

Part IX, Subpart D
Engineering and Procurement Agreement

DRAFT

(Project Identifier # [])

**ENGINEERING AND PROCUREMENT
AGREEMENT**

**By and Among
PJM INTERCONNECTION, L.L.C.**

And

[]

And

[]

DRAFT

**ENGINEERING AND PROCUREMENT
AGREEMENT**

**By and Among
PJM Interconnection, L.L.C.**

And

And

(Project Identifier # [])

- 1.0 This Engineering and Procurement Agreement (“E&P Agreement”), including the Specifications attached hereto and incorporated herein, is entered into by and among PJM Interconnection, L.L.C. (“Transmission Provider” or “PJM”), [], (“Project Developer” [OPTIONAL: or [“short name”]]), and [] (“Transmission Owner” [OPTIONAL: or [“short name”]]). Transmission Provider, Project Developer and Transmission Owner are individually, a “Party” and together, the “Parties” and collectively are “Parties”. [Use as/when applicable: This E&P Agreement supersedes the _____ {insert details to identify the agreement being superseded, such as whether it is an E&P Agreement or Generator Interconnection Agreement, the effective date of the agreement, the service agreement number designation, and the FERC docket number, if applicable, for the agreement being superseded.}] For purposes of the Agreement, the terms “Generation Interconnection Procedures” or “GIP” will refer to the interconnection procedures set forth in {Instructions: use Tariff, Part VII if this is a transition period agreement, or use Tariff, Part VIII if this is a post-transition period agreement}.
- 2.0 The location and a description of the Generating Facility or Merchant Transmission Facility that Project Developer proposes to interconnect to the Transmission Provider’s Transmission System is attached hereto. In the event that Project Developer will not own the facilities, Project Developer represents and warrants that it is authorized by the owners of such facilities to enter into this E&P Agreement and to represent such control.
- 3.0 In order to advance the completion of its interconnection under the PJM Open Access Transmission Tariff (“Tariff”), Project Developer has requested an E&P Agreement and Transmission Provider has determined that Project Developer is eligible under the Tariff to obtain this E&P Agreement. This E&P Agreement is not intended to be used for the actual construction of any Interconnection Facilities or Transmission Upgrades.
- 4.0 (a) In accord with GIP, section [to be provided], Project Developer, on or before the effective date of this E&P Agreement, shall provide Transmission Provider (for the benefit of the Transmission Owner) with a letter of credit from an agreed provider or other form of security reasonably acceptable to Transmission Provider in the amount of \$ [], which amount equals the estimated costs, determined in accordance with GIP, section [to be provided], of the engineering and procurement activities described in

section 2.0 of the Attached Specifications. Should Project Developer fail to provide such security in the amount or form required, this E&P Agreement shall be terminated. Project Developer acknowledges (1) that it will be responsible for the actual costs of the facilities described in the Specifications, whether greater or lesser than the amount of the payment security provided under this section, and (2) that the payment security under this section does not include any additional amounts that it will owe in the event that it executes a final Generator Interconnection Agreement, as described in section 7.0(a) below.

(b) Project Developer acknowledges (1) that the purpose of this E&P Agreement is to expedite, at Project Developer's request, the engineering and procurement of certain long-lead items, as described in the Specifications, necessary for the establishment of the interconnection in order to advance the implementation of the Interconnection Request; and (2) that Transmission Provider's Interconnection Studies related to such facilities have not been completed, but that the [identify completed System Impact or other study(ies)], dated [REDACTED], that included Project Developer's project sufficiently demonstrated, in Project Developer's sole opinion, the necessity of facilities additions to the Transmission System to accommodate Project Developer's project to warrant, in Project Developer's sole judgment, its request that the Transmission Owner provide engineering and procurement for the equipment indicated in the Specifications for use in interconnecting Project Developer's project with the Transmission System.

5.0 This E&P Agreement shall be effective on the date it is executed by all Interconnection Parties and shall terminate upon the execution and delivery by Project Developer and Transmission Provider of the final Generator Interconnection Agreement described in section 7.0(a) below, or on such other date as mutually agreed upon by the parties, unless earlier terminated in accordance with the Tariff.

