



---

[•]

-and-

**INDEPENDENT SYSTEM OPERATOR, operating  
as AESO**

---

[•], 2011

**LOAD SHED SERVICES FOR IMPORTS  
AGREEMENT**

<b>TABLE OF CONTENTS (Continued)</b>		<b>Page</b>
<b>ARTICLE 1 INTERPRETATION</b> .....		1
<b>1.1 Definitions</b> .....		1
<b>1.2 Schedules</b> .....		8
<b>1.3 References and Headings</b> .....		8
<b>1.4 Singular/Plural; Derivatives</b> .....		8
<b>1.5 Statutory References</b> .....		9
<b>1.6 Computation of Time Periods</b> .....		9
<b>1.7 Conflicts</b> .....		9
<b>1.8 Currency</b> .....		9
<b>1.9 No Drafting Presumption</b> .....		9
<b>ARTICLE 2 TERM</b> .....		9
<b>2.1 Term</b> .....		9
<b>2.2 Termination Event</b> .....		10
<b>2.3 Survival</b> .....		10
<b>2.4 Post-Termination</b> .....		10
<b>ARTICLE 3 SUPPLY AND PURCHASE OF SERVICES</b> .....		10
<b>3.1 Supply and Purchase of LSSi</b> .....		10
<b>ARTICLE 4 PURCHASE PRICE, PAYMENT ADJUSTMENTS AND PAYMENT</b> .....		10
<b>4.1 Purchase Price</b> .....		10
<b>4.2 GST</b> .....		10
<b>4.3 Billing</b> .....		11
<b>4.4 Payment by the AESO</b> .....		11
<b>4.5 Set-Off</b> .....		11
<b>4.6 Late Payment</b> .....		12
<b>ARTICLE 5 REPRESENTATIONS AND WARRANTIES</b> .....		13
<b>5.1 Representations of Service Provider</b> .....		13
<b>5.2 AESO Representations and Warranties</b> .....		15
<b>5.3 Survival of Warranties</b> .....		15
<b>ARTICLE 6 SERVICE PROVIDER COVENANTS</b> .....		16
<b>6.1 Terms of Supply and Availability</b> .....		16
<b>6.2 Communication</b> .....		16
<b>ARTICLE 8 DEFAULT AND REMEDIES</b> .....		17
<b>8.1 Failure to Supply</b> .....		17
<b>8.2 Event of Default by the AESO</b> .....		17
<b>8.3 Events of Default by the Service Provider</b> .....		18
<b>8.4 Remedies Upon Event of Default</b> .....		18

<b>TABLE OF CONTENTS (Continued)</b>		<b>Page</b>
<b>ARTICLE 9 LIABILITY AND INDEMNIFICATION</b> .....		19
<b>9.1 Responsibility of the Service Provider</b> .....		19
<b>9.2 Responsibility of the AESO</b> .....		19
<b>9.3 Limit on Each Party's Responsibility</b> .....		19
<b>9.4 Responsibility Extends To Legal Costs and Settlements</b> .....		20
<b>9.5 Procedure - Indemnities</b> .....		20
<b>ARTICLE 10 FORCE MAJEURE</b> .....		21
<b>ARTICLE 11 DISPUTE RESOLUTION</b> .....		22
<b>11.1 Dispute Resolution Procedure</b> .....		22
<b>11.2 Purpose and Sequence of Dispute Resolution</b> .....		22
<b>11.3 Confidentiality</b> .....		22
<b>11.4 Officer's Procedure</b> .....		22
<b>11.5 Arbitration Procedure</b> .....		23
<b>11.6 Urgent Disputes</b> .....		24
<b>ARTICLE 12 PRUDENTIAL SECURITY</b> .....		24
<b>12.1 Furnishing Financial Information</b> .....		24
<b>12.2 Furnishing Prudential Security</b> .....		24
<b>ARTICLE 13 AUDIT AND REPORTING</b> .....		25
<b>13.1 Audit and Records Retention</b> .....		25
<b>ARTICLE 14 CONFIDENTIALITY</b> .....		26
<b>14.1 Proprietary Information</b> .....		26
<b>14.2 Need to Know</b> .....		26
<b>14.3 Exclusive Property</b> .....		26
<b>14.4 Exclusions</b> .....		26
<b>14.5 Notice of Demands</b> .....		27
<b>14.6 Survival</b> .....		27
<b>ARTICLE 15 MISCELLANEOUS</b> .....		27
<b>15.1 Waiver</b> .....		27
<b>15.2 Change of Legislation</b> .....		28
<b>15.3 Amendments</b> .....		28
<b>15.5 Attornment</b> .....		28
<b>15.6 Notice</b> .....		29
<b>15.7 Operational Notices</b> .....		30
<b>15.8 Parties To Discuss Press Releases</b> .....		30
<b>15.9 Time of the Essence</b> .....		31
<b>15.10 Severability</b> .....		31

<b>TABLE OF CONTENTS (Continued)</b>		<b>Page</b>
<b>15.11</b>	<b>Further Assurances</b> .....	31
<b>15.12</b>	<b>Assignment</b> .....	31
<b>15.13</b>	<b>Supersedes Earlier Agreements</b> .....	31
<b>15.14</b>	<b>Enurement</b> .....	31
<b>15.15</b>	<b>Counterpart Execution</b> .....	31

## LOAD SHED SERVICES FOR IMPORT AGREEMENT

This Agreement is made as of the [•] day of [•], 2011

BETWEEN

[•], a [•], [formed/incorporated] under the laws of the Province of [•]  
(the "Service Provider")

- and -

**INDEPENDENT SYSTEM OPERATOR**, operating as **AESO**, a statutory corporation, under the laws of the Province of Alberta (the "AESO")

RECITALS

- A. The AESO is required, *inter alia*, pursuant to Section 17 of the EUA to manage and recover the costs for the provision of Ancillary Services.
- B. The AESO is required, *inter alia*, pursuant to Section 16 of the *Transmission Regulation*, AR 86/2007, to restore the Alberta-BC intertie to, or near to, its path rating.
- C. The Service Provider has load connected to the System which can be made available to assist in restoring the path rating of the Alberta-BC intertie, and the Service Provider desires to make available all or a portion of such load to the AESO on the basis required by, and in compliance with the requirements of, this Agreement.

AGREEMENT

For good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

### ARTICLE 1 INTERPRETATION

#### 1.1 Definitions

In this Agreement, including the recitals and the Schedules, unless the context otherwise requires, the following terms will have the meanings set out below:

- (a) "**Actual Volume**" has the meaning assigned to it in Schedule "B".
- (b) "**Additional Indemnities**" means, with respect to any Person to which an indemnity is granted pursuant to Article 9, its Affiliates and the respective directors, officers, servants, agents, advisors and employees of that Person and its Affiliates.
- (c) "**AESO Event of Default**" has the meaning assigned to it in Section 8.2.

- (d) **"AESO's Website"** means the website of the AESO located at [www.aeso.ca](http://www.aeso.ca) or any replacement website.
- (e) **"Affiliate"** means "affiliate" as defined in the ISO Glossary.
- (f) **"Agreement"** means this document, together with the Schedules attached hereto and made a part hereof, all as amended, supplemented or modified from time to time in accordance with the provisions hereof.
- (g) **"Agreement Default"** means any material misrepresentation or breach of warranty made by a Party, or the failure by a Party to perform or observe in any material respect any of the covenants or agreements to be performed by such Party under this Agreement, except for the covenants contained in Sections 8.1(a)(i), 8.1(a)(iii), 8.1(a)(iv) or 8.1(a)(v) of this Agreement, or any other agreement delivered in connection herewith.
- (h) **"Ancillary Services"** means "ancillary services" as such term is defined in the EUA.
- (i) **"Applicable Law"** means in relation to any Person: (i) any applicable principles of common law and equity and any applicable federal, state, provincial, municipal and local law including any statute, subordinate legislation or treaty; and (ii) any applicable guideline, protocol, directive, direction, rule, standard, requirement, program, policy, order, judgment, injunction, award or decree of an Authorized Authority having the force of law.
- (j) **"Arbitration Act"** means the *Arbitration Act* (Alberta), R.S.A. 2000, c. A-43.
- (k) **"Arbitration Notice"** has the meaning assigned to it in Section 11.4.
- (l) **"Arbitration Procedure"** has the meaning assigned to it in Section 11.2(b).
- (m) **"Arming"** means "Arming" as defined in the LSSi Requirements.
- (n) **"Armed Volume"** has the meaning assigned to it in Schedule "B".
- (o) **"Arming Payment"** has the meaning assigned to it in Schedule "B".
- (p) **"Arming Price"** has the meaning assigned to it in Schedule "B".
- (q) **"Arming Volume"** has the meaning assigned to it in Schedule "B".
- (r) **"AUC"** means the Alberta Utilities Commission, and any successor thereof.
- (s) **"Authorized Authority"** means, in relation to any Person, transaction or event, any (a) federal, provincial, municipal or local governmental body (whether administrative, legislative, executive or otherwise), both domestic and foreign (b) agency, authority, commission, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, (c) court, arbitrator, commission or body exercising judicial, quasi-judicial, administrative or similar functions, and (d) other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities, exchange, in each case having jurisdiction over such Person, transaction or event.

