found to be inaccurate by more than the Allowable Error or to otherwise have functioned improperly during the previous Month, then the correct amount of Net Energy Output for the actual period during which inaccurate measurements, if any, were made shall be determined and agreed between the Parties:

5.3.1 If RE Supplier and BLPC fail to agree upon an estimate for the correct reading, then the matter may be referred by either Party for determination by the Fair Trading Commission pursuant to Section 17.0 (Resolution of Disputes) of this Agreement.

RE Supplier shall provide and install appropriate equipment and shall make a continuous recording on appropriate magnetic media or equivalent of the Net Energy Output of the Facilities prior to the Commercial Operations Date and thereafter. A copy of the recordings shall be provided to BLPC each time the meters are read.

### **5.4 Parameters and Procedures for Meter Reading**

For each of the facilities the following parameters shall be read and recorded each month for each demand interval.



- Active energy (MWh) OUT
- Active energy (MWh) IN
- Reactive energy (MVARh) OUT
- Reactive energy (MVARh) IN
- Active power demand (MW) OUT
- Active power demand (MW) IN
- Reactive power demand (MVAR) OUT
- Reactive power demand (MVAR) IN

The demand interval shall be thirty (30) minutes and shall be set to start at the beginning of the hour. Demands shall be calculated by averaging the respective parameters over the stated demand interval.

RE Supplier shall read the appropriate meters and the demand register shall be reset on the last day of each month at a time to be agreed by the Operating Committee established pursuant to Schedule 7 (Operating Personnel).

As a backup to the manual records of the demands actually experienced throughout the month, both meters at each facility shall be equipped with a memory module of sufficient size which will record the MWh and MVARh produced during each demand interval.



## SCHEDULE 6

### TECHNICAL STANDARDS AND REQUIREMENTS RELATED TO THE GRID CONNECTION

**This Schedule has to be prepared by BLPC indicating all relevant standards and requirements to be applicable for the connection of RE Supplier's Facility to the grid.**

Specific standards and requirements may occur for different technologies to be connected to the grid (for example requirements on inverters at solar PV plants, voltage ride-through requirements for wind turbines).

Important issues to be included in this Section are:

#### 6.1 Reliability

A high standard of reliability and availability is required from the Facility and the individual components. For Base Load generating units a minimum yearly availability of xxx % is required in order to have the generating units marked as Base Load units. In the case of intermittent renewable energy sources the availability has to be predicted by RE Supplier, by means of daily predictions of the Facilities' output and 12 months predictions of power delivery, as described in Section 5.3

#### 6.2 Codes and Standards

All individual components of the Facility shall be constructed, installed and tested in accordance with the current edition at the time of construction of the following codes and standards (or their international equivalents) and Good Utility Practice. (different per utility)

UL	Underwriters Laboratory
IEEE	Institute of Electrical and Electronic Engineers
ISO	International Organization for Standards
BNSI	Barbados National Standards Institute
GEED	Government Electrical Engineering Department



### 6.3 Operation Requirements

The Facility shall be designed so that construction, operation and maintenance should be possible without adversely affecting the operations of BLPC.

The Facility shall be capable of operating in parallel with BLPC's Grid.

### 6.4 Design Limits

- RE Supplier shall have equipment that will allow it to supply its reactive power (MVAR's) requirements and simultaneously supply capacity and energy to the BLPC's Grid with a power factor of 0.9 lagging.
- The supply shall be able to operate at frequencies between [ ..... ] hertz, provided that RE Supplier has the right to separate from the BLPC's Grid, without any liability to BLPC, if a) RE Supplier is required to furnish power to the BLPC's Grid operating at [..... ] hertz for one second, or b) When RE Supplier is receiving power from BLPC, the frequency falls to [..... ] hertz.
- The voltage at the Interconnection Point shall be maintained at [..... ] +/- 5%. Voltage fluctuations may be noticeable as visual lighting variations (flicker) and can damage or disrupt the operation of electronic equipment. IEEE Standard 519 and IEC 61000-3 provide definitions and limits on acceptable levels of voltage fluctuation. Loads or system connections to the BLPC's Electrical System shall comply with the limits in these standards.

