

**NEXTERA ENERGY POWER MARKETING, LLC SUBMISSION  
FULL REQUIREMENTS SUPPLY AGREEMENT  
[REDACTED]**

***PUBLIC VERSION:  
REDACTED***

*This draft agreement is for discussion purposes only and is not a firm commitment of NextEra Energy Power Marketing, LLC ("NEPM") or any parent or affiliate of NEPM. The terms of this draft agreement shall not be disclosed to any third party other than persons to whom disclosure is reasonably required to further discussions or in order to comply with any applicable law. The pricing, terms and conditions contained herein are indicative only. Neither party will be bound contractually to the other party unless and until final terms are incorporated into a mutually agreed, final definitive agreement that is executed and delivered by both parties.*

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**FULL REQUIREMENTS SUPPLY AGREEMENT**

**between**

**NEXTERA ENERGY POWER MARKETING, LLC (as “Seller”)**

**and**

**LOGANSFORT MUNICIPAL UTILITIES (as “Buyer”)**

This *Full Requirements Supply Agreement* (the “Agreement”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 2016 (“Effective Date”), by and among NEXTERA ENERGY POWER MARKETING, LLC, a limited liability company organized and existing under the laws of Delaware (“NEPM” or “Seller”) and LOGANSFORT MUNICIPAL UTILITIES, a separate governmental unit within the City of Logansport, Indiana, organized and existing under the laws of the State of Indiana (“LMU” or “Buyer”). NEPM and LMU may be referred to herein individually as “Party” and collectively as the “Parties”.

**RECITALS**

**WHEREAS**, LMU is a municipal utility organized and authorized under Indiana law and owns and operates a [\_\_ kV] electric transmission and distribution system interconnected to the electric system of Duke Energy Indiana, Inc., within the MidContinent Independent System Operator, Inc. region, through which system LMU provides retail electric service to [\_\_\_] residential customers, [\_\_\_] commercial customers, and [\_\_\_] industrial customers as of the Effective Date;

**WHEREAS**, LMU wishes to purchase Full Requirements Supply on a wholesale basis from NEPM in accordance with the terms and conditions of this Agreement; and

**WHEREAS**, NEPM wishes to sell Full Requirements Supply on a wholesale basis to LMU in accordance with the terms and conditions of this Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

**AGREEMENT**

**ARTICLE 1  
DEFINITIONS**

**Section 1.1** **Defined Terms.** Terms used in this Agreement and not otherwise defined in the text below shall have the respective meanings set forth in this Section 1.1. The meanings given to the terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

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“Affiliate” means, with respect to any Person, any other Person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, such Person. The term “control” (including the terms “controlled by” or “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership, by contract, or otherwise.

“Ancillary Services” has the meaning set forth in the Applicable Market Rules.

[REDACTED]

[REDACTED]

[REDACTED]

“Applicable Law” means all laws, ordinances, rules, regulations, guides, judgments, decrees, injunctions, writs and orders of any Governmental Authority having jurisdiction over either of the Parties, the MISO region, or any activity conducted under or in relation to this Agreement, as all of the foregoing may be applicable and in effect from time to time.

“Applicable Market Rules” means the MISO Tariff and any other business practice manuals, rules and procedures promulgated by MISO, each as published on MISO’s website and as may be amended from time to time.

“Bankrupt” means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition is not dismissed or withdrawn within ninety (90) days after such filing, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

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“Business Day” shall mean a day on which commercial banks or financial institutions are open for business in the States of Florida and New York.

“Buyer Downgrade Event” means the occurrence of any of the following events:

- (i) Buyer no longer has the ability to establish retail electric rates for the sale of electricity to its customers as a whole in Buyer’s Service Territory, substantially in accordance with its past practices, excluding transmission services;
- (ii) Buyer’s ratemaking authority, as it exists on the Effective date, is materially restricted or otherwise diminished, as determined by Seller in its reasonable discretion;
- (iii) Retail electric service competition comes into effect on a comprehensive basis within Buyer’s Service Territory; or
- (iv) Buyer breaches or otherwise fails to comply with any financial covenant under one or more agreements or instruments relating to Buyer’s Indebtedness (such agreements or instruments collectively, “Borrowings”). Buyer shall provide timely written notice to Seller of Buyer’s breach or failure to comply with any financial covenant under Buyer’s Borrowings, and shall, upon Seller’s request, but not more frequently than annually, provide Seller a written attestation that Buyer is in compliance with all financial covenants under its Borrowings.

“Buyer Retail Load” means the electric load of all classes of customers served by Buyer in Buyer’s Service Territory, as such load exists on the Effective Date and as such load may increase or decrease (i) commensurate with Buyer’s customers’ needs and/or (ii) due to *de minimis* geographic changes in Buyer’s Service Territory; *provided that* Buyer Retail Load shall exclude the load associated with any Post-Effective Date Large Customer Account. Buyer Retail Load shall be measured by hourly meter readings at the Energy Delivery Point (MWh).

“Capacity” means Unforced Capacity, measured by Zonal Resource Credits (“ZRCs”), as such terms are defined in the Applicable Market Rules, or any other form of capacity rights that may be counted towards the resource adequacy or capacity obligation of a load serving entity, as determined by MISO. For the avoidance of doubt, one ZRC shall represent one megawatt of Unforced Capacity.

“Capacity Delivery Point” has the meaning set forth in Section 3.2.2.

“Claims” means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys’ fees and

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court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

“Commercially Reasonable Manner” or “Commercially Reasonable Efforts” means, with respect to any action required to be made, attempted or taken by a Party, the level of effort in light of the facts known to such Party at the time a decision is made that: (i) would reasonably be expected to accomplish the desired result at a reasonable cost; (ii) is consistent with Good Industry Practice; and (iii) takes into consideration the amount of notice of the need to take such action, the duration and type of action and the competitive environment in which such action occurs.

“Costs” means, with respect to the Non-Defaulting Party as defined in Section 7.3, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations under this Agreement or in entering into new arrangements which replace this Agreement; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination of this Agreement.

“Credit Rating” means, with respect to Seller’s Guarantor on any date of determination, the rating then assigned to its unsecured senior long-term debt or deposit obligations by S&P or Moody’s, and if no rating is assigned to such entity’s unsecured, senior long-term debt or deposit obligations by either such rating agency, the general corporate credit rating or issuer rating, as applicable, assigned by such rating agency to Seller’s Guarantor.

“Day-Ahead” has the meaning set forth in the Applicable Market Rules.

“Delivery Term” has the meaning set forth in Article 2.

“Distribution Company” means Logansport Municipal Utilities, or its successor, in its capacity as the owner of electric transmission/distribution facilities.

“Energy” means power produced in the form of electricity, measured in kilowatt hours or in megawatt hours.

“Energy Delivery Point” has the meaning set forth in Section 3.2.1.



“FERC” means the Federal Energy Regulatory Commission or its successor.

“Firm” means, with respect to Seller’s obligation to provide Full Requirements Supply, that Seller’s obligation shall be excused only in the event of interruption resulting from a System Emergency or a Force Majeure Event.