- (t) **"Availability"** means, in any given period, all hours in such period in which the LSSi Facility is able to provide all or a portion of the LSSi pursuant hereto.
- (u) **"Availability Payment"** has the meaning assigned to it in Schedule "B".
- (v) **"Availability Price"** has the meaning assigned to it in Schedule "B".
- (w) **"Availability Volume"** has the meaning assigned to it in Schedule "B".
- (x) **"Business Day"** means a day on which banks are generally open for the transaction of commercial business in Calgary, Alberta but does not in any event include a Saturday or a Sunday or statutory holiday under Applicable Law.
- (y) **"Business Hours"** means the normal business hours of the AESO at its head office in Calgary, Alberta.
- (z) **"Contracted Load"** means the □ MW which is the amount that the Service Provider has contracted to provide under this Agreement.
- (aa) **"Credit Rating"** means, in respect of any Person at any time:
  - (i) the rating assigned to the Person's unsecured, senior long-term debt obligations; or
  - (ii) if the Person does not have an unsecured, senior long-term debt rating, the rating then assigned to it as an issuer rating by Standard & Poor's or an equivalent rating by a major reputable corporate rating service satisfactory to the AESO.
- (bb) **"Disclosing Party"** has the meaning assigned to it in Section 14.1.
- (cc) **"Directive"** means "ancillary services directive", as defined in the ISO Glossary
- (dd) **"Disarming"** means "Disarming" as defined in the LSSi Requirements.
- (ee) **"Dispatch"** means "ancillary services dispatch", as defined in the ISO Glossary.
- (ff) **"Dispatched Volume"** means the amount of real power (in MW) Dispatched by the System Controller to be armed for LSSi.
- (gg) **"Dispute Resolution Procedure"** has the meaning assigned to it in Section 11.1.
- (hh) **"Effective Date"** means □.
- (ii) **"Emergency"** means "Emergency", as defined in the ISO Glossary.
- (jj) **"EUA"** means the *Electric Utilities Act* (Alberta), S.A. 2003, c. E-5.1.
- (kk) **"Force Majeure"** means any occurrence (and the effects thereof) which is beyond the reasonable control of the Party claiming relief of its obligations under this Agreement and which could not have been avoided through the use of Good Electric Industry Practice and which prevents such Party from satisfying its obligations under this Agreement

including, but not limited to: act of God, war, invasion, armed conflict, blockade, act of public enemy, riot, revolution, insurrection, act of terrorism, sabotage, act of vandalism, fire, lightning, explosion, earthquake, flood, or a requirement to comply with any Applicable Law or any order, direction or ruling of any Authorized Authority (so long as the Party claiming relief has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such action or restraint by such authority) but shall not include a lack of finances, any occurrence which can be overcome by incurring reasonable additional expenses or a Forced Outage.

- (ll) **"Forced Outage"** means "forced outage", as defined in the ISO Glossary.
- (mm) **"Good Electric Industry Practice"** means "good electric industry practice", as such term is defined in the ISO Glossary.
- (nn) **"GST"** has the meaning provided in Section 4.2.
- (oo) **"Guarantee"** means a written, irrevocable guarantee of a Person (the **"Guarantor"**) that guarantees the performance of the obligations and covenants of the Service Provider in this Agreement, such guarantee in form and substance satisfactory to the AESO.
- (pp) **"Guarantor"** has the meaning provided in the definition of **"Guarantee"**.
- (qq) **"Hourly Arming Duration"** has the meaning assigned to it in Schedule "B".
- (rr) **"Hourly Arming Payments"** has the meaning assigned to it in Schedule "B".
- (ss) **"Hourly Availability Payments"** has the meaning assigned to it in Schedule "B".
- (tt) **"Hourly Dispatch Period"** has the meaning assigned to it in Schedule "B".
- (uu) **"Hourly Dispatch Period Arming Payment"** has the meaning assigned to it in Schedule "B".
- (vv) **"Hourly Trip Payments"** has the meaning assigned to it in Schedule "B".
- (ww) **"Hz"** means hertz.
- (xx) **"including"** and **"includes"** means "including, without limitation" and "includes, without limitation", respectively.
- (yy) **"Indemnified Losses"** means, in relation to any Person, any and all liabilities, indebtedness, obligations, losses, damages, claims, assessments, fines, penalties, costs, fees and expenses of every kind, nature or description suffered or incurred by such Person, whether fixed or contingent, known or unknown, suspected or unsuspected, or foreseen or unforeseen, and whether based on contract, tort, statute or other legal or equitable theory of recovery, including interest which may be imposed in connection therewith, court costs, costs resulting from any judgments, orders, awards, decrees or equitable relief, and Professional Fees.
- (zz) **"Indemnifier"** means, in relation to the indemnity pursuant to Section 9.1, the Service Provider, and in relation to the indemnity pursuant to Section 9.2, the AESO.

- (aaa) **"Indemnatee"** means any Person indemnified pursuant to Section 9.1 or 9.2, as applicable.
- (bbb) **"Insolvency Event"** means, in relation to any Person, the occurrence of one or more of the following:
- (i) an order is made or an effective resolution passed for the winding-up, liquidation or dissolution of such Person;
  - (ii) such Person institutes proceedings for its winding up, liquidation or dissolution, or take action to become a voluntary bankrupt, or consents to the filing of a bankruptcy proceeding against it, or files a proposal, a notice of intention to make a proposal, a petition or answer or consent seeking reorganization, readjustment, arrangement, composition or similar relief under any bankruptcy law or any other similar Applicable Law or consents to the filing of any such petition, or consents to the appointment of a receiver, liquidator, trustee or assignee in bankruptcy or insolvency of all or a substantial part of the property of such Person or makes an assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they come due or commits any other act of bankruptcy, or suspends or threatens to suspend transaction of its usual business, or any action is taken by such Person in furtherance of any of the aforesaid;
  - (iii) a court having jurisdiction enters a decree or order adjudging such Person a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, readjustment, arrangement, composition or similar relief under any bankruptcy law or any other similar Applicable Law, or a decree or order of a court having jurisdiction for the appointment of a receiver, liquidator, trustee or assignee in bankruptcy or insolvency of all or a substantial part of the undertaking or property of such Person, or for the winding up, dissolution or liquidation of its affairs, is entered and such decree, order or petition is not contested and the effect thereof stayed, or any material part of the property of such Person is sequestered or attached and is not returned to the possession of such Person or released from such attachment within twenty (20) days thereafter; or
  - (iv) any proceedings, voluntary or involuntary, is commenced, or an order or petition is issued, respecting such Person pursuant to any Applicable Law relating to bankruptcy, insolvency, reorganization of debts, liquidation, winding-up or dissolution;
  - (v) such Person causes or institutes any proceeding for its dissolution or termination;
  - (vi) such Person is generally not paying its debts as they become due, or such Person makes a general assignment for the benefit of creditors.
- (ccc) **"ISO Glossary"** means the ISO Authoritative Document Consolidated Glossary.
- (ddd) **"ISO Rules"** means the "ISO rules" as such term is defined in the EUA.
- (eee) **"ISO Tariff"** means the "tariff" as such term is defined in Section 30 of the EUA

- (fff) **"Letter of Credit"** means an irrevocable letter of credit from a Canadian chartered bank, with an A rating or higher from Standard & Poor's or similar rating from a major reputable corporate rating service satisfactory to the AESO, executed in favour of the AESO in form, amount and substance acceptable to the AESO.
- (ggg) **"Load Shed Services for Imports"** or **"LSSi"** means the ancillary service defined in the LSSi Requirements.
- (hhh) **"LPR"** means the *Liability Protection Regulation*, AR 66/2004.
- (iii) **"LSSi Facility"** means the facility or facilities as described in Schedule "A".
- (jjj) **"LSSi Requirements"** means the LSSi requirements posted on the AESO website, as amended from time to time.
- (kkk) **"Material Adverse Change"** means:
- (i) a downgrade in the Credit Rating of the Service Provider or any Guarantor by any credit rating agency; or
  - (ii) any event, circumstance or change which results, or would reasonably be expected to result, in a material adverse change in:
    - (A) the financial condition of the Service Provider or any Guarantor;
    - (B) the ability of the Service Provider to perform its obligations under this Agreement; or
    - (C) the assets or business of the Service Provider or any Guarantor.
- (lll) **"Month"** means "month" as defined in the ISO Glossary.
- (mmm) **"MW"** means "MW" as defined in the ISO Glossary.
- (nnn) **"Notice of Claim"** means a notice by the Service Provider or the AESO, as applicable, on behalf of itself or one or more Additional Indemnitees (if applicable) of a claim for Indemnified Losses pursuant to Section 9.1 or 9.2, as applicable, together with detailed particulars as to the nature and amount of the claim and the basis which it is sought.
- (ooo) **"Offered Volume"** has the meaning assigned to it in Schedule "B".
- (ppp) **"Officer's Notice"** has the meaning assigned to it in Section 11.4.
- (qqq) **"Officer's Procedure"** has the meaning assigned to it in Section 11.2(a).
- (rrr) **"OPP"** means the operating policies and procedures as set forth in Part 3 of the ISO Rules.
- (sss) **"Operating Reserves"** means "operating reserves" as defined in the ISO Glossary
- (ttt) **"Overdue Rate"** means an annual rate of interest equal to the Prime Rate plus six percent (6.0%).

