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October 29, 2009

By Hand Delivery

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**Re: *New York Independent System Operator, Inc.*, Docket No. ER10-____-000,
Filing of an Amended and Restated Large Generator Interconnection
Agreement Among the New York Independent System Operator, Inc., the
Village of Arcade, New York, and Noble Bliss Windpark, LLC and Request
for Waiver**

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act, Part 35 of the Commission's Regulations, and Section 11.3 of its Large Facility Interconnection Procedures ("LFIP"), the New York Independent System Operator, Inc. ("NYISO") hereby tenders for filing an amended and restated large generator interconnection agreement ("Amended Agreement") among the NYISO, the Village of Arcade ("Arcade"), a New York municipality, and Noble Bliss Windpark, LLC ("Bliss"). The NYISO¹ respectfully requests waiver of the Commission's 60-day notice period to make the Amended Agreement effective as of October 7, 2009. The NYISO and Niagara Mohawk Power Corporation, d/b/a, National Grid ("National Grid"), are concurrently filing changes to the related engineering, procurement, and construction services agreement² governing the construction of transmission upgrades in National Grid's transmission system that were determined to be necessary for the interconnection of the Noble Bliss Facility.

¹ This filing is made by the NYISO pursuant to Section 11.3 of the LFIP. Inasmuch as the Village of Arcade is not a Transmission Owner under the NYISO OATT, it is not joining in this filing.

² See *New York Independent System Operator, Inc., Niagara Mohawk Power Corp.*, Letter Order, Docket No. ER08-230-000 (Dec. 18, 2007).

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I. Communications and Correspondence

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II. Discussion of Changes

The Amended Agreement supersedes a Large Generator Interconnection Agreement among the parties that was filed in Docket No. ER08-826 as Service Agreement No. 1310 ("Original Agreement"), and accepted by the Commission on May 15, 2008.⁴ The Original Agreement states that Bliss's wind facility ("the Facility") consolidates two separately queued Bliss projects, and has a total generating capacity of 100.5 MW and consists of sixty-seven 1.5 MW turbines. Interconnection of the Facility required the construction of System Upgrade Facilities which were scheduled to be completed in two phases: (1) Phase I -Arcade Tap Installation Above Ground and Underground Facilities with a February 13, 2008 completion

³ The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2009) to permit service on counsel for the NYISO in both Washington, D.C. and Richmond, Virginia.

⁴ *New York Independent System Operator, Inc.*, Letter Order, Docket No. ER08-826 (May 15, 2008).

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date; and (2) Phase II - Installation of Above Ground Facilities, Arcade Three Breaker Ring Bus, with a February 4, 2009 completion date.

Since the filing of the Original Agreement, the construction schedule for the Facility has changed, which affected one date in the Appendix B milestone table. The parties, therefore, submit this Amended Agreement which updates the milestone table in Appendix B to reflect a January 31, 2010 date for completion the Phase II installation of the Arcade Three Breaker Ring Bus. The Amended Agreement does not contain any changes to language of the Commission-approved Original Agreement, only the above modification to Appendix B, as necessitated by the changed construction schedule. The Joint Filing Parties, therefore, respectfully request that the Commission accept this Amended Agreement.

III. Effective Date and Request for Waiver of the 60-Day Notice Period

The NYISO requests an October 7, 2009 effective date for the Amended Agreement, which is the date of execution. The NYISO respectfully requests that the Commission waive the normal 60-day notice period in order to permit the October 7, 2009 effective date.⁵ The Commission has previously permitted interconnection agreements to become effective as of the date they are executed.⁶

⁵ See *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *reh'g denied*, 65 FERC ¶ 61,081 (1993).

⁶ See, e.g., *New York Independent System Operator, Inc. and Niagara Mohawk Power Corp., Letter Order*, Docket No. ER08-985-000 (June 26, 2008) (accepting interconnection agreement effective as of the date of execution); *New York Independent System Operator, Inc. and New York Power Authority, Letter Order*, Docket No. ER08-861-000 (May 27, 2008) (same); *New York Independent System Operator, Inc. and New York Power Authority, Letter Order*, Docket No. ER08-699-000 (May 16, 2008) (same); *New York Independent System Operator, Inc. and Niagara Mohawk Power Corp., Letter Order*, Docket No. ER08-427-000 (Feb. 28, 2008) (same); *New York Independent System Operator, Inc. and New York State Electric & Gas Corp., Letter Order*, Docket Nos. ER07-1329-000, *et al.* (Jan 3, 2008) (same).

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IV. Documents Submitted

The NYISO submits the following documents:

- A. This filing letter;
- B. Clean version of the Amended Agreement (“Attachment I”); and
- C. Blacklined sheets showing the changes from the Original Agreement “Attachment II”).


V. Service

The NYISO will send a paper copy of this filing to Arcade and Bliss. The NYISO will also electronically send a link to the public version of this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the electric utility regulatory agencies of New Jersey and Pennsylvania. In addition, the complete public version of this filing will be posted on the NYISO’s website at www.nyiso.com. The NYISO will also make a paper copy available to any interested party that requests one. To the extent necessary, the NYISO requests waiver of the requirements of Section 35.2(e) of the Commission’s Regulations⁷ to permit it to provide service in this manner.

VI. Conclusion

Wherefore, the New York Independent System Operator, Inc. respectfully requests that the Commission accept the Amended Agreement effective October 7, 2009.

Respectfully submitted,


Ted J. Murphy
Counsel for
New York Independent System Operator, Inc.

⁷ 18 C.F.R. § 35.2(e).

ATTACHMENT I

AMENDED AND RESTATED

INTERCONNECTION AGREEMENT

by and among

NOBLE BLISS WINDPARK, LLC,

NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.,

and

VILLAGE OF ARCADE

dated as of October 7, 2009

Issued by: Stephen G. Whitley, President
Issued on: October 29, 2009

Effective: October 7, 2009

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AMENDED AND RESTATED INTERCONNECTION AGREEMENT

THIS AMENDED AND RESTATED INTERCONNECTION AGREEMENT (“Agreement”) is made and entered into this 7th day of October, 2009, by and among Noble Bliss Windpark, LLC, a limited liability company organized and existing under the laws of the State/Commonwealth of Delaware (“Developer” with a Large Generating Facility), the New York Independent System Operator, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York (“NYISO”), and the Village of Arcade, a municipality of the State of New York (“Arcade”). Developer, the NYISO, or Arcade each may be referred to as a “Party” or collectively referred to as the “Parties.”

RECITALS

WHEREAS, NYISO operates the transmission system and Arcade owns certain facilities (the “Arcade System”) interconnected with the transmission system; and

WHEREAS, Developer intends to own, lease and/or control and operate the Generating Facility identified as a Large Generating Facility in Appendix C to this Agreement; and,

WHEREAS, Developer, NYISO, and Arcade have agreed to enter into this Agreement for the purpose of interconnecting the Large Generating Facility with the Arcade System and, providing interconnection service to enable Developer to deliver electricity produced by the Large Generating Facility to the New York State Transmission System;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed:

ARTICLE 1. DEFINITIONS

Whenever used in this Agreement with initial capitalization, the following terms shall have the meanings specified in this Article 1. Terms used in this Agreement with initial capitalization that are not defined in this Article 1 shall have the meanings specified in Section 1.0 or Attachment S of the NYISO OATT.

Affected System shall mean an electric system other than the Arcade System that may be affected by the proposed interconnection.

Affected System Operator shall mean Niagara Mohawk Power Corporation dba National Grid, the entity that operates an Affected System.

Affiliate shall mean, with respect to a person or entity, any individual, corporation, partnership, firm, joint venture, association, joint-stock company, trust or unincorporated organization, directly or indirectly controlling, controlled by, or under common control with, such person or entity. The term "control" shall mean the possession, directly or indirectly, of the power to direct the management or policies of a person or an entity. A voting interest of ten percent or more shall create a rebuttable presumption of control.

Ancillary Services shall mean those services that are necessary to support the transmission of Capacity and Energy from resources to Loads while maintaining reliable operation of the Arcade System and the New York State Transmission System in accordance with Good Utility Practice.

Applicable Laws and Regulations shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority, including but not limited to Environmental Law.

Applicable Reliability Councils shall mean the NERC, the NPCC and the NYSRC.

Applicable Reliability Standards shall mean the requirements and guidelines of the Applicable Reliability Councils, and the Arcade System to which the Developer's Large Generating Facility is directly interconnected, as those requirements and guidelines are amended and modified and in effect from time to time; provided that no Party shall waive its right to challenge the applicability or validity of any requirement or guideline as applied to it in the context of this Agreement.

Arcade has the meaning set forth in the introductory paragraph hereto.

Arcade Interconnection Service shall mean service provided by Arcade to interconnect the Developer's Large Generating Facility to the Arcade System at the Point of Interconnection for purposes of enabling Developer to deliver electricity to the New York State Transmission System in accordance with the NYISO Minimum Interconnection Standard pursuant to the terms of this Agreement.

Arcade System has the meaning set forth in the recitals hereto.

Arcade's Attachment Facilities shall mean all facilities and equipment owned, controlled or operated by Arcade from the Point of Change of Ownership to the Point of Interconnection as identified in Appendix A to this Agreement, including any modifications, additions or upgrades to such facilities and equipment. Arcade's Attachment Facilities are sole use facilities and shall not include Stand Alone System Upgrade Facilities or the Arcade System Upgrade Facilities.

Arcade System Upgrade Facilities shall mean the least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and the Applicable Reliability Requirements, as modifications or additions to the existing the Arcade System to connect the Large Generating Facility reliably to the Arcade System in a manner that meets the NYISO Minimum Interconnection Standard.

Attachment Facilities shall mean Arcade's Attachment Facilities and the Developer's Attachment Facilities. Collectively, Attachment Facilities include all facilities and equipment between the Large Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Large Generating Facility to the Arcade System. Attachment Facilities are sole use facilities and shall not include Stand Alone System Upgrade Facilities or the Arcade System Upgrade Facilities.

Base Case shall mean the base case power flow, short circuit, and stability data bases used for the Interconnection Studies by NYISO, Arcade or Developer; described in Section 2.3 of the Large Facility Interconnection Procedures.

Breach shall mean the failure of a Party to perform or observe any material term or condition of this Agreement.

Breaching Party shall mean a Party that is in Breach of this Agreement.

Business Day shall mean Monday through Friday, excluding federal holidays.

Calendar Day shall mean any day including Saturday, Sunday or a federal holiday.

Clustering shall mean the process whereby a group of Interconnection Requests is studied together, instead of serially, for the purpose of conducting the Interconnection System Reliability Impact Study.

Commercial Operation shall mean the status of a Large Generating Facility that has commenced generating electricity for sale, excluding electricity generated during Trial Operation.

Commercial Operation Date of a unit shall mean the date on which the Large Generating Facility commences Commercial Operation as agreed to by the Parties pursuant to Appendix E to this Agreement.

Confidential Information shall mean any information that is defined as confidential by Article 22 of this Agreement.

Control Area shall mean an electric power system or combination of electric power systems to which a common automatic generation control scheme is applied in order to: (1) match, at all times, the power output of the Generators within the electric power system(s) and capacity and energy purchased from entities outside the electric power system(s), with the Load within the electric power system(s); (2) maintain scheduled interchange with other Control Areas, within the limits of Good Utility Practice; (3) maintain the frequency of the electric power system(s) within reasonable limits in accordance with Good Utility Practice; and (4) provide sufficient generating capacity to maintain Operating Reserves in accordance with Good Utility Practice. A Control Area must be certified by the NPCC.

Default shall mean the failure of a Party in Breach of this Agreement to cure such Breach in accordance with Article 17 of this Agreement.

Developer shall mean the entity identified in the introductory paragraph hereto, which is proposing to connect to the Arcade System for the delivery of electricity produced by its Large Generating Facility to the New York State Transmission System, in compliance with the NYISO Minimum Interconnection Standard.

Developer's Attachment Facilities shall mean all facilities and equipment, as identified in Appendix A of this Agreement, that are located between the Large Generating Facility and the Point of Change of Ownership, including any modification, addition, or upgrades to such facilities and equipment necessary to physically and electrically interconnect the Large Generating Facility to the Arcade System. Developer's Attachment Facilities are sole use facilities.

Dispute Resolution shall mean the procedure described in Article 27 of this Agreement for resolution of a dispute between the Parties.

Effective Date shall mean the date on which this Agreement becomes effective upon execution by the Parties, subject to acceptance by the Commission, or if filed unexecuted, upon the date specified by the Commission.

Emergency State shall mean the condition or state that the New York State Power System is in when an abnormal condition occurs that requires automatic or immediate manual action to prevent or limit loss of the New York State Transmission System or Generators that could adversely affect the reliability of the New York State Power System.

Engineering & Procurement (E&P) Agreement shall mean an agreement that authorizes Arcade to begin engineering and procurement of long lead-time items necessary for the establishment of the interconnection in order to advance the implementation of the Interconnection Request.

Environmental Law shall mean Applicable Laws or Regulations relating to pollution or protection of the environment or natural resources.

Federal Power Act shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a *et seq.* (“FPA”).

FERC shall mean the Federal Energy Regulatory Commission (“Commission”) or its successor.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party’s control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

Generating Facility shall mean Developer’s device for the production of electricity identified in the Interconnection Request, but shall not include the Developer’s Attachment Facilities.

Generating Facility Capacity shall mean the net seasonal capacity of the Generating Facility and the aggregate net seasonal capacity of the Generating Facility where it includes multiple energy production devices.

Good Utility Practice shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to delineate acceptable practices, methods, or acts generally accepted in the region.

Governmental Authority shall mean any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over any of the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include Developer, NYISO, Arcade, or any Affiliate thereof.

Hazardous Substances shall mean any chemicals, materials or substances defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “hazardous constituents,” “restricted hazardous materials,” “extremely hazardous substances,” “toxic substances,” “radioactive substances,” “contaminants,” “pollutants,” “toxic pollutants” or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

Initial Synchronization Date shall mean the date upon which the Large Generating Facility is initially synchronized and upon which Trial Operation begins.

In-Service Date shall mean the date upon which the Developer reasonably expects it will be ready to begin use of Arcade’s Attachment Facilities to obtain back feed power.

Interconnection Facilities Study shall mean a study conducted by NYISO or a third party consultant for the Developer to determine a list of facilities (including Arcade’s Attachment Facilities and the Arcade System Upgrade Facilities as identified in the Interconnection System Reliability Impact Study), the cost of those facilities, and the time required to interconnect the Large Generating Facility with the Arcade System. The scope of the study is defined in Section 8 of the Standard Large Facility Interconnection Procedures.

Interconnection Facilities Study Agreement shall mean the form of agreement contained in Appendix 4 of the Standard Large Facility Interconnection Procedures for conducting the Interconnection Facilities Study.

Interconnection Feasibility Study shall mean a preliminary evaluation of the system impact and cost of interconnecting the Large Generating Facility to the Arcade System, the scope of which is described in Section 6 of the Standard Large Facility Interconnection Procedures.

Interconnection Feasibility Study Agreement shall mean the form of agreement contained in Appendix 2 of the Standard Large Facility Interconnection Procedures for conducting the Interconnection Feasibility Study.

Interconnection Request shall mean Developer's request, in the form of Appendix 1 to the Standard Large Facility Interconnection Procedures to interconnect a new Large Generating Facility to the Arcade System.

Interconnection Study shall mean any of the following studies: the Interconnection Feasibility Study, the Interconnection System Reliability Impact Study, and the Interconnection Facilities Study described in the Standard Large Facility Interconnection Procedures.

Interconnection System Reliability Impact Study ("SRIS") shall mean an engineering study, conducted in accordance with Section 7 of the Large Facility Interconnection Procedures, that evaluates the impact of the proposed Large Generating Facility on the safety and reliability of the New York State Transmission System and, if applicable, an Affected System, to determine what Attachment Facilities and Arcade System Upgrade Facilities are needed for the proposed Large Generation Facility of the Developer to connect reliably to the Arcade System for the delivery of electricity produced by the Large Generating Facility to the New York State Transmission System in a manner that meets the NYISO Minimum Interconnection Standard.

Interconnection System Reliability Impact Study Agreement shall mean the form of agreement contained in Appendix 3 of the Standard Large Facility Interconnection Procedures for conducting the Interconnection System Reliability Impact Study.

IRS shall mean the Internal Revenue Service.

Large Generating Facility shall mean a Generating Facility having a Generating Facility Capacity of more than 20 MW.

Loss shall mean any and all losses relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the Indemnified Party's performance or non-performance of its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the Indemnified Party.

Material Modification shall mean those modifications that have a material impact on the cost or timing of any Interconnection Request with a later queue priority date.

Metering Equipment shall mean all metering equipment installed or to be installed pursuant to this Agreement at the metering points, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

Minimum Interconnection Standard shall mean the reliability standard that must be met by any Large Generating Facility proposing to connect to the New York State Transmission System. The Standard is designed to ensure reliable access by the proposed project to the New York State Transmission System. The Standard does not impose any deliverability test or deliverability requirement on the proposed interconnection.

NERC shall mean the North American Electric Reliability Council or its successor organization.

Network Access Interconnection Service shall mean the service provided by NYISO to the Developer's Large Generating Facility in accordance with the NYISO Minimum Interconnection Standard, to enable the New York State Transmission System to receive electric energy and capacity from the Large Generating Facility, pursuant to the terms of this Agreement and the NYISO OATT.

Network Operating Agreement shall mean that certain Network Operating Agreement by and between the Affected System Operator and Arcade, dated as of July 2, 1998.