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“Fixed Capacity Quantity” has the meaning set forth in Section 4.1.2.1.

“Fixed Contract Price for Capacity” has the meaning set forth in Section 4.1.2.

“Fixed Contract Price for Energy” has the meaning set forth in Section 4.1.1.

“Force Majeure Event” means any event, condition or circumstance (including, without limitation, any acts of God, war, war-like condition, embargoes, riots, acts of terrorism, strike, and severe weather conditions) that wholly or partly prevent or delay the performance of any obligation arising under this Agreement, but only if and to the extent (i) such event is not within the reasonable control, directly or indirectly, of the Party seeking to have its performance obligation(s) excused thereby, *and* (ii) the Party seeking to have its performance obligation(s) excused thereby has taken all reasonable precautions and measures in order to prevent or avoid such event or mitigate the effect of such event on such Party’s ability to perform its obligations under this Agreement, *and* (iii) such event is not the result of the negligence of, or otherwise caused by, the Party seeking to have its performance obligations excused thereby. For avoidance of doubt, suspension or delay in a Party’s performance obligation under this Agreement for economic or financial reasons shall not be a Force Majeure Event.

“Full Requirements Supply” means all Energy, Capacity and Ancillary Services required to satisfy Buyer’s obligation to serve one hundred percent (100%) of Buyer Retail Load at the Energy Delivery Point and Capacity Delivery Point, as applicable. For avoidance of doubt, Full Requirements Supply shall be provided on a wholesale basis, and Seller shall not assume any obligations imposed on providers of retail electric service under state law or regulation.

“Gains” means, with respect to the Non-Defaulting Party, as defined in Section 7.3, an amount equal to the present value of the economic benefit to it, if any, resulting from the termination of this Agreement. Factors used in determining economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties, including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets. Third parties supplying any such information may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information.

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

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“Governmental Action” means any official action taken by any Governmental Authority.

“Governmental Authority” means any federal, state, county, city, regional, local or municipal government, authority, department, commission (including without limitation the Indiana Public Service Commission), board, bureau, agency, instrumentality, court or other judicial, legislative, regulatory, taxing or administrative body or authority, or any political subdivision of the foregoing, or any independent system operator (including without limitation MISO, FERC, NERC, or any governing regional electric reliability council), in each case having jurisdiction to exercise any administrative, executive, judicial, legislative, police, regulatory, or taxing authority over any of the Parties.

“Governmental Taxes” has the meaning set forth in Section 12.4.

“Hourly Energy Payment” has the meaning set forth in Section 4.3.

“Indebtedness” means, with respect to Buyer, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

“Interest Rate” means, for any date, two percent over the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under "Money Rates"; *provided that* the Interest Rate shall never exceed the maximum lawful rate permitted by Applicable Law.

“Investment Grade Credit Rating” shall mean a Credit Rating of at least BBB- from S&P or Baa3 from Moody’s.

“Letter(s) of Credit” means one or more irrevocable, non-transferable standby letters of credit issued by a Qualified Institution. Letters of Credit shall be in a form substantially the same as that attached as Appendix B, with any changes required by the issuing bank.

“LMP” means Locational Marginal Price, as defined in the Applicable Market Rules.

“Local Resource Zone” has the meaning set forth in the Applicable Market Rules.

“Losses” means, with respect to the Non-Defaulting Party, as defined in Section 7.3, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement. Factors used in determining economic loss may include, without limitation, reference to information either available to it internally or supplied by one or more third parties, including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets. Third parties supplying any such information may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information.

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“Market Participant” has the meaning set forth in the Applicable Market Rules.

“Market Participant Services” has the meaning set forth in Section 3.3.

[REDACTED]

[REDACTED]

“MISO” means the MidContinent Independent System Operator, Inc., or any successor(s) thereto.

“MISO Tariff” means the MidContinent Independent System Operator, Inc. Open Access Transmission, Energy and Operating Reserve Markets Tariff, as filed with FERC and as amended from time to time.

“Month” or “Monthly” means a calendar month or pertaining to a calendar month, as applicable.

[REDACTED]

[REDACTED]

“Monthly Capacity Payment” has the meaning set forth in Section 4.5.

“Monthly Energy Payment” has the meaning set forth in Section 4.4.

“Monthly Payment Amount” has the meaning set forth in Section 4.6.

“Moody’s” means Moody’s Investors Service, Inc. or its successor.

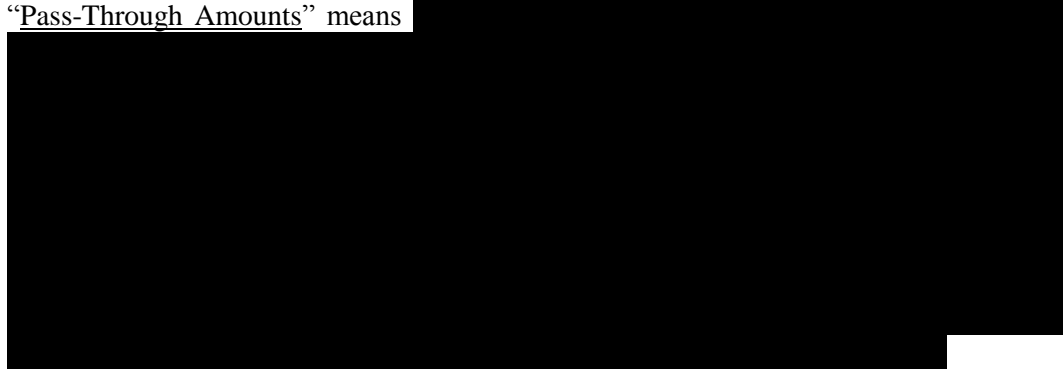
“NERC” means the North American Electric Reliability Corporation and/or any of its regional entities, or any successor(s) thereto.

“New MISO Charge” means any new tariff charge assessed on load serving entities by MISO for which MISO obtains FERC acceptance or approval after the Effective Date, as evidenced by one or more regulatory filings with, and acceptance of the same by, the FERC.



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“Pass-Through Amounts” means



“Performance Assurance” means (i) with respect to Seller, a parental guaranty issued by Seller’s Guarantor, collateral in the form of Letter(s) of Credit or other security acceptable to Buyer; and (ii) with respect to Buyer, collateral in the form of cash (United States funds) or other security acceptable to Seller.

“Person” means any individual, partnership, corporation, association, business, trust, Governmental Authority or other entity.

“Post-Effective Date Large Customer Account” means (i) the load associated with any new electric customer of Buyer after the Effective Date, or (ii) the incremental load added by any existing electric customer of Buyer after the Effective Date, in either case to the extent such new or incremental load (at a single meter point or multiple meter points) equals or exceeds [REDACTED] in any hour.

“Qualified Institution” means a U.S. commercial bank or a foreign bank with a U.S. headquarters or branch, with such bank having (i) a Credit Rating of at least A- from S&P or A3 from Moody’s, (ii) a short term debt obligation rating issued by Moody’s of P-2 or higher or by S&P of A-2 or higher, and (iii) a minimum of \$10 billion in assets.