- (uuu) **"Party"** means the Service Provider or the AESO, as the context requires, and **"Parties"** means both the Service Provider and the AESO.
- (vvv) **"Person"** includes a natural person, corporation, limited partnership, general partnership, joint stock company, joint venture, association, company, limited liability company, trust, bank, trust company, land trust, business trust or other organization, whether or not a legal entity, or government or any agency or political subdivision thereof.
- (www) **"Prime Rate"** means the annual rate of interest designated by the main branch in Calgary of the Bank of Montreal as its reference rate for Canadian dollar commercial loans made in Canada and which is announced by such bank as its prime rate.
- (xxx) **"Pool Participant"** means a "pool participant" as defined in the ISO Glossary
- (yyy) **"Pool Price Cap"** means the maximum price for energy defined in the ISO Rules.
- (zzz) **"Professional Fees"** means reasonable fees and disbursements of legal counsel, consultants and expert witnesses and other reasonable out-of-pocket expenses incurred in connection therewith.
- (aaaa) **"Proprietary Information"** has the meaning assigned to it in Section 14.1.
- (bbbb) **"Prudential Security"** means cash deposits, Guarantees or Letters of Credit provided to the AESO as security for liquidated damages, Indemnified Losses, interest and any other amounts owing to the AESO under this Agreement.
- (cccc) **"Purchase Price"** has the meaning assigned to it in Schedule "B".
- (dddd) **"Recipient"** has the meaning assigned to it in Section 14.1.
- (eeee) **"Representative"** has the meaning assigned to it in Section 14.2.
- (ffff) **"Scheduling Hour"** means for any given hour, the ten (10) minutes before the hour, the sixty (60) minutes in the hour and the ten (10) minutes following such hour for a total duration of eighty (80) minutes.
- (gggg) **"Service Provider Event of Default"** has the meaning assigned to it in Section 8.3.
- (hhhh) **"Service Withdrawal"** means a period of time during which the LSSi Facility is not Available for reasons other than an event of Force Majeure or Forced Outage.
- (iiii) **"Survival Period"** means the period ending two (2) years after the expiry or termination of this Agreement.
- (jjjj) **"System"** means the "interconnected electric system" as such term is defined in the EUA.
- (kkkk) **"System Controller"** means the "system controller" as defined in the ISO Glossary.
- (llll) **"System Disturbance"** means an unplanned event that produces an abnormal System condition such as high or low frequency, abnormal voltage or oscillations in the System, but does not include a dispatched Contracted Load curtailment to restore the energy balance based on an inadequate energy supply.

- (mmmm) "**System Event**" means an event, which for the purposes of this Agreement, shall be deemed to be one (1) hour in duration (whether or not the actual duration is longer than one (1) hour) that causes the System to be in non-compliance with all or any applicable North American Electric Reliability Council disturbance control standards and/or causes the System Controller to shed firm load from the System.
- (nnnn) "**System Security**" means "system security" as defined in the ISO Glossary
- (oooo) "**Term**" has the meaning assigned to it in Section 2.1.
- (pppp) "**Trip**" has the meaning assigned to it in Schedule "B".
- (qqqq) "**Trip Payment**" has the meaning assigned to it in Schedule "B".
- (rrrr) "**Trip Price**" has the meaning assigned to it in Schedule "B".
- (ssss) "**Trip Volume**" has the meaning assigned to it in Schedule "B".
- (tttt) "**UFLS**" means "UFLS" as defined in the ISO Glossary.
- (uuuu) "**Unavailable**" means, in any given period, all hours in such period in which the LSSi Facility is not able to provide all or a portion of the LSSi pursuant hereto.
- (vvvv) "**WECC**" means the Western Electrical Coordinating Council or any successor organization.

## 1.2 Schedules

The following Schedules are attached to and form part of this Agreement:

- (a) Schedule "A" - LSSi Facility
- (b) Schedule "B" - Purchase Price
- (c) Schedule "C" - Initial Prudential Security

## 1.3 References and Headings

The expressions "**herein**", "**hereto**", "**hereof**", "**hereby**", "**hereunder**" and similar expressions in this Agreement shall refer to the provisions of this Agreement in their entirety and not to any particular section, subsection or other subdivision hereof. References to Articles, Sections and Schedules herein refer to articles, sections and schedules of or to this Agreement, unless the context otherwise requires. Any reference to time shall refer to Mountain Standard Time or Mountain Daylight Saving Time during the respective intervals in which each is in force in the Province of Alberta. The headings of the Articles, Sections, Schedules and any other headings, captions or indices herein are inserted for convenience of reference only and shall not in any way affect the construction or interpretation of this Agreement or any provision hereof.

## 1.4 Singular/Plural; Derivatives

Whenever the singular or masculine or neuter is used in this Agreement it shall be interpreted as meaning the plural or feminine or body politic or corporate, and vice versa, as the context

requires. Where a term is defined herein, a capitalized derivative of such term shall have a corresponding meaning unless the context otherwise requires.

### 1.5 **Statutory References**

Any reference to a statute shall include and shall be deemed to be a reference to such statute and to the regulations made pursuant thereto, and all amendments made thereto and in force from time to time, and to any statute or regulation that may be passed which has the effect of supplementing the statute so referred or to the regulations made pursuant thereto. Any reference to a regulation shall be deemed to be a reference to such regulation and all amendments made thereto and in force from time to time, and to any regulation that may be passed which has the effect of supplementing the regulation so referred.

### 1.6 **Computation of Time Periods**

Except as expressly set out in this Agreement, the computation of time referred to in this Agreement shall exclude the first day and include the last day of such period. If the time required for payment by the AESO for amounts owed under this Agreement falls on a day that is not a Business Day, the time required for such payment shall extend to the next following Business Day. To the extent that interest is calculated for a period ending on a day that is not a Business Day, the last day of such period, for the purposes of calculating interest, shall extend to the next following Business Day.

### 1.7 **Conflicts**

If there is any conflict or inconsistency between a provision of the body of this Agreement and that of a Schedule, the provision of the body of this Agreement shall prevail.

### 1.8 **Currency**

All dollar amounts referred to herein are expressed in Canadian dollars.

### 1.9 **No Drafting Presumption**

The Parties acknowledge that their respective legal counsel have reviewed and participated in settling the terms of this Agreement and the Parties hereby agree that any rule of construction to the effect that any ambiguity is to be resolved against the drafting Party shall not be applicable in the interpretation of this Agreement.

## ARTICLE 2 TERM

### 2.1 **Term**

This Agreement will be in effect as and from 12:00:00 hours on [ ] and will continue in full force and effect until the earlier of:

- (a) 23:59:59 hours on [ ], or
- (b) any earlier termination pursuant to Section 2.2;

(the "Term").

## 2.2 Termination Event

This Agreement shall terminate on the occurrence of any of the following events:

- (a) delivery of a termination notice by the Service Provider pursuant to Section 8.4(a);
- (b) delivery of a termination notice by the AESO pursuant to Section 8.4(b);
- (c) by mutual written agreement of the Parties; or
- (d) expiry of the Term.

## 2.3 Survival

The termination or expiry of this Agreement shall not release any Party from any liability which arose or accrued hereunder prior to or on such termination. Notwithstanding the expiration or termination of this Agreement, the provisions of Section 2.4, Article 4, Article 5, Article 9, Article 11, Article 12, Article 13 and Article 14 shall survive for such period as necessary to give effect thereto.

## 2.4 Post-Termination

In the event of a termination or expiry of this Agreement, the AESO shall pay all amounts due and accruing due to the Service Provider to the date of termination or expiry, and the Parties shall take all steps as may be reasonably required to complete any final accounting between them with respect to any fees, expenses or liquidated damages hereunder and to provide, if applicable, for the completion of any other matter contemplated by this Agreement.

### ARTICLE 3 SUPPLY AND PURCHASE OF SERVICES

#### 3.1 Supply and Purchase of LSSi

The Service Provider shall supply LSSi to or for the account of the AESO and the AESO shall purchase LSSi from the Service Provider, all in accordance with the terms and conditions contained in this Agreement.

### ARTICLE 4 PURCHASE PRICE, PAYMENT ADJUSTMENTS AND PAYMENT

#### 4.1 Purchase Price

In consideration of the supply by the Service Provider of LSSi to or for the account of the AESO in accordance with the terms hereof, the AESO agrees each Month to pay to the Service Provider the Purchase Price applicable to such Month. The Purchase Price shall be calculated by the Service Provider in accordance with Schedule "B".

#### 4.2 GST

All amounts payable under this Agreement are exclusive of goods and services tax ("GST") imposed by Part IX of the *Excise Tax Act* (Canada). If required pursuant to Applicable Law, the

Parties shall pay on all amounts payable hereunder the GST applicable thereto. The Party to whom such payments are made shall remit such amounts as required by Applicable Law.

#### **4.3 Billing**

No later than ten (10) Business Days after the end of a Month, the Service Provider shall be responsible for and shall prepare and submit to the AESO a fully documented invoice, showing the values and calculations for the Purchase Price for the preceding Month, if any, payable by the AESO in accordance with the terms hereof for the provision of LSSi in the preceding Month.

#### **4.4 Payment by the AESO**

Subject to Sections 4.5 and 4.5(d), the AESO shall remit the Purchase Price, if any, for the preceding Month to the Service Provider no later than the twentieth (20<sup>th</sup>) Business Day of the following Month by wire transfer to the bank account of the Service Provider set forth below, or such other account or bank as the Service Provider may stipulate by notice to the AESO:

Name of Bank: [ ]

Address: [ ]

Bank No.: [ ]

Transit No.: [ ]

Account No.: [ ]

#### **4.5 Set-Off**

(a) Disputes and Adjustments to Invoices: The AESO shall review the Service Provider's invoice and supporting information provided pursuant to Section 4.3 and, where applicable, verify same by reference to data provided by the System Controller and other relevant sources. In the event that the data provided by the Service Provider is inconsistent with that provided by the System Controller, then, for the purposes of this Agreement and to the extent of such inconsistency, the data provided by the System Controller shall take precedence. In the event the Service Provider incorrectly calculates the Purchase Price, if any, then the AESO shall have the right to offset such amounts against subsequent invoices or to invoice the Service Provider for the amount neither netted nor offset and the Service Provider shall pay such invoice within thirty (30) days of receipt, by wire transfer to the bank account as may from time to time be designated by the AESO. Any disputes will be resolved in accordance with the Dispute Resolution Procedure and pending resolution the AESO will pay the amount of the invoice not subject to dispute, if any, in accordance with the provisions hereof.

(b) Netting Prior to a Notice of Default or Termination: Prior to the delivery by either Party of a notice of default pursuant to Article 8 or a notice of termination under Section 8.4, the AESO shall be entitled, at its option and in its discretion, to net and set off against the Purchase Price, if any, for a Month:

(i) any Indemnified Losses incurred by the AESO or any amounts, whether debts, liquidated demands, unliquidated demands, damages or other obligation, due, payable or owing to the AESO during that Month or any previous Month, and which remain owing to the AESO;

- (ii) any interest then owing to the AESO under Section 4.5(d); and
- (iii) any other amounts (including liquidated damages) then owing to the AESO under this Agreement.