New York State Transmission System shall mean the entire New York State electric transmission system, which includes (i) the Transmission Facilities under ISO Operational Control; (ii) the Transmission Facilities Requiring ISO Notification; and (iii) all remaining transmission facilities within the New York Control Area, but not including the Arcade System.

Notice of Dispute shall mean a written notice of a dispute or claim that arises out of or in connection with this Agreement or its performance.

NPCC shall mean the Northeast Power Coordinating Council or its successor organization.

NYSRC shall mean the New York State Reliability Council or its successor organization.

Optional Interconnection Study shall mean a sensitivity analysis based on assumptions specified by the Developer in the Optional Interconnection Study Agreement.

Optional Interconnection Study Agreement shall mean the form of agreement contained in Appendix 5 of the Standard Large Facility Interconnection Procedures for conducting the Optional Interconnection Study.

Party or Parties shall mean NYISO, Arcade, or Developer or any combination of the above.

Point of Change of Ownership shall mean the point, as set forth in Appendix A to this Agreement, where the Developer's Attachment Facilities connect to Arcade's Attachment Facilities.

Point of Interconnection shall mean the point, as set forth in Appendix A to this Agreement, where the Attachment Facilities connect to the Arcade System.

Queue Position shall mean the order of a valid Interconnection Request, relative to all other pending valid Interconnection Requests, that is established based upon the date and time of receipt of the valid Interconnection Request by NYISO.

Reasonable Efforts shall mean, with respect to an action required to be attempted or taken by a Party under this Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

Scoping Meeting shall mean the meeting between representatives of the Developer, NYISO and Arcade conducted for the purpose of discussing alternative interconnection options, to exchange information including any transmission data and earlier study evaluations that would be reasonably expected to impact such interconnection options, to analyze such information, and to determine the potential feasible Points of Interconnection.

Services Tariff shall mean the NYISO Market Administration and Control Area Tariff, as filed with the Commission, and as amended or supplemented from time to time, or any successor tariff thereto.

Site Control shall mean documentation reasonably demonstrating: (1) ownership of, a leasehold interest in, or a right to develop a site for the purpose of constructing the Large Generating Facility; (2) an option to purchase or acquire a leasehold site for such purpose; or (3) an exclusivity or other business relationship between Developer and the entity having the right to sell, lease or grant Developer the right to possess or occupy a site for such purpose.

Stand Alone System Upgrade Facilities, if any, shall mean the Arcade System Upgrade Facilities that a Developer may construct without affecting day-to-day operations of the New York State Transmission System or the Arcade System during their construction. NYISO, Arcade and the Developer must agree as to what constitutes Stand Alone System Upgrade Facilities and identify them in Appendix A to this Agreement.

Standard Large Facility Interconnection Procedures (“LFIP”) shall mean the interconnection procedures applicable to an Interconnection Request pertaining to a Large Generating Facility that are included in Attachment X of the NYISO OATT.

Standard Large Generator Interconnection Agreement (“LGIA”) shall mean this Agreement, the form of interconnection agreement applicable to an Interconnection Request pertaining to a Large Generating Facility, that is included in Attachment X of the NYISO OATT.

System Protection Facilities shall mean the equipment, including necessary protection signal communications equipment, required to (1) protect the New York State Transmission System and the Arcade System from faults or other electrical disturbances occurring at the Large Generating Facility and (2) protect the Large Generating Facility from faults or other electrical system disturbances occurring on the New York State Transmission System, the Arcade System or on other delivery systems or other generating systems to which the New York State Transmission System is directly connected.

Tariff shall mean the NYISO Open Access Transmission Tariff (“OATT”), as filed with the Commission, and as amended or supplemented from time to time, or any successor tariff.

Trial Operation shall mean the period during which Developer is engaged in on-site test operations and commissioning of the Large Generating Facility prior to Commercial Operation.

ARTICLE 2. EFFECTIVE DATE, TERM AND TERMINATION

2.1 Effective Date.

This Agreement shall become effective upon execution by the Parties, subject to acceptance by FERC, or if filed unexecuted, upon the date specified by FERC. The NYISO shall promptly file this Agreement with FERC upon execution in accordance with Article 3.1.

2.2 Term of Agreement.

Subject to the provisions of Article 2.3, this Agreement shall remain in effect for a period of twenty (20) years from the Commercial Operation Date and shall be automatically renewed for each successive one-year period thereafter.

2.3 Termination.

- 2.3.1 Written Notice.** This Agreement may be terminated by the Developer after giving the NYISO and Arcade ninety (90) Calendar Days advance written notice, or by the NYISO and Arcade notifying FERC after the Large Generating Facility permanently ceases Commercial Operations.
- 2.3.2 Default.** Any Party may terminate this Agreement in accordance with Article 17.
- 2.3.3 Compliance.** Notwithstanding Articles 2.3.1 and 2.3.2, no termination of this Agreement shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this Agreement, which notice has been accepted for filing by FERC.

2.4 Termination Costs.

If a Party elects to terminate this Agreement pursuant to Article 2.3.1 above, the terminating Party shall pay all costs incurred (including any cancellation costs relating to orders or contracts for Attachment Facilities and equipment) or charges assessed by the other Parties, as of the date of the other Parties' receipt of such notice of termination, that are the responsibility of the terminating Party under this Agreement. In the event of termination by a Party, all Parties shall use commercially Reasonable Efforts to mitigate the costs, damages and charges arising as a consequence of termination. Upon termination of this Agreement, unless otherwise ordered or approved by FERC:

- 2.4.1** With respect to any portion of Arcade's Attachment Facilities that have not yet been constructed or installed, Arcade shall to the extent possible and with Developer's authorization cancel any pending orders of, or return, any materials or equipment for, or contracts for construction of, such facilities; provided that in the event Developer elects not to authorize such cancellation, Developer shall assume all payment obligations with respect to such materials, equipment, and contracts, and Arcade shall deliver such material and equipment, and, if necessary, assign such contracts, to Developer as soon as practicable, at Developer's expense. To the extent that Developer has already paid Arcade for any or all such costs of materials or equipment not taken by Developer, Arcade shall promptly refund such amounts to Developer, less any costs, including penalties, incurred by Arcade to cancel any pending orders of or return such materials, equipment, or contracts.

If Developer terminates this Agreement, it shall be responsible for all costs incurred in association with Developer's interconnection, including any cancellation costs relating to orders or contracts for Attachment Facilities and equipment, and other expenses including any Arcade System Upgrade Facilities for which Arcade has incurred expenses and has not been reimbursed by the Developer.

2.4.2 Arcade may, at its option, retain any portion of such materials, equipment, or facilities that Developer chooses not to accept delivery of, in which case Arcade shall be responsible for all costs associated with procuring such materials, equipment, or facilities.

2.4.3 With respect to any portion of the Attachment Facilities, and any other facilities already installed or constructed pursuant to the terms of this Agreement, Developer shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities.

2.5 Disconnection.

Upon termination of this Agreement, Developer and Arcade will take all appropriate steps to disconnect the Developer's Large Generating Facility from the Arcade System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this Agreement or such non-terminating Party otherwise is responsible for these costs under this Agreement.

2.6 Survival.

This Agreement shall continue in effect after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder; including billings and payments pursuant to this Agreement; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this Agreement was in effect; and to permit Developer and Arcade each to have access to the lands of the other pursuant to this Agreement or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

ARTICLE 3. REGULATORY FILINGS

3.1 Filing.

NYISO shall file this Agreement (and any amendment hereto) with the appropriate Governmental Authority, if required. Any information related to studies for interconnection asserted by Developer to contain Confidential Information shall be treated in accordance with Article 22 of this Agreement and Attachment F to the NYISO OATT. If the Developer has executed this Agreement, or any amendment thereto, the Developer and Arcade shall reasonably cooperate with NYISO with respect to such filing and to provide any information reasonably requested by NYISO needed to comply with Applicable Laws and Regulations.

ARTICLE 4. SCOPE OF Interconnection SERVICE

4.1 Provision of Service.

Arcade and NYISO will provide Developer with interconnection service of the following type for the term of this Agreement.

- 4.1.1 **Product.** Arcade will provide Arcade Interconnection Service to Developer at the Point of Interconnection. NYISO will provide Network Access Interconnection Service to Developer.
- 4.1.2 **Developer** is responsible for ensuring that its actual Large Generating Facility output matches the scheduled delivery from the Large Generating Facility, consistent with the scheduling requirements of the NYISO's FERC-approved market structure, including ramping into and out of such scheduled delivery, as measured at the Point of Interconnection, consistent with the scheduling requirements of the NYISO OATT and any applicable FERC-approved market structure.

4.2 No Transmission Delivery Service.

The execution of this Agreement does not constitute a request for, nor agreement to provide, any Transmission Service under the NYISO OATT, and does not convey any right to deliver electricity through the New York State Transmission System to any specific customer or Point of Delivery. If Developer wishes to obtain Transmission Service on the New York State Transmission System, then Developer must request such Transmission Service in accordance with the provisions of the NYISO OATT.

4.3 No Other Services.

The execution of this Agreement does not constitute a request for, nor agreement to provide energy, any Ancillary Services or Installed Capacity under the NYISO Market Administration and Control Area Services Tariff ("Services Tariff"). If Developer wishes to supply energy, Installed Capacity or Ancillary Services, then Developer will make application to do so in accordance with the NYISO Services Tariff.

ARTICLE 5. INTERCONNECTION FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION

5.1 Options.

This Agreement, including all the Appendices attached hereto, describes the arrangements that have been mutually agreed to by Developer and Arcade regarding the In-Service Date, Initial Synchronization Date, and Commercial Operation Date, and regarding the engineering procurement and construction of Arcade's Attachment Facilities and the Arcade System Upgrade Facilities. Details of these arrangements are set forth in Appendix A, Appendix B and Appendix C hereto.

5.1.1 Standard Option. Arcade shall design, procure, and construct Arcade's Attachment Facilities and the Arcade System Upgrade Facilities, using Reasonable Efforts to complete Arcade's Attachment Facilities and the Arcade System Upgrade Facilities by the dates set forth in Appendix B hereto. Arcade shall not be required to undertake any action which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, and Applicable Laws

and Regulations. In the event Arcade reasonably expects that it will not be able to complete Arcade's Attachment Facilities and the Arcade System Upgrade Facilities by the specified dates, Arcade shall promptly provide written notice to the Developer and NYISO, and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

- 5.1.2 Alternate Option.** If the dates designated by Developer are acceptable to Arcade, then Arcade shall so notify Developer and NYISO within thirty (30) Calendar Days, and shall assume responsibility for the design, procurement and construction of Arcade's Attachment Facilities by the designated dates.

If Arcade subsequently fails to complete Arcade's Attachment Facilities by the In-Service Date, to the extent necessary to provide back feed power; or fails to complete the Arcade System Upgrade Facilities by the Initial Synchronization Date to the extent necessary to allow for Trial Operation at full power output, unless other arrangements are made by the Developer and Arcade for such Trial Operation; or fails to complete the Arcade System Upgrade Facilities by the Commercial Operation Date, as such dates are reflected in Appendix B hereto; Arcade shall pay Developer liquidated damages in accordance with Article 5.3, Liquidated Damages, provided, however, the dates designated by Developer shall be extended day for day for each day that NYISO refuses to grant clearances to install equipment.

- 5.1.3 Option to Build.** If the dates designated by Developer are not acceptable to Arcade, then Arcade shall so notify the Developer and NYISO within thirty (30) Calendar Days, and unless the Developer and Arcade agree otherwise, Developer shall have the option to assume responsibility for the design, procurement and construction of Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities on the dates specified in Article 5.1.2; provided that if an Attachment Facility or Stand Alone System Upgrade Facility is needed for more than one Developer's project, Developer's option to build such Facility shall be contingent on the agreement of all other affected developers. NYISO, Arcade and Developer must agree as to what constitutes Stand Alone System Upgrade Facilities and identify such Stand Alone System Upgrade Facilities in Appendix A hereto. Except for Stand Alone System Upgrade Facilities, Developer shall have no right to construct the Arcade System Upgrade Facilities under this option.

5.1.4 Negotiated Option. If the Developer elects not to exercise its option under Article 5.1.3, Option to Build, Developer shall so notify Arcade and NYISO within thirty (30) Calendar Days, and the Developer and Arcade shall in good faith attempt to negotiate terms and conditions (including revision of the specified dates and liquidated damages, the provision of incentives or the procurement and construction of a portion of Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities by Developer) pursuant to which Arcade is responsible for the design, procurement and construction of Arcade's Attachment Facilities and the Arcade System Upgrade Facilities. If the two Parties are unable to reach agreement on such terms and conditions, Arcade shall assume responsibility for the design, procurement and construction of Arcade's Attachment Facilities and the Arcade System Upgrades Facilities pursuant to 5.1.1, Standard Option.

5.2 General Conditions Applicable to Option to Build.

If Developer assumes responsibility for the design, procurement and construction of Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities,

- (1) Developer shall engineer, procure equipment, and construct Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by Arcade;
- (2) Developer's engineering, procurement and construction of Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities shall comply with all requirements of law to which Arcade would be subject in the engineering, procurement or construction of Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities;
- (3) Arcade shall review and approve the engineering design, equipment acceptance tests, and the construction of Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities;
- (4) Prior to commencement of construction, Developer shall provide to Arcade and NYISO a schedule for construction of Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities, and shall promptly respond to requests for information from Arcade or NYISO;
- (5) At any time during construction, Arcade shall have the right to gain unrestricted access to Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities and to conduct inspections of the same;

- (6) At any time during construction, should any phase of the engineering, equipment procurement, or construction of Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities not meet the standards and specifications provided by Arcade, the Developer shall be obligated to remedy deficiencies in that portion of Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities;
- (7) Developer shall indemnify Arcade and NYISO for claims arising from the Developer's construction of Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities under procedures applicable to Article 18.1 Indemnity;
- (8) Developer shall transfer control of Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities to Arcade;
- (9) Unless the Developer and Arcade otherwise agree, Developer shall transfer ownership of Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities to Arcade;
- (10) Arcade shall approve and accept for operation and maintenance Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities to the extent engineered, procured, and constructed in accordance with this Article 5.2; and
- (11) Developer shall deliver to NYISO and Arcade "as built" drawings, information, and any other documents that are reasonably required by NYISO or Arcade to assure that the Attachment Facilities and Stand Alone System Upgrade Facilities are built to the standards and specifications required by Arcade.

5.3 Liquidated Damages.

The actual damages to the Developer, in the event Arcade's Attachment Facilities or Arcade System Upgrade Facilities are not completed by the dates designated by the Developer and accepted by Arcade pursuant to subparagraphs 5.1.2 or 5.1.4, above, may include Developer's fixed operation and maintenance costs and lost opportunity costs. Such actual damages are uncertain and impossible to determine at this time. Because of such uncertainty, any liquidated damages paid by Arcade to the Developer in the event that Arcade does not complete any portion of Arcade's Attachment Facilities or the Arcade System Upgrade Facilities by the applicable dates, shall be an amount equal to 1/2 of 1 percent per day of the actual cost of Arcade's Attachment Facilities and the Arcade System Upgrade Facilities, in the aggregate, for which Arcade has assumed responsibility to design, procure and construct.

However, in no event shall the total liquidated damages exceed 20 percent of the actual cost of Arcade's Attachment Facilities and Arcade System Upgrade Facilities for which Arcade has assumed responsibility to design, procure, and construct. The foregoing payments will be made by Arcade to the Developer as just compensation for the damages caused to the Developer, which actual damages are uncertain and impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a method to secure performance of this Agreement. Liquidated damages, when the Developer and Arcade agree to them, are the exclusive remedy for Arcade's failure to meet its schedule.

Further, Arcade shall not pay liquidated damages to Developer if: (1) Developer is not ready to commence use of Arcade's Attachment Facilities or Arcade System Upgrade Facilities to take the delivery of power for the Developer's Large Generating Facility's Trial Operation or to export power from the Developer's Large Generating Facility on the specified dates, unless the Developer would have been able to commence use of Arcade's Attachment Facilities or the Arcade System Upgrade Facilities to take the delivery of power for Developer's Large Generating Facility's Trial Operation or to export power from the Developer's Large Generating Facility, but for Arcade's delay; (2) Arcade's failure to meet the specified dates is the result of the action or inaction of the Developer or any other Developer who has entered into a Standard Large Generator Interconnection Agreement with Arcade and NYISO, or action or inaction by any other Party, or any other cause beyond Arcade's reasonable control or reasonable ability to cure; (3) the Developer has assumed responsibility for the design, procurement and construction of Arcade's Attachment Facilities and Stand Alone System Upgrade Facilities; or (4) Arcade and Developer have otherwise agreed.

In no event shall NYISO have any liability whatever to Developer for liquidated damages associated with the engineering, procurement or construction of Attachment Facilities or Arcade System Upgrade Facilities.

5.4 Power System Stabilizers.

The Developer shall procure, install, maintain and operate Power System Stabilizers in accordance with the requirements identified in the Interconnection Studies conducted for Developer's Large Generating Facility. NYISO and Arcade reserve the right to reasonably establish minimum acceptable settings for any installed Power System Stabilizers, subject to the design and operating limitations of the Large Generating Facility. If the Large Generating Facility's Power System Stabilizers are removed from service or not capable of automatic operation, the Developer shall immediately notify Arcade and NYISO. The requirements of this paragraph shall not apply to wind generators.