“Seller Downgrade Event” shall have occurred if the Credit Rating of Seller’s Guarantor falls below an Investment Grade Credit Rating.

“Seller’s Guarantor” means NextEra Energy Capital Holdings, Inc.

“Service Territory” means, with respect to Buyer, the geographic territory within which Buyer has an exclusive right under Applicable Law to provide retail electric services.

“System Emergency” means emergency situation as defined by Distribution Company, any electric transmission owner, MISO or NERC, in which a reduction in voltage is occurring or is imminent and/or load curtailment is in place or imminent within the MISO region or Distribution Company’s system.

“S&P” means Standard & Poor's Ratings Group (a division of The McGraw-Hill Companies, Inc.) or its successor.

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“Unpaid Payable Amounts” means the aggregate of all amounts that are owed or otherwise accrued and payable by the Defaulting Party (as defined in Section 7.3) to the Non-Defaulting Party (as defined in Section 7.3) that remain unpaid as of the Early Termination Date (as defined in Section 7.3), regardless of whether such amounts have been invoiced to the Defaulting Party.

**Section 1.2 Drafting Interpretations.** Preparation of this Agreement has been a joint effort of all Parties and the resulting document shall not be construed more severely against one of the Parties than against the other.

**ARTICLE 2**  
**DELIVERY TERM**

The delivery term of this Agreement shall commence at hour ending (“HE”) 0100 Eastern Prevailing Time (“EPT”) on January 1, 2019 and shall continue through and including HE 2400 on December 31, 2023 (“Delivery Term”). Prior to the end of the Delivery Term, the Parties shall use Commercially Reasonable Efforts to extend the Delivery Term, by amendment to this Agreement, on mutually agreeable terms and conditions, *provided that* neither Party shall be obligated to extend the Delivery Term. Notwithstanding the foregoing, nothing in this Article 2 shall prevent either Party from terminating this Agreement prior to expiration of the Delivery Term (or any renewal Delivery Term) in accordance with Article 7.

**ARTICLE 3**  
**FULL REQUIREMENTS SUPPLY**

**Section 3.1 Firm Product.** During the Delivery Term, Seller shall provide Full Requirements Supply to Buyer on a Firm basis.

**Section 3.2 Delivery Points.**

**3.2.1 Energy.** Seller shall deliver, and Buyer shall accept, the Energy component of Full Requirements Supply [REDACTED]

[REDACTED] (“Energy Delivery Point”).

**3.2.2 Capacity.** Seller shall deliver Capacity [REDACTED]

[REDACTED] (“Capacity Delivery Point”).

**Section 3.3 Scheduling of Full Requirements Supply.** Buyer hereby appoints Seller, and Seller agrees to serve, as Buyer’s Market Participant for purposes of performing the functions identified below (“Market Participant Services”) for Buyer Retail Load during the Delivery Term; *provided that* Seller’s obligations under this Section 3.3 shall not commence until Buyer has

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taken all actions required by MISO to enable Seller to perform such Market Participant Services. Seller shall not assess a service fee for Market Participant Services performed by Seller under this Section 3.3. Market Participant Services shall consist of the following:

- (a) Seller shall develop forecasts of Buyer Retail Load on a daily basis and shall schedule Energy pursuant to Applicable Market Rules. Buyer shall provide Seller with information regarding changes to Buyer Retail Load, including expected load growth or reductions in load, in a manner and as often as reasonably required for Seller to satisfy these obligations.
- (b) Seller shall interface with MISO and shall serve as the market settlement agent and billing agent (“MSA/BA”) for Buyer Retail Load. As MSA/BA, Seller shall be responsible for all functions related to the MISO settlement process with respect to Buyer Retail Load, including receiving and processing invoices from MISO, performing shadow settlements to verify invoices, filing disputes on behalf of Buyer, and tendering payments to MISO. Seller agrees to perform such services in a Commercially Reasonable Manner using the same techniques and tools employed by Seller in interfacing with MISO for its own account.

**Section 3.4 Metering.** To the extent not already in place, Buyer shall install and maintain, at Buyer’s expense, revenue meters to be used by MISO for billing purposes at the Energy Delivery Point or at such other metering point reasonably acceptable to Buyer and MISO, and shall provide Seller access to such revenue meters (each, a “Meter” and collectively, the “Meters”). Seller shall, at Seller’s expense, provide (or contract with a third party to provide) hourly metering data read from the Meter(s) showing the Energy delivered to the Energy Delivery Point. If Meter data is unavailable from MISO when required for billing purposes, data will be estimated (based upon estimated deliveries or upon other meter or checkmeter measurements if available), subject to a retroactive true-up adjustment based upon actual Meter data in the first payment month after which such reliable data becomes available.

**Section 3.5 NERC Status.** The Parties agree that Seller shall be a “Purchasing/Selling Entity,” as such term is defined by NERC, with respect to Buyer and this Agreement, and shall not assume at any time under this Agreement or otherwise with respect to Buyer or Buyer Retail Load the role of “Load Serving Entity” as such term is defined by NERC.

**ARTICLE 4**  
**PRICING, PAYMENT AND BILLING**

**Section 4.1 Contract Price(s).**

**4.1.1 Energy.** The fixed contract price for Energy during the Delivery Term (“Fixed Contract Price for Energy”) shall be \$ [REDACTED] per MWh.

**4.1.2 Capacity.** The fixed contract price for the Fixed Capacity Quantity during the Delivery Term (“Fixed Contract Price for Capacity”) shall be \$ [REDACTED] per kW-Month.

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**4.1.2.1 Fixed Capacity Quantity.** The Fixed Capacity Quantity during the Delivery Term shall be [REDACTED] ZRCs (MW) per month.

**Section 4.2 Post-Effective Date Large Customer Accounts.** [REDACTED]

**Section 4.3 Hourly Energy Payment.** For each hour during the Delivery Term, the Hourly Energy Payment shall equal (i) the Fixed Contract Price for Energy *times* (ii) Buyer Retail Load (MWh) that hour.

**Section 4.4 Monthly Energy Payment.** For each Month during the Delivery Term, the Monthly Energy Payment shall equal the sum of all Hourly Energy Payments that Month.