- Fault ride through capability for wind turbines

Each wind turbine shall remain connected to the grid for voltage dips on any or all phases, where the distribution system voltage measured at the Delivery Point remains above the bold black line in the figure below:

- Power quality

Design considerations should include applicable standards including, but not limited to standards agreed in the Grid Code.



Harmonic distortion has to be compliant with those set out in the Grid Code.

- Reactive power

Each entity shall provide for its own Reactive Power requirements, at both leading and lagging Power Factors unless otherwise specified by parties. BLPC might require RE Supplier to minimize exchange of Reactive Power with BLPC's system, especially under peak load conditions. This can be accomplished by installing equipment to allow matching of internal supply and demand of Reactive Power.

- RE Supplier shall advise BLPC of any operating constraints and limits, which may from time to time, apply to the Facility.

#### **6.5 Environmental Requirements**

The design, construction and operation of the Facility shall comply with all applicable national and local laws and regulations of the relevant Government authorities. RE Supplier shall provide proof of compliance with these laws and regulations.

#### **6.7 Security**

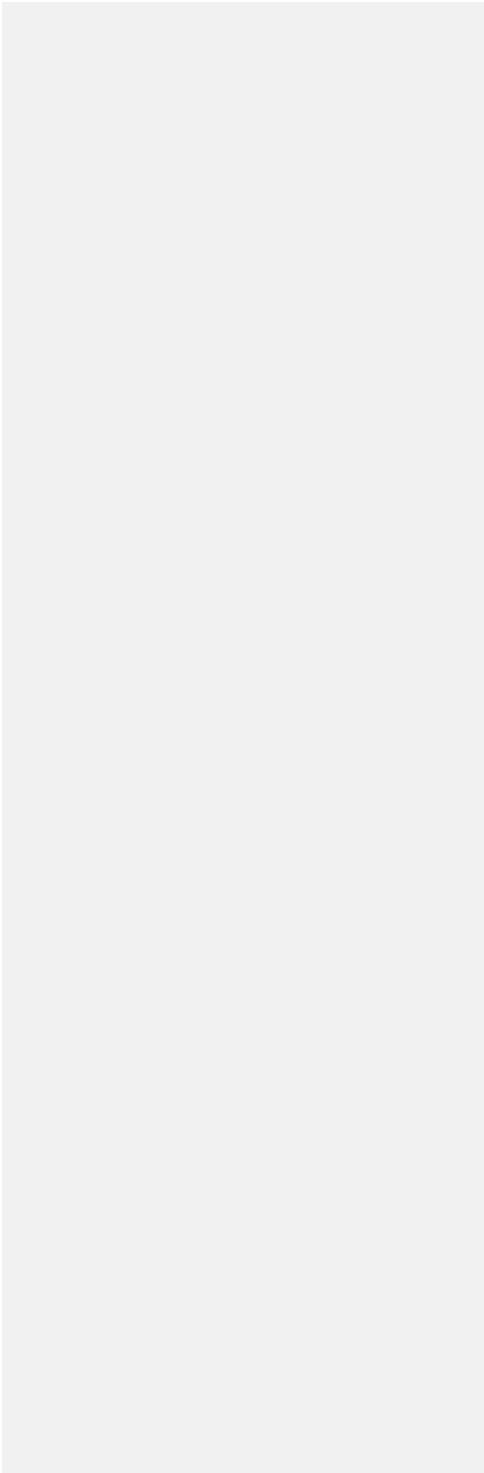
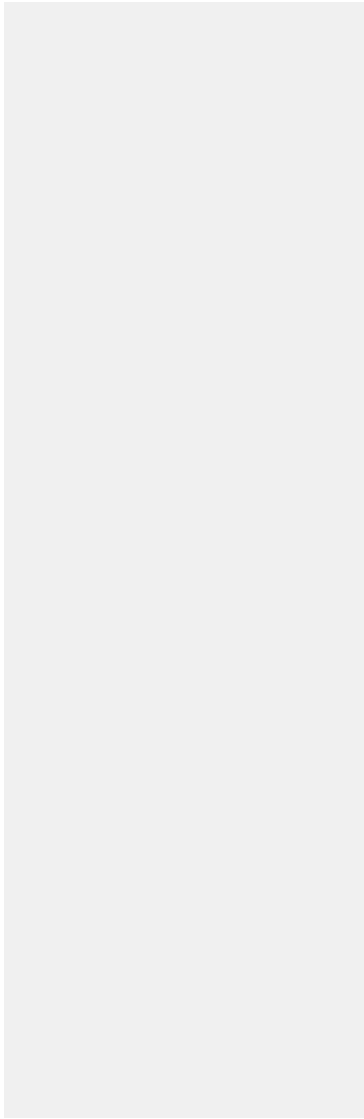
RE Supplier shall, at its own expense, equip the Facility with appropriate lighting and security systems.