The remedy provided for in this paragraph shall be without prejudice and in addition to any Prudential Security or any other rights to which the AESO is at any time otherwise entitled.

- (c) Netting After Notice of Default or Termination: After the delivery by either Party of a notice of default pursuant to Article 8 or a notice of termination under Section 8.4, the AESO shall be entitled, at its option and in its discretion, to:

- (i) withhold any payments due to the Service Provider under this Agreement until such time as all Indemnified Losses incurred by the AESO, interest under Section 4.5(d) and any other amounts owing to the AESO under this Agreement have been determined; and
- (ii) net and set off against any amounts owed by the AESO to the Service Provider under this Agreement:
  - (A) any Indemnified Losses incurred by the AESO and which are owed to the AESO;
  - (B) any interest owing to the AESO under Section 4.5(d);
  - (C) any other amounts (including liquidated damages) owing to the AESO under this Agreement; and
  - (D) any amounts owing by the Service Provider to the AESO under any other agreements, instruments or undertakings.

The remedy provided for in this paragraph shall be without prejudice and in addition to any Prudential Security or any other right which the AESO is at any time otherwise entitled.

- (d) Netting by the Service Provider After Notice of Default or Termination. After the delivery by the Service Provider of a notice of default under Section 8.2 or a notice of termination under Section 8.4(a), the Service Provider shall be entitled, at its option and in its discretion, to:

- (i) withhold any payments due to the AESO under this Agreement until such time as all Indemnified Losses incurred by the Service Provider, interest hereunder, and any other amounts (including liquidated damages) owing to the Service Provider under this Agreement have been determined; and
- (ii) net and set off against any amounts owed by the Service Provider to the AESO under this Agreement:
  - (A) any Indemnified Losses incurred by the Service Provider and which are owed to the Service Provider;
  - (B) any interest owing to the Service Provider under Section 4.6;

- (C) any other amounts (including liquidated damages) owing to the Service Provider under this Agreement; and
- (D) any amounts owing by the AESO to the Service Provider under any other agreements, instruments or undertakings.

The remedy provided for in this paragraph shall be without prejudice and in addition to any right which the Service Provider is at any time otherwise entitled.

#### **4.6 Late Payment**

Any amount owing to a Party by the other Party pursuant to the provisions of this Agreement and remaining uncredited or unpaid in accordance herewith shall bear interest calculated daily and not compounded at the Overdue Rate on the uncredited or unpaid portion from and including the date such credit or payment was due up to and excluding the actual date of credit or payment.

### **ARTICLE 5 REPRESENTATIONS AND WARRANTIES**

#### **5.1 Representations of Service Provider**

The Service Provider represents, warrants and covenants to and in favour of the AESO that as of the date of this Agreement and continuing throughout the Term:

- (a) Standing: The Service Provider is a [e], duly organized, validly existing under the laws of its jurisdiction of formation, and duly registered and authorized to carry on business in the Province of Alberta.
- (b) Requisite Authority: The Service Provider has the requisite corporate capacity, power and authority to execute this Agreement and any other agreements and documents required to be delivered hereunder and to perform all obligations to which it thereby becomes subject. This Agreement is binding and enforceable against the Service Provider in accordance with its terms.
- (c) Execution and Enforceability: The Service Provider has taken all necessary corporate actions to authorize the execution, delivery and performance of this Agreement, including the transactions contemplated herein in accordance with the provisions of this Agreement. This Agreement has been duly executed and delivered by the Service Provider, and this Agreement constitutes, and all other documents executed and delivered on behalf of the Service Provider hereunder shall, when executed and delivered constitute, valid and binding obligations of the Service Provider enforceable in accordance with their respective terms and conditions.
- (d) No Conflict: The execution and delivery of this Agreement and the performance of the transactions contemplated herein by the Service Provider in accordance with the terms of this Agreement are not and will not be in violation or breach of, or be in conflict with or require any consent, authorization or approval under:
  - (i) any term or provision of the constating documents of the Service Provider;
  - (ii) any contract, permit or authority to which the Service Provider is a party or by which the Service Provider is bound; or

- (iii) Applicable Law.
- (e) Litigation: There are no actions, suits or proceedings pending or, to the knowledge of the Service Provider, threatened against the Service Provider or any of its Affiliates seeking relief which would prevent or materially hinder the consummation of the transactions contemplated by this Agreement.
- (f) LSSi Facility: The Service Provider, if not the owner and/or operator of the LSSi Facility, or any part thereof, has undertaken all necessary actions, including securing the appropriate contractual obligations with the owner and/or operator of the LSSi Facility, or any part thereof, to ensure that throughout the Term of this Agreement such owner and/or operator operates such facility in a manner which:
  - (i) complies with the LSSi Requirements; and
  - (ii) meet the requirements of Sections 5.1(g), 5.1(h) and Article 6 of this Agreement as if it were the Service Provider.
- (g) Contracted Load:
  - (i) The Contracted Load is electrically connected to the System (except for those periods of time when (and for so long as) the LSSi Facility has experienced a Service Withdrawal).
  - (ii) The LSSi Facility is capable of providing LSSi of a minimum of one (1) MW.
  - (iii) The maximum LSSi Available at the LSSi Facility does not exceed one hundred and fifty (150) MWs.
  - (iv) During the Term, no portion of the LSSi shall be contracted as Operating Reserves to, or otherwise curtailable by or on behalf of any third Person or if contracted or, otherwise committed, the contracted or committed amount at the time of a required Curtailment hereunder, is not or will not be subject to other curtailment, in whole or in part, under a provision of a tariff, contract or other arrangement, or be required to be provided concurrently to a third Person.
  - (v) The Contracted Load is, and shall throughout the Term be, controlled, directly or indirectly, by the Service Provider.
  - (vi) The Contracted Load, if part of an UFLS program, is not and shall not throughout the Term be in the time-delayed blocks D1, D2 and D3.
- (h) System Access Service Requirements: There shall be executed and effective system access service agreements, pursuant to the Tariff, in place for the Contracted Load with the relevant distribution company or with the AESO and the Service Provider will perform its obligations under such agreement(s) so as to not cause the premature termination thereof during the Term.
- (i) Pool Participant: The Service Provider is a Pool Participant and shall remain a Pool Participant during the Term.

- (j) GST Registration. The Service Provider is duly registered under subdivision (d) of Division V of Part IX of the *Excise Tax Act* (Canada) and its registration number is [REDACTED].

## 5.2 AESO Representations and Warranties

The AESO represents, warrants and covenants to and in favour of the Service Provider that as of the date of this Agreement and continuing throughout the Term:

- (a) Standing: The AESO is a statutory corporation, validly existing under the laws of its jurisdiction of formation, and duly registered and authorized to carry on business in the Province of Alberta.
- (b) Requisite Authority: The AESO has the requisite corporate capacity, power and authority to execute this Agreement and any other agreements and documents required to be delivered hereunder and to perform all obligations to which it thereby becomes subject.
- (c) Execution and Enforceability: The AESO has taken all necessary corporate or other actions to authorize the execution, delivery and performance of this Agreement, including the transactions contemplated herein in accordance with the provisions of this Agreement. This Agreement has been duly executed and delivered by the AESO, and this Agreement constitutes, and all other documents executed and delivered on behalf of the AESO hereunder shall, when executed and delivered constitute, valid and binding obligations of the AESO enforceable in accordance with their respective terms and conditions.
- (d) No Conflict: The execution and delivery of this Agreement and the performance of the transactions contemplated herein by the AESO in accordance with the terms of this Agreement are not and will not be in violation or breach of, or be in conflict with or require any consent, authorization or approval under:
- (i) any term or provision of the by-laws of the AESO;
  - (ii) any permit or authority to which the AESO is a party or by which the AESO is bound; or
  - (iii) Applicable Law.
- (e) Litigation: There are no actions, suits or proceedings pending or, to the knowledge of the AESO, threatened against the AESO or any of its Affiliates seeking relief which would prevent or materially hinder the consummation of the transactions contemplated by this Agreement.

## 5.3 Survival of Warranties

The representations and warranties contained in Sections 5.1 and 5.2 and any document, certificate or other instrument delivered by or on behalf of the Parties pursuant to this Agreement shall survive the expiration of the Term or termination of this Agreement and shall continue in full force and effect for the benefit of the other Party; provided that such representations and warranties shall survive for the Survival Period after the said expiration or termination.

## ARTICLE 6 SERVICE PROVIDER COVENANTS

### 6.1 Terms of Supply and Availability

- (a) Basic Requirements: The Service Provider shall:
- (i) make the Contracted Load Available for Arming to or for the account of the AESO in accordance with the terms of this Agreement;
  - (ii) comply with the LSSi Requirements; and
  - (iii) comply with all Dispatches delivered to the Service Provider by the System Controller in accordance with ISO Rules.
- (b) Operating and Regulatory Requirements: The Service Provider shall, as it relates to the operation and maintenance of the LSSi Facility and the provision of LSSi therefrom, comply with Good Electric Industry Practice, the reliability management system requirements of the WECC and all relevant ISO Rules and standards.
- (c) Reporting: The Service Provider shall, as it relates to the LSSi Facility and the provision of LSSi therefrom, report to the AESO in accordance with the ISO Tariff and, without limiting the generality of the foregoing, provide, at any time and from time to time at the request of the AESO, all information, data and reports required to enable the AESO to calculate the Purchase Price.
- (d) Event of Default; Notice: The Service Provider shall provide written notification to the AESO forthwith upon becoming aware of a Service Provider Event of Default or any Unavailability or interruption to the LSSi Facility to provide LSSi, including events of Force Majeure.

### 6.2 Communication

For the duration of the Term, the Service Provider shall maintain the communication requirements as set forth in the LSSi Requirements.