5.5 Equipment Procurement.

If responsibility for construction of Arcade's Attachment Facilities or the Arcade System Upgrade Facilities is to be borne by Arcade, then Arcade shall commence design of Arcade's Attachment Facilities or the Arcade System Upgrade Facilities and procure necessary equipment as soon as practicable after all of the following conditions are satisfied, unless the Developer and Arcade otherwise agree in writing:

- 5.5.1** NYISO and Arcade have completed the Interconnection Facilities Study pursuant to the Interconnection Facilities Study Agreement;
- 5.5.2** The NYISO has completed the required cost allocation analyses, and Developer has accepted his share of the costs for necessary Arcade System Upgrade Facilities in accordance with the provisions of Attachment S of the NYISO OATT;
- 5.5.3** Arcade has received written authorization to proceed with design and procurement from the Developer by the date specified in Appendix B hereto; and
- 5.5.4** The Developer has provided security to Arcade in accordance with Article 11.5 by the dates specified in Appendix B hereto.

5.6 Construction Commencement.

Arcade shall commence construction of Arcade's Attachment Facilities and the Arcade System Upgrade Facilities for which it is responsible as soon as practicable after the following additional conditions are satisfied:

- 5.6.1** Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;
- 5.6.2** Necessary real property rights and rights-of-way have been obtained, to the extent required for the construction of a discrete aspect of Arcade's Attachment Facilities and the Arcade System Upgrade Facilities;
- 5.6.3** Arcade has received written authorization to proceed with construction from the Developer by the date specified in Appendix B hereto; and
- 5.6.4** The Developer has provided security to Arcade in accordance with Article 11.5 by the dates specified in Appendix B hereto.

5.7 Work Progress.

The Developer and Arcade will keep each other, and NYISO, advised periodically as to the progress of their respective design, procurement and construction efforts. Any Party may, at any time, request a progress report from the Developer or Arcade. If, at any time, the Developer determines that the completion of Arcade's Attachment Facilities will not be required until after the specified In-Service Date, the Developer will provide written notice to Arcade and NYISO of such later date upon which the completion of Arcade's Attachment Facilities will be required.

5.8 Information Exchange

As soon as reasonably practicable after the Effective Date, the Developer and Arcade shall exchange information, and provide NYISO the same information, regarding the design and compatibility of their respective Attachment Facilities and compatibility of the Attachment Facilities with the Arcade System and the New York State Transmission System, and shall work diligently and in good faith to make any necessary design changes.

5.9 Limited Operation

If any of Arcade's Attachment Facilities or Arcade System Upgrade Facilities are not reasonably expected to be completed prior to the Commercial Operation Date of the Developer's Large Generating Facility, NYISO shall, upon the request and at the expense of Developer, in conjunction with Arcade, perform operating studies on a timely basis to determine the extent to which the Developer's Large Generating Facility and the Developer's Attachment Facilities may operate prior to the completion of Arcade's Attachment Facilities or the Arcade System Upgrade Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and this Agreement. Arcade and NYISO shall permit Developer to operate the Developer's Large Generating Facility and the Developer's Attachment Facilities in accordance with the results of such studies.

5.10 Developer's Attachment Facilities ("DAF").

Developer shall, at its expense, design, procure, construct, own and install the DAF, as set forth in Appendix A hereto.

5.10.1 DAF Specifications. Developer shall submit initial specifications for the DAF, including System Protection Facilities, to Arcade and NYISO at least one hundred eighty (180) Calendar Days prior to the Initial Synchronization Date;

and final specifications for review and comment at least ninety (90) Calendar Days prior to the Initial Synchronization Date. Arcade and NYISO shall review such specifications to ensure that the DAF are compatible with the technical specifications, operational control, and safety requirements of Arcade and NYISO and comment on such specifications within thirty (30) Calendar Days of Developer's submission. All specifications provided hereunder shall be deemed to be Confidential Information.

5.10.2 No Warranty. The review of Developer's final specifications by Arcade and NYISO shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability or reliability of the Large Generating Facility, or the DAF. Developer shall make such changes to the DAF as may reasonably be required by Arcade or NYISO, in accordance with Good Utility Practice, to ensure that the DAF are compatible with the technical specifications, operational control, and safety requirements of Arcade and NYISO.

5.10.3 DAF Construction. The DAF shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Developer and Arcade agree on another mutually acceptable deadline, the Developer shall deliver to Arcade and NYISO "as-built" drawings, information and documents for the DAF, such as: a one-line diagram, a site plan showing the Large Generating Facility and the DAF, plan and elevation drawings showing the layout of the DAF, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with the Developer's step-up transformers, the facilities connecting the Large Generating Facility to the step-up transformers and the DAF, and the impedances (determined by factory tests) for the associated step-up transformers and the Large Generating Facility. The Developer shall provide to, and coordinate with, Arcade and NYISO with respect to proposed specifications for the excitation system, automatic voltage regulator, Large Generating Facility control and protection settings, transformer tap settings, and communications, if applicable.

5.11 Arcade's Attachment Facilities Construction.

Arcade's Attachment Facilities shall be designed and constructed in accordance with Good Utility Practice. Upon request, within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless Arcade and Developer agree on another mutually acceptable deadline, Arcade shall deliver to the Developer the "as-built" drawings, information and documents for Arcade's Attachment Facilities as set forth in the Appendices.

5.12 Access Rights.

Upon reasonable notice and supervision by the Granting Party, and subject to any required or necessary regulatory approvals, either Arcade or Developer (“Granting Party”) shall furnish to the other of those two Parties (“Access Party”) at no cost any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party, its agents (if allowed under the applicable agency agreement), or any Affiliate, that are necessary to enable the Access Party to obtain ingress and egress at the Point of Interconnection to operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Large Generating Facility with the Arcade System; (ii) operate and maintain the Large Generating Facility, the Attachment Facilities and the Arcade System; and (iii) disconnect or remove the Access Party’s facilities and equipment upon termination of this Agreement. In exercising such licenses, rights of way and easements, the Access Party shall not unreasonably disrupt or interfere with normal operation of the Granting Party’s business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by the Granting Party and provided to the Access Party. The Access Party shall indemnify the Granting Party against all claims of injury or damage from third parties resulting from the exercise of the access rights provided for herein.

5.13 Lands of Other Property Owners.

If any part of Arcade’s Attachment Facilities and/or the Arcade System Upgrade Facilities is to be installed on property owned by persons other than Developer or Arcade, then Arcade shall at Developer’s expense use efforts, similar in nature and extent to those that it typically undertakes for its own or affiliated generation, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such persons any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove Arcade’s Attachment Facilities and/or the Arcade System Upgrade Facilities upon such property.

5.14 Permits.

NYISO, Arcade and the Developer shall cooperate with each other in good faith in obtaining all permits, licenses and authorizations that are necessary to accomplish the interconnection in compliance with Applicable Laws and Regulations. With respect to this paragraph, Arcade shall provide permitting assistance to the Developer comparable to that provided to Arcade’s own, or an Affiliate’s generation, if any.

5.15 Early Construction of Base Case Facilities.

Developer may request Arcade to construct, and Arcade shall construct, subject to a binding cost allocation agreement reached in accordance with Attachment S to the NYISO OATT, including Section IV.F.12 thereof, using Reasonable Efforts to accommodate Developer's In-Service Date, all or any portion of any Arcade System Upgrade Facilities required for Developer to be interconnected to the Arcade System which are included in the Base Case of the Facilities Study for the Developer, and which also are required to be constructed for another Developer, but where such construction is not scheduled to be completed in time to achieve Developer's In-Service Date.

5.16 Suspension.

Developer reserves the right, upon written notice to Arcade and NYISO, to suspend at any time all work by Arcade associated with the construction and installation of Arcade's Attachment Facilities and/or Arcade System Upgrade Facilities required for only that Developer under this Agreement with the condition that the Arcade System and the New York State Transmission System shall be left in a safe and reliable condition in accordance with Good Utility Practice and the safety and reliability criteria of Arcade and NYISO. In such event, Developer shall be responsible for all reasonable and necessary costs and/or obligations in accordance with Attachment S to the NYISO OATT including those which Arcade (i) has incurred pursuant to this Agreement prior to the suspension and (ii) incurs in suspending such work, including any costs incurred to perform such work as may be necessary to ensure the safety of persons and property and the integrity of the Arcade System and the New York State Transmission System during such suspension and, if applicable, any costs incurred in connection with the cancellation or suspension of material, equipment and labor contracts which Arcade cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, Arcade shall obtain Developer's authorization to do so.

Arcade shall invoice Developer for such costs pursuant to Article 12 and shall use due diligence to minimize its costs. In the event Developer suspends work by Arcade required under this Agreement pursuant to this Article 5.16, and has not requested Arcade to recommence the work required under this Agreement on or before the expiration of three (3) years following commencement of such suspension, this Agreement shall be deemed terminated. The three-year period shall begin on the date the suspension is requested, or the date of the written notice to Arcade and NYISO, if no effective date is specified.

5.17 Tax Status; Non-Jurisdictional Entities.

5.17.1 Tax Status. Each Party shall cooperate with the other Parties to maintain the other Parties' tax status. Nothing in this Agreement is intended to adversely affect the tax status of any Party including the status of NYISO, or the status of Arcade with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds.

5.17.2 Non-Jurisdictional Entity. Arcade does not waive its exemption, pursuant to Section 201(f) of the FPA.

5.18 Modification.

5.18.1 General. Either the Developer or Arcade may undertake modifications to its facilities covered by this Agreement. If either the Developer or Arcade plans to undertake a modification that reasonably may be expected to affect the other Party's facilities, that Party shall provide to the other Party, and to NYISO, sufficient information regarding such modification so that the other Party and NYISO may evaluate the potential impact of such modification prior to commencement of the work. Such information shall be deemed to be Confidential Information hereunder and shall include information concerning the timing of such modifications and whether such modifications are expected to interrupt the flow of electricity to or from the Large Generating Facility. The Party desiring to perform such work shall provide the relevant drawings, plans, and specifications to the other Party and NYISO at least ninety (90) Calendar Days in advance of the commencement of the work or such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned or delayed.

In the case of Large Generating Facility modifications that do not require Developer to submit an Interconnection Request, Arcade shall provide, within thirty (30) Calendar Days of receiving the information described above (or such other time as the Parties may agree), an estimate of any additional modifications to the Arcade System, Arcade's Attachment Facilities or the Arcade System Upgrade Facilities necessitated by such Developer modification and a good faith estimate of the costs thereof.

If Arcade learns that relocation of Developer's Facilities may be required due to plans by another governmental agency, such as but not limited to a highway department, it will notify Developer promptly of such plans and provide Developer with all the information concerning such plans in its possession.

- 5.18.2 Standards.** Any additions, modifications, relocations, or replacements made to a Party's facilities shall be designed, constructed and operated in accordance with this Agreement, applicable NYISO requirements and Good Utility Practice.
- 5.18.3 Modification Costs.** Developer shall not be assigned the costs of any additions, modifications, or replacements that Arcade makes to Arcade's Attachment Facilities or the Arcade System to facilitate the interconnection of a third party to Arcade's Attachment Facilities or the Arcade System. Where a modification or relocation is the result of actions taken or planned by a governmental agency other than Arcade, the Parties shall negotiate in good faith and agree upon an allocation of any costs of modifying or relocating the Arcade System Upgrade Facilities and the Attachment Facilities to the extent such costs are not borne by such governmental agency. Developer shall be responsible for the costs of any additions, modifications, or replacements (including the costs of all related studies, permitting, engineering and design) to the Arcade System, Arcade System Upgrade Facilities or the Developer's Attachment Facilities that may be necessary to maintain or upgrade Developer's Attachment Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards or Good Utility Practice.

ARTICLE 6. TESTING AND INSPECTION

6.1 Pre-Commercial Operation Date Testing and Modifications.

Prior to the Commercial Operation Date, Arcade shall test Arcade's Attachment Facilities and the Arcade System Upgrade Facilities and Developer shall test the Large Generating Facility and the Developer's Attachment Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Developer and Arcade shall each make any modifications to its facilities that are found to be necessary as a result of such testing. Developer shall bear the cost of all such testing and modifications. Developer shall generate test energy at the Large Generating Facility only if it has arranged for the injection of such test energy in accordance with Arcade and NYISO procedures.

6.2 Post-Commercial Operation Date Testing and Modifications.

Developer and Arcade shall each at its own expense perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice and Applicable Reliability Standards as may be necessary to ensure the continued interconnection of the Large Generating Facility with the Arcade System and the New York State Transmission System in a safe and reliable manner. Developer and Arcade shall each have the right, upon advance written notice, to require reasonable additional testing of the other Party's facilities, at the requesting Party's expense, as may be in accordance with Good Utility Practice.

6.3 Right to Observe Testing.

Developer and Arcade shall each notify the other Party, and the NYISO, in advance of its performance of tests of its Attachment Facilities. The other Party, and the NYISO, shall each have the right, at its own expense, to observe such testing.

6.4 Right to Inspect.

Developer and Arcade shall each have the right, but shall have no obligation to: (i) observe the other Party's tests and/or inspection of any of its System Protection Facilities and other protective equipment, including Power System Stabilizers; (ii) review the settings of the other Party's System Protection Facilities and other protective equipment; and (iii) review the other Party's maintenance records relative to the Attachment Facilities, the System Protection Facilities and other protective equipment. NYISO shall have these same rights of inspection as to the facilities and equipment of Developer and Arcade. A Party may exercise these rights from time to time as it deems necessary upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Attachment Facilities or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that a Party obtains through the exercise of any of its rights under this Article 6.4 shall be treated in accordance with Article 22 of this Agreement and Attachment F to the NYISO OATT.

ARTICLE 7. METERING

7.1 General.

Developer and Arcade shall each comply with applicable requirements of NYISO and the New York Public Service Commission when exercising its rights and fulfilling its responsibilities under this Article 7. NYISO, Arcade and Developer have agreed, as set

forth in Appendix C, on a metering scheme that accurately (i) measures flows in and out of the Arcade System at the Point of Interconnection, and accurately (ii) measures flows between the Arcade System and the New York State Transmission System. Arcade shall cause the New York Power Authority (NYPA) to install such Metering Equipment prior to any operation of the Large Generating Facility and to operate, test and maintain such Metering Equipment. The instrument transformers at meter points M_E and M_A , as depicted in Figure 3 attached hereto, shall be owned by Arcade, but shall be under the control of NYPA. Net power flows including MW and MVAR, MWHR and loss profile data to and from the Large Generating Facility shall be measured by such meters. Arcade shall cause NYPA to provide metering quantities, in analog and/or digital form to Developer or NYISO upon request utilizing communications channels in use by NYPA. Where the Point of Interconnection for the Large Generating Facility is other than the generator terminal, the Developer shall also provide gross MW and MVAR quantities at the generator terminal. Developer shall bear all costs associated with the purchase, installation, operation, testing and maintenance of all new Metering Equipment installed at meter points M_E and M_A , as depicted in Figure 3 attached hereto, pursuant to this Article 7; provided that in the case of such costs required by Arcade, Developer's obligation to bear costs is limited to costs reasonably required.

7.2 Check Meters.

Developer, at its option and expense and in coordination with Arcade, NYPA and Affected System Operator, may install and operate, on its premises and on its side of the Point of Interconnection, one or more check meters to check Arcade's meters. Such check meters shall be for check purposes only and shall not be used for the measurement of power flows for purposes of this Agreement, except as provided in Article 7.4 below. The check meters shall be subject at all reasonable times to inspection and examination by Arcade or its designee. The installation, operation and maintenance thereof shall be performed entirely by Developer in accordance with Good Utility Practice.

7.3 Standards.

Arcade shall, or shall cause NYPA to, install, calibrate, and test revenue quality Metering Equipment including potential transformers and current transformers in accordance with applicable ANSI and PSC standards as detailed in the NYISO Control Center Requirements Manual and in the NYISO Revenue Metering Requirements Manual.

7.4 Testing of Metering Equipment.

Arcade shall cause NYPA to inspect and test all of its Metering Equipment upon installation and at least once every two (2) years thereafter. If requested to do so by

NYISO or Developer, Arcade shall cause NYPA to, at Developer's expense, inspect or test Metering Equipment more frequently than every two (2) years. Arcade shall, or shall cause NYPA to, give reasonable notice of the time when any inspection or test shall take place, and Developer and NYISO may have representatives present at the test or inspection. If at any time Metering Equipment is found to be inaccurate or defective, it shall be adjusted, repaired or replaced at Developer's expense, in order to provide accurate metering, unless the inaccuracy or defect is due to Arcade's failure to maintain or cause to be maintained, then Arcade shall pay. If Metering Equipment fails to register, or if the measurement made by Metering Equipment during a test varies by more than two percent from the measurement made by the standard meter used in the test, Arcade shall cause NYPA to adjust the measurements by correcting all measurements for the period during which Metering Equipment was in error by using Developer's check meters, if installed. If no such check meters are installed or if the period cannot be reasonably ascertained, the adjustment shall be for the period immediately preceding the test of the Metering Equipment equal to one-half the time from the date of the last previous test of the Metering Equipment. The NYISO shall reserve the right to review all associated metering equipment installation on the Developer's or Arcade's property at any time.

7.5 Metering Data.

At Developer's expense, the metered data shall be telemetered to Affected System Operator, NYPA and the NYISO. Data will be available to Arcade and Developer via web-based servers. Such telemetered data shall be used, under normal operating conditions, as the official measurement of the amount of energy delivered from the Large Generating Facility to the Point of Interconnection.