**Section 4.5 Monthly Capacity Payment.** For each Month during the Delivery Term, the Monthly Capacity Payment shall equal the sum of (i) (the Fixed Contract Price for Capacity *times* 1000 *times* the Fixed Capacity Quantity) [REDACTED]

**Section 4.6 Monthly Payment Amount.** For each Month during the Delivery Term, the Monthly Payment Amount shall equal the sum of (i) the Monthly Energy Payment *plus* (ii) the Monthly Capacity Payment [REDACTED] and *plus or minus*, as applicable, (iv) all Pass-Through Amounts incurred by Seller that Month; [REDACTED]

**Section 4.7** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Section 4.8 Payment/Billing.** On or prior to the tenth (10<sup>th</sup>) Business Day of each calendar month (“Month”), Seller shall provide to Buyer a settlement statement (“Statement”) setting forth the Monthly Payment Amount for the prior Month and identifying (i) [REDACTED]

[REDACTED] (iii) all Pass-Through Amounts incurred (or received) by Seller the prior Month, and (iv) any true-up adjustments to estimated amounts included in the prior Month’s Statement. Concurrently with the provision of each Statement, Seller shall tender to Buyer an invoice (“Invoice”) for the total amount due from (or to) Buyer, as set forth on the Statement. Buyer (or Seller, as applicable) shall have ten (10) Business Days after receipt of Seller’s Invoice to remit all amounts due to the other Party (“Settlement Date”). All payments shall be made by wire transfer, according to the payment instructions set forth below, and any amounts not remitted by the Settlement Date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

**Section 4.9 Billing Disputes.** If Buyer, in good faith, disputes an invoice, Buyer shall notify Seller of the basis for the dispute and the amount disputed, but shall pay the undisputed amount due. Within seven (7) Business Days of Seller’s receipt of Buyer’s notification of the existence of a billing dispute, the Parties shall meet and confer in an effort to resolve the dispute. In the event that the effort to resolve the dispute between the Parties does not result in a mutually agreeable resolution of the dispute within sixty (60) Business Days of Seller’s receipt of Buyer’s notification, either Party may pursue judicial relief consistent with the terms of this Agreement. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date

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to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 4.3 within six (6) months after the invoice was due or any specific adjustment to the invoice is made.

**Section 4.10 Payments.**

Payments to Seller shall be made by wire transfer to the following account:

**Wire Transfer Only:**

Pay: [REDACTED]  
For the Account of: [REDACTED]  
Account No. [REDACTED]  
Fed. ABA No.: [REDACTED]

**ACH Transfer Only:**

Pay: [REDACTED]  
For the Account of: [REDACTED]  
Account No.: [REDACTED]

Payments to Buyer shall be made my wire transfer to the following account:

[to be inserted]

**Section 4.11 No Additional Fees or Charges.** Seller shall not assess Buyer any rates, rate adjustments or charges for Full Requirements Supply other than the rates, rate adjustments and charges set forth in this Agreement. Upon termination of this Agreement, and Buyer shall not be liable to Seller for any exit fee or stranded investment charge; *provided, however*, that (i) termination of this Agreement shall not extinguish or otherwise affect Buyer’s payment obligations for Full Requirements Supply provided by Seller up to and including the effective date of termination; and (ii) this Section shall not prevent either Party from assessing a Termination Payment pursuant to Section 7.3 of this Agreement.

**ARTICLE 5**  
**FORCE MAJEURE**

To the extent Buyer or Seller is prevented by a Force Majeure Event from carrying out, in whole or part, its obligations under this Agreement (Buyer or Seller in this context the “Affected Party”) and gives notice and details of the Force Majeure Event to Seller or Buyer, as applicable (the “Unaffected Party”) as soon as practicable but no later than two (2) Business Days, then the Affected Party shall be excused from the performance of its obligations hereunder (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure Event). The Affected Party will give notice to the Unaffected Party setting forth the nature of the Force Majeure Event in reasonable detail sufficient to establish that the

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occurrence constitutes a Force Majeure Event as soon as possible after it has knowledge of the Force Majeure Event, and shall use Commercially Reasonable Efforts to remedy the Force Majeure Event with all reasonable dispatch. The Unaffected Party shall not be required to perform its obligations to the Affected Party during the Force Majeure Event. When the Affected Party is able to resume performance of its obligations under this Agreement, the Affected Party shall give the Unaffected Party prompt written notice to that effect.

Notwithstanding anything to the contrary herein, if the Force Majeure Event continues for a period in excess of sixty (60) consecutive days, then the Unaffected Party shall have the right to terminate this Agreement by providing the Affected Party with not less than five (5) Business Days' prior written notice. Upon the effective date of such termination, neither Party shall have any further rights or obligations hereunder, and no Termination Payment, as defined below, shall be owed by either Party; *provided, however*, that termination of this Agreement under this Article 5 shall not extinguish or otherwise affect any rights and obligations arising prior to the effective date of such termination, including, with respect to Buyer, payment obligations for Full Requirements Supply provided by Seller up to and including the effective date of termination.

**ARTICLE 6**  
**REPRESENTATIONS AND WARRANTIES**

On the Effective Date each Party represents and warrants to the other Party that:

- (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) it has all regulatory and governmental authorizations necessary for it to legally perform its obligations under this Agreement;
- (c) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (d) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any equitable defenses;
- (e) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
- (f) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;

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- (g) no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;
- (h) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement; and
- (i) it is a ‘forward contract merchant’ within the meaning of the United States Bankruptcy Code, and an ‘eligible contract participant’ as such term is defined in the Commodity Exchange Act, as amended (7 U.S.C. § 1(a)(12)).

**ARTICLE 7**  
**EVENTS OF DEFAULT**

**Section 7.1 Events of Default of Seller.** An “Event of Default” shall be deemed to have occurred with respect to Seller upon the occurrence and during the continuance of any of the following events:

- (a) Seller goes Bankrupt;
- (b) Seller fails to pay any undisputed amount when due under this Agreement within five (5) Business Days after receiving notice of such failure;
- (c) Seller fails to perform or observe any of its material obligations or covenants hereunder or otherwise is in material breach of this Agreement (other than payment obligations, which are specifically addressed in Section 7.1(b)) and such failure or breach continues unremedied for a period of thirty (30) days following notice from Buyer demanding cure of such failure;
- (d) Any representation or warranty made by Seller herein shall have been false when made and such misrepresentation has had or could reasonably be expected to have a material adverse effect on Purchaser.
- (e) Seller fails to provide Performance Assurance as required by and in accordance with Article 11.

**Section 7.2 Events of Default of Buyer.** An “Event of Default” shall be deemed to have occurred with respect to Buyer upon the occurrence and during the continuance of any of the following events:

- (a) Buyer goes Bankrupt;



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- (b) Buyer fails to pay any amount when due under this Agreement within five (5) Business Days after receiving notice of such failure;
- (c) Buyer fails to perform or observe any of its material obligations or covenants hereunder or otherwise is in material breach of this Agreement (other than payment obligations, which are specifically addressed in Section 7.2(b) and such failure or breach continues unremedied for a period of thirty (30) days following notice from Seller demanding cure of such failure;
- (d) Any representation or warranty made by Buyer herein shall have been false when made and such misrepresentation has had or could reasonably be expected to have a material adverse effect on Seller; and
- (e) Buyer fails to provide Performance Assurance as required by and in accordance with Article 11.

**Section 7.3 Declaration of an Early Termination Date/ Termination Payment.** If an Event of Default occurs with respect to Seller or Buyer (the “Defaulting Party”), Buyer or Seller (the “Non-Defaulting Party”) shall have the right to (i) designate a day, no earlier than the day such notice is received by the Defaulting Party and no later than 20 days after such notice is so received, as an early termination date (“Early Termination Date”) to accelerate all amounts owing between the Parties and to liquidate and terminate this Agreement, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance. The Non-Defaulting Party shall calculate, in a Commercially Reasonable manner and without duplication, a single liquidated settlement amount (“Termination Payment”) as of the Early Termination Date, which Termination Payment shall consist of (a) all of the Non-Defaulting Party’s Costs and Losses (net of Gains) for the portion of the Delivery Term remaining as of the Early Termination Date, and (b) any Unpaid Payable Amounts. The quantities to be used in calculating the Termination Payment shall be the actual Buyer Retail Load quantities from the comparable period in the prior year.