## ARTICLE 7 UNAVAILABILITY

### 7.1 Cooperation

The Service Provider shall:

- (a) inform the System Controller of any scheduled Unavailability of the LSSi Facility two (2) weeks in advance of such scheduled Unavailability. Updates of the schedule, if any, must be directed to the System Controller; and
- (b) make reasonable commercial efforts to contact the AESO if, at any time during the Term, there is a Service Withdrawal which exceeds one (1) hour. The Service Provider must identify to the AESO the cause and anticipated duration of the Service Withdrawal.

## ARTICLE 8 DEFAULT AND REMEDIES

### 8.1 Failure to Supply

- (a) If at any time:
- (i) the LSSi Facility fails to respond to a Dispatch in accordance with the LSSi Requirements;
  - (ii) the LSSi Facility fails to Trip in accordance with the LSSi Requirements;
  - (iii) the LSSi Facility fails to Arm in accordance with the LSSi Requirements;
  - (iv) when Armed, the average Actual Volume for the Hourly Dispatch Period is not within the tolerance band of the Dispatched Volume established in the LSSi Requirements; or
  - (v) there is a material failure by the Service Provider to perform or observe any one of the covenants set out in Article 6 that results in a failure to supply by the Service Provider;

the AESO shall have the right to deduct from the Purchase Price for the applicable Month the Arming Payment applicable to such failure to supply, provided that:

- (vi) the AESO shall have no claim for such deduction with respect to the LSSi Facility if it is not Available to provide the LSSi as a result of an event of Force Majeure or Forced Outage;
  - (vii) the AESO shall have no claim for such deduction with respect to LSSi that have been curtailed in the entirety by the AESO (pursuant to the ISO Rules) during any portion of the hour specified in the relevant Dispatch for reasons of System Security or transmission congestion management, as determined by the AESO in its sole discretion; provided, for clarity, that in the event that less than the entirety of the LSSi are so curtailed the AESO shall be entitled to claim deduction from the Service Provider of the portion of the LSSi which was not actually supplied in compliance with the terms of a Dispatch for the entire hour specified in such Dispatch; and
  - (viii) the AESO may net and set-off pursuant to Section 4.5 and realize on the Prudential Security.
- (b) Except as provided in Section 8.4(b), the amounts calculated in Sections 8.1(a), shall be the sole and exclusive remedy of the AESO against the Service Provider in the event of the Service Provider failing to supply the LSSi and the AESO waives any other claims and remedies it may have at law or in equity.

### 8.2 Event of Default by the AESO

The AESO shall be in default under this Agreement upon the happening or occurrence of any of the following events, each of which shall be deemed to be an event of default with respect to the AESO for the purposes of this Agreement (an "**AESO Event of Default**"):

- (a) an Insolvency Event by or in relation to the AESO; or
- (b) an Agreement Default by or in relation to the AESO and such default has not been cured (or, to the extent such breach is incapable of being cured retrospectively, then cured prospectively) within thirty (30) days following notice thereof from the Service Provider.

### 8.3 **Events of Default by the Service Provider**

The Service Provider shall be in default under this Agreement upon the happening or occurrence of any of the following events, each of which shall be deemed to be an event of default with respect to the Service Provider for the purposes of this Agreement (a "**Service Provider Event of Default**"):

- (a) an Insolvency Event by or in relation to the Service Provider;
- (b) an Insolvency Event by or in relation to the Guarantor identified in any Guarantee delivered pursuant to the provisions hereof;
- (c) an Agreement Default by or in relation to the Service Provider and such default has not been cured (or, to the extent such breach is incapable of being cured retrospectively, then cured prospectively) within thirty (30) days following notice thereof from the AESO; or
- (d) if at any time:
  - (A) the LSSi Facility fails to respond to a Dispatch in accordance with the LSSi Requirements;
  - (B) the LSSi Facility fails to Arm in accordance with the LSSi Requirements;
  - (C) when Armed, the average Actual Volume for the Hourly Dispatch Period is not within the tolerance band of the Dispatched Volume established in the LSSi Requirements;
  - (D) there is a material failure by the Service Provider to perform or observe any one of the covenants set out in Article 6 that results in a failure to supply by the Service Provider,

and any of the above events occurs more than three (3) times in any given calendar year or

- (e) If the Service Provider has an Availability of 0 MW for a period of one hundred and twenty (120) days without providing notice as set forth in Article 7.

### 8.4 **Remedies Upon Event of Default**

- (a) **AESO Event of Default.** Upon the occurrence of an AESO Event of Default, the Service Provider may terminate this Agreement by delivery of a notice of termination to the AESO and, effective as of the date of such termination, declare an amount equal to [•] dollars (\$[•]) immediately due and payable on account of liquidated damages and exercise its rights hereunder to net and set-off pursuant to Section 4.5.

- (b) Service Provider Event of Default. Upon the occurrence of a Service Provider Event of Default, the AESO may terminate this Agreement by delivery of a notice of termination to the Service Provider, declare an amount equal to forty thousand dollars (\$40,000.00) as immediately due and payable on account of liquidated damages, exercise its rights hereunder to net and set-off pursuant to Section 4.5 and realize on the Prudential Security for the amount of such liquidated damages and for other amounts, if any, accruing due under this Agreement.
- (c) Reasonable Pre-Estimate. The Parties agree that the liquidated damages specified above, if any, are a reasonable pre-estimate of such damages on account of negative market perception, lost business opportunities, general and administrative expenses, direct damages and similar damages, and does not constitute a penalty.

## ARTICLE 9 LIABILITY AND INDEMNIFICATION

### 9.1 Responsibility of the Service Provider

Subject to the limitations set forth herein, the Service Provider shall:

- (a) be liable to the AESO and its Additional Indemnitees for all Indemnified Losses which any one or more of them may suffer, sustain, pay or incur; and
- (b) indemnify and save harmless the AESO and its Additional Indemnitees from and against all Indemnified Losses which may be brought against or suffered by any one or more of them or which any one or more of them may sustain, pay or incur;

as a direct result of any act, omission, circumstance or other matter arising out of, resulting from, attributable to or connected with any Agreement Default made by the Service Provider.

### 9.2 Responsibility of the AESO

Subject to the limitations set forth herein, the AESO shall:

- (a) be liable to the Service Provider and its Additional Indemnitees for all Indemnified Losses which any one or more of them may suffer, sustain, pay or incur; and
- (b) indemnify and save harmless the Service Provider and its Additional Indemnitees from and against all Indemnified Losses which may be brought against or suffered by any one or more of them or which any one or more of them may sustain, pay or incur;

as a direct result of any act, omission, circumstance or other matter arising out of, resulting from, attributable to or connected with any Agreement Default made by the AESO.

### 9.3 Limit on Each Party's Responsibility

The obligations and liability of the Indemnifier under this Agreement shall be subject to the following limitations:

- (a) the total aggregate amount of the liabilities and indemnities of the Indemnifier under this Agreement excluding liquidated damages shall not exceed one million dollars (\$1,000,000.00)

- (b) the Indemnifier shall have no liability in connection with Indemnified Losses unless the Indemnitee shall, prior to the expiry of the Survival Period, have provided the Indemnifier with a Notice of Claim.
- (c) the Indemnifier shall have no liability in connection with any Indemnified Losses to the extent that such Indemnified Losses are reimbursed to the Indemnitee or its Additional Indemnitees by insurance.
- (d) except for the liquidated damages, if any, payable under Section 8.4, the Indemnifier shall have no liability for claims of loss of profits, loss of revenue, loss of production, loss of earnings, loss of contract or any other indirect, special or consequential loss or damage whatsoever of a Party, its Additional Indemnitees or any third Person arising from any act or omission carried out or purportedly carried out by a Party in carrying out its duties, responsibilities and functions under this Agreement.
- (e) nothing herein shall be construed as limiting the application or protection of the EUA or LPR nor to impose upon the Parties any greater liability than imposed by the EUA and the LPR.

#### **9.4 Responsibility Extends To Legal Costs and Settlements**

Notwithstanding any provision to the contrary contained in this Article 9, references to costs in the liability and indemnification obligations prescribed by Sections 9.1 and 9.2 shall be deemed to include Professional Fees and disbursements on a full indemnity basis, and shall extend to settlements, satisfactions or other compromises with respect to claims by third persons for Indemnified Losses.

#### **9.5 Procedure - Indemnities**

An Indemnitee seeking indemnification shall give reasonably prompt notice thereof to the Indemnifier from whom indemnification is sought, provided that, subject to Section 9.3(a), failure to give reasonably prompt notice shall not invalidate any right to indemnity (but will allow the Indemnifier to seek indemnification in connection with any prejudice suffered). The Indemnifier shall have the right to conduct, settle or otherwise dispose of any legal action in respect of which indemnification is sought in consultation with and with the consent of the Indemnitee, acting reasonably, if and only if it has agreed that the matters in the action are indemnified pursuant to Sections 9.1 or 9.2, as applicable, and has provided security to the Indemnitee in the form of a letter of credit issued by a Schedule 1 Canadian chartered bank in the full amount claimed in connection with such action, unless the amount claimed in connection with such action is in excess of the amount determined pursuant to Section 9.3(a) in which event the Indemnifier shall have provided security to the Indemnitee in the form of a letter of credit issued by a schedule 1 Canadian chartered bank in the amount determined pursuant to Section 9.3(a). The letter of credit shall be issued on terms satisfactory to the Indemnitee, acting reasonably, including that the Indemnitee shall be entitled to present the letter of credit for payment to satisfy any claim finally determined in such action or if the Indemnifier does not renew or provide a renewal letter of credit at least thirty (30) days prior to the expiry of any subsisting letter of credit.