ARTICLE 8. COMMUNICATIONS

8.1 Developer Obligations.

In accordance with applicable NYISO requirements, Developer shall construct, install and commission satisfactory operating communications with Affected System Operator, Arcade, and NYISO. Developer shall provide standard voice line, dedicated voice line and facsimile communications at its Large Generating Facility control room or central dispatch facility through use of either the public telephone system, or a voice communications system that does not rely on the public telephone system. Developer, Arcade and/or Affected System Operator shall also provide a radio-based communication system necessary to provide Developer data to Arcade and Affected System Operator as

set forth in Appendix A hereto. The radio-based communication system shall extend from the Large Generating Facility to the location(s) specified in Appendix A. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data.

8.2 Remote Terminal Unit.

Prior to the Initial Synchronization Date of the Large Generating Facility, a Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties, shall be installed by Developer, or by Arcade or Affected System Operator at Developer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by Affected System Operator and NYISO through use of a dedicated radio-based communication system as indicated in Article 5.1. The communication protocol for the radio-based communication system shall be specified by Affected System Operator and NYISO. Instantaneous bi-directional analog real power and reactive power flow information must be capable of being telemetered directly to the location(s) specified by Affected System Operator and NYISO.

Each Party will promptly advise the appropriate other Party if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by that other Party. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.

8.3 No Annexation.

Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Party providing such equipment and the Party receiving such equipment.

ARTICLE 9. OPERATIONS

9.1 General.

Each Party shall comply with Applicable Laws and Regulations and Applicable Reliability Standards. Each Party shall provide to the other Parties all information that may reasonably be required by the other Parties to comply with Applicable Laws and Regulations and Applicable Reliability Standards.

9.2 NYISO and Arcade Obligations.

Arcade shall cause the Arcade System and Arcade's Attachment Facilities to be operated, maintained and controlled in a safe and reliable manner in accordance with this Agreement and the Network Operating Agreement. NYISO shall cause the New York State Transmission System to be operated, maintained and controlled in a safe and reliable manner in accordance with this Agreement and the NYISO Tariffs. Arcade and NYISO may provide operating instructions to Developer consistent with this Agreement, NYISO procedures and Arcade's operating protocols and procedures as they may change from time to time. Arcade and NYISO will consider changes to their respective operating protocols and procedures proposed by Developer.

9.3 Developer Obligations.

Developer shall at its own expense operate, maintain and control the Large Generating Facility and the Developer's Attachment Facilities (except to the extent Developer has contracted with Arcade to maintain any of Developer's Attachment Facilities) in a safe and reliable manner and in accordance with this Agreement. Developer shall operate the Large Generating Facility and the Developer Attachment Facilities in accordance with NYISO and Arcade requirements, as such requirements are set forth or referenced in Appendix C hereto. Appendix C will be modified to reflect changes to the requirements as they may change from time to time. Any Party may request that the appropriate other Party or Parties provide copies of the requirements set forth or referenced in Appendix C hereto.

9.4 Start-Up and Synchronization.

Consistent with the mutually acceptable procedures of the Developer and Arcade, the Developer is responsible for the proper synchronization of the Large Generating Facility to the Arcade System in accordance with NYISO and Arcade procedures and requirements.

9.5 Reactive Power.

9.5.1 Power Factor Design Criteria. Developer shall design the Large Generating Facility to maintain an effective power delivery at demonstrated maximum net capability at the Point of Interconnection at a power factor within the range set forth in Appendices C and G hereto.

The Developer shall design and maintain the plant auxiliary systems to operate safely throughout the entire real and reactive power design range.

Arcade shall not unreasonably restrict or condition the reactive power production or absorption of the Large Generating Facility in accordance with Good Utility Practice.

9.5.2 Voltage Schedules. Once the Developer has synchronized the Large Generating Facility with the Arcade System, NYISO shall require Developer to operate the Large Generating Facility to produce or absorb reactive power within the design capability of the Large Generating Facility set forth in Article 9.5.1 (Power Factor Design Criteria). NYISO's voltage schedules shall treat all sources of reactive power in the New York Control Area in an equitable and not unduly discriminatory manner. NYISO shall exercise Reasonable Efforts to provide Developer with such schedules in accordance with NYISO procedures, and may make changes to such schedules as necessary to maintain the reliability of the New York State Transmission System. Developer shall operate the Large Generating Facility to maintain the specified output voltage or power factor at the Point of Interconnection within the design capability of the Large Generating Facility set forth in Article 9.5.1 (Power Factor Design Criteria) as directed by Arcade or the NYISO. If Developer is unable to maintain the specified voltage or power factor, it shall promptly notify the Arcade System Operator or NYISO, as applicable.

9.5.2.1 Governors and Regulators. Whenever the Large Generating Facility is operated in parallel with the Arcade System, the turbine speed governors and automatic voltage regulators shall be in automatic operation at all times. If the Large Generating Facility's speed governors or automatic voltage regulators are not capable of such automatic operation, the Developer shall immediately notify NYISO, or its designated representative, and ensure that such Large Generating Facility's real and reactive power are within the design capability of the Large Generating Facility's generating unit(s) and steady state stability limits and NYISO system operating (thermal, voltage and transient stability) limits. Developer shall not cause its Large Generating Facility to disconnect automatically or instantaneously from the Arcade System or trip any generating unit comprising the Large Generating Facility for an under or over frequency condition unless the abnormal frequency condition persists for a time period beyond the limits set forth in ANSI/IEEE Standard C37.106, or such other standard as applied to other generators in the New York Control Area on a comparable basis.

9.5.3 Payment for Reactive Power. NYISO shall pay Developer for reactive power or voltage support service that Developer provides from the Large Generating Facility in accordance with the provisions of Rate Schedule 2 of the NYISO Services Tariff.

9.6 Outages and Interruptions.

9.6.1 Outages.

9.6.1.1 Outage Authority and Coordination. Developer and Arcade may each, in accordance with Good Utility Practice, in coordination with the other Party and, with respect to Arcade, consistent with the Network Operating Agreement, remove from service any of its respective Attachment Facilities or the Arcade System Upgrade Facilities that may impact the other Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. Absent an Emergency State, the Party scheduling a removal of such facility(ies) from service will use Reasonable Efforts to schedule such removal on a date and time mutually acceptable to both the Developer and Arcade. In all circumstances either Party planning to remove such facility(ies) from service shall use Reasonable Efforts to minimize the effect on the other Party of such removal.

9.6.1.2 Outage Schedules. Arcade shall provide NYISO and Developer the same advance notice of outages of its transmission facilities as Arcade provides to the New York Power Authority and to Affected System Operator. Developer shall submit its planned maintenance schedules for the Large Generating Facility to Arcade and NYISO for a minimum of a rolling thirty-six month period. Developer shall update its planned maintenance schedules as necessary. NYISO or Arcade may direct Developer to reschedule its maintenance as necessary to maintain the reliability of the Arcade System and the New York State Transmission System. Compensation to Developer for any additional direct costs that the Developer incurs as a result of rescheduling maintenance, including any additional overtime, breaking of maintenance contracts or other costs above and beyond the cost the Developer would have incurred absent the request to reschedule maintenance, shall be in accordance with the NYISO OATT. Developer will not be eligible to receive compensation, if during the twelve (12) months prior to the date of the scheduled maintenance, the Developer had modified its schedule of maintenance activities other than at the direction of the NYISO or request of Arcade.

9.6.1.3 Outage Restoration. If an outage of the Attachment Facilities or Arcade System Upgrade Facilities adversely affects the other Party's operations or facilities, the Party that owns the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage. The Party that owns the facility that is out of service shall provide the other Party and NYISO, to the extent such information is known, information on the nature of the Emergency State, an estimated time of restoration, and any corrective actions required. Initial verbal notice shall be followed up as soon as practicable with written notice explaining the nature of the outage.

9.6.2 Interruption of Service. If required by Good Utility Practice or Applicable Reliability Standards to do so, the NYISO or Arcade may require Developer to interrupt or reduce production of electricity if such production of electricity could adversely affect the ability of NYISO or Arcade to perform such activities as are necessary to safely and reliably operate and maintain the Arcade System or the New York State Transmission System. The following provisions shall apply to any interruption or reduction permitted under this Article 9.6.2:

9.6.2.1 The interruption or reduction shall continue only for so long as reasonably necessary under Good Utility Practice;

9.6.2.2 Any such interruption or reduction shall be made on an equitable, non-discriminatory basis with respect to all generating facilities directly connected to the Arcade System or the New York State Transmission System;

9.6.2.3 When the interruption or reduction must be made under circumstances which do not allow for advance notice, NYISO or Arcade shall notify Developer by telephone as soon as practicable of the reasons for the curtailment, interruption, or reduction, and, if known, its expected duration. Telephone notification shall be followed by written notification as soon as practicable;

9.6.2.4 Except during the existence of an Emergency State, when the interruption or reduction can be scheduled without advance notice, NYISO or Arcade shall notify Developer in advance regarding the timing of such scheduling

and further notify Developer of the expected duration. NYISO or Arcade shall coordinate with each other and the Developer using Good Utility Practice to schedule the interruption or reduction during periods of least impact to the Developer, Arcade, the Arcade System and the New York State Transmission System;

9.6.2.5 The Parties shall cooperate and coordinate with each other to the extent necessary in order to restore the Large Generating Facility, Attachment Facilities, the Arcade System and the New York State Transmission System to their normal operating state, consistent with system conditions and Good Utility Practice.

9.6.3 Under-Frequency and Over Frequency Conditions. The New York State Transmission System is designed to automatically activate a load-shed program as required by the NPCC in the event of an under-frequency system disturbance. Developer shall implement under-frequency and over-frequency relay set points for the Large Generating Facility as required by the NPCC to ensure “ride through” capability of the New York State Transmission System. Large Generating Facility response to frequency deviations of predetermined magnitudes, both under-frequency and over-frequency deviations, shall be studied and coordinated with the NYISO and Arcade in accordance with Good Utility Practice. The term “ride through” as used herein shall mean the ability of a Generating Facility to stay connected to and synchronized with the Arcade System during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice and with NPCC criteria A-3.

9.6.4 System Protection and Other Control Requirements.

9.6.4.1 System Protection Facilities. Developer shall, at its expense, install, operate and maintain System Protection Facilities as a part of the Large Generating Facility or Developer’s Attachment Facilities. Arcade shall install at Developer’s expense any System Protection Facilities that may be required on the Arcade Attachment Facilities, the Arcade System or the New York State Transmission System as a result of the interconnection of the Large Generating Facility and Developer’s Attachment Facilities.

9.6.4.2 The protection facilities of both the Developer and Arcade shall be designed and coordinated with other systems in accordance with Good Utility Practice and Applicable Reliability Standards.

9.6.4.3 The Developer and Arcade shall each be responsible for protection of its respective facilities consistent with Good Utility Practice and Applicable Reliability Standards.

9.6.4.4 The protective relay design of the Developer and Arcade shall each incorporate the necessary test switches to perform the tests required in Article 6 of this Agreement. The required test switches will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and/or the tripping of the Developer's Large Generating Facility.

9.6.4.5 The Developer and Arcade will each test, operate and maintain System Protection Facilities in accordance with Good Utility Practice and NPCC criteria.

9.6.4.6 Prior to the In-Service Date, and again prior to the Commercial Operation Date, the Developer and Arcade shall each perform, or their agents shall perform, a complete calibration test and functional trip test of the System Protection Facilities. At intervals suggested by Good Utility Practice and following any apparent malfunction of the System Protection Facilities, the Developer and Arcade shall each perform both calibration and functional trip tests of its System Protection Facilities. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

9.6.5 Requirements for Protection. In compliance with NPCC requirements and Good Utility Practice, Developer shall provide, install, own, and maintain relays, circuit breakers and all other devices necessary to remove any fault contribution of the Large Generating Facility to any short circuit occurring on the Arcade System or the New York State Transmission System not otherwise isolated by Arcade's equipment, such that the removal of the fault contribution shall be coordinated with the protective requirements of the Arcade System and the New York State Transmission System. Such protective equipment shall include, without limitation, a disconnecting device or switch with load-interrupting capability located between the Large Generating Facility and the Arcade System at a site selected upon mutual agreement (not to be unreasonably withheld,

conditioned or delayed) of the Developer and Arcade. Developer shall be responsible for protection of the Large Generating Facility and Developer's other equipment from such conditions as negative sequence currents, over- or under-frequency, sudden load rejection, over- or under-voltage, and generator loss-of-field. Developer shall be solely responsible to disconnect the Large Generating Facility and Developer's other equipment if conditions on the Arcade System or the New York State Transmission System could adversely affect the Large Generating Facility.

9.6.6 Power Quality. Neither the facilities of Developer nor the facilities of Arcade shall cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard 519, or any applicable superseding electric industry standard. In the event of a conflict between ANSI Standard C84.1-1989, or any applicable superseding electric industry standard, ANSI Standard C84.1-1989, or the applicable superseding electric industry standard, shall control.

9.7 Switching and Tagging Rules.

The Developer and Arcade shall each provide the other Party a copy of its switching and tagging rules that are applicable to the other Party's activities. Such switching and tagging rules shall be developed on a nondiscriminatory basis. The Parties shall comply with applicable switching and tagging rules, as amended from time to time, in obtaining clearances for work or for switching operations on equipment.

9.8 Use of Attachment Facilities by Third Parties.

9.8.1 Purpose of Attachment Facilities. Except as may be required by Applicable Laws and Regulations, or as otherwise agreed to among the Parties, the Attachment Facilities shall be constructed for the sole purpose of interconnecting the Large Generating Facility to the Arcade System and delivering electricity from the Large Generating Facility to the New York State Transmission System and delivering station service, and shall be used for no other purposes.

9.8.2 Third Party Users. If required by Applicable Laws and Regulations or if the Parties mutually agree, such agreement not to be unreasonably withheld, to allow one or more third parties to use Arcade's Attachment Facilities, or any part thereof, Developer will be entitled to compensation for the capital expenses it incurred in connection with the Attachment Facilities based upon the pro rata use

of the Attachment Facilities by Arcade (if and when Arcade adds additional facilities to the Attachment Facilities in order for Arcade to use such Attachment Facilities to serve its customers), all third party users, and Developer, in accordance with Applicable Laws and Regulations or upon some other mutually-agreed upon methodology. In addition, cost responsibility for ongoing costs, including operation and maintenance costs associated with the Attachment Facilities, will be allocated between Developer and any third party users based upon the pro rata use of the Attachment Facilities by Arcade, all third party users, and Developer, in accordance with Applicable Laws and Regulations or upon some other mutually agreed upon methodology. If the issue of such compensation or allocation cannot be resolved through such negotiations, it shall be submitted to FERC for resolution.

9.9 Disturbance Analysis Data Exchange.

The Parties will cooperate with one another and the NYISO in the analysis of disturbances to either the Large Generating Facility, the Arcade System or the New York State Transmission System by gathering and providing access to any information relating to any disturbance, including information from disturbance recording equipment, protective relay targets, breaker operations and sequence of events records, and any disturbance information required by Good Utility Practice.

ARTICLE 10. MAINTENANCE

10.1 Arcade Obligations.

Arcade shall maintain its transmission facilities and Attachment Facilities in a safe and reliable manner and in accordance with this Agreement and Applicable Laws and Regulations and Applicable Reliability Standards.

10.2 Developer Obligations.

Developer shall maintain its Large Generating Facility and Attachment Facilities in a safe and reliable manner and in accordance with this Agreement and Applicable Laws and Regulations and Applicable Reliability Standards.

10.3 Coordination.

The Developer and Arcade shall confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Large Generating Facility and the Attachment Facilities. The Developer and Arcade shall keep NYISO and the Affected System Operator fully informed of the preventive and corrective maintenance that is planned, and shall schedule all such maintenance in accordance with NYISO procedures.

10.4 Secondary Systems.

Developer and Arcade shall each cooperate with the other in the inspection, maintenance, and testing of control or power circuits that operate below 600 volts, AC or DC, including, but not limited to, any hardware, control or protective devices, cables, conductors, electric raceways, secondary equipment panels, transducers, batteries, chargers, and voltage and current transformers that directly affect the operation of Developer or Arcade's facilities and equipment which may reasonably be expected to impact the other Party. The Developer and Arcade shall each provide advance notice to the other Party, and to NYISO, before undertaking any work on such circuits, especially on electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.

10.5 Operating and Maintenance Expenses.

Subject to the provisions herein addressing the use of facilities by others, and except for operations and maintenance expenses associated with modifications made in order to provide interconnection or transmission service to a third party where such third party pays for such expenses, the allocation of expenses associated with owning, operating, maintaining, repairing, and replacing the Attachment Facilities and the Arcade System Upgrade Facilities shall be as set forth in Appendix C to this Agreement.

ARTICLE 11. PERFORMANCE OBLIGATION

11.1 Developer's Attachment Facilities.

Developer shall design, procure, construct, install, own and/or control the Developer's Attachment Facilities described in Appendix A hereto, at its sole expense.

11.2 Arcade's Attachment Facilities.

Arcade shall design, procure, construct, install, own and/or control Arcade's Attachment Facilities described in Appendix A hereto, at the sole expense of the Developer.

11.3 Arcade System Upgrade Facilities.

Arcade shall design, procure, construct, install, and own the Arcade System Upgrade Facilities described in Appendix A hereto. The responsibility of the Developer for costs related to the Arcade System Upgrade Facilities shall be determined in accordance with the provisions of Attachment S to the NYISO OATT.

11.4 Special Provisions for Affected Systems.

For the re-payment of amounts advanced to Affected System Operator for System Upgrade Facilities, the Developer and Affected System Operator shall enter into an agreement that provides for such re-payment, but only if responsibility for the cost of such System Upgrade Facilities is not to be allocated in accordance with Attachment S to the NYISO OATT. The agreement shall specify the terms governing payments to be made by the Developer to the Affected System Operator as well as the re-payment by the Affected System Operator.