**Section 7.4 Setoff.** In calculating the Termination Payment, the Non-Defaulting Party may set off (a) any amounts due and payable by the Non-Defaulting Party or any Non-Defaulting Affiliate to the Defaulting Party under any agreement against (b) any amounts due and payable by the Defaulting Party to the Non-Defaulting Party or any Non-Defaulting Affiliate under any agreement.

**Section 7.5 Notice of Payment of Termination Payment.** As soon as practicable after calculation of the Termination Payment, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Party that owes it within five (5) Business Days after such notice is received (“Termination Payment Date”).

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**Section 7.6 Disputes With Respect to Termination Payment.** If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within two (2) Business Days of receipt of Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. If the Parties are unable to resolve such dispute within thirty (30) Business Days after the recipient Party's receipt of such written explanation, either Party may pursue judicial relief consistent with the terms of this Agreement.

**Section 7.7 Suspension of Performance.** Notwithstanding any other provision of this Agreement, if an Event of Default occurs, the Non-Defaulting Party, upon one (1) day's prior written notice to the Defaulting Party, shall have the right to suspend performance under this Agreement; *provided, however*, in no event shall any such suspension continue for longer than ten (10) Business Days unless an Early Termination Date shall have been declared and notice thereof pursuant to Section 7.3 given.

**ARTICLE 8**  
**INDEMNITY**

**Section 8.1 Indemnity by Seller.** Seller releases and will, on an after-tax basis, defend, indemnify, and hold harmless Buyer, its Affiliates and each of their respective officers, directors, agents and employees (collectively, including Buyer, the "Buyer Indemnified Parties") from and against any and all losses, costs, damages, injuries, liabilities, Claims, demands, fines and penalties, including reasonable and necessary attorneys' and experts' fees and expenses, costs of investigation, court costs and other dispute resolution costs, and interest on any of these items (collectively, "Damages") sustained or incurred by any of the Buyer Indemnified Parties to the extent (i) caused by any Event of Default with respect to Seller, any material violation of Applicable Law by Seller, or the reckless or willful misconduct of Seller; or (ii) related to any Governmental Taxes for which Seller is responsible as provided in this Agreement.

**Section 8.2 Indemnity by Buyer.** Buyer releases and will, on an after-tax basis, defend, indemnify, and hold harmless Seller, its Affiliates and each of their respective officers, directors, agents and employees (collectively including Seller, the "Seller Indemnified Parties") from and against any and all Damages sustained or incurred by any of the Seller Indemnified Parties to the extent (i) caused by any Event of Default with respect to Buyer, any material violation of Applicable Law by Buyer, or the reckless or willful misconduct of Buyer; or (ii) related to any Governmental Taxes for which Buyer is responsible as provided in this Agreement.

**Section 8.3 Indemnity Procedure.** The Person entitled to indemnification under this Article 8 (the "Indemnified Person") will promptly notify the indemnifying Party of any Claim, and the indemnifying Party will have the right to assume the investigation and defense of the Claim, including employing legal counsel to which the Indemnified Person has consented (such consent not to be unreasonably withheld, conditioned or delayed). If the indemnifying Party does not within ten (10) Business Days after written notice assume the investigation and defense of the Claim, the Indemnified Person may do so, including employing legal counsel of its choice, at the indemnifying Party's expense. In either case, the indemnifying Party will pay or reimburse the Indemnified Person for all court costs, reasonable attorneys' fees and experts' fees relating to the

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Claim and post any appeals bonds. If the indemnifying Party assumes the defense of a Claim, the Indemnified Person has the right to employ at its expense separate legal counsel and participate in the defense of the Claim. The indemnifying Party and its counsel will cooperate with the Indemnified Person and, if applicable, the Indemnified Person's counsel, and provide reasonable access to information regarding the Claim. The indemnifying Party will not be liable for any settlement of a Claim without its written consent to the settlement, provided that such consent shall not be unreasonably withheld, conditioned or delayed. To prevent double recovery for a Claim, the Indemnified Person will reimburse the indemnifying Party for payments or costs incurred in an indemnity Claim with the net proceeds of any judgment, insurance, bond, surety, or other recovery by the Indemnified Person for the indemnified Claim.

**ARTICLE 9**  
**LIMITATIONS**

EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY; SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

**ARTICLE 10**  
**REGULATORY**

It is the express intent of the Parties that , except as expressly provided herein, the rates and all terms and conditions of the services provided hereunder shall remain in effect for the Delivery

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Term and that such rates, terms and conditions shall not be subject to change under Sections 205 or 206 of the Federal Power Act of 1935, 16 U.S.C. § 791 et seq., (or any successor legislation) without the written consent of the Parties, notwithstanding any subsequent changes in Applicable Law or market conditions that may occur. Each Party agrees that, except with the prior written consent of the other Party, neither it nor its Affiliates, successors and permitted assigns will institute or voluntarily cooperate, directly or indirectly (through complaint, investigation or otherwise), in the institution or conduct of any action or proceeding of the FERC under Section 205, Section 206 or any other portion of the Federal Power Act, which action or proceeding is intended for the purpose of, or could reasonably be expected to have the effect of, changing the rates, terms and conditions of this Agreement then in effect; *provided*, Seller shall have the right to file this Agreement with FERC and seek acceptance and/or approval thereof in accordance with Section 205 of the Federal Power Act; *provided, further*, that in any such filing, Seller shall seek confidentiality of the rates and terms and conditions for service specified herein. Moreover, absent agreement of all Parties to a proposed change, the standard of review for changes to any rate, term or condition of this Agreement proposed by a non-Party or the FERC or any other Governing Authority acting *sua sponte* shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Services Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), as clarified in *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish County*, 554 U.S. 527 (2008). To the extent that the FERC adopts specific language that parties must incorporate into agreements in order to bind FERC, third parties and themselves to a public interest standard of review, the Parties hereby incorporate such language herein by reference.

**ARTICLE 11**  
**CREDIT SUPPORT**

**Section 11.1 Assurances as to Payment and Performance.**

**11.1.1 Seller’s Guaranty.** Within ten (10) Business Days after the Effective Date, Seller shall provide Buyer a guaranty issued by Seller’s Guarantor in the amount of \$ [REDACTED] US dollars. Such guaranty shall be in a form substantially the same as that attached hereto as Appendix A.

**11.1.2 Adequate Assurances.** After the Effective Date, should reasonable grounds for insecurity arise with respect to the performance of either Party (“Party Y”), the other Party (“Party X”) may provide Party Y with written notice requesting Performance Assurance in an amount determined by Party X in a commercially reasonable manner. Upon receipt of such notice, Party Y shall have three (3) Business Days to provide such Performance Assurance to Party X. In the event that Party Y fails to provide such Performance Assurance within three (3) Business Days of receipt of notice, then an Event of Default under Article 7 shall have occurred and Party X will be entitled to the remedies set forth in Article 7.