## ARTICLE 10 FORCE MAJEURE

### 10.1 Relief from Force Majeure

- (a) Where by reason of Force Majeure, a Party is prevented or delayed from performing any of its obligations under this Agreement, the Party whose performance is thereby prevented or delayed shall, unless otherwise provided herein, be relieved from any obligation to or liability under this Agreement related thereto (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure); provided that such relief shall be of no greater scope and no longer duration than is dictated by the Force Majeure event.
- (b) The Party seeking to invoke the benefit of this Section 10.1 shall provide written notice to the other Party without delay upon, but in no event later than two (2) Business Days after, the occurrence of the Force Majeure event, specifying the causes of and expected duration of the Force Majeure event and the probable impact on the performance of or compliance with its obligations hereunder.
- (c) The Party not seeking to invoke the benefit of this Section 10.1 shall not be required to perform or resume performance of its obligations to the other Party corresponding to the obligations of the Party excused by Force Majeure, including payment obligations.
- (d) The Party claiming Force Majeure shall provide written notice to the other Party without delay upon, but in no event later than two (2) Business Days following, cessation of the event of Force Majeure. Upon cessation of the event of Force Majeure, performance hereunder shall be resumed.

### 10.2 No Relief

No Party shall be entitled to the benefits of the provisions of this Section 10.1:

- (a) unless it has complied with and was in continual compliance with its obligations provided for in Section 10.1;
- (b) if the failure to observe or perform any of the covenants or obligations herein imposed upon it was due to causes arising out of its own Agreement Default, negligence or willful act or was caused by arrest or restraint by any Authorized Authority and such arrest, restraint or order was the result of willful misconduct or a breach by the Party claiming Force Majeure of the terms of a consent, permit or other approval or of any Applicable Law; or
- (c) if the failure to observe or perform any of the covenants or obligations herein imposed upon it was caused by the Party claiming Force Majeure having failed to remedy the conditions and to resume the performance of such covenants or obligations with reasonable dispatch at reasonable cost.

### 10.3 Audit Rights

The validity of any claim of Force Majeure by a Party, the reasonableness of the duration of the event of Force Majeure and the diligence of the efforts made to overcome, terminate, or mitigate the effects of the event of Force Majeure shall be subject to audit by the non-claiming Party.

#### **10.4 No Extension**

Notwithstanding anything in this Agreement to the contrary, no Force Majeure occurrence shall extend this Agreement beyond the Term.

### **ARTICLE 11 DISPUTE RESOLUTION**

#### **11.1 Dispute Resolution Procedure**

The Parties agree to submit for resolution pursuant to this Article 11 (the "**Dispute Resolution Procedure**") any and all disputes between the Parties that in any way arises out of or in connection with this Agreement, including disputes as to or in connection with the existence, terms, validity, breach or termination of this Agreement (for the purposes of this Article, a "**dispute**").

#### **11.2 Purpose and Sequence of Dispute Resolution**

The purpose of the Dispute Resolution Procedure is to set forth the procedure pursuant to which each Party agrees to use reasonable efforts to resolve disputes prior to resorting to litigation. The Parties agree that the Dispute Resolution Procedure shall consist of a two-step process, which process shall be undertaken in the following order:

- (a) first, by way of cooperation between the senior officers of the AESO and the Service Provider pursuant to the procedure set forth in Section 11.4 (the "**Officer's Procedure**"); and
- (b) second, by way of arbitration pursuant to the arbitration procedure set forth in Section 11.5 (the "**Arbitration Procedure**").

#### **11.3 Confidentiality**

All information disclosed by a Party pursuant to the Officer's Procedure or the Arbitration Procedure shall be treated as privileged, confidential, and without prejudice, and neither the delivery nor disclosure of information shall represent any waiver of privilege by a Party disclosing the same. Each Party agrees not to disclose information provided by any other Party for the purposes hereof to any other Person for any other purpose. Further, such information shall not be used in any subsequent proceedings without the prior written consent of the Party who has made disclosure of the same.

#### **11.4 Officer's Procedure**

Except for interlocutory injunctive proceedings for the immediate performance or cessation of conduct, for all disputes that have not been resolved, any Party may, by notice in writing to the other Party (the "**Officer's Notice**") refer the dispute to their senior officers. If any Party delivers an Officer's Notice to the other, the Parties shall cause one (1) or more of their senior officers to employ such methods of resolution as they may agree to, and shall cause to be made, all reasonable efforts to, resolve the dispute within thirty (30) Business Days of delivery of an Officers Notice. If the dispute is not resolved within thirty (30) Business Days of delivery of an Officer's Notice, then any Party may, by notice in writing to the other Party (the "**Arbitration Notice**") refer the dispute to arbitration pursuant to the Arbitration Procedure. If no Party provides the other with an Arbitration Notice within thirty (30) Business Days following the

issuance of an Officers Notice, then the Parties shall be entitled to pursue any other process or remedies otherwise available to them at law or in equity.

### **11.5 Arbitration Procedure**

If any Party delivers an Arbitration Notice to the other, then the dispute shall be forwarded to and resolved by arbitration in accordance with the Arbitration Act, by a board of arbitrators in accordance with the following provisions:

- (a) the AESO shall appoint one (1) arbitrator and the Service Provider shall appoint one (1) arbitrator, each such being qualified by education and training and having appropriate technical expertise with respect to the matter in dispute, within ten (10) days after delivery of an Arbitration Notice from one Party to the others or such longer period agreed to by the Parties. If any of the Parties shall fail to appoint an arbitrator within such ten (10) day period, then upon application by a Party that has appointed an arbitrator, the second (2<sup>nd</sup>) arbitrator shall be appointed by any Justice of the Court of Queen's Bench of Alberta. The two (2) arbitrators thus appointed shall appoint a third (3<sup>rd</sup>) arbitrator, who shall be qualified by education and training and have appropriate technical expertise with respect to the matter in dispute, within ten (10) days of the appointment of the second (2<sup>nd</sup>) arbitrator. If the two (2) arbitrators shall fail to appoint the third (3<sup>rd</sup>) arbitrator within such ten (10) day period, then upon application by either Party, the (3<sup>rd</sup>) third arbitrator shall be appointed by any Justice of the Court of Queen's Bench of Alberta;
- (b) the board of arbitrators shall proceed promptly to determine the matters in issue and shall render its decision within thirty (30) days from the date of final submissions of the Parties to the board of arbitrators, except where the Parties agree to a different period of time;
- (c) the Parties consent to the arbitration being conducted in Calgary, Alberta, or any other place mutually agreed upon, no later than fifteen (15) days following the appointment of the third (3<sup>rd</sup>) arbitrator, at which time the Parties shall present such evidence and witnesses as they may choose, with or without counsel;
- (d) the board of arbitrators shall have the discretion to shorten or lengthen time frames for actions to be taken by a Party pursuant to this Agreement with respect to any matter which is the subject of arbitration before such board of arbitrators;
- (e) each Party shall be responsible for its own costs and shall share the costs associated with the arbitration equally; provided that the board of arbitrators shall have the discretion to allocate costs in a different manner;
- (f) any determination or award of the board of arbitrators made in relation to the dispute shall be final, binding and non-appealable (whether on a question of law, a question of fact, or a question of mixed fact and law);
- (g) it shall be a condition of the appointment of any arbitrator that such arbitrator shall maintain in strict confidence all documents, the transcripts of the proceedings and other materials and all information disclosed by or on behalf of the Parties and shall not use the same or allow the same to be used for any purpose not collateral to such arbitration and, at the request of a Party that provided any documents or other printed materials, shall return all originals and any copies of such documents and printed materials to such Party. Each arbitrator shall be responsible for ensuring that its officers, employees,

representatives and consultants comply with the obligation of confidentiality set forth in Section 11.3; and

- (h) the board of arbitrators may make rulings with respect to the production of documents, the ability of the Parties to call witnesses or any other procedural matter.

Save as otherwise expressly provided in this Agreement, the provisions of the Arbitration Act shall apply to any arbitration undertaken hereunder. Pending resolution of any dispute, the Service Provider and the AESO shall continue to perform their respective obligations under this Agreement.

### 11.6 **Urgent Disputes**

Notwithstanding anything to the contrary contained herein, in the event that:

- (a) the AESO reasonably believes that the delay that may be encountered in resolving any dispute in accordance with the provisions set forth in Section 11.2 may pose a real and imminent threat to System Security; or
- (b) either Party reasonably believes that the delay that may be encountered in resolving any dispute in accordance with the provisions set forth in Section 11.2 may result in such Party suffering irreparable harm or significant injury;

then such Party may, at any time following submission by either Party of any dispute to the senior officers in accordance with Section 11.2, apply to the AUC for an order in respect of such dispute and any such order granted by the AUC shall be binding on the Parties.

## ARTICLE 12 PRUDENTIAL SECURITY

### 12.1 **Furnishing Financial Information**

- (a) Financial Information. The Service Provider shall, from time to time at the request of the AESO, provide to the AESO such financial information as the AESO may require with respect to the Service Provider's ability to perform its obligations under this Agreement, including financial statements and other information on the Service Provider's assets and its Credit Rating.
- (b) Material Adverse Change. The Service Provider shall provide the AESO with notice of any Material Adverse Change within two (2) Business Days after any officer of the Service Provider becomes aware that a Material Adverse Change has occurred.

### 12.2 **Furnishing Prudential Security**

- (a) Initial Prudential Security. Concurrently with the execution of this Agreement, the Service Provider, shall provide to the AESO the Prudential Security described in Schedule "C".
- (b) Additional Prudential Security. If:
  - (i) the AESO has reasonable grounds to believe that the Service Provider's creditworthiness or performance under this Agreement has become unsatisfactory;

- (ii) the AESO has reasonable grounds to believe that any Guarantor's creditworthiness has become unsatisfactory;
- (iii) there is a Material Adverse Change; or
- (iv) there is a material increase in the potential liability of the Service Provider for liquidated damages hereunder or Indemnified Losses;

then the AESO may provide the Service Provider with written notice requesting new and, if applicable, additional Prudential Security in form, substance and amount satisfactory to the AESO, in its sole discretion and acting reasonably. The Service Provider shall provide such new, additional or replacement Prudential Security to the AESO within two (2) Business Days of the service of notice on the Service Provider.