11.5 Provision of Security.

At least thirty (30) Calendar Days prior to the commencement of the procurement, installation, or construction of a discrete portion of Arcade's Attachment Facilities, Developer shall provide Arcade, at Developer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to Arcade and is consistent with the Uniform Commercial Code of the jurisdiction identified in Article 14.2.1 of this Agreement. Such security for payment shall be in an amount sufficient to cover the cost for the Developer's share of constructing, procuring and installing the applicable portion of Arcade's Attachment Facilities, and shall be reduced on a dollar-for-dollar basis for payments made to Arcade for these purposes.

In addition:

- 11.5.1** The guarantee must be made by an entity that meets the commercially reasonable creditworthiness requirements of Arcade, and contains terms and conditions that guarantee payment of any amount that may be due from Developer, up to an agreed-to maximum amount.
- 11.5.2** The letter of credit must be issued by a financial institution reasonably acceptable to Arcade and must specify a reasonable expiration date.
- 11.5.3** The surety bond must be issued by an insurer reasonably acceptable to Arcade and must specify a reasonable expiration date.

11.5.4 Attachment S to the NYISO OATT shall govern the Security that Developer provides for System Upgrade Facilities.

11.6 Developer Compensation for Emergency Services.

If, during an Emergency State, the Developer provides services at the request or direction of the NYISO or Arcade, the Developer will be compensated for such services in accordance with the NYISO Services Tariff.

11.7 Line Outage Costs.

Notwithstanding anything in the NYISO OATT to the contrary, Arcade may propose to recover line outage costs associated with the installation of Arcade's Attachment Facilities or the Arcade System Upgrade Facilities on a case-by-case basis.

ARTICLE 12. INVOICE

12.1 General.

Developer and Arcade shall each submit to the other Party, on a monthly basis, invoices of amounts due under this Agreement for the preceding month. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. The Developer and Arcade may discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts one Party owes to the other Party under this Agreement, including interest payments or credits, shall be netted so that only the net amount remaining due shall be paid by the owing Party.

12.2 Final Invoice.

Within six months after completion of the construction of Arcade's Attachment Facilities and the Arcade System Upgrade Facilities, Arcade shall provide an invoice of the final cost of the construction of Arcade's Attachment Facilities and the Arcade System Upgrade Facilities, determined in accordance with Attachment S to the NYISO OATT, and shall set forth such costs in sufficient detail to enable Developer to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. Arcade shall refund to Developer any amount by which the actual payment by Developer for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice.

12.3 Payment.

Invoices shall be rendered to the paying Party at the address specified in Appendix F hereto. The Party receiving the invoice shall pay the invoice within thirty (30) Calendar Days of receipt. All payments shall be made in immediately available funds payable to the other Party, or by wire transfer to a bank named and account designated by the invoicing Party. Payment of invoices will not constitute a waiver of any rights or claims the paying Party may have under this Agreement.

12.4 Disputes.

In the event of a billing dispute between Arcade and Developer involving amounts due under this Agreement, Arcade shall continue to perform under this Agreement as long as Developer: (i) continues to make all payments not in dispute; and (ii) pays to Arcade or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If Developer fails to meet these two requirements for continuation of service, then Arcade may provide notice to Developer of a Default pursuant to Article 17. Within thirty (30) Calendar Days after the resolution of the dispute, the Party that owes money to the other Party shall pay the amount due with interest calculated in accord with the methodology set forth in FERC's Regulations at 18 C.F.R. § 35.19a(a)(2)(iii).

ARTICLE 13. EMERGENCIES

13.1 Obligations.

Developer shall comply with the Emergency State procedures of NYISO, the applicable Reliability Councils, Applicable Laws and Regulations, and any emergency procedures agreed to by the NYISO Operating Committee. Arcade shall comply with the emergency procedures of its own operating manuals, the Network Operating Agreement, all Applicable Laws and Applicable Reliability Standards.

13.2 Notice.

NYISO or, as applicable, Arcade shall notify Developer promptly when it becomes aware of an Emergency State that affects Arcade's Attachment Facilities, the Arcade System or the New York State Transmission System that may reasonably be expected to affect Developer's operation of the Large Generating Facility or the Developer's Attachment

Facilities. Developer shall notify NYISO and Arcade promptly when it becomes aware of an Emergency State that affects the Large Generating Facility or the Developer's Attachment Facilities that may reasonably be expected to affect the New York State Transmission System, the Arcade System or Arcade's Attachment Facilities. To the extent information is known, the notification shall describe the Emergency State, the extent of the damage or deficiency, the expected effect on the operation of Developer's or Arcade's facilities and operations, its anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice.

13.3 Immediate Action.

Unless, in Developer's reasonable judgment, immediate action is required, Developer shall obtain the consent of Arcade, such consent to not be unreasonably withheld, prior to performing any manual switching operations at the Large Generating Facility or the Developer's Attachment Facilities in response to an Emergency State either declared by NYISO, Arcade or otherwise regarding the Arcade System or the New York State Transmission System.

13.4 NYISO and Arcade Authority.

13.4.1 General. NYISO or Arcade may take whatever actions with regard to the New York State Transmission System, the Arcade System or Arcade's Attachment Facilities it deems necessary during an Emergency State in order to (i) preserve public health and safety, (ii) preserve the reliability of the New York State Transmission System, the Arcade System or Arcade's Attachment Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service.

NYISO and Arcade shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Large Generating Facility or the Developer's Attachment Facilities. NYISO or Arcade may, on the basis of technical considerations, require the Large Generating Facility to mitigate an Emergency State by taking actions necessary and limited in scope to remedy the Emergency State, including, but not limited to, directing Developer to shut-down, start-up, increase or decrease the real or reactive power output of the Large Generating Facility; implementing a reduction or disconnection pursuant to Article 13.4.2; directing the Developer to assist with blackstart (if available)

or restoration efforts; or altering the outage schedules of the Large Generating Facility and the Developer Attachment Facilities. Developer shall comply with all of the NYISO and Arcade's operating instructions concerning Large Generating Facility real power and reactive power output within the manufacturer's design limitations of the Large Generating Facility's equipment that is in service and physically available for operation at the time, in compliance with Applicable Laws and Regulations.

13.4.2 Reduction and Disconnection. NYISO may reduce Network Access Interconnection Service, and Arcade may disconnect the Large Generating Facility or the Developer's Attachment Facilities, when such reduction or disconnection is necessary under Good Utility Practice due to an Emergency State. These rights are separate and distinct from any right of Curtailment of NYISO pursuant to the NYISO OATT. When NYISO or Arcade can schedule the reduction or disconnection in advance, NYISO or Arcade shall notify Developer of the reasons, timing and expected duration of the reduction or disconnection. NYISO or Arcade shall coordinate with the Developer using Good Utility Practice to schedule the reduction or disconnection during periods of least impact to the Developer, the Arcade System and the New York State Transmission System. Any reduction or disconnection shall continue only for so long as reasonably necessary under Good Utility Practice. The Parties shall cooperate with each other to restore the Large Generating Facility, the Attachment Facilities, the Arcade System and the New York State Transmission System to their normal operating state as soon as practicable consistent with Good Utility Practice.

13.5 Developer Authority.

Consistent with Good Utility Practice and this Agreement, the Developer may act or refrain from acting, as required, with regard to the Large Generating Facility or the Developer's Attachment Facilities during an Emergency State in order to (i) preserve public health and safety, (ii) preserve the reliability of the Large Generating Facility or the Developer's Attachment Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Developer shall use Reasonable Efforts to minimize the effect of its decision to act or refrain from acting on the New York State Transmission System, the Arcade System and Arcade's Attachment Facilities. NYISO and Arcade shall use Reasonable Efforts to assist Developer in such actions.

13.6 Limited Liability.

Except as otherwise provided in Article 11.6 of this Agreement, no Party shall be liable to another Party for any action it takes in responding to an Emergency State so long as such action is made in good faith and is consistent with Good Utility Practice and the NYISO Tariffs.

ARTICLE 14. REGULATORY REQUIREMENTS AND GOVERNING LAW

14.1 Regulatory Requirements.

Each Party's obligations under this Agreement shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this Agreement shall require Developer or Arcade to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act or the Public Utility Holding Company Act of 2005 or the Public Utility Regulatory Policies Act of 1978, as amended.

14.2 Governing Law.

14.2.1 The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of the state of New York, without regard to its conflicts of law principles.

14.2.2 This Agreement is subject to all Applicable Laws and Regulations.

14.2.3 Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

ARTICLE 15. NOTICES

15.1 General.

Unless otherwise provided in this Agreement, any notice, demand or request required or permitted to be given by a Party to the other Parties and any instrument required or permitted to be tendered or delivered by a Party in writing to the other Parties shall be

effective when delivered and may be so given, tendered or delivered, by recognized national courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address set out in Appendix F hereto.

A Party may change the notice information in this Agreement by giving five (5) Business Days written notice prior to the effective date of the change.

15.2 Billings and Payments.

Billings and payments shall be sent to the addresses set out in Appendix F hereto.

15.3 Alternative Forms of Notice.

Any notice or request required or permitted to be given by a Party to the other Parties and not required by this Agreement to be given in writing may be so given by telephone, facsimile or email to the telephone numbers and email addresses set out in Appendix F hereto.

15.4 Operations and Maintenance Notice.

Developer and Arcade shall each notify the other Party, and NYISO, in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Articles 9 and 10 of this Agreement.

ARTICLE 16. FORCE MAJEURE

16.1 Force Majeure.

16.1.1 Economic hardship is not considered a Force Majeure event.

16.1.2 A Party shall not be responsible or liable, or deemed, in Default with respect to any obligation hereunder, (including obligations under Article 4 of this Agreement) , other than the obligation to pay money when due, to the extent the Party is prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Parties in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon.

Telephone notices given pursuant to this Article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

ARTICLE 17. DEFAULT

17.1 Default.

17.1.1 General. No Breach shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this Agreement or the result of an act or omission of the other Parties. Upon a Breach, the non-Breaching Parties shall give written notice of such to the Breaching Party. The Breaching Party shall have thirty (30) Calendar Days from receipt of the Breach notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Calendar Days, the Breaching Party shall commence such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Breach notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

17.1.2 Right to Terminate. If a Breach is not cured as provided in this Article 17, or if a Breach is not capable of being cured within the period provided for herein, the non-Breaching Parties acting together shall thereafter have the right to declare a Default and terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not those Parties terminate this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which they are entitled at law or in equity. The provisions of this Article will survive termination of this Agreement.

ARTICLE 18. INDEMNITY, CONSEQUENTIAL DAMAGES AND INSURANCE

18.1 Indemnity.

Each Party (the "Indemnifying Party") shall at all times indemnify, defend, and save harmless, as applicable, the other Parties (each an "Indemnified Party") from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any

person or damage to property, the alleged violation of any Environmental Law, or the release or threatened release of any Hazardous Substance, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from (i) the Indemnified Party's performance of its obligations under this Agreement on behalf of the Indemnifying Party, except in cases where the Indemnifying Party can demonstrate that the Loss of the Indemnified Party was caused by the gross negligence or intentional wrongdoing of the Indemnified Party or (ii) the violation by the Indemnifying Party of any Environmental Law or the release by the Indemnifying Party of any Hazardous Substance.

18.1.1 Indemnified Party. If a Party is entitled to indemnification under this Article 18 as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 18.1.3, to assume the defense of such claim, such Indemnified Party may at the expense of the Indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

18.1.2 Indemnifying Party. If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this Article 18, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual Loss, net of any insurance or other recovery.

18.1.3 Indemnity Procedures. Promptly after receipt by an Indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Article 18.1 may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

Except as stated below, the Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the defendants in any such action include one or more Indemnified Parties and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be legal defenses available to it and/or other Indemnified Parties which are different from or

additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Party or Indemnified Parties having such differing or additional legal defenses.

The Indemnified Party shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Party and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of interest between the Indemnified Party and the Indemnifying Party; in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed.

18.2 No Consequential Damages.

Other than the Liquidated Damages heretofore described and the indemnity obligations set forth in Article 18.1, in no event shall any Party be liable under any provision of this Agreement for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to another Party under separate agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

18.3 Insurance.

Developer and Arcade shall each, at its own expense, maintain in force throughout the period of this Agreement, and until released by the other Parties, the following minimum insurance coverages, with insurers authorized to do business in the state of New York:

18.3.1 Employers' Liability and Workers' Compensation Insurance providing statutory benefits in accordance with the laws and regulations of New York State.

- 18.3.2** Commercial General Liability Insurance including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage (including coverage for the contractual indemnification) products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of One Million Dollars (\$1,000,000) per occurrence/One Million Dollars (\$1,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.
- 18.3.3** Comprehensive Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.
- 18.3.4** Excess Public Liability Insurance over and above the Employers' Liability Commercial General Liability and Comprehensive Automobile Liability Insurance coverage, with a minimum combined single limit of Ten Million Dollars (\$10,000,000) per occurrence/Ten Million Dollars (\$10,000,000) aggregate.
- 18.3.5** The Commercial General Liability Insurance, Comprehensive Automobile Insurance and Excess Public Liability Insurance policies of Developer and Arcade shall name the other Party, its parent, associated and Affiliate companies and their respective directors, officers, agents, servants and employees ("Other Party Group") as additional insured. All policies shall contain provisions whereby, except where the insured Party has a claim based on the gross negligence or willful misconduct of the other Party, the insurers waive all rights of subrogation in accordance with the provisions of this Agreement against the Other Party Group and provide thirty (30) Calendar days advance written notice to the Other Party Group prior to anniversary date of cancellation or any material change in coverage or condition.
- 18.3.6** The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies shall contain provisions that specify that the policies are primary and shall apply to such

extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Developer and Arcade shall each be responsible for its respective deductibles or retentions.

- 18.3.7** The Commercial General Liability Insurance, Comprehensive Automobile Liability Insurance and Excess Public Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of this Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Developer and Arcade.
- 18.3.8** The requirements contained herein as to the types and limits of all insurance to be maintained by the Developer and Arcade are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by those Parties under this Agreement.
- 18.3.9** Within ten (10) days following execution of this Agreement, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) days thereafter, Developer and Arcade shall provide certification of all insurance required in this Agreement, executed by each insurer or by an authorized representative of each insurer.
- 18.3.10** Developer and Arcade agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this Agreement.

18.4 Developer and Arcade.

Notwithstanding the provisions set forth in this Article 18, all indemnity, consequential damages and insurance issues that may arise involving only Developer and Arcade shall be addressed pursuant to other mutually-agreeable arrangements between Developer and Arcade, as described in Appendix C hereto. As between or among NYISO and one or both of Developer and Arcade, the indemnity, consequential damages and insurance provisions of this Article 18 shall govern, and any arrangements described in Appendix C shall not be applicable or binding.

ARTICLE 19. ASSIGNMENT

19.1 Assignment.

This Agreement may be assigned by a Party only with the written consent of the other Parties; provided that a Party may assign this Agreement without the consent of the other Parties to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement; provided further that a Party may assign this Agreement without the consent of the other Parties in connection with the sale, merger, restructuring, or transfer of a substantial portion or all of its assets, including the Attachment Facilities it owns, so long as the assignee in such a transaction directly assumes in writing all rights, duties and obligations arising under this Agreement; and provided further that the Developer shall have the right to assign this Agreement, without the consent of the NYISO or Arcade, for collateral security purposes to aid in providing financing for the Large Generating Facility, provided that the Developer will promptly notify the NYISO and Arcade of any such assignment. Any financing arrangement entered into by the Developer pursuant to this Article will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the NYISO and Arcade of the date and particulars of any such exercise of assignment right(s) and will provide the NYISO and Arcade with proof that it meets the requirements of Articles 11.5 and 18.3. Any attempted assignment that violates this Article is void and ineffective. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

ARTICLE 20. SEVERABILITY

20.1 Severability.

If any provision in this Agreement is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this Agreement; provided that if the Developer (or any third party, but only if such third party is not acting at the direction of Arcade) seeks and

obtains such a final determination with respect to any provision of the Alternate Option (Article 5.1.2), or the Negotiated Option (Article 5.1.4), then none of these provisions shall thereafter have any force or effect and the rights and obligations of Developer and Arcade shall be governed solely by the Standard Option (Article 5.1.1).

ARTICLE 21. COMPARABILITY

21.1 Comparability.

The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time..

ARTICLE 22. CONFIDENTIALITY

22.1 Confidentiality.

Certain information exchanged by the Parties during the term of this Agreement shall constitute confidential information ("Confidential Information") and shall be subject to this Article 22.

If requested by a Party receiving information, the Party supplying the information shall provide in writing, the basis for asserting that the information referred to in this Article warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

To the extent such request is made of Arcade, Arcade shall comply with the requirements of this Article, consistent with and subject to its obligations under the Freedom of Information Law (Public Officers Law, Art. 6).

22.1.1 Term. During the term of this Agreement, and for a period of three (3) years after the expiration or termination of this Agreement, except as otherwise provided in this Article 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

- 22.1.2 Confidential Information.** The following shall constitute Confidential Information: (1) any non-public information that is treated as confidential by the disclosing Party and which the disclosing Party identifies as Confidential Information in writing at the time, or promptly after the time, of disclosure; or (2) information designated as Confidential Information by the NYISO Code of Conduct contained in Attachment F to the NYISO OATT.
- 22.1.3 Scope.** Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this Agreement; or (6) is required, in accordance with Article 22.1.8 of this Agreement, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this Agreement. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Party that it no longer is confidential.
- 22.1.4 Release of Confidential Information.** No Party shall release or disclose Confidential Information to any other person, except to its Affiliates (limited by FERC Standards of Conduct requirements), subcontractors, employees, consultants, or to parties who may be or considering providing financing to or equity participation with Developer, or to potential purchasers or assignees of a Party, on a need-to-know basis in connection with this Agreement, unless such person has first been advised of the confidentiality provisions of this Article 22 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article 22.