6.0 In addition to the milestones stated in GIP, section [to be provided], during the term of this E&P Agreement, Project Developer shall ensure that its generation project meets each of the following development milestones:

[SPECIFY MILESTONES]

OR

[NOT APPLICABLE FOR THIS E&P AGREEMENT]

OR

[MILESTONE REQUIREMENTS WILL BE SPECIFIED IN THE FURTHER GENERATOR INTERCONNECTION AGREEMENT DESCRIBED IN SECTION 7.0(a)]

7.0 (a) Transmission Provider and the Transmission Owner agree to provide for the engineering and procurement of the facilities identified, and to the extent described, in section 2.0 of the Specifications in accordance with the GIP, as amended from time to

time, and this E&P Agreement. The parties agree that (1) this E&P Agreement shall not provide for or authorize Interconnection Service or rights associated therewith for the Project Developer, and (2) Interconnection Service will commence only after Project Developer has entered into a final Generator Interconnection Agreement with Transmission Provider and the Transmission Owner (or, alternatively, the Project Developer, Transmission Owner or Transmission Provider has exercised its right to initiate dispute resolution or to have the final Generator Interconnection Agreement filed with the FERC unexecuted) after completion of the System Impact Studies related to Project Developer's Interconnection Request and otherwise in accordance with the Tariff. The final Generator Interconnection Agreement may further provide for construction of, and payment for, transmission facilities additional to those identified in the attached Specifications. Should Project Developer fail to enter into such final Generator Interconnection Agreement (or, alternatively, to initiate dispute resolution or request that the agreement be filed with the FERC unexecuted) within the time prescribed by the Tariff, Transmission Provider shall have the right, upon providing written notice to Project Developer, to terminate this E&P Agreement.

(b) In the event that Project Developer decides not to interconnect its proposed facilities, as described in section 1.0 of the Specifications to the Transmission System, it shall immediately give Transmission Provider written notice of its determination. Project Developer shall be responsible for the Costs incurred pursuant to this E&P Agreement by Transmission Provider and/or by the Transmission Owner (1) on or before the date of such notice, and (2) after the date of such notice, if the costs could not reasonably be avoided despite, or were incurred by reason of, Project Developer's determination not to interconnect. Project Developer's liability under the preceding sentence shall include all Cancellation Costs in connection with the engineering and procurement of the facilities described in section 2.0 of the Specifications. In the event the Transmission Owner incurs Cancellation Costs, it shall provide the Transmission Provider, with a copy to the Project Developer, with a written demand for payment and with reasonable documentation of such Cancellation Costs. Within 60 days after the date of Project Developer's notice, Transmission Provider shall provide an accounting of, and the appropriate party shall make any payment to the other that is necessary to resolve, any difference between (i) Project Developer's cost responsibility under this E&P Agreement and the Tariff for Costs, including Cancellation Costs, of the facilities described in section 2.0 of the Specifications and (ii) Project Developer's previous payments under this E&P Agreement. Notwithstanding the foregoing, however, Transmission Provider shall not be obligated to make any payment that the preceding sentence requires it to make unless and until the Transmission Owner has returned to it the portion of Project Developer's previous payments that Transmission Provider must pay under that sentence. This E&P Agreement shall be deemed to be terminated upon completion of all payments required under this paragraph (b).

(c) Disposition of the facilities related to this E&P Agreement after receipt of Project Developer's notice of its determination not to interconnect shall be decided in accordance with GIP, section [to be provided].