- (c) Guarantor. With respect to any Guarantee to be provided hereunder, as a condition precedent to the acceptance thereof by the AESO, the Guarantor must demonstrate that it has a Credit Rating of BBB from Standard & Poor's (or a similar or higher rating from a major reputable corporate rating service satisfactory to the AESO) or financial ability, as determined by the AESO in its sole discretion, to perform its obligations under the Guarantee based on a review by the AESO of such financial information requested by the AESO and provided by the Guarantor.
- (d) Costs. The costs of issuing a Guarantee, Letter of Credit or any other form of Prudential Security issued or to be issued hereunder shall be borne by the Service Provider.

**12.3 Survival**

Notwithstanding any termination of this Agreement by a Party as permitted under the provisions hereof, the provisions of this Article 12 shall survive such termination for so long as there remains outstanding any Indemnified Losses, interest and any other amounts (including liquidated damages) which have been claimed by the AESO or which is owned to the AESO pursuant to the provisions hereof.

**ARTICLE 13  
AUDIT AND REPORTING**

**13.1 Audit and Records Retention**

- (a) The AESO shall have the right, exercisable upon reasonable prior notice to the Service Provider to audit or examine the books and records of the Service Provider as they relate to the LSSi Facility at the AESO's sole cost and expense, to verify the accuracy of any invoice, information, data, notice, claim, demand, charge, payment, cost, expense or computation reported, gathered, collected, made or incurred by the Service Provider, or the performance of the covenants and obligations by the Service Provider under and pursuant to this Agreement.
- (b) The Service Provider shall retain, for a period of six (6) years from their creation, all relevant books, records, information and data relating to the LSSi Facility necessary to permit the AESO to exercise and fulfill its rights under this Section 13.1 and Section 10.3. It is expressly agreed that the six (6) year time period set out above shall be effective to vary the time period provided for under Paragraph 3(1)(a) of the *Limitations Act* (Alberta) R.S.A. 2000, c. L-12.

- (c) Notwithstanding the termination of this Agreement by a Party as permitted under the provisions hereof, all provisions respecting audit rights shall survive such termination for the relevant time periods specified herein.

## **ARTICLE 14 CONFIDENTIALITY**

### **14.1 Proprietary Information**

Subject to Sections 14.2 and 14.4, all information supplied under this Agreement and marked or otherwise designated as confidential by the Party disclosing the information (the "**Disclosing Party**"), or by its nature should be treated as confidential, regardless of the form of the information, or the method by which the information is transmitted, will be considered proprietary information (the "**Proprietary Information**") and the Party receiving the information (the "**Recipient**") will treat as confidential all Proprietary Information and will not at any time disclose any of the Proprietary Information to any other Person without the prior written consent of the Disclosing Party.

### **14.2 Need to Know**

The Recipient will make its best efforts to keep confidential and protect the Proprietary Information as it would its own confidential and proprietary information. The Recipient will disclose the Proprietary Information only to those of its directors, officers, employees and representatives, consultants and agents (collectively, the "**Representatives**") who (i) have a need to know the information for the purposes of carrying out the Recipient's obligations under the Agreement, providing advice in respect thereto or as required by law, and (ii) are informed of the confidential and proprietary nature of the Proprietary Information.

### **14.3 Exclusive Property**

All Proprietary Information, unless otherwise specified in writing by the Disclosing Party, will remain the exclusive property of the Disclosing Party, including any and all reproductions of any of the Proprietary Information and will be returned or destroyed at the request of the Disclosing Party. Proprietary Information will not be used by the Recipient for any reason or purpose other than for the purposes of this Agreement.

### **14.4 Exclusions**

- (a) Proprietary Information will not include any information provided which:
- (i) is generally available to the electricity industry or the public at the time of disclosure;
  - (ii) subsequent to receipt by the Recipient, becomes generally available to the electrical industry or the public as a result of a disclosure by the Disclosing Party or its Representatives;
  - (iii) subsequent to receipt by the Recipient, the Recipient can establish, by satisfactory evidence, that the Proprietary Information became available to the Recipient on a non-confidential basis from a source other than the Disclosing Party or its Representatives without the breach of this Agreement; or

- (iv) the Recipient can establish by competent evidence, that the Proprietary Information was available to the Recipient on a non-confidential basis prior to its disclosure to the Recipient.
- (b) Either Party will be permitted to disclose Proprietary Information which:
  - (i) must be disclosed by Applicable Law to an Authorized Authority (including the AUC and Market Surveillance Administrator) where there is no reasonable alternative to such disclosure;
  - (ii) must be disclosed by the AESO for the purposes of implementing this Agreement; or
  - (iii) must be disclosed by the AESO to WECC as a consequence of its membership in WECC.

#### **14.5 Notice of Demands**

In the event that Proprietary Information must be disclosed pursuant to Subsection 14.4(b), the Recipient will provide notice to the Disclosing Party prior to disclosing or furnishing the Proprietary Information so as to afford the Disclosing Party an opportunity to seek injunctive relief or protections from the need to disclose.

#### **14.6 Survival**

This Article 14 shall survive for the Survival Period.

### **ARTICLE 15 MISCELLANEOUS**

#### **15.1 Waiver**

With respect to the failure of a Party to perform or observe in any respect any of the covenants or agreements or covenants to be performed by such Party under this Agreement:

- (a) no waiver by a Party of any provision, or the breach of any provision, of this Agreement will be effective unless it is contained in a written instrument duly executed by the authorized officers or representatives of such Party, and such written waiver will affect only the matter specifically identified in the instrument granting the waiver and will not extend to any other matter, provision or breach;
- (b) the failure of a Party to give notice to any other Party or to take any other steps in exercising any right, or in respect of the breach or non-fulfillment of any provision of this Agreement, will not operate as a waiver of that right, breach or provision nor will any single or partial exercise of any right preclude any other or future exercise of that right or the exercise of any other right, whether in law or in equity or otherwise; and
- (c) acceptance of payment by a Party after the breach or non-fulfillment of any provision of this Agreement by another Person will not constitute a waiver of the provisions of this Agreement, other than the breach cured by such payment.

## **15.2 Change of Legislation**

- (a) If, during the Term, a situation or occurrence arise due to the introduction of, or any change in any Applicable Law, the consequences and the effect of which are claimed to result in a material disadvantage to a Party under this Agreement, then said Party shall provide a written notice, which notice shall provide details of such claimed material disadvantage (including sufficient information to enable the Party receiving the notice to determine if the aforesaid situation or occurrence has in fact arisen), and shall set forth the requesting Party's request to amend this Agreement to account for such claimed material disadvantage.
- (b) The Party receiving the notice under Section 15.2(a) shall, no later than five (5) Business Days after its receipt of such notice, determine, based on the information provided to it in such notice whether the aforesaid situation or occurrence has arisen. In the event the Party receiving the notice determines, acting reasonably, that such situation or occurrence has in fact arisen then the Parties acknowledge and agree that they will endeavour in good faith to renegotiate the terms of this Agreement which were affected by the change in Applicable Law.
- (c) Any dispute arising from the interpretation or application of this Section 15.2 shall be settled pursuant to the Dispute Resolution Procedure.

## **15.3 Amendments**

- (a) Except for as is otherwise provided in this Agreement (including Section 15.3(b)), no amendment or variation of the provisions of this Agreement shall be binding upon the Parties unless evidenced in writing and executed by both Parties.
- (b) The Service Provider agrees and acknowledges that the terms and conditions of the ISO Rules, Measurement Standards Manual and any OPP (including OPP 312 and OPP 402) may be revised, amended or supplemented from time to time by the AESO if the AESO determines, acting reasonably, that such revisions are necessary (i) in connection with the fulfillment by the AESO of its duties under the EUA, (ii) to comply with Applicable Law (including the order, direction or ruling of the AUC or other Authorized Authority), (iii) to fulfill its duties and obligations as a control area manager or member of the WECC, or (iv) to manage, enhance, maintain or respond to System Security. It shall be the Service Provider's responsibility to ascertain the full text of such changes as they are published and made available by the AESO on the AESO's Website.

## **15.4 Governing Law**

This Agreement shall be interpreted in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.

## **15.5 Attornment**

- (a) The Parties irrevocably:
  - (i) submit and attorn to the non-exclusive jurisdiction of the courts of the Province of Alberta for all matters arising out of or relating to this Agreement or any of the transactions contemplated hereby;









- (ii) waive all right to object to jurisdiction of such courts in any legal action or proceeding relative to this Agreement or the transactions contemplated hereby or execution of any judgment, order or decree issued in or as a result of any such action, suit or proceeding which they may now or hereafter have by reason of domicile or otherwise;
  - (iii) waive any objection to the laying of venue in such courts of any of the aforesaid actions, suits or proceedings arising out of or in connection with this Agreement or the transactions contemplated hereby;
  - (iv) waive and agree not to plead or claim that any action, suit or proceeding in such courts has been brought in an inconvenient forum; and
  - (v) waive any right they may have to, or to apply for, trial by jury in connection with any matter, action, proceeding, claim or counterclaim arising out of or relating to this Agreement or any of the transactions contemplated hereby.
- (b) Each Party shall appoint and maintain an attorney in Alberta for service of process in respect of actions, suits or proceedings arising out of or in connection with this Agreement or the transactions contemplated hereby and advise the other Party from time to time of the name and address of such attorney, provided that it shall not change the attorney so appointed or terminate the appointment unless (and no change or termination shall be effective until) they have previously given written advice to the other Party of a new attorney in Alberta for such purpose, in which case this proviso shall again apply in respect of the new attorney so appointed.