- 22.1.5 Rights.** Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Party. The disclosure by each Party to the other Parties of Confidential Information shall not be deemed a waiver by any Party or any other person or entity of the right to protect the Confidential Information from public disclosure.
- 22.1.6 No Warranties.** By providing Confidential Information, no Party makes any warranties or representations as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to the other Parties nor to enter into any further agreements or proceed with any other relationship or joint venture.
- 22.1.7 Standard of Care.** Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Party under this Agreement or its regulatory requirements, including the NYISO OATT and NYISO Services Tariff. The NYISO shall, in all cases, treat the information it receives in accordance with the requirements of Attachment F to the NYISO OATT.
- 22.1.8 Order of Disclosure.** If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires any Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Parties with prompt notice of such request(s) or requirement(s) so that the other Parties may seek an appropriate protective order or waive compliance with the terms of this Agreement. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

- 22.1.9 Termination of Agreement.** Upon termination of this Agreement for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from the other Parties, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Parties) or return to the other Parties, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Parties pursuant to this Agreement.
- 22.1.10 Remedies.** The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Article 22. Each Party accordingly agrees that the other Parties shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article 22, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article 22, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article 22.
- 22.1.11 Disclosure to FERC, its Staff, or a State.** Notwithstanding anything in this Article 22 to the contrary, and pursuant to 18 C.F.R. section 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this Agreement or the NYISO OATT, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. section 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this Agreement prior to the release of the Confidential Information to the Commission or its staff. The Party shall notify the other Parties to the Agreement when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time the Parties may respond before such information would be made

public, pursuant to 18 C.F.R. section 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations. A Party shall not be liable for any losses, consequential or otherwise, resulting from that Party divulging Confidential Information pursuant to a FERC or state regulatory body request under this paragraph.

22.1.12 Except as otherwise expressly provided herein, no Party shall disclose Confidential Information to any person not employed or retained by the Party possessing the Confidential Information, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this Agreement, the NYISO OATT or the NYISO Services Tariff. Prior to any disclosures of a Party's Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

ARTICLE 23. ENVIRONMENTAL RELEASES

23.1 Developer and Arcade Notice.

Developer and Arcade shall each notify the other Party, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Large Generating Facility or the Attachment Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall: (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence; and (ii) promptly furnish to the other Party copies of any publicly available reports filed with any Governmental Authorities addressing such events.

ARTICLE 24. INFORMATION REQUIREMENT

24.1 Information Acquisition.

Arcade and Developer shall each submit specific information regarding the electrical characteristics of their respective facilities to the other, and to NYISO, as described below and in accordance with Applicable Reliability Standards.

24.2 Information Submission by Arcade.

The initial information submission by Arcade shall occur no later than one hundred eighty (180) Calendar Days prior to Trial Operation and shall include the Arcade System and the New York State Transmission System information necessary to allow the Developer to select equipment and meet any system protection and stability requirements, unless otherwise mutually agreed to by the Developer and Arcade. On a monthly basis Arcade shall provide Developer and NYISO a status report on the construction and installation of Arcade's Attachment Facilities and Arcade System Upgrade Facilities, including, but not limited to, the following information: (1) progress to date; (2) a description of the activities since the last report; (3) a description of the action items for the next period; and (4) the delivery status of equipment ordered.

24.3 Updated Information Submission by Developer.

The updated information submission by the Developer, including manufacturer information, shall occur no later than one hundred eighty (180) Calendar Days prior to the Trial Operation. Developer shall submit a completed copy of the Large Generating Facility data requirements contained in Appendix 1 to the Large Facility Interconnection Procedures. It shall also include any additional information provided to Arcade for the Interconnection Feasibility Study and Interconnection Facilities Study. Information in this submission shall be the most current Large Generating Facility design or expected performance data. Information submitted for stability models shall be compatible with NYISO standard models. If there is no compatible model, the Developer will work with a consultant mutually agreed to by the Parties to develop and supply a standard model and associated information.

If the Developer's data is materially different from what was originally provided to Arcade and NYISO pursuant to an Interconnection Study Agreement among Arcade, NYISO and Developer, then NYISO will conduct appropriate studies to determine the impact on the New York State Transmission System based on the actual data submitted pursuant to this Article 24.3. The Developer shall not begin Trial Operation until such studies are completed.

24.4 Information Supplementation.

Prior to the Commercial Operation Date, the Developer and Arcade shall supplement their information submissions described above in this Article 24 with any and all “as-built” Large Generating Facility information or “as-tested” performance information that differs from the initial submissions or, alternatively, written confirmation that no such differences exist. The Developer shall conduct tests on the Large Generating Facility as required by Good Utility Practice such as an open circuit “step voltage” test on the Large Generating Facility to verify proper operation of the Large Generating Facility’s automatic voltage regulator.

Unless otherwise agreed, the test conditions shall include: (1) Large Generating Facility at synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) a five percent change in Large Generating Facility terminal voltage initiated by a change in the voltage regulators reference voltage. Developer shall provide validated test recordings showing the responses of Large Generating Facility terminal and field voltages. In the event that direct recordings of these voltages is impractical, recordings of other voltages or currents that mirror the response of the Large Generating Facility’s terminal or field voltage are acceptable if information necessary to translate these alternate quantities to actual Large Generating Facility terminal or field voltages is provided. Large Generating Facility testing shall be conducted and results provided to Arcade and NYISO for each individual generating unit in a station.

Subsequent to the Commercial Operation Date, the Developer shall provide Arcade and NYISO any information changes due to equipment replacement, repair, or adjustment. Arcade shall provide the Developer and NYISO any information changes due to equipment replacement, repair or adjustment in the directly connected substation or any adjacent Arcade substation that may affect the Developer Attachment Facilities equipment ratings, protection or operating requirements. The Developer and Arcade shall provide such information no later than thirty (30) Calendar Days after the date of the equipment replacement, repair or adjustment.

ARTICLE 25. INFORMATION ACCESS AND AUDIT RIGHTS

25.1 Information Access.

Each Party (“Disclosing Party”) shall make available to another Party (“Requesting Party”) information that is in the possession of the Disclosing Party and is necessary in order for the Requesting Party to: (i) verify the costs incurred by the Disclosing Party for

which the Requesting Party is responsible under this Agreement; and (ii) carry out its obligations and responsibilities under this Agreement. The Parties shall not use such information for purposes other than those set forth in this Article 25.1 of this Agreement and to enforce their rights under this Agreement.

25.2 Reporting of Non-Force Majeure Events.

Each Party (the "Notifying Party") shall notify the other Parties when the Notifying Party becomes aware of its inability to comply with the provisions of this Agreement for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this Article shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this Agreement.

25.3 Audit Rights.

Subject to the requirements of confidentiality under Article 22 of this Agreement, each Party shall have the right, during normal business hours, and upon prior reasonable notice to another Party, to audit at its own expense the other Party's accounts and records pertaining to the other Party's performance or satisfaction of its obligations under this Agreement. Such audit rights shall include audits of the other Party's costs, calculation of invoiced amounts, and each Party's actions in an Emergency State. Any audit authorized by this Article shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to the Party's performance and satisfaction of obligations under this Agreement. Each Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 25.4 of this Agreement.

25.4 Audit Rights Periods.

25.4.1 Audit Rights Period for Construction-Related Accounts and Records.

Accounts and records related to the design, engineering, procurement, and construction of Arcade's Attachment Facilities and Arcade System Upgrade Facilities shall be subject to audit for a period of twenty-four months following Arcade's issuance of a final invoice in accordance with Article 12.2 of this Agreement.

25.4.2 Audit Rights Period for All Other Accounts and Records. Accounts and records related to a Party's performance or satisfaction of its obligations under this Agreement other than those described in Article 25.4.1 of this Agreement shall be subject to audit as follows: (i) for an audit relating to cost obligations, the applicable audit rights period shall be twenty-four months after the auditing Party's receipt of an invoice giving rise to such cost obligations; and (ii) for an audit relating to all other obligations, the applicable audit rights period shall be twenty-four months after the event for which the audit is sought.

25.5 Audit Results.

If an audit by a Party determines that an overpayment or an underpayment has occurred, a notice of such overpayment or underpayment shall be given to the other Party together with those records from the audit which support such determination.

ARTICLE 26. SUBCONTRACTORS

26.1 General.

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Parties for the performance of such subcontractor.

26.2 Responsibility of Principal.

The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Parties for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the NYISO or Arcade be liable for the actions or inactions of the Developer or its subcontractors with respect to obligations of the Developer under Article 5 of this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

26.3 No Limitation by Insurance.

The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor's insurance.

ARTICLE 27. DISPUTES

27.1 Submission.

In the event any Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement or its performance (a "Dispute"), such Party shall provide the other Parties with written notice of the Dispute ("Notice of Dispute"). Such Dispute shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Parties. In the event the designated representatives are unable to resolve the Dispute through unassisted or assisted negotiations within thirty (30) Calendar Days of the other Parties' receipt of the Notice of Dispute, such Dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such Dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this Agreement.

27.2 External Arbitration Procedures.

Any arbitration initiated under this Agreement shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) Calendar Days of the submission of the Dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. In each case, the arbitrator(s) shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Arbitration Rules") and any applicable FERC regulations or RTO rules; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article 27, the terms of this Article 27 shall prevail.

27.3 Arbitration Decisions.

Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, Attachment Facilities, or the Arcade System Upgrade Facilities.

27.4 Costs.

Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel; or (2) one-third the cost of the single arbitrator jointly chosen by the Parties.

27.5 Termination.

Notwithstanding the provisions of this Article 27, any Party may terminate this Agreement in accordance with its provisions or pursuant to an action at law or equity. The issue of whether such a termination is proper shall not be considered a Dispute hereunder.

ARTICLE 28. REPRESENTATIONS, WARRANTIES AND COVENANTS

28.1 General.

Each Party makes the following representations, warranties and covenants:

28.1.1 Good Standing. Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Large Generating Facility, Attachment Facilities and Arcade

System Upgrade Facilities owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

- 28.1.2 Authority.** Such Party has the right, power and authority to enter into this Agreement, to become a Party hereto and to perform its obligations hereunder. This Agreement is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).
- 28.1.3 No Conflict.** The execution, delivery and performance of this Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.
- 28.1.4 Consent and Approval.** Such Party has sought or obtained, or, in accordance with this Agreement will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this Agreement, and it will provide to any Governmental Authority notice of any actions under this Agreement that are required by Applicable Laws and Regulations.

ARTICLE 29. MISCELLANEOUS

29.1 Binding Effect.

This Agreement and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the Parties hereto.

29.2 Conflicts.

If there is a discrepancy or conflict between or among the terms and conditions of this cover agreement and the Appendices hereto, the terms and conditions of this cover agreement shall be given precedence over the Appendices, except as otherwise expressly agreed to in writing by the Parties.

29.3 Rules of Interpretation.

This Agreement, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this Agreement), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article of this Agreement or such Appendix to this Agreement, or such Section to the Large Facility Interconnection Procedures or such Appendix to the Large Facility Interconnection Procedures, as the case may be; (6) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article or other provision hereof or thereof; (7) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".

29.4 Compliance.

Each Party shall perform its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, the NYISO OATT and Good Utility Practice. To the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this Agreement for its compliance therewith. When any Party becomes aware of such a situation, it shall notify the other Parties promptly so that the Parties can discuss the amendment to this Agreement that is appropriate under the circumstances.

29.5 Joint and Several Obligations.

Except as otherwise stated herein, the obligations of NYISO, Developer and Arcade are several, and are neither joint nor joint and several.

29.6 Entire Agreement.

Except as described in Appendix C hereto, this Agreement, including all Appendices and Schedules attached hereto, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

29.7 No Third Party Beneficiaries.

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and permitted their assigns.

29.8 Waiver.

The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party. Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or Default of this Agreement for any reason by the Developer shall not constitute a waiver of the Developer's legal rights to obtain Network Access Interconnection Service from the NYISO and Arcade in accordance with the provisions of the NYISO OATT. Any waiver of this Agreement shall, if requested, be provided in writing.

29.9 Headings.

The descriptive headings of the various Articles of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement.

29.10 Multiple Counterparts.

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

29.11 Amendment.

The Parties may by mutual agreement amend this Agreement, by a written instrument duly executed by all three of the Parties.

29.12 Modification by the Parties.

The Parties may by mutual agreement amend the Appendices to this Agreement, by a written instrument duly executed by all three of the Parties. Such an amendment shall become effective and a part of this Agreement upon satisfaction of all Applicable Laws and Regulations.

29.13 Reservation of Rights.

NYISO shall have the right to make unilateral filings with FERC to modify this Agreement with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation under section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder, and Developer shall have the right to make a unilateral filing with FERC to modify this Agreement pursuant to section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.

29.14 No Partnership.

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, any other Party.

29.15 Other Transmission Rights.

Notwithstanding any other provision of this Agreement, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, or transmission congestion rights that the Developer shall be entitled to, now or in the future under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Arcade System Upgrade Facilities.

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

NYISO

By: _____

A. Henry Chao

Title: Vice President, System & Resource Planning

Date: August 26, 2009

Village of Arcade

By: _____

Title: _____

Date: _____

Noble Bliss Windpark, LLC

By: _____

Title: _____

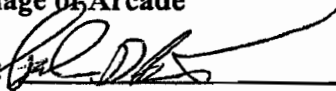
Date: _____

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

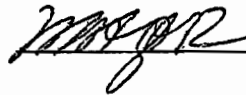
NYISO

Village of Arcade

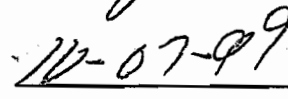
By: _____

By:  _____

Title: _____

Title:  _____

Date: _____

Date:  _____

Noble Bliss Windpark, LLC

By: _____

Title: _____

Date: _____

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate originals, each of which shall constitute and be an original effective Agreement between the Parties.

NYISO

Village of Arcade

By: _____


By: _____

Title: _____

Title: _____

Date: _____

Date: _____


Noble Bliss Windpark, LLC
By: _____
Title: Vice President
Date: September 25, 2009

Issued by: Stephen G. Whitley, President
Issued on: October 29, 2009

Effective: October 7, 2009

APPENDICES

Appendix A

Attachment Facilities and System Upgrade Facilities

Appendix B

Milestones

Appendix C

Interconnection Details

Appendix D

Security Arrangements Details

Appendix E

Commercial Operation Date

Appendix F

Addresses for Delivery of Notices and Billings

Appendix G

Interconnection Requirements for A Wind Generating Plant

Appendix A

Attachment Facilities and System Upgrade Facilities

1. Attachment Facilities:
 - (a) Developer's Attachment Facilities
 - (b) Arcade's Attachment Facilities
2. Arcade System Upgrade Facilities
3. Affected System Upgrade Facilities
4. Commercial Operation
5. Cost Estimates
6. Power System Stabilizers (Section 5.4)
7. Developer's Estimated Tax Liability (Section 5.14.4)
8. Electrical One-Line

INTRODUCTION

The Interconnection Facilities required for the Large Generating Facility will be constructed in two (2) phases (*i.e.*, Phase I and Phase II). Phase I will include the construction of the Developer's Attachment Facilities, Arcade's Attachment Facilities, Phase I of the Arcade System Upgrade Facilities and the Affected System Upgrade Facilities, as described in detail below. Phase II will include the construction of Phase II of the Arcade System Upgrade Facilities, as described in detail below. The Large Generating Facility will be in service following Phase I of the construction of the Interconnection Facilities. As discussed in Appendix C, the Large Generating Facility will be comprised of two separately-queued projects (*i.e.*, a 72 MW capacity project at queue position no. 173 ("Bliss I") and a 28.5 MW capacity project at queue position no. 212 ("Bliss II")). The facilities described below are those required for the entire 100.5 MW Large Generating Facility.

1(a) DEVELOPER'S ATTACHMENT FACILITIES (Phase I)

The Noble attachment facilities consist of the 34.5/115 KV substation located in the Large Generating Facility area and the 115 KV transmission line that connects the Noble substation to Arcade Freedom substation.

Noble 34.5/115 KV substation

The 34.5 KV-substation is an outdoor air insulated low profile design, single bus configuration consisting of three 1200A breaker bays for the collector lines and one 2000A main breaker bay for connecting the 34.5 KV bus to the step-up transformer. The breakers are SF6 type, rated 72 KV, 40 KA. The step-up transformer high voltage side breaker is a 1200A, SF6 type rated 123KV, 40KA. The substation circuit breakers disconnect switches, PT, CT and surge arresters are interconnected together by a combination of strain busses and rigid busses mounted on porcelain insulators, supported on steel structures.

The 34.5 KV substation includes line breakers, current transformers and bus voltage transformers for metering and relaying and a station service transformer that supply 34.5 KV- 120/208V power to the station service. All equipment include fences are grounded to a sub-grade grounding system designed based on IEEE 80 standards. The switchyard area 300 ft by 230 ft is covered with a 6 inch layer of ¾ inch fenced in behind an 8 ft chain link fence with a main gate.

The step-up transformer is outdoor mineral oil filled, forced air cooled rated 34.5/115 KV three phase two windings 75/96/120 MVA OA/FA/FAA Wye grounded on the 115 KV side and delta on the 34.5 KV side with no-load tap changer. The transformer is equipped with surge arresters, current transformers, ANSI standard list of accessories and continuous on-line gas monitor. The transformer foundation design includes an oil containment system.