- 8.0 Project Developer agrees to abide by all rules and procedures pertaining to generation and transmission in the PJM Region, including but not limited to the rules and procedures concerning the dispatch of generation set forth in the Operating Agreement and the PJM Manuals.
- 9.0 In analyzing and preparing the System Impact Study, and in designing and constructing the Transmission Owner Interconnection Facilities, Distribution Upgrades and/or Network Upgrades described in the Specifications attached to this E&P Agreement, Transmission Provider, the Transmission Owner(s), and any other subcontractors employed by Transmission Provider have had to, and shall have to, rely on information provided by Project Developer and possibly by third parties and may not have control over the accuracy of such information. Accordingly, NEITHER TRANSMISSION PROVIDER, THE TRANSMISSION OWNER(S), NOR ANY OTHER SUBCONTRACTORS EMPLOYED BY TRANSMISSION PROVIDER OR TRANSMISSION OWNER MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY OPERATION OF LAW, COURSE OF PERFORMANCE OR DEALING, CUSTOM, USAGE IN THE TRADE OR PROFESSION, OR OTHERWISE, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO THE ACCURACY, CONTENT, OR CONCLUSIONS OF THE FACILITIES STUDY OR THE SYSTEM IMPACT STUDY IF NO FACILITIES STUDY IS REQUIRED OR OF THE TRANSMISSION OWNER INTERCONNECTION FACILITIES, DISTRIBUTION UPGRADES AND/OR NETWORK UPGRADES. Project Developer acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representations or warranties have formed the basis of its bargain hereunder.
- 10.0 Within 120 days after the Transmission Owner completes the engineering and procurement of the facilities described in section 2.0 of the Specifications, Transmission Provider shall provide Project Developer with an accounting of, and the appropriate party shall make any payment to the other that is necessary to resolve, any difference between (a) Project Developer's responsibility under this E&P Agreement and the Tariff for the actual cost of such equipment, and (b) Project Developer's previous aggregate payments to Transmission Provider and the Transmission Owner hereunder. Notwithstanding the foregoing, however, Transmission Provider shall not be obligated to make any payment that the preceding sentence requires it to make unless and until the Transmission Owner has returned to it the portion of Project Developer's previous payments that Transmission Provider must pay under that sentence.
- 11.0 No third party beneficiary rights are created under this E&P Agreement, provided, however, that payment obligations imposed on Project Developer hereunder are agreed and acknowledged to be for the benefit of the Transmission Owner actually performing the services associated with the interconnection of the Generating Facilities and any associated upgrades of other facilities.

- 12.0 No waiver by either party of one or more defaults by the other in performance of any of the provisions of this E&P Agreement shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or different character.
- 13.0 This E&P Agreement or any part thereof, may not be amended, modified, assigned, or waived other than by a writing signed by all parties hereto. Parties acknowledge that, subsequent to execution of this agreement, errors may be corrected by replacing the page of the agreement containing the error with a corrected page, as agreed to and signed by the parties without modifying or altering the original date of execution, dates of any milestones, or obligations contained therein.

If the event an amendment is desired, Transmission Provider shall tender for execution an agreement to Project Developer. No later than fifteen (15) Business Days after Transmission Provider's tender for execution of such agreement, Project Developer shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or that the agreement be filed unexecuted with the Commission. Such agreement shall be deemed to be terminated and withdrawn if Project Developer fails to comply with these requirements. Not later than fifteen (15) Business Days after execution by Project Developer, Transmission Owner shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or request that a consent to assignment agreement be filed unexecuted with the Commission. Following execution by Transmission Owner, Transmission Provider shall either: (i) execute the agreement; or (ii) request in writing dispute resolution as allowed under Tariff, Part I, section 12 or, if concerning the Regional Transmission Expansion Plan, consistent with Operating Agreement, Schedule 5, or (iii) file the agreement with FERC in unexecuted form. Transmission Provider may also file the agreement with FERC in unexecuted form if Transmission Owner does not comply with the requirements above.

- 14.0 This E&P Agreement shall be binding upon the parties hereto, their heirs, executors, administrators, successors, and assigns.
- 15.0 This E&P Agreement shall not be construed as an application for service under Part II or Part III of the Tariff.
- 16.0 Any notice or request made to or by either Party regarding this E&P Agreement shall be made to the representative of the other Party as indicated below.

Transmission Provider

PJM Interconnection, L.L.C.
2750 Monroe Blvd.
Audubon, PA 19403
interconnectionagreementnotices@pjm.com

Project Developer

[CONTACT NAME/ADDRESS]

Transmission Owner

[CONTACT NAME/ADDRESS]

- 17.0 All portions of the Tariff and the Operating Agreement pertinent to the subject of this E&P Agreement are incorporated herein and made a part hereof.
- 18.0 This E&P Agreement is entered into pursuant to the GIP.
- 19.0 Neither party shall be liable for consequential, incidental, special, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract, under any indemnity provision or otherwise with respect to any claim, controversy or dispute arising under this E&P Agreement.
- 20.0 Addendum of Project Developer's Agreement to Conform with IRS Safe Harbor Provisions for Non-Taxable Status. To the extent required, in accordance with section 20.1, Schedule A to this E&P Agreement shall set forth the Project Developer's agreement to conform with the IRS safe harbor provisions for non-taxable status.
- 20.1 Tax Liability
- 20.1.1 Safe Harbor Provisions:

This section 20.1.1 is applicable only to Generation Project Developers. Provided that Project Developer agrees to conform to all requirements of the Internal Revenue Service ("IRS") (e.g., the "safe harbor" provisions of IRS Notices 2001-82 and 88-129) that would confer nontaxable status on some or all of the transfer of property, including money, by Project Developer to the Transmission Owner for payment of the Costs of construction of the Transmission Owner Interconnection Facilities, the Transmission Owner, based on such agreement and on current law, shall treat such transfer of property to it as nontaxable income and, except as provided in section 20.1.2 below, shall not include income taxes in the Costs of Transmission Owner Interconnection Facilities that are payable by Project Developer under the E&P Agreement, the Generator Interconnection Agreement or the Interconnection Construction Service Agreement. Project Developer shall document its agreement to conform to IRS requirements for such non-taxable status in the E&P Agreement, Generator Interconnection Agreement, and/or the Interconnection Construction Service Agreement.

20.1.2 Tax Indemnity:

Project Developer shall indemnify the Transmission Owner for any costs that Transmission Owner incurs in the event that the IRS and/or a state department of revenue (State) determines that the property, including money, transferred by Project Developer to the Transmission Owner with respect to the construction of the Transmission Owner Interconnection Facilities is taxable income to the Transmission Owner. Project

Developer shall pay to the Transmission Owner, on demand, the amount of any income taxes that the IRS or a State assesses to the Transmission Owner in connection with such transfer of property and/or money, plus any applicable interest and/or penalty charged to the Transmission Owner. In the event that the Transmission Owner chooses to contest such assessment, either at the request of Project Developer or on its own behalf, and prevails in reducing or eliminating the tax, interest and/or penalty assessed against it, the Transmission Owner shall refund to Project Developer the excess of its demand payment made to the Transmission Owner over the amount of the tax, interest and penalty for which the Transmission Owner is finally determined to be liable. Project Developer's tax indemnification obligation under this section shall survive any termination of the E&P Agreement, the GIA or the Interconnection Construction Service Agreement.

20.1.3 Taxes Other Than Income Taxes:

Upon the timely request by Project Developer, and at Project Developer's sole expense, the Transmission Owner shall appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against the Transmission Owner for which Project Developer may be required to reimburse Transmission Provider under the terms of this E&P Agreement or the GIP. Project Developer shall pay to the Transmission Owner on a periodic basis, as invoiced by the Transmission Owner, the Transmission Owner's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. Project Developer and the Transmission Owner shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by Project Developer to the Transmission Owner for such contested taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, Project Developer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by the Transmission Owner.

20.1.4 Income Tax Gross-Up

20.1.4.1 Additional Security:

In the event that Project Developer does not provide the safe harbor documentation required under section 20.1.1 prior to execution of this E&P, within 15 days after such execution, Transmission Provider shall notify Project Developer in writing of the amount of additional Security that Project Developer must provide. The amount of Security that a Transmission Project Developer must provide initially pursuant to this E&P Agreement shall include any amounts described as additional Security under this section 20.1.4 regarding income tax gross-up.

20.1.4.2 Amount:

The required additional Security shall be in an amount equal to the amount necessary to gross up fully for currently applicable federal and state income taxes the estimated Costs of Transmission Owner Interconnection Facilities, Distribution Upgrades and/or Network Upgrades for which Project Developer previously provided Security. Accordingly, the additional Security

shall equal the amount necessary to increase the total Security provided to the amount that would be sufficient to permit the Transmission Owner to receive and retain, after the payment of all applicable income taxes ("Current Taxes") and taking into account the present value of future tax deductions for depreciation that would be available as a result of the anticipated payments or property transfers (the "Present Value Depreciation Amount"), an amount equal to the estimated Costs of Transmission Owner Interconnection Facilities, Distribution Upgrades and/or Network Upgrades for which Project Developer is responsible under the Generator Interconnection Agreement. For this purpose, Current Taxes shall be computed based on the composite federal and state income tax rates applicable to the Transmission Owner at the time the additional Security is received, determined using the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting the Transmission Owner's anticipated tax depreciation deductions associated with such payments or property transfers by its current weighted average cost of capital.