**11.1.3 Downgrade Event.** If Buyer experiences a Buyer Downgrade Event, or if Seller experiences a Seller Downgrade Event, the other Party may provide the downgraded Party written notice requesting Performance Assurance in an amount determined by such other Party in a commercially reasonable manner [REDACTED]



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Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Taxes for which it is exempt under Applicable Law. Each Party will reasonably cooperate with the other to provide tax exemption certificates if requested.

**Section 12.5 Notices.** Any notices given pursuant to this Agreement shall be in writing and shall be delivered to the following:

If to Seller:  
NextEra Energy Power Marketing, LLC  
Attn: Contracts/Legal  
700 Universe Blvd.  
Mail Stop CTR/JB  
Attention: Legal Department  
Juno Beach, FL 33408  
[REDACTED]

If to Buyer:  
[to be inserted]

**Section 12.6 No Immunity Claim.** Buyer represents to Seller that Buyer will not claim immunity from contractual liability under this Agreement on the grounds of sovereignty or other similar grounds with respect to itself or its revenues or assets (irrespective of their use or intended use) from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) or (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be made subject to in any suit, action or proceedings relating to this Agreement in the courts of any jurisdiction, and no such immunity (whether or not claimed) may be attributed to such party or its revenues or assets.

**Section 12.7 Survival.** The applicable provisions of this Agreement shall continue in effect after the termination of this Agreement, to the extent necessary to provide for final billing and payment. The termination of this Agreement shall not terminate the rights or duties of either Party hereunder with respect to any obligations arising prior to the effective date of termination.

**Section 12.8 No Partnership.** Neither this Agreement nor any transaction hereunder, shall be construed to create a new entity, such as a partnership or a joint venture, or constitute an agency or employment relationship. No Party shall be under the control of or be deemed to control the other Parties.

**Section 12.9 Third Party Beneficiary.** Nothing expressed or referenced to in this Agreement will be construed to give any entity other than the Parties any remedy or claim under or with respect to this Agreement or any provision of this Agreement. This Agreement and the provisions and conditions hereof are for the sole and exclusive benefit of the Parties, and their permitted successors and permitted assigns.

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**Section 12.10 Choice of Law.** THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

**Section 12.11 Confidentiality.**

- (a) Except as provided in subsections (b), (c) and (d) below, from and after the Effective Date, each Party agrees to hold in confidence and shall safeguard any and all information, knowledge and data imparted to it by the other Party pertaining to this Agreement, including all terms and provisions of this Agreement (“Confidential Information”) by using a reasonable standard of care to prevent the unauthorized use, dissemination or disclosure of such information. Notwithstanding the foregoing, Confidential Information shall not include information: (i) that was in the public domain prior to receipt thereof by the other Party, or which subsequently becomes part of the public domain by publication or otherwise except by wrongful act of the Party to whom which the Confidential Information had been provided or its Affiliates, or its or their employees, directors, officers, agents, advisers or representatives; (ii) information that either Party can show was lawfully in its possession prior to receipt thereof from the other Party through no breach of any confidentiality obligation; (iii) information received by either Party from a third party having no obligation of confidentiality with respect thereto; or (iv) information developed independently by either Party providing it is not developed from otherwise Confidential Information. This obligation shall continue to remain in full force and effect for twelve (12) months after the date of termination of this Agreement.
- (b) Either Party (the “Disclosing Party”) shall have the right to disclose Confidential Information to any Governmental Authority if applicable law or stock exchange rules require such disclosure, or to the extent reasonably necessary to obtain any approval of a Governmental Authority of, or relating to, the transactions contemplated hereby. If a Party becomes legally compelled to disclose any Confidential Information or otherwise intends to disclose Confidential Information pursuant to this Section 12.11(b), such Party shall provide the other Party with prompt notice so that the other Party may seek to obtain a protective order or other appropriate remedy.
- (c) Either Party shall have the right to disclose Confidential Information to its Affiliates and its and their employees, directors, officers, agents, representatives and existing or potential contractors, vendors, consultants, advisors and insurers; *provided, however*, that any such party receiving any Confidential Information shall agree to maintain the confidentiality of such Confidential Information in accordance with the terms hereof.

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- (d) Seller acknowledges that Buyer is a public entity and is required to comply with the provisions of any applicable open meeting and public records disclosure laws regarding disclosure of the pricing terms and other terms of this Agreement; *provided, however*, Buyer shall use good faith efforts to ensure that all confidential information is kept confidential to the extent possible in accordance with such laws and any exemptions to disclosure therein.
- (e) The Parties shall be entitled to all available remedies in equity to enforce the obligations set forth in this Section 12.11.

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**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed by their duly authorized officers, and copies delivered to each party, as of the day and the year first above stated.

**NEXTERA ENERGY POWER MARKETING, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**LOGANSPOUT MUNICIPAL UTILITIES**

By: \_\_\_\_\_  
Name:  
Title:

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**APPENDIX A**

**FORM OF SELLER GUARANTY**

THIS GUARANTY (this “**Guaranty**”), dated as of \_\_\_\_\_, \_\_\_\_ (the “**Effective Date**”), is made by NEXTERA ENERGY CAPITAL HOLDINGS, INC. (“**Guarantor**”), in favor of \_\_\_\_\_ (“**Counterparty**”).

**RECITALS:**

- A.** WHEREAS, Counterparty and Guarantor’s indirect, wholly-owned subsidiary NEXTERA ENERGY POWER MARKETING, LLC (“**Obligor**”) have entered into, or concurrently herewith are entering into, that certain *Full Requirements Supply Agreement* dated as of \_\_\_\_\_, 2016 (the “**Agreement**”); and
- B.** WHEREAS, Guarantor will directly or indirectly benefit from the Agreement between Obligor and Counterparty;

NOW THEREFORE, in consideration of the foregoing premises and as an inducement for Counterparty’s execution, delivery and performance of the Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Guarantor hereby agrees for the benefit of Counterparty as follows:

\* \* \*

1. **GUARANTY.** Subject to the terms and provisions hereof, Guarantor hereby absolutely and irrevocably guarantees the timely payment when due of all obligations owing by Obligor to Counterparty arising pursuant to the Agreement on or after the Effective Date (the “**Obligations**”). This Guaranty shall constitute a guarantee of payment and not of collection. The liability of Guarantor under this Guaranty shall be subject to the following limitations:

- (a) Notwithstanding anything herein or in the Agreement to the contrary, the maximum aggregate obligation and liability of Guarantor under this Guaranty, and the maximum recovery from Guarantor under this Guaranty, shall in no event exceed \_\_\_\_\_ [spell out the dollar amount] U.S. Dollars (U.S. \$\_\_\_\_\_) (the “**Maximum Recovery Amount**”).
- (b) The obligation and liability of Guarantor under this Guaranty is specifically limited to payments expressly required to be made under the Agreement, as well as costs of collection and enforcement of this Guaranty (including attorney’s fees) to the extent reasonably and actually incurred by the Counterparty (subject in all instances, to the limitations imposed by the Maximum Recovery Amount as specified in *Section 1(a)* above). In no event, however, shall Guarantor be liable for or obligated to pay any consequential, indirect, incidental, lost profit, special, exemplary, punitive, equitable or tort damages.

