

increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Party shall be responsible for its respective deductibles or retentions.

6.16.7 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 years after termination of the Standard Small Generator Interconnection Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Parties.

6.16.8 The requirements contained herein as to the types and limits of all insurance to be maintained by the Parties are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Parties under the Standard Small Generator Interconnection Agreement.

6.16.9 Within ten days following execution of the Standard Small Generator Interconnection 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 days thereafter, each Party shall provide certification of all insurance required in the Standard Small Generator Interconnection Agreement, executed by each insurer or by an authorized representative of each insurer.

6.16.10 Notwithstanding the foregoing, each Party may self-insure to the extent it maintains a self-insurance program; provided that, such Party's senior secured debt is rated at investment grade, or better, by Standard & Poor's. For any period of time that a Party's senior secured debt is unrated by Standard & Poor's or is rated at less than investment grade by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under Articles 6.16.1 through 6.16.9. In the event that a Party is permitted to self-insure pursuant to this Article 6.16.10, it shall not be required to comply with the insurance requirements applicable to it under Articles 6.16.1 through 6.16.9.

6.16.11 The Parties 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 the Standard Small Generator Interconnection Agreement.

6.17 Default.

6.17.1 *General.* No Default 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 Party. Upon a Default, the non-defaulting Party shall give written notice of such Default to the defaulting Party. Except as provided in Article 6.17.2, the defaulting Party shall have thirty Calendar Days from receipt of the Default notice within which to cure such Default; provided however, if such Default is not capable of cure within thirty Calendar Days, the defaulting Party shall commence such cure within thirty Calendar Days after notice and continuously and diligently complete such cure within ninety Calendar Days from receipt of the Default notice; and, if cured within such time, the

Default specified in such notice shall cease to exist.

6.17.2 *Right To Terminate.* If a Default is not cured as provided in this article, or if a Default is not capable of being cured within the period provided for herein, the non-defaulting Party shall have the right to terminate this agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this agreement.

6.18 Subcontractors.

6.18.1 *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 Party for the performance of such subcontractor.

6.18.2 *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 Party 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 Transmission Provider be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer 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.

6.18.3 *No Limitation by Insurance.* The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

6.19 *Consequential Damages.* Other than as expressly provided for in this agreement, neither Party shall 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 the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

6.20 *Reservation of Rights.* Transmission Provider shall have the right to make a unilateral filing with FERC to modify this LGIA 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 Interconnection Customer shall have the right to make a unilateral filing with FERC to modify this LGIA 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 the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this LGIA 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.

Article 7. Confidentiality

7.1 *Confidentiality.* Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by either of the Parties to the other prior to the execution of this Agreement.

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Party receiving the information that the information is confidential.

If requested by either Party, the other Party 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.

7.2 *Term.* During the term of this agreement, and for a period of three years after the expiration or termination of this agreement, except as otherwise provided in this article, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

7.3 *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 7.8 (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