20.1.4.3 Time for Payment:

Project Developer must provide the additional Security, in a form and with terms as required by GIP, section [to be determined], within 15 days after its receipt of Transmission Provider's notice under this section. The requirement for additional Security under this section shall be treated as a milestone included in the Generator Interconnection Agreement pursuant to GIP, section [to be determined].

20.1.5 Tax Status:

Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this E&P Agreement or the Tariff is intended to adversely affect any Transmission Owner's tax exempt status with respect to the issuance of bonds including, but not limited to, local furnishing bonds.

21 Breach, Cure And Default

21.1 Breach:

A Breach of this E&P Agreement shall include:

- (a) The failure to pay any amount when due;
- (b) The failure to comply with any material term or condition of this E&P Agreement, including but not limited to any material breach of a representation, warranty or covenant;
- (c) Assignment of the E&P Agreement in a manner inconsistent with its terms; or
- (d) Failure of a Party to provide information or data required to be determined under to another Party for such other Party to satisfy its obligations under this E&P Agreement.

21.2 Notice of Breach:

A Party not in Breach shall give written notice of an event of Breach to the Breaching Party, to Transmission Provider and to other persons that the Breaching Party identifies in writing to the other Party in advance. Such notice shall set forth, in reasonable detail, the nature of the Breach, and where known and applicable, the steps necessary to cure such Breach. In the event of a Breach by Project Developer, Transmission Provider or the Transmission Owner agree to provide notice of such Breach and in the same manner as its notice to Project Developer, to any Project Finance Entity provided that the Project Developer has provided the notifying Party with notice of an assignment to such Project Finance Entity(ies) and identifies such Project Finance Entity(ies).

21.3 Cure and Default:

A Party that commits a Breach and does not take steps to cure the Breach pursuant to this section 21.3 is automatically in Default of this E&P Agreement, and its project and this Agreement shall be deemed terminated and withdrawn. Transmission Provider shall take all necessary steps to effectuate this termination, including submitted the necessary filings with FERC.

21.4.1 Cure of Breach:

21.41.1 Except for the event of Breach set forth in section 21.1(a) above, the Breaching Party (a) may cure the Breach within thirty (30) days of the time the Non-Breaching Party sends such notice; or (b) if the Breach cannot be cured within thirty (30) days, may commence in good faith all steps that are reasonable and appropriate to cure the Breach within such thirty (30) day time period and thereafter diligently pursue such action to completion pursuant to a plan to cure, which shall be developed and agreed to in writing by the Parties. Such agreement shall not be unreasonably withheld.

21.4.1.2 In an event of Breach set forth in section 21.1(a), the Breaching Party shall cure the Breach within five (5) days from the receipt of notice of the Breach. If the Breaching Party is the Project Developer, and the Project Developer fails to pay an amount due within five (5) days from the receipt of notice of the Breach, Transmission Provider may use Security to cure such Breach. If Transmission Provider uses Security to cure such Breach, Project Developer shall be in automatic Default and its project and this Agreement shall be deemed terminated and withdrawn.

21.5 Right to Compel Performance:

Notwithstanding the foregoing, upon the occurrence of a Default, a non-Defaulting Party shall be entitled to exercise such other rights and remedies as it may have in equity or at law. No remedy conferred by any provision of this E&P Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies

- 22.0 Infrastructure security of electric system equipment and operations and control hardware and software is essential to ensure day-to-day reliability and operational security. All Transmission Providers, Transmission Owners, market participants, and Project Developers interconnected with electric systems are to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and best practice recommendations from the electric reliability authority. All public utilities are expected to meet basic standards for electric system infrastructure and operational security, including physical, operational, and cyber-security practices.
- 23.0 This Agreement shall be deemed a contract made under, and the interpretation and performance of this Agreement and each of its provisions shall be governed and construed in accordance with, the applicable Federal and/or laws of the State of Delaware without regard to conflicts of laws provisions that would apply the laws of another jurisdiction.

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IN WITNESS WHEREOF, Transmission Provider, Project Developer and Transmission Owner have caused this E&P Agreement to be executed by their respective authorized officials.

(Project Identifier # [redacted])

Transmission Provider: PJM Interconnection, L.L.C.