Station Service: Station service is established primarily from a three phase 100 KVA pad mounted transformer with 34500GY/19200 primary and 208Y/120V secondary. A single phase, 200 ampere, 120/240 volt service from the local utility will be used as a backup source for the substation station service.

Control Buildings: There two control building associated with the substation: one (20x 14) for the 115 KV equipment and one (14x18) for the 34.5 KV equipment. The buildings are prefabricated metal buildings and house the relay panel, control panels, SCADA, DC Battery system, monitoring devices plus all of the support equipment, *i.e.*, AC/DC distribution, HVAC, etc.

Protective Relaying:

Transmission line protection: The primary protection is a high speed differential current relay SEL-311L using fiber optic for communication with the remote end at Freedom substation. The backup protection is overcurrent relay SEL-351. The line protection includes undervoltage and overvoltage protection.

Main Transformer Protection: The primary protective device is an SEL-387A high speed differential device. The backup protection utilizes an SEL-351 with directional over current and neutral over current protection. Also, the transformer is equipped with sudden pressure protection, liquid low level protection, high oil temperature, and high winding temperature protection. Collector feeder line protection consist of overcurrent relay, ground fault protection, stuck breaker protection with an overall back directional overcurrent protection.

Control: A control panel is provided in the control room to provide local control tripping and closing of circuit breakers.

Metering: A revenue check meter is provided in the control room. The actual revenue meters are located at the Freedom substation.

SCADA: Supervisory Control and Data Acquisition system (SCADA) is provided for full monitoring of the substation from the Developer remote dispatch center and also for data exchange via fiber optic cable with the RTU at the Freedom Substation.

Bliss – Freedom/Arcade 115 KV Transmission Line.

The Bliss line is a 115kV transmission line approximately 5.5 miles long connecting the Developer 34.5kV/115kV Bliss Substation off Caldwell Rd. Eagle, NY to Arcade's Freedom Substation off Rte 98, Arcade, NY. The transmission line is located within a 100 ft cleared Right-of-Way (ROW). The circuit is 3 phase circuit with 477 KCMIL aluminum conductor steel reinforced (ACSR) 26/7 stranding "Hawk" conductor wire for each phase.

The wires are arranged in a vertical configuration on one side of the supporting structures. All structures along the ROW are free standing un-guyed structures designed to eliminate guying based on the permit requirement.

The support structures consist of free standing tapered rectangular laminated wood poles. There are 82 single pole structures and one 3-pole in-line guyed dead end structure located outside the Freedom Substation. The heights of the structures vary from 65 ft to 84 ft. Heights were established to provide necessary ground clearances in accordance with National Electrical Safety Code (NESC) requirements. All poles are directly embedded in the ground. To facilitate installation, corrugated steel pipes were used to stabilize the augered holes and the space between the pole and the pipe was backfilled with compacted granular fill.

One optical ground wire (OPGW) with 48 fiber optic wires was installed on the top of the structures for shielding and communications.

1(b) ARCADE'S ATTACHMENT FACILITIES (Phase I)

Arcade will construct a single position tap substation adjacent to the Freedom substation to interconnect the Large Generating Facility to the Arcade 115 kV transmission line.

The site will consist of a fenced in yard of approximately 200' by 200'. The yard will be excavated to sound material, backfilled to design grade and surfaced with crushed stone.

The installation will consist of a 115 kV line deadend structure to terminate the existing Arcade 115 kV line, a single 115 kV SF6 circuit breaker rated 1200A, 40KA with associated disconnects, a 115 kV revenue metering installation, and a 115 kV line deadend structure to terminate the new Noble Bliss transmission line. A prefabricated control house is installed to house the relay and control equipment, batteries and auxiliary equipment. The revenue metering CT/PT and two sets of revenues meters specified and approved by the New York Power Authority ("NYPA") will be installed in the control room. Affected System Operator will supply a Remote Terminal Unit (RTU) to be installed in the control room for data transfer to its control center.

Bliss transmission line protection: The primary protection will be a high speed differential current relay type SEL-311L using fiber optic for communication with the remote end at Bliss substation. The backup protection will be is distance protection with directional overcurrent relay type SEL-311C. The line protection includes stuck breaker protection.

Arcade transmission line protection: The Arcade transmission line protection will match the relay upgrade at Gardenville and Homer Hill. The required protection will include:

1. A new SEL-311C with RFL 9745 for pilot scheme over microwave radio. SEL mirrored bit will be used for communication between the relays.
2. A new NxtPhase LPRO relay for Step Distance and Directional Ground Overcurrent Backup protection.
3. BBU scheme will be implemented in the SEL-311C and LPRO relays.
4. Addition of SEL-311B relays for the DTT scheme.
5. Addition of SEL 2020 and Arbiter Clock for communication and time-sync purposes.
6. New microwave links for relays.

2. ARCADE SYSTEM UPGRADE FACILITIES

Arcade's responsibilities for the construction of the Arcade System Upgrade Facilities are set forth in that certain Engineering, Procurement and Construction Agreement between Affected System Operator, Developer, Arcade and NYISO, dated as of October 17, 2007 ("EPC Agreement"). The Arcade System Upgrade Facilities are being constructed in two (2) phases to facilitate the initial interconnection, and then, the ultimate reconfiguration of the upgrade facilities, as more fully described below.

Arcade Tap (Phase I)

The existing revenue meter at the Arcade tap will be replaced by a new bi-directional revenue metering system. The new metering system is designed by NYPA, will be installed by Arcade and will consist of a primary meter and a secondary meter. All the components of the new metering system shall meet the functional capabilities specified in the NYISO Revenue Metering Requirements Manual. The meters are as follows:

Jemstar model #: JS - 09R6020-C0. This is a Jemstar, Form 9, in a switchboard case, 60 Hz, Standard LCD display, Class 20, Ethernet/RS-232/485. Each meter is supplied with a DNP3.0 software key.

Nexus model #: Nexus 1272 - S-SWB2-20-60-SE-INP100. This is a Nexus 1272, standard memory, Switchboard case, Class 20, 60 Hz, Separate Aux power supply, Ethernet 10/100BaseT.

Arcade Three Breaker Ring Bus (Phase II)

The Arcade tap will be converted to a three breaker ring bus station. The ring bus station shall include, but not be limited to, the following equipment:

115 kV Switchyard

1. 115kV, 2000amp, group-operated line disconnect switches on each of the Affected System Operator transmission line connections and the customer connection (total of three 3-phase switches);
2. Minimum 2000amp rated tubular aluminum bus conductors;
3. Three 115kV, 2000amp, 40kA, 550kV BIL, SF₆ insulated, dead tank circuit breakers, with provision for future 4th breaker and isolation switches in the ring bus;
4. Two 115kV, 2000amp, group-operated isolation switches per circuit breaker (total of six 3-phase switches);
5. One 115kV, 2000amp, group operated disconnect switch to allow future ring bus expansion capability without requiring a ring bus outage;
6. Three single-phase voltage transformers for protection and control on each of the station bus segments (total of 9 single-phase units);
7. Three 115kV combination CT/PT metering transformers for revenue-grade metering;
8. Three 120kV duty rated (98kV MCOV) surge arresters;
9. All required foundations and structures to support the above equipment;
10. All required conduit and/or cable trench for protection and control wiring;
11. A relay and control building of adequate size to contain the Affected System Operator protection and control equipment, station battery banks, telecommunications and metering equipment;
12. Protective relaying per Affected System Operator requirements with both primary and backup protection packages. This includes the local interface equipment for protective relay telecommunications (DTT & POTT) to the remote Affected System Operator line protection relays;

13. Station service potential transformers tapped from each of the incoming transmission lines or local distribution, with automatic transfer capability, to provide two independent sources of station power; and
14. Station lightning protection, grounding, security fence, and lighting.

The ring bus station shall be designed and constructed per applicable Affected System Operator standards and specifications.

Control House

The control house shall be equipped with the following:

1. Control and dual relay switchboards, with space for a future breaker position;
2. Dual batteries and chargers with automatic throw over scheme;
3. Dual cable trays;
4. Station service switchgear;
5. Dual AC & DC power panels;
6. Data communication systems equipment;
7. Fire & security equipment;
8. Heating, ventilating, air-conditioning and lighting equipment; and
9. Controls and Protection

Controls and Protection

1. Protection packages for all affected 115 kV transmission lines.
2. Breaker failure protection (primary and alternate) relays and DTT transmit/receive capability to/from Gardenville & Homer Hill Station's remote breakers as shown below.
3. Breaker failure protection (primary and alternate) relays and DTT transmit capability to/from Collection Station's remote breakers via existing and newly purchased communications.
4. Cabinets to accommodate the above listed items, as necessary.
5. EMS/RTU with telephone circuit to Western Regional Control in Buffalo, NY.

6. Digital Fault Recorder
7. Annunciator for local status/alarm indication.
8. Electronic revenue quality meters.

Teleprotection Microwave Communication System between Homer Hill-Freedom-Gardenville (Phase I)

Affected System Operator shall provide the Developer with general specifications for the design and installation of the microwave radio infrastructure pursuant to the EPC Agreement. Pursuant to the EPC Agreement, Affected System Operator will review and approve Developers proposed contractor and final design. These microwave radio infrastructure facilities and responsibilities shall include, but not be limited to, the following:

Developer Responsibilities

- Design, furnish, install, turn up and test all equipment needed for the radio system described in this specification and shown on Figure 1.
- FAA and FCC tower determinations

General Radio Specifications

- 2 T-1 minimum capacity with ability to expand or upgrade
- Licensed Frequencies
- Aux alarm channel preferred
- Outdoor units can be considered where applicable

Path Engineering

- Developer shall provide a path engineering report that specifies all pertinent data in order to provide a firm proposal for the radio system based on the specifications contained within this spec.
- Path Availability objective is 99.999%

Reliability

- Radio redundancy shall be MHSB

Power

- Developer shall provide -48VDC power at each site with 8 hours of battery run time provided. Chargers & rectifiers shall be N+1 protected. Acceptable make & model is Argus Cordex unless agreed to by Affected System Operator.
- Where 125VDC station battery exists, a 125VDC to -48VDC converter can be used. DC-DC converters shall be N+1 protected. Acceptable mfgs are Wilmore Electronics and LaMarche unless agreed to by Affected System Operator.

Grounding

- Grounding per RS-222G and shall be approved by Affected System Operator at Affected System Operator-owned electric substations.

Radio Tower

- Towers and tower foundations shall be designed per TIA RS-222G and NY State PE Stamped. All designs shall be approved by Affected System Operator.
- Antenna Load shall be calculated for at least 50% growth.
- Existing antenna loads at Park St to be determined with Arcade.
- Cable & feedline pathways such as conduits and ice bridges to be determined by site visits.

Shelters

- Radio equipment and tower locations will be mutually agreed upon by Developer, Affected System Operator and Arcade and the use of additional radio shelters may be necessary.

Spare Parts

- Developer shall provide a list of recommended spare parts to be purchased as part of the project.

Training

- Developer shall arrange a one day training class on radios and Muxes for Affected System Operator and Arcade

Acceptance Testing

- Developer shall provide acceptance test reports per manufacturer's specification for Affected System Operator to sign off before system turn up. All radio systems shall operate within manufacturers specifications and vendors' path engineering.

Permitting

- Developer shall be responsible for obtaining the required permitting for the radio tower installations at the Freedom Station, the Park Street location and the new three breaker ring bus location
- Affected System Operator will be responsible for securing the necessary permits at the Homer Hill and Olean locations.

3. AFFECTED SYSTEM UPGRADE FACILITIES (Phase I)

Affected System Operator shall provide specifications for the station upgrade facilities for the Gardenville and Homer Hill stations pursuant to the EPC Agreement. Pursuant to the EPC Agreement, Affected System Operator will procure the required equipment depicted in the specifications. These upgrades shall include, but not be limited to, the following equipment:

Affected System Operator Gardenville Substation:

Developer will be authorized to construct the Gardenville Station upgrades in accordance with the specifications noted above, under the supervision of an Affected System Operator-provided field construction coordinator. Affected System Operator will review and approve Developer's proposed contractor.

1. The existing 'A' relay package consisting of (121/LN151) Phase Distance relays type GCX17B and (121N/LN151) Ground Distance relays type GCX17X21A will be replaced by a new SEL-311C with RFL IMUX 2000 for digital pilot scheme over microwave radio. SEL mirrored bit will be used for communication between the relays.
2. The existing 'B' relay package consisting of (67N/LN151) Directional Ground Overcurrent relay type JBCG51 will be replaced with a new NxtPhase LPRO relay for Step Distance and Directional Ground Overcurrent Backup.
3. BBU scheme will be implemented in the SEL-311C and LPRO relays.
4. Addition of RFL 9745 Teleprotection relays for implementation of dual channel DTT Receive/Transmit and POTT functions to/from Freedom Station and Homer Hill.
5. Addition of SEL 311B relays for the DTT receive scheme.
6. New microwave radio links for relays.
7. Development, implementation, and testing of settings for the new 'A' and 'B' line protection relay packages.
8. Engineering, design, construction, and testing/commissioning labor for the above.

Affected System Operator Homer Hill Substation:

Pursuant to the EPC Agreement, Affected System Operator will perform the construction of the following upgrades.

1. The existing 'A' Relay package consisting of (21A/LN151) Phase Distance relays type GCX17A3S and (21AN/LN151) Ground Distance relays type GCXG51A will be replaced by a new SEL-311C with RFL IMUX 2000 for digital pilot scheme over microwave radio.
2. The existing 'B' Relay package consisting of (21Z/LN151) Phase Distance relays type CEY51 and (21ZN/LN151) Ground Distance relays type CEYG51A will be replaced with NxtPhase LPRO relay for Step Distance and Directional Ground Overcurrent Backup protection.
3. BBU scheme will be implemented in the SEL-311C and LPRO relays.
4. Addition of RFL IMUX 2000 Teleprotection relays for implementation of dual channel DTT Receive/Transmit and POTT functions to/from Freedom Station and Gardenville.
5. Addition of SEL-311B relays for the DTT scheme.
6. Addition of SEL 2020 and Arbiter Clock for communication and time-sync purposes.
7. New microwave radio links for relays.
8. Development, implementation, and testing of settings for the new 'A' and 'B' line protection relay packages.
9. Engineering, design, construction, and testing/commissioning labor for the above.

4. COMMERCIAL OPERATION

The Large Generating Facility, including Bliss II, will commence Commercial Operation before the final settlement of the 2007 Class Year Facilities Study that includes Bliss II. The Developer shall accept the cost allocation for any System Upgrade Facilities for Bliss II from the 2007 Class Year Facilities Study and shall post any Security as required pursuant to Attachment S of the NYISO OATT. The Developer shall also make any Headroom payments required by the 2007 Class Year Facilities Study pursuant to Attachment S. If the Attachment Facilities or System Upgrade Facilities for Bliss II identified in the 2007 Class Year Facilities Study differ in any material way from the Attachment Facilities and System Upgrade Facilities identified in this Agreement, the Parties shall amend this Agreement, pursuant to its sections 29.11 and 29.12, to reflect the Attachment Facilities and System Upgrade Facilities identified in the 2007 Class Year Facilities Study.

5. COST ESTIMATES

The cost estimate for the Arcade System Upgrade Facilities and the Affected System Upgrade Facilities is \$6,876,834.00.

6. POWER SYSTEM STABILIZERS (SECTION 5.4)

N/A

7. DEVELOPER'S ESTIMATED TAX LIABILITY (SECTION 5.14.4)

\$0.00

8. ELECTRICAL ONE-LINE

The attached one-line diagrams designated as Figure 1 and Figure 2 illustrate major equipment, protective devices and metering details. All devices are labeled with designations satisfactory to Arcade.

Appendix B

Milestones

1. Selected Option pursuant to Article 5.1

The selected option under Article 5.1 is the Negotiated Option.

2. Milestones

Developer's Attachment Facilities	
Noble 34.5/115 KV substation	July 26, 2007
Noble 115KV Transmission Line	Sep 10, 2007
Arcade's Attachment Facilities	
Freedom Switchyard Installation Above Ground Facilities (Phase I)	Feb 27, 2008
Stand Alone System Upgrade Facilities	
Arcade Tap (Phase I) Installation Above Ground and Underground Facilities	Feb 13, 2008
Installation Above Ground Facilities, Arcade Three Breaker Ring Bus (Phase II)	Jan 31, 2010**
Functional Testing/Energize Phase I	
	Feb 20, 2008
In Service Date Bliss	
	Apr 2, 2008
Other System Upgrade Facilities	
Microwave System	Apr 2, 2008
a. Homer Hill	
b. Gardenville	
c. Arcade Tap	
d. Olean	
e. Bixby Hill	
f. Freedom	
Affected System Upgrade Facilities	
Homer Hill Substation Upgrade	Apr 2, 2008 *
Gardenville Substation Upgrade	Apr 2, 2008 *
Initial Synchronization (for testing)	
	Apr 3, 2008
Commercial Operation Bliss	
	Apr 23, 2008

* Subject to outages coordination

** Energization subject to subsequent outage coordination

Appendix C

Interconnection Details

Description of Large Generating Facility, including POI

The Large Generating Facility will be located in the Town of Eagle and will be connected to Arcade's 115 kV transmission line near the Freedom substation. The Bliss I portion of the Large Generating Facility will have a generating capacity of 72 MW provided by 48 GE 1.5 MW turbines. The Bliss II portion of the Large Generating Facility will have a generating capacity of 28.5 MW provided by 19 GE 1.5 MW turbines. The Large Generating Facility will have a total generating capacity of 100.5 MW provided by 67 GE 1.5 MW turbines. Each of the 67 turbines will have the capability to operate anywhere from a lagging power factor of 0.90 to a leading power factor of 0.90 (at each generator terminal). As such, the entire Large Generating Facility will have an operating range from +48.6 MVAR to -48.6 MVAR (sum of unit capabilities).