2. **DEMANDS AND PAYMENT.**

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- (a) If Obligor fails to pay any Obligation to Counterparty when such Obligation is due and owing under the Agreement (an “**Overdue Obligation**”), Counterparty may present a written demand to Guarantor calling for Guarantor’s payment of such Overdue Obligation pursuant to this Guaranty (a “**Payment Demand**”).
- (b) Guarantor’s obligation hereunder to pay any particular Overdue Obligation(s) to Counterparty is conditioned upon Guarantor’s receipt of a Payment Demand from Counterparty satisfying the following requirements: (i) such Payment Demand must identify the specific Overdue Obligation(s) covered by such demand, the specific date(s) upon which such Overdue Obligation(s) became due and owing under the Agreement, and the specific provision(s) of the Agreement pursuant to which such Overdue Obligation(s) became due and owing; (ii) such Payment Demand must be delivered to Guarantor in accordance with Section 9 below; and (iii) the specific Overdue Obligation(s) addressed by such Payment Demand must remain due and unpaid at the time of such delivery to Guarantor.
- (c) After issuing a Payment Demand in accordance with the requirements specified in Section 2(b) above, Counterparty shall not be required to issue any further notices or make any further demands with respect to the Overdue Obligation(s) specified in that Payment Demand, and Guarantor shall be required to make payment with respect to the Overdue Obligation(s) specified in that Payment Demand within five (5) Business Days after Guarantor receives such demand. As used herein, the term “**Business Day**” shall mean all weekdays (*i.e.*, Monday through Friday) other than any weekdays during which commercial banks or financial institutions are authorized to be closed to the public in the State of Florida or the State of New York.

3. **REPRESENTATIONS AND WARRANTIES.** Guarantor represents and warrants that:

- (a) it is a corporation duly organized and validly existing under the laws of the State of Florida and has the corporate power and authority to execute, deliver and carry out the terms and provisions of the Guaranty;
- (b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over Guarantor is required on the part of Guarantor for the execution and delivery of this Guaranty; and
- (c) this Guaranty constitutes a valid and legally binding agreement of Guarantor, enforceable against Guarantor in accordance with the terms hereof, except as the enforceability thereof may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity.

4. **RESERVATION OF CERTAIN DEFENSES.** Without limiting Guarantor’s own defenses and rights hereunder, Guarantor reserves to itself all rights, setoffs, counterclaims and other defenses to which Obligor is or may be entitled arising from or out of the Agreement, except for defenses (if any) based upon the bankruptcy,

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insolvency, dissolution or liquidation of Obligor or any lack of power or authority of Obligor to enter into and/or perform the Agreement.

5. **AMENDMENT OF GUARANTY.** No term or provision of this Guaranty shall be amended, modified, altered, waived or supplemented except in a writing signed by Guarantor and Counterparty.

6. **WAIVERS AND CONSENTS.** Subject to and in accordance with the terms and provisions of this Guaranty:

(a) Except as required in Section 2 above, Guarantor hereby waives (i) notice of acceptance of this Guaranty; (ii) presentment and demand concerning the liabilities of Guarantor; and (iii) any right to require that any action or proceeding be brought against Obligor or any other person, or to require that Counterparty seek enforcement of any performance against Obligor or any other person, prior to any action against Guarantor under the terms hereof.

(b) No delay by Counterparty in the exercise of (or failure by Counterparty to exercise) any rights hereunder shall operate as a waiver of such rights, a waiver of any other rights or a release of Guarantor from its obligations hereunder (with the understanding, however, that the foregoing shall not be deemed to constitute a waiver by Guarantor of any rights or defenses which Guarantor may at any time have pursuant to or in connection with any applicable statutes of limitation).

(c) Without notice to or the consent of Guarantor, and without impairing or releasing Guarantor's obligations under this Guaranty, Counterparty may: (i) change the manner, place or terms for payment of all or any of the Obligations (including renewals, extensions or other alterations of the Obligations); (ii) release any person (other than Obligor or Guarantor) from liability for payment of all or any of the Obligations; or (iii) receive, substitute, surrender, exchange or release any collateral or other security for any or all of the Obligations.

7. **REINSTATEMENT.** Guarantor agrees that this Guaranty shall continue to be effective or shall be reinstated, as the case may be, if all or any part of any payment made hereunder is at any time avoided or rescinded or must otherwise be restored or repaid by Counterparty as a result of the bankruptcy or insolvency of Obligor, all as though such payments had not been made.

8. **TERMINATION.** Guarantor may terminate this Guaranty by providing a written termination notice to Counterparty specifying the date upon which such termination will take effect (provided that no such termination shall take effect prior to 5:00 p.m. (Eastern Prevailing Time) on the fifth (5th) Business Day after the termination notice has been delivered to Counterparty in accordance with Section 9 hereof). Upon the effectiveness of such termination, Guarantor shall have no further liability hereunder, except as may pertain pursuant to the last sentence of this paragraph. No such termination shall affect Guarantor's liability with respect to any Obligation incurred prior to the time such termination is effective, which Obligation shall remain subject to this Guaranty.

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Unless terminated earlier, this Guaranty and the Guarantor’s obligations hereunder will terminate automatically and immediately at 11:59:59 Eastern Prevailing Time [\_\_\_\_\_, 20\_\_]; *provided, however,* that no such termination shall affect Guarantor’s liability with respect to any Obligation incurred prior to the time the termination is effective, which Obligation shall remain subject to this Guaranty.

9. **NOTICE.** Any Payment Demand, notice, request, instruction, correspondence or other document to be given hereunder (herein collectively called “**Notice**”) by Counterparty to Guarantor, or by Guarantor to Counterparty, as applicable, shall be in writing and may be delivered either by (i) U.S. certified mail with postage prepaid and return receipt requested, or (ii) recognized nationwide courier service with delivery receipt requested, in either case to be delivered to the following address (or to such other U.S. address as may be specified via Notice provided by Guarantor or Counterparty, as applicable, to the other in accordance with the requirements of this Section 9):

<u>TO GUARANTOR:</u> *	<u>TO COUNTERPARTY:</u>
NEXTERA ENERGY CAPITAL HOLDINGS, INC. 700 Universe Blvd. Juno Beach, Florida 33408 <u>Attn:</u> Treasurer	_____ _____ _____ <u>Attn:</u> _____
██████████ -- for use in connection with courier deliveries]	[Tel: (____) ____-____ -- for use in connection with courier deliveries]

\* (*NOTE: Copies of any Notices to Guarantor under this Guaranty shall also be sent via facsimile to ATTN: Contracts Group, Legal, Fax No. ██████████ and ATTN: Credit Department, Fax No. ██████████. However, such facsimile transmissions shall not be deemed effective for delivery purposes under this Guaranty.*)

Any Notice given in accordance with this Section 9 will (i) if delivered during the recipient's normal business hours on any given Business Day, be deemed received by the designated recipient on such date, and (ii) if not delivered during the recipient's normal business hours on any given Business Day, be deemed received by the designated recipient at the start of the recipient's normal business hours on the next Business Day after such delivery.