By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]

Project Developer: [Name of Party]

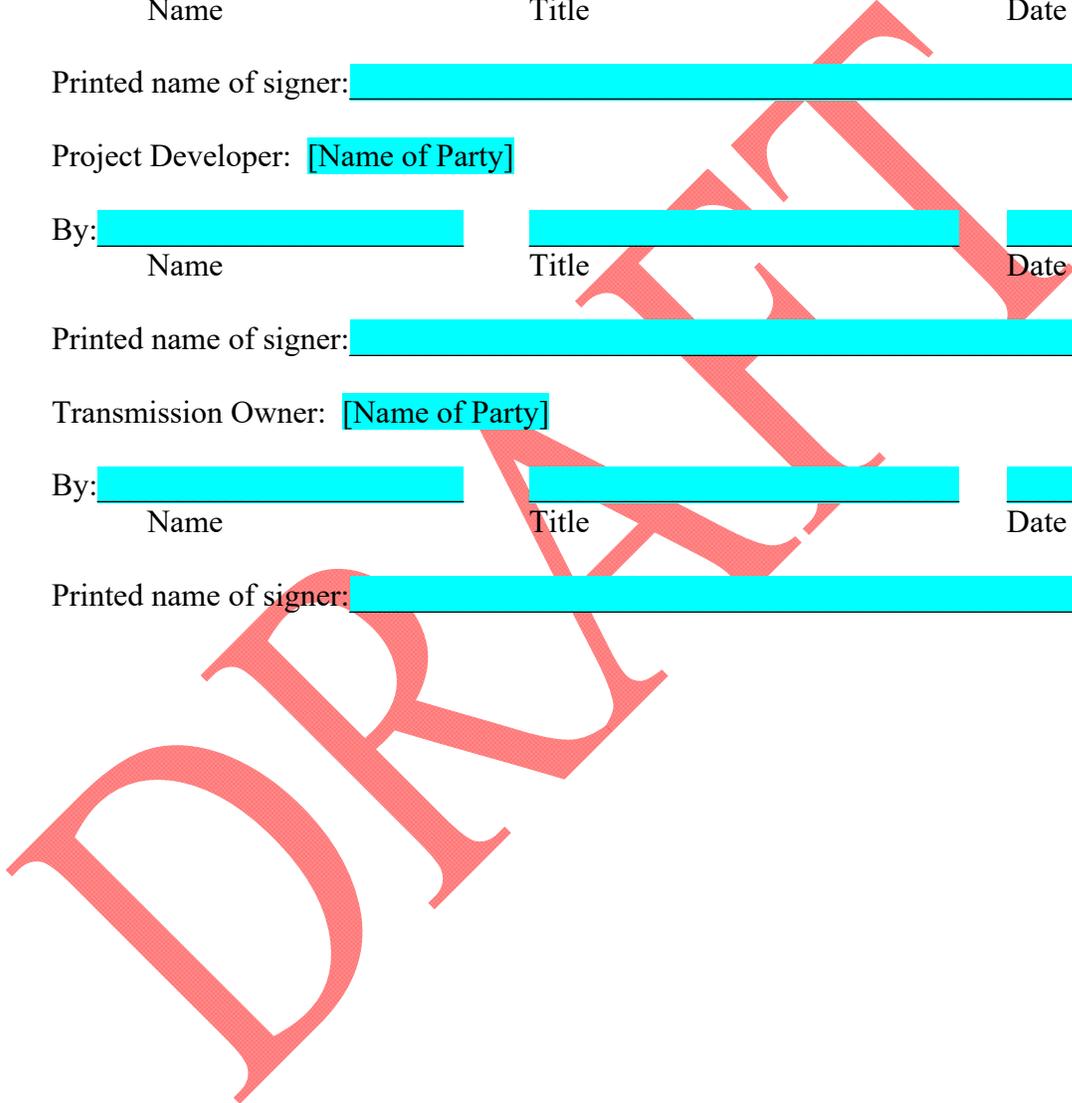
By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]

Transmission Owner: [Name of Party]

By: [redacted] [redacted] [redacted]
Name Title Date

Printed name of signer: [redacted]