The Attachment Facilities as described in Section 1 of Appendix A required to interconnect the Large Generating Facility will be constructed pursuant to this Agreement. The Arcade System Upgrade Facilities as described in Section 2 of Appendix required to interconnect the Large Generating Facility will be constructed pursuant to this Agreement. The Affected System Operator System Upgrade Facilities required to interconnect the Large Generating Facility will be constructed pursuant to that certain Engineering, Procurement and Construction Agreement between Affected System Operator, Developer, Arcade and NYISO, dated as of October 17, 2007.

The Point of Interconnection ("POI") will be at the Arcade Freedom Substation off of Rte 98 in Arcade, NY at which point a single position tap structure will interconnect with the existing Arcade 115KV transmission line. The electrical, protection and control equipment are more fully defined in Section 1(b) (Arcade's Attachment Facilities) of Appendix A. The POI will not change when the three breaker ring bus is installed in Phase II. The POI is identified on the one-line diagrams attached to Appendix A as Figure 1 and Figure 2.

Developer Operating Requirements

The Developer must comply with all applicable NYISO tariffs and procedures, as amended from time to time. The Developer must comply with the Arcade operating instructions and requirements as referenced in Article 9.3 of this Interconnection Agreement, which requirements shall include the communications equipment maintained by the Developer in accordance with Article 8.1 of this Interconnection Agreement.

The post-transition period LVRT standard, as set forth in Appendix G, is applicable to the Developer's Large Generating Facility.

Metering

(1) Metering Configuration

The energy from the Large Generating Facility shall be transmitted and metered as depicted in Figure 3 attached to this Appendix C. The Developer's energy is transmitted from the Large Generating Facility to the Bliss Substation, via a new 115kV transmission line, to the Point of Interconnection at the existing Arcade Freedom Substation, where it is metered. This metering point, shown as meter M_E in Figure 3, is the Developer's point of delivery for Real Time and Integrated Hourly revenue, which is described in more detail below. From the Arcade Freedom Substation the energy is transmitted over the existing 115kV line connecting Arcade to the Affected System Operator 115kV bulk power transmission line at the Arcade Tap Station. Along this Arcade connecting line are several unmetered Arcade load centers known as Freedom, Bixby Hill, Industrial and County Line. There is another meter at the Arcade Tap Station shown as meter M_A . Each of meters M_E and M_A are bidirectional meters owned and maintained by New York Power Authority (NYPA), which is the Meter Authority.

(2) Metering Telemetry

The energy from the Large Generating Facility shall be metered at the Point of Interconnection by means of metering equipment installed and maintained by NYPA at meter M_E as shown in Figure 3. The Large Generating Facility's real-time MW data from meter M_E shall be transmitted to the NYISO via the Affected System Operator microwave telemetry, which shall transmit the data to the Affected System Operator Energy Control Center (ECC), which in-turn shall submit the data to NYISO. The Developer's integrated hourly revenue data shall be downloaded daily by NYPA and submitted to NYISO for billing and settlement purposes.

(3) Metering Logic

Developer Energy: The meter M_E shall have an internal bias programmed into it to compensate for the line losses attributable to the Developer's incremental energy flow upon the Arcade connection line. The bias factor utilized for the line loss compensation shall be established and implemented pursuant to the Transmission Line Losses Agreement by and between Developer and Arcade, dated as of the 14th day of March, 2008. By means of this meter bias both the real time data and the daily integrated hourly energy readings from the Large Generating Facility, metered at the Point of Interconnection by meter M_E , shall be adjusted for

the incremental Arcade line losses created due to the added load upon that line by the generating facility. Thus, these losses will be reflected in the Developer's real time and integrated hourly revenue data, and these losses will also be deducted from the Arcade consumption data. Station power to the Large Generating Facility, measured by meter M_E , will be subtracted from the delivered power at meter M_A for purposes of billing to Arcade. Station power to the Large Generating Facility, measured at meter M_E , will be compensated for line losses to meter point M_A for purposes of billing the Large Generating Facility for its station power. Station power to the Large Generating Facility will be provided by a third party Load Serving Entity registered with the NYISO for that purpose prior to the Commercial Operation of the Large Generating Facility.

Operations and Maintenance

All operations and maintenance costs shall be addressed pursuant to other mutually-agreeable arrangements between Developer and Arcade.

Other Interconnection Details

An affiliate of Developer, Noble Environmental Power LLC ("Noble") and Arcade have entered into that certain Support Services and Reimbursement Agreement, executed in 2005, as amended as of May 25, 2005, and March 12, 2007 (the "SSRA"), concerning Arcade's services, and the reimbursement for its services, to support the design, engineering, permitting and construction of the Arcade Attachment Facilities and Arcade System Upgrade Facilities that will be required for a number of Noble wind farm projects, including Developer's Large Generating Facility, that plan to interconnect to the Arcade System. Arcade's services support the schedule of milestones set forth in Appendix B hereto. Pursuant to the SSRA, including the first and second amendments thereto, Arcade is also providing support services concerning the design, engineering, permitting and construction of the Affected System Upgrade Facilities identified in Section 3 (Affected System Upgrade Facilities) of Appendix A hereto. It is the belief and intention of the Parties that nothing in this Agreement conflicts with the SSRA. Nevertheless, if a Party becomes aware of a conflict, it shall notify the other Parties promptly so that the Parties can discuss the amendment to this Agreement that would be appropriate under the circumstances.

Appendix D

Security Arrangements Details

Infrastructure security of New York State Transmission System equipment and operations and control hardware and software is essential to ensure day-to-day New York State Transmission System reliability and operational security. The Commission will expect the NYISO, all Transmission Owners, all Developers and all other Market Participants to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities will be expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

Appendix E

Commercial Operation Date

[Date]

New York Independent System Operator, Inc.
Attn: Vice President, Operations
3890 Carman Road
Schenectady, NY 12303

Larry Kilburn, Supt. Public Works
Village of Arcade
17 Church Street
Arcade, NY 14009

Re: _____ Large Generating Facility

Dear _____:

On **[Date]** **[Developer]** has completed Trial Operation of Unit No. _____. This letter confirms that **[Developer]** commenced Commercial Operation of Unit No. _____ at the Large Generating Facility, effective as of **[Date plus one day]**.

Thank you.

[Signature]

[Developer Representative]

Appendix F

Addresses for Delivery of Notices and Billings

Notices:

NYISO:

(i) Before commercial operation of the Large Generating Facility:

New York Independent System Operator, Inc.
Attention: Director of System and Resource Planning
10 Krey Boulevard
Rensselaer, NY 12144
Phone: (518) 356-6000
Fax: (518) 356-6118

(ii) After commercial operation of the Large Generating Facility

New York Independent System Operator, Inc.
Attn: Vice President, Operations
3890 Carman Road
Schenectady, NY 12303
Phone: (518) 356-6000
Fax: (518) 356-6118

Arcade:

Larry Kilburn, Supt. Public Works
Village of Arcade
17 Church Street
Arcade, NY 14009

Developer:

Asset Manager
Noble Environmental Power, LLC
8 Railroad Avenue
Second Floor, Suite 8
Essex, CT 06426

Billings and Payments:

Transmission Owner:

Larry Kilburn, Supt. Public Works
Village of Arcade
17 Church Street
Arcade, NY 14009

Developer:

Accounts Payable
Noble Environmental Power, LLC
8 Railroad Avenue
Second Floor, Suite 8
Essex, CT 06426

Alternative Forms of Delivery of Notices (telephone, facsimile or email):

(i) Before commercial operation of the Large Generating Facility:

New York Independent System Operator, Inc.
Attention: Director of System and Resource Planning
10 Krey Boulevard
Rensselaer, NY 12144
Phone: (518) 356-6000
Fax: (518) 356-6118

(ii) After commercial operation of the Large Generating Facility

New York Independent System Operator, Inc.
Attn: Vice President, Operations
3890 Carman Road
Schenectady, NY 12303
Phone: (518) 356-6000
Fax: (518) 356-6118

Transmission Owner:

Larry Kilburn, Supt. Public Works
Village of Arcade
17 Church Street
Arcade, NY 14009

Telephone: 585-492-1111 x 113
Fax: 585-496-7444
Email: larrykilburn@villageofarcade.org

Developer:

Telephone: 860-581-5070
Fax: 860-767-7041
Email: nugentd@noblepower.com

APPENDIX G

INTERCONNECTION REQUIREMENTS FOR A WIND GENERATING PLANT

Appendix G sets forth requirements and provisions specific to a wind generating plant. All other requirements of this LGIA continue to apply to wind generating plant interconnections.

A. Technical Standards Applicable to a Wind Generating Plant

i. Low Voltage Ride-Through (LVRT) Capability

A wind generating plant shall be able to remain online during voltage disturbances up to the time periods and associated voltage levels set forth in the standard below. The LVRT standard provides for a transition period standard and a post-transition period standard.

Transition Period LVRT Standard

The transition period standard applies to wind generating plants subject to FERC Order 661 that have either: (i) interconnection agreements signed and filed with the Commission, filed with the Commission in unexecuted form, finally executed as conforming agreements, or filed with the Commission as non-conforming agreements between January 1, 2006 and December 31, 2006, with a scheduled in-service date no later than December 31, 2007, or (ii) wind generating turbines subject to a wind turbine procurement contract executed prior to December 31, 2005, for delivery through 2007.

1. Wind generating plants are required to remain in-service during three-phase faults with normal clearing (which is a time period of approximately 4 – 9 cycles) and single line to

ground faults with delayed clearing, and subsequent post-fault voltage recovery to prefault voltage unless clearing the fault effectively disconnects the generator from the system.

The clearing time requirement for a three-phase fault will be specific to the wind generating plant substation location, as determined by and documented by Arcade. The maximum clearing time the wind generating plant shall be required to withstand for a three-phase fault shall be 9 cycles at a voltage as low as 0.15 p.u., as measured at the high side of the wind generating plant step-up transformer (i.e. the transformer that steps the voltage up to the transmission interconnection voltage or “GSU”), after which, if the fault remains following the location-specific normal clearing time for three-phase faults, the wind generating plant may disconnect from the transmission system.

2. This requirement does not apply to faults that would occur between the wind generator terminals and the high side of the GSU or to faults that would result in a voltage lower than 0.15 per unit on the high side of the GSU serving the facility.
3. Wind generating plants may be tripped after the fault period if this action is intended as part of a special protection system.
4. Wind generating plants may meet the LVRT requirements of this standard by the performance of the generators or by installing additional equipment (e.g., Static VAR Compensator, etc.) within the wind generating plant or by a combination of generator performance and additional equipment.

5. Existing individual generator units that are, or have been, interconnected to the network at the same location at the effective date of the Appendix G LVRT Standard are exempt from meeting the Appendix G LVRT Standard for the remaining life of the existing generation equipment. Existing individual generator units that are replaced are required to meet the Appendix G LVRT Standard.

Post-transition Period LVRT Standard

All wind generating plants subject to FERC Order No. 661 and not covered by the transition period described above must meet the following requirements:

1. Wind generating plants are required to remain in-service during three-phase faults with normal clearing (which is a time period of approximately 4 – 9 cycles) and single line to ground faults with delayed clearing, and subsequent post-fault voltage recovery to prefault voltage unless clearing the fault effectively disconnects the generator from the system. The clearing time requirement for a three-phase fault will be specific to the wind generating plant substation location, as determined by and documented by Arcade. The maximum clearing time the wind generating plant shall be required to withstand for a three-phase fault shall be 9 cycles after which, if the fault remains following the location-specific normal clearing time for three-phase faults, the wind generating plant may disconnect from the transmission system. A wind generating plant shall remain interconnected during such a fault on the transmission system for a voltage level as low as zero volts, as measured at the high voltage side of the wind GSU.

2. This requirement does not apply to faults that would occur between the wind generator terminals and the high side of the GSU.
3. Wind generating plants may be tripped after the fault period if this action is intended as part of a special protection system.
4. Wind generating plants may meet the LVRT requirements of this standard by the performance of the generators or by installing additional equipment (e.g., Static VAR Compensator) within the wind generating plant or by a combination of generator performance and additional equipment.
5. Existing individual generator units that are, or have been, interconnected to the network at the same location at the effective date of the Appendix G LVRT Standard are exempt from meeting the Appendix G LVRT Standard for the remaining life of the existing generation equipment. Existing individual generator units that are replaced are required to meet the Appendix G LVRT Standard.

ii. Power Factor Design Criteria (Reactive Power)

A wind generating plant shall maintain a power factor within the range of 0.95 leading to 0.95 lagging, measured at the Point of Interconnection as defined in this LGIA, if the ISO's System Reliability Impact Study shows that such a requirement is necessary to ensure safety or reliability.

The power factor range standard can be met using, for example without limitation, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors if agreed to by Arcade, or a combination of the two. The Developer shall not disable power factor equipment while the wind plant is in operation. Wind plants shall also be able to provide sufficient dynamic voltage support in lieu of the power system stabilizer and automatic voltage regulation at the generator excitation system if the System Reliability Impact Study shows this to be required for system safety or reliability.

iii. Supervisory Control and Data Acquisition (SCADA) Capability

The wind plant shall provide SCADA capability to transmit data and receive instructions from the ISO and/or the Affected System Operator, as applicable, to protect system reliability. The Affected System Operator and the wind plant Developer shall determine what SCADA information is essential for the proposed wind plant, taking into account the size of the plant and its characteristics, location, and importance in maintaining generation resource adequacy and transmission system reliability in its area.

ATTACHMENT II

AMENDED AND RESTATED

INTERCONNECTION AGREEMENT

by and among

NOBLE BLISS WINDPARK, LLC,

NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.,

and

VILLAGE OF ARCADE

dated as of ~~March 19, 2008~~ October 7, 2009

Issued by: ~~Elaine D. Robinson, Dir. Reg. Affairs~~ **Stephen G. Whitley, President** Effective: ~~March 19, 2008~~ **October 7, 2009**
Issued on: ~~April 14, 2008~~ **October 29, 2009**

AMENDED AND RESTATED INTERCONNECTION AGREEMENT

THIS AMENDED AND RESTATED INTERCONNECTION AGREEMENT (“Agreement”) is made and entered into this ~~19th~~ day of ~~March 2008~~, October, 2009, by and among Noble Bliss Windpark, LLC, a limited liability company organized and existing under the laws of the State/Commonwealth of Delaware (“Developer” with a Large Generating Facility), the New York Independent System Operator, Inc., a not-for-profit corporation organized and existing under the laws of the State of New York (“NYISO”), and the Village of Arcade, a municipality of the State of New York (“Arcade”). Developer, the NYISO, or Arcade each may be referred to as a “Party” or collectively referred to as the “Parties.”

RECITALS

WHEREAS, NYISO operates the transmission system and Arcade owns certain facilities (the “Arcade System”) interconnected with the transmission system; and

WHEREAS, Developer intends to own, lease and/or control and operate the Generating Facility identified as a Large Generating Facility in Appendix C to this Agreement; and,

WHEREAS, Developer, NYISO, and Arcade have agreed to enter into this Agreement for the purpose of interconnecting the Large Generating Facility with the Arcade System and, providing interconnection service to enable Developer to deliver electricity produced by the Large Generating Facility to the New York State Transmission System;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed:

ARTICLE 1. DEFINITIONS

Whenever used in this Agreement with initial capitalization, the following terms shall have the meanings specified in this Article 1. Terms used in this Agreement with initial capitalization that are not defined in this Article 1 shall have the meanings specified in Section 1.0 or Attachment S of the NYISO OATT.

Affected System shall mean an electric system other than the Arcade System that may be affected by the proposed interconnection.

Appendix B

Milestones

1. Selected Option pursuant to Article 5.1

The selected option under Article 5.1 is the Negotiated Option.

2. Milestones

Developer's Attachment Facilities	
Noble 34.5/115 KV substation	July 26, 2007
Noble 115KV Transmission Line	Sep 10, 2007
Arcade's Attachment Facilities	
Freedom Switchyard Installation Above Ground Facilities (Phase I)	Feb 27, 2008
Stand Alone System Upgrade Facilities	
Arcade Tap (Phase I) Installation Above Ground and Underground Facilities	Feb 13, 2008
Installation Above Ground Facilities, Arcade Three Breaker Ring Bus (Phase II)	Feb 4, 2009 ⁶¹³ <u>Jan 31,</u> <u>2010**</u>
Functional Testing/Energize Phase I	
	Feb 20, 2008
In Service Date Bliss	
	Apr 2, 2008
Other System Upgrade Facilities	
Microwave System	Apr 2, 2008
a. Homer Hill	
b. Gardenville	
c. Arcade Tap	
d. Olean	
e. Bixby Hill	
f. Freedom	
Affected System Upgrade Facilities	
Homer Hill Substation Upgrade	Apr 2, 2008 *
Gardenville Substation Upgrade	Apr 2, 2008 *
Initial Synchronization (for testing)	
	Apr 3, 2008
Commercial Operation Bliss	
	Apr 23, 2008

* Subject to outages coordination

**** Energization subject to subsequent outage coordination**

Issued by:
2009

Elaine D. Robinson, Dir. Reg. Affairs Stephen G. Whitley, President Effective: ~~March 19, 2008~~ **October 7,**

Issued on:

April 14, 2008 **October 29, 2009**