10. **MISCELLANEOUS.**

(a) This Guaranty shall in all respects be governed by, and construed in accordance with, the law of the State of New York, without regard to principles of conflicts of laws thereunder (other than Sections 5-1401 and 5-1402 of the New York General Obligations Law).

*This draft agreement is for discussion purposes only and is not a firm commitment of NextEra Energy Power Marketing, LLC (“NEPM”) or any parent or affiliate of NEPM. The terms of this draft agreement shall not be disclosed to any third party other than persons to whom disclosure is reasonably required to further discussions or in order to comply with any applicable law. The pricing, terms and conditions contained herein are indicative only. Neither party will be bound contractually to the other party unless and until final terms are incorporated into a mutually agreed, final definitive agreement that is executed and delivered by both parties.*

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- (b) This Guaranty shall be binding upon Guarantor and its successors and permitted assigns and inure to the benefit of and be enforceable by Counterparty and its successors and permitted assigns. Guarantor may not assign this Guaranty in part or in whole without the prior written consent of Counterparty. Counterparty may not assign its rights or benefits under this Guaranty in part or in whole without the prior written consent of Guarantor.
- (c) This Guaranty embodies the entire agreement and understanding between Guarantor and Counterparty and supersedes all prior agreements and understandings relating to the subject matter hereof.
- (d) The headings in this Guaranty are for purposes of reference only, and shall not affect the meaning hereof. Words importing the singular number hereunder shall include the plural number and vice versa, and any pronouns used herein shall be deemed to cover all genders. The term "person" as used herein means any individual, corporation, partnership, joint venture, limited liability company, association, joint-stock company, trust, unincorporated association, or government (or any agency or political subdivision thereof).
- (e) Wherever possible, any provision in this Guaranty which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any one jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.
- (f) Counterparty (by its acceptance of this Guaranty) and Guarantor each hereby irrevocably:  
(i) consents and submits to the exclusive jurisdiction of the United States District Court for the Southern District of New York, or if that court does not have subject matter jurisdiction, to the exclusive jurisdiction of the Supreme Court of the State of New York, New York County (without prejudice to the right of any party to remove to the United States District Court for the Southern District of New York) for the purposes of any suit, action or other proceeding arising out of this Guaranty or the subject matter hereof or any of the transactions contemplated hereby brought by Counterparty, Guarantor or their respective successors or assigns; and (ii) waives (to the fullest extent permitted by applicable law) and agrees not to assert any claim that it is not personally subject to the jurisdiction of the above-named courts, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Guaranty or the subject matter hereof may not be enforced in or by such court.
- (g) COUNTERPARTY (BY ITS ACCEPTANCE OF THIS GUARANTY) AND GUARANTOR EACH HEREBY IRREVOCABLY, INTENTIONALLY AND VOLUNTARILY WAIVES THE RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS GUARANTY OR THE AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PERSON RELATING HERETO

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OR THERETO. THIS PROVISION IS A MATERIAL INDUCEMENT TO GUARANTOR'S EXECUTION AND DELIVERY OF THIS GUARANTY.

\* \* \*

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty on \_\_\_\_\_, 20\_\_, but it is effective as of the Effective Date.

NEXTERA ENERGY CAPITAL HOLDINGS,  
INC.

By:

Name:

Title:

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**APPENDIX B**

IRREVOCABLE NON-TRANSFERABLE STANDBY LETTER OF CREDIT

DATE OF ISSUANCE: \_\_\_\_\_

Re: Credit No. \_\_\_\_\_

We (the “**Issuing Bank**”) hereby establish our Irrevocable Non-Transferable Standby Letter of Credit in your favor for the account of \_\_\_\_\_ (“**Account Party**”), for the aggregate amount not exceeding \_\_\_\_\_ United States Dollars (\$ \_\_\_\_\_) (the “**Initial Available Amount**”), available to you (“**Beneficiary**”) at sight upon demand at our counters at [*specify location*] on or before the expiration hereof against presentation to us of the Beneficiary’s signed and dated statement referencing our Letter of Credit No. \_\_\_\_\_, stating the amount of the demand and reading as follows:

“An [Event of Default] (as defined in the [INSERT NAME OF AGREEMENT] dated as of \_\_\_\_\_ between Beneficiary and Account Party, as the same may have been amended (the “**Agreement**”)) has occurred and is continuing with respect to Account Party under the Agreement and Account Party has failed to make all payments due and owing to Beneficiary in accordance with the terms of the Agreement.”

[OR]

“An [Early Termination Date] (as defined in the [INSERT NAME OF AGREEMENT] dated as of \_\_\_\_\_ between Beneficiary and Account Party, as the same may have been amended (the “**Agreement**”)) has occurred as a result of an [Event of Default] (as defined in the Agreement) and Account Party has failed to make all payments due and owing to Beneficiary in accordance with the terms of the Agreement.”

The Initial Available Amount shall automatically be reduced by the amount of any and all drawings paid from time-to-time through the Issuing Bank referencing this Letter of Credit No. \_\_\_\_\_ (as so reduced, the “**Available Amount**”). Partial drawings and multiple presentations are permitted from time-to-time hereunder up to the then-outstanding Available Amount.

This Letter of Credit shall expire \_\_\_\_\_ (\_\_\_\_) days from the date of issuance, but shall automatically extend without amendment for additional \_\_\_\_\_ (\_\_\_\_)-day periods from such original or any subsequent expiration dates, if Beneficiary and Account Party have not received, at least ninety (90) days prior to any such expiration date, notice of our intention not to renew.

We hereby agree with you that documents drawn under and in compliance with the terms of this Letter of Credit shall be duly honored upon presentation as specified.

The Issuing Bank shall have a reasonable amount of time, not to exceed three (3) banking days following the date of its receipt of documents from Beneficiary, to examine the documents and determine whether to take up or refuse the documents and to inform Beneficiary thereof accordingly.

Except so far as otherwise stated, this Letter of Credit is subject to the International Standby Practices, I.C.C. Publication No. 590 (“**ISP98**”). As to matters not covered by ISP98, the laws of the State of New York, without regard to the principles of conflicts of laws thereunder, shall govern all matters with respect to this Letter of Credit.

This Letter of Credit may not be amended, changed or modified without the express written consent of the Beneficiary, the Issuing Bank and the Account Party.

[BANK SIGNATURE]



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**Schedule 1**



[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

*This draft agreement is for discussion purposes only and is not a firm commitment of NextEra Energy Power Marketing, LLC ("NEPM") or any parent or affiliate of NEPM. The terms of this draft agreement shall not be disclosed to any third party other than persons to whom disclosure is reasonably required to further discussions or in order to comply with any applicable law. The pricing, terms and conditions contained herein are indicative only. Neither party will be bound contractually to the other party unless and until final terms are incorporated into a mutually agreed, final definitive agreement that is executed and delivered by both parties.*