**15.6 Notice**

Subject to Section 15.7 and any other provision dealing specifically with a form of notice, any notice, approval, direction or request required or permitted to be given pursuant to this Agreement shall be in writing and shall be delivered personally, by courier, email correspondence or by facsimile to the address, email address or facsimile number designated below or to such other address, email address or facsimile number as may be substituted therefor from time to time by proper notice hereunder. Other than the notices and directives referred to in Section 15.7 (which shall be deemed received by the Service Provider and System Controller, as the case may be, in accordance with the terms of the ISO Rules):

- (a) notice by email correspondence or facsimile, shall be deemed to have been received at the time noted on the email correspondence or facsimile transmission equipment of the Party receiving such notice; and
- (b) notice by hand delivery or courier shall be deemed to have been received two (2) Business Days after being sent or such earlier time as may be confirmed by the receiving Party.

**The Service Provider:**

 Attention:   
 Facsimile:   
 Telephone:   
 Email: 

with a copy to:

[•]  
Attention: [•]  
Facsimile: [•]  
Telephone: [•]  
Email: [•]

**The AESO:**

Independent System Operator, operating as AESO  
2500, 330 - 5<sup>th</sup> Avenue S.W.  
Calgary, AB T2P 0L4  
Attention: Director, Commercial Services  
Facsimile: (403) 539-2509  
Email: [commerical.services@aeso.ca](mailto:commerical.services@aeso.ca)

with a copy to:

Independent System Operator, operating as AESO  
2500, 330 - 5<sup>th</sup> Avenue S.W.  
Calgary, AB T2P 0L4  
Attention: General Counsel  
Facsimile: (403) 539-2949  
Email: [larry.kram@aeso.ca](mailto:larry.kram@aeso.ca)

A Party may change its address, email address and facsimile or telephone numbers by written notice made in accordance with the terms hereof.

**15.7 Operational Notices**

As it relates to the Contracted Load, the delivery of Directives to the Service Provider, and delivery of notices of Unavailability, notices of Availability and notices of Service Withdrawal to the System Controller shall be made in accordance with the procedures established between the System Controller and the Service Provider including the ISO Rules.

**15.8 Parties To Discuss Press Releases**

The Parties shall cooperate with each other in relaying to third Persons information concerning this Agreement and the transactions contemplated herein, and shall discuss drafts of all press releases and other releases of information for dissemination to the public pertaining hereto. However, nothing in this Section 15.8 shall prevent a Party from furnishing any information to any Authorized Authority or stock exchange or to the public, insofar only as is required by this Agreement, Applicable Law or securities laws applicable to such Party; provided that a Party which proposes to make such a public disclosure shall, to the extent reasonably possible, provide the other Party with a draft of such statement a sufficient time prior to its release to enable such other party to review such draft and advise that Party of any comments it may have with respect thereto.

**15.9 Time of the Essence**

Time shall be of the essence in all matters arising pursuant to this Agreement.

**15.10 Severability**

Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under Applicable Law, however, each provision of this Agreement is intended to be severable and if any provision is determined by a court of competent jurisdiction to be illegal, invalid or unenforceable for any reason whatsoever, such provision shall be severed from this Agreement and will not affect the legality, validity or enforceability of the remainder of this Agreement or any other provision hereof.

**15.11 Further Assurances**

The Parties agree to undertake such further acts and execute such further documents as are reasonably required in order to implement this Agreement.

**15.12 Assignment**

- (a) The Service Provider may not assign, sell or otherwise dispose of its interest in this Agreement or any portion thereof, except with the prior written consent of the AESO, which consent may be unreasonably and arbitrarily withheld.
- (b) The AESO may not assign, sell or otherwise dispose of its interest in this Agreement or any portion thereof, except with the prior written consent of the Service Provider, which consent shall not be conditioned or unreasonably withheld or delayed.

**15.13 Supersedes Earlier Agreements**

This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and there are no collateral or other statements, understandings, covenants, agreements, representations or warranties, written or oral, relating to the subject matter hereof. This Agreement supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, between the Parties or their predecessors relating to the subject matter of this Agreement.

**15.14 Enurement**

This Agreement shall be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.

**15.15 Counterpart Execution**

This Agreement may be executed by facsimile or other electronic means and in separate counterparts, each of which when so executed and delivered shall be an original, and all such counterparts taken together shall constitute one agreement.

**IN WITNESS WHEREOF** the Parties have duly executed this Agreement as of the date first written above.

**INDEPENDENT SYSTEM OPERATOR,**  
operating as **AESO**



By: \_\_\_\_\_

By: \_\_\_\_\_

Name (print): \_\_\_\_\_

Name (print): \_\_\_\_\_

Title (print): \_\_\_\_\_

Title (print): \_\_\_\_\_

By: \_\_\_\_\_

Name (print): \_\_\_\_\_

Title (print): \_\_\_\_\_

**THIS IS SCHEDULE "A" TO THE LOAD SHED SERVICES FOR IMPORTS AGREEMENT DATED THIS [ ] DAY OF [ ], 201[ ] BETWEEN [ ] AND INDEPENDENT SYSTEM OPERATOR, OPERATING AS AESO**

---

**LSSi FACILITY**

1. Unit(s) designation and capacity in MW:  
[ ]
2. Delivery Point: Measure Point Identification (MPID) [ ]
3. Revenue Meter Location: Settlement Point ID [ ]
4. Telemetry Measurements of Unit(s):  
[ ]

THIS IS SCHEDULE "B" TO THE LOAD SHED SERVICES FOR IMPORT AGREEMENT DATED THIS [ ] DAY OF [ ], 201[ ] BETWEEN [ ] AND INDEPENDENT SYSTEM OPERATOR, OPERATING AS AESO

## PURCHASE PRICE

### 1.1 Definitions

- (a) **"Actual Volume"** means the total amount of real power (in MW) being consumed by the Service Provider that is subject to LSSi.
- (b) **"Armed Volume"** means the amount of real power (in MW) agreed by the Service Provider to be Armed for LSSi following a Dispatch.
- (c) **"Arming Payment"** means the sum of all Hourly Arming Payments for the applicable Month where the Service Provider provided Armed Volume.
- (d) **"Arming Price"**, for any given hour, means **\$/[ ]/MW**
- (e) **"Arming Volume"** for each Hourly Dispatch Period means the lesser of:
  - (i) 0 MW, when the average Actual Volume for such Hourly Dispatch Period is not within the tolerance band of the Dispatched Volume established in the LSSi Requirements; or
  - (ii) the Armed Volume, when the average Actual Volume for such Hourly Dispatch Period is within the tolerance band of the Dispatched Volume established in the LSSi Requirements.
- (f) **"Availability Payment"** means the sum of all Hourly Availability Payments for the applicable Month where the Service Provider was capable of responding to a Dispatch and to provide LSSi.
- (g) **"Availability Price"** means \$5/MW.
- (h) **"Availability Volume"** means for any given hour, any one of the following
  - (i) the lesser of the average Actual Volume and the minimum Offered Volume in such hour when the Dispatched Volume is 0 MW in such hour;
  - (ii) the greater of the minimum Offered Volume and the minimum Armed Volume in such hour when the Dispatched Volume is greater than 0 MW in such hour;
  - (iii) the greater of the minimum Offered Volume and the minimum Armed Volume in such hour when both the Dispatched Volume and the Trip Volume are greater than 0 MW in such hour;
  - (iv) 0 MW when:
    - (A) the Arming Volume is 0 MW for such hour; and

- (B) the Armed Volume is greater than 0 MW for such hour; or
- (v) 0 MW when a Trip does not occur in accordance with the LSSi Requirements in such hour.
- (i) **"Hourly Arming Duration"** means the number of minutes in the Hourly Dispatch Period that the load was Armed.
- (j) **"Hourly Arming Payments"** for any given hour, means the sum of all Hourly Dispatch Period Arming Payments in such hour.
- (k) **"Hourly Availability Payments"** for any given hour, means:  

$$[\text{Availability Volume} \times \text{Availability Price}]$$
- (l) **"Hourly Dispatch Period Arming Payment"** means for each Hourly Dispatch Period:  

$$[\text{Arming Volume} \times \text{Arming Price} \times \text{Hourly Arming Duration}] / 60$$
- (m) **"Hourly Dispatch Period"** means within a given hour, a period of time of no greater than sixty (60) minutes during which there is Armed Volume. For greater certainty for any given hour there may be multiple Hourly Dispatch Periods.
- (n) **"Hourly Trip Payments"** means:  

$$[\text{Trip Volume} \times \text{Trip Price}]$$
- (o) **"Offered Volume"** means, in any given hour, the amount of real power (in MW) offered by the Service Provider for LSSi.
- (p) **"Trip"** means the disconnection of the Contracted Load from the System within 0.2 seconds (twelve (12) cycles) of the frequency reaching 59.50 Hz (+/- 0.02 Hz).
- (q) **"Trip Payment"** means the sum of the Hourly Tripping Payments for the applicable month where the Service Provider's LSSi Facility was Tripped.
- (r) **"Trip Price"** means \$1000/MW.
- (s) **"Trip Volume"** means, when a Trip occurs in accordance with the LSSi Requirements, the lesser of the Actual Volume and the Armed Volume.

## 1.2 Calculation of Purchase Price

The price to be paid by AESO to the Service Provider for the purchase of the LSSi Services under the Agreement (the **"Purchase Price"**) will be calculated on a monthly basis as the sum of:

- (a) the Availability Payment;
- (b) the Arming Payment; and
- (c) the Trip Payment.

**THIS IS SCHEDULE "C" TO THE LOAD SHED SERVICES FOR IMPORT AGREEMENT DATED THIS [ ] DAY OF [ ], 201[ ] BETWEEN [ ] AND INDEPENDENT SYSTEM OPERATOR, OPERATING AS AESO**

---

**INITIAL PRUDENTIAL SECURITY**

Pursuant to Section 12.2(a) and subject to Section 12.2(b), the Service Provider, shall provide to the AESO initial Prudential Security in the amount of forty thousand dollars (\$40,000.00) for liquidated damages (as determined in Section 8.4(b)) which shall be renewable on an annual basis for the duration of the Term or until the AESO otherwise instructs.