**SPECIFICATIONS FOR
ENGINEERING AND PROCUREMENT
AGREEMENT
BY AND AMONG
PJM INTERCONNECTION, L.L.C.
AND
[REDACTED]
AND
[REDACTED]
(Project Identifier # [REDACTED])**

1.0 Description of Generating Facility or Merchant Transmission Facility to be interconnected with the Transmission System in the PJM Region:

a. Name of Generating Facility or Merchant Transmission Facility:

[REDACTED]
[REDACTED]

b. Location of Generating Facility or Merchant Transmission Facility:

[REDACTED]
[REDACTED]

2.0.A Facilities to be designed or procured by the Transmission Owner under this E&P Agreement: **[List or state None]**

2.0.B Facilities to be designed or procured by the Project Developer under this E&P Agreement: **[List or state None]**

3.0 Project Developer shall be subject to the charges detailed below:

3.1 Transmission Owner Interconnection Facilities Charge:

3.2 Distribution Upgrades Charge:

3.3 Network Upgrades Charge:

3.4 Cost Breakdown:

\$ Direct Labor
\$ Direct Material
\$ Indirect Labor
\$ Indirect Material

\$

Total

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SCHEDULES: {Note: Schedules A through C are required, others are optional; add if applicable and desirable for clarity.}

SCHEDULE A – INTERCONNECTION CUSTOMER’S AGREEMENT TO CONFORM WITH IRS SAFE HARBOR PROVISIONS FOR NON-TAXABLE STATUS

SCHEDULE B - ADDITIONAL PROVISIONS FOR BILLINGS AND PAYMENTS

SCHEDULE ■ - CUSTOMER FACILITY LOCATION/SITE PLAN

SCHEDULE ■ - SINGLE-LINE DIAGRAM

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SCHEDULE A

**INTERCONNECTION CUSTOMER'S AGREEMENT TO CONFORM WITH
IRS SAFE HARBOR PROVISIONS FOR NON-TAXABLE STATUS**

{Include the appropriate language from the alternatives below:}

{Include the following language if not required:}

Not Required.

[OR]

{Include the following language if applicable to Project Developer:}

As provided in section 20.1 of this E&P Agreement and subject to the requirements thereof, Project Developer represents that it meets all qualifications and requirements as set forth in section 118(a) and 118(b) of the Internal Revenue Code of 1986, as amended and interpreted by Notice 2016-36, 2016-25 I.R.B. (6/20/2016) (the "IRS Notice"). Project Developer agrees to conform with all requirements of the safe harbor provisions specified in the IRS Notice, as they may be amended, as required to confer non-taxable status on some or all of the transfer of property, including money, by Project Developer to Transmission Owner with respect to the payment of the Costs of engineering and procurement the Transmission Owner Interconnection Facilities specified in this E&P Agreement.

Nothing in Project Developer's agreement pursuant to this Schedule A shall change Project Developer's indemnification obligations under section 20.1 of this E&P Agreement.

SCHEDULE B

ADDITIONAL PROVISIONS FOR BILLINGS AND PAYMENTS

The following provisions shall apply with respect to charges for the Costs of the Transmission Owner for which the Project Developer is responsible.

Transmission Provider shall invoice Project Developer on behalf of the Transmission Owner, for the Transmission Owner's expected Costs during the next three months. Upon receipt of each of Project Developer's payments of such invoices, Transmission Provider shall reimburse the Transmission Owner. Project Developer shall pay each invoice received from Transmission Provider within twenty (20) days after receipt thereof. Interest on any unpaid, delinquent amounts shall be calculated in accordance with the methodology specified for interest on refunds in the FERC's regulations at 18 C.F.R. Section 35.19a(a)(2)(iii) and shall apply from the due date of the bill to the date of payment. If Project Developer fails to pay any invoice when and as due, Transmission Provider or Transmission Owner can provide notice of such failure to Project Developer and the other party, and Project Developer shall pay the amounts due within five (5) days from the receipt of such notice. Subject to obtaining any necessary authorizations from FERC, if Project Developer fails to make payment within five (5) days from the receipt of such notice, Transmission Provider and Transmission Owner shall each have the right to suspend performance hereunder. If Project Developer fails to make payment within fifteen (15) days from the receipt of such notice, Transmission Provider and Transmission Owner shall each have the right to terminate this Agreement, or exercise such other rights and remedies, as each may have in equity or at law.