#### **6.8 Safety**

- RE Supplier shall comply with all ordinances and regulations regarding safety on the Facility including, but not limited to, Good Utility Practice. The Parties agree that BLPC's personnel entering the plant will adhere to all safety, drug and alcohol constraints that the RE Supplier requires. RE Supplier will provide safety training and guidelines for BLPC's personnel with respect to this requirement.
- It should be noted that RE Supplier's Electrical System will be connected to the existing Electrical System of BLPC where existing standards and procedures are in place and as such the RE Supplier's Operational and Safety Issues should be adapted to the existing situation at BLPC. This also includes that – next to following the existing procedures of BLPC – the RE Supplier's personnel in charge with operating and switching of equipment in



the RE Supplier's Electrical system should be trained and certified similar to operational personnel at BLPC.







## SCHEDULE 7

### OPERATING COMMITTEE

#### Appointment of Committee

Within 5 days of the date of this Agreement, the Parties shall form an Operating Committee for day-to-day management of the Agreement. Each Party shall appoint 2 representatives and an alternate for the Operating Committee. Within 14 days of the date of this Agreement, each Party shall provide to the other Party notice of the appointment of its Operating Committee representatives and their particulars. The first meeting of the committee shall be convened no later than 2 weeks after the final appointment. The committee shall maintain and adopt an appropriate record of its deliberations, which record shall in the event of a dispute constitute conclusive evidence of the decisions taken in respect of the subject matter therein.

#### Responsibilities

The Operating Committee shall be responsible for (a) coordinating the construction schedules of each Parties portion of the Facilities, the Interconnection Facilities and any required modifications to the BLPC's Grid, and (b) ongoing coordination of areas of mutual interest and concern involving the Facilities and the Interconnection Facilities. Without limiting the generality of the foregoing duties, the Committee shall:

- Coordinate the respective programs of the Parties for the construction, commissioning and testing of facilities and equipment, and the respective commissioning procedures;
- Develop steps to be taken on the occurrence of any event of Force Majeure, or the shutdown or reduction in capacity for any other reason of the Facilities or the Interconnection Facilities;
- Coordinate the scheduling of maintenance affecting the operations of the Facilities;
- Coordination of changes in either a Facility or the Interconnection Facilities to effect the operational requirements of BLPC's control of BLPC's Grid;



- Develop operating procedures, including plans for operating the Facilities during anticipated types of Emergencies.
- Address safety matters affecting the Parties, their contractors and their respective employees as related to the Facilities and the Interconnection between the Facilities and the BLPC's Grid;
- Recommend to the Parties changes regarding the responsibilities of the Operating Committee.

**Procedures**

**The Operating Committee** shall only act by unanimous agreement. The Committee shall develop and implement written policies regarding the frequency of meetings and minutes of meetings. The Operating Committee shall not have authority to modify or alter the rights and obligations of the Parties under this Agreement.

**Reporting Relationships:** The Operating Committee shall report their activities and recommendations to the Parties or others designated by the Parties