

## APPENDIX 18 TO GIP

### JTIQ Commitment Agreement

This JTIQ Commitment Agreement (“Agreement”) dated \_\_\_\_\_, is entered into by and between \_\_\_\_\_, a [corporation / limited liability company] organized and existing under the laws of the State of [\_\_\_\_\_] (“Interconnection Customer”), and \_\_\_\_\_, a [corporation / limited liability company] organized under the laws of the State of [\_\_\_\_\_] (“MISO JTIQ Transmission Owner 1”), and \_\_\_\_\_, a [corporation / limited liability company] organized under the laws of the State of [\_\_\_\_\_] (“MISO JTIQ Transmission Owner 2”), and \_\_\_\_\_, a [corporation / limited liability company] organized under the laws of the State of [\_\_\_\_\_] (“MISO JTIQ Transmission Owner 3”), and \_\_\_\_\_, a [corporation / limited liability company] organized under the laws of the State of [\_\_\_\_\_] (“MISO JTIQ Transmission Owner 4”), and \_\_\_\_\_, a [corporation / limited liability company] organized under the laws of the State of [\_\_\_\_\_] (“MISO JTIQ Transmission Owner 5”), and \_\_\_\_\_, a [corporation / limited liability company] organized under the laws of the State of [\_\_\_\_\_] (“MISO JTIQ Transmission Owner 6”), and the Midcontinent Independent System Operator, Inc. (“Transmission Provider” or “MISO”) to establish the obligations of the Interconnection Customer as a member of a JTIQ Commitment Group with respect to cost responsibility, billing and security for the MISO JTIQ Upgrades subject to this Agreement. Interconnection Customer, each MISO JTIQ Transmission Owner, and MISO are each referred to as “Party,” and collectively as “Parties.”

**WHEREAS**, Interconnection Customer proposes to interconnect its [ ] MW generating facility with the [MISO Transmission System/SPP transmission system] and has entered or will

or will enter into a generator interconnection agreement in accordance with the [MISO Tariff/SPP Tariff]; and

**WHEREAS**, MISO JTIQ Transmission Owners will construct MISO JTIQ Upgrades as set forth in the MISO Tariff and certain SPP transmission-owning members will construct SPP JTIQ Upgrades as set forth in the SPP Tariff; and

**WHEREAS**, Interconnection Customer is responsible for a portion of the costs for the JTIQ Upgrades and is required to provide security for: MISO JTIQ Upgrades under the MISO Tariff and this Agreement, and SPP JTIQ Upgrades under the SPP Tariff and applicable SPP agreements (“JTIQ Upgrade Cost Responsibility”); and

**WHEREAS**, MISO will bill Interconnection Customer for the portion of the JTIQ Generator Charge attributable to MISO JTIQ Upgrades in accordance with the MISO Tariff and this Agreement;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Parties hereto, Interconnection Customer, MISO JTIQ Transmission Owners, and MISO hereby agree as follows:

## **ARTICLE 1: DEFINITIONS**

- 1.1** Capitalized terms used in this Agreement that are not otherwise defined herein shall have the meaning provided in the MISO Tariff.
- 1.2** The following definitions shall be used in this Agreement:
- 1.2.1** “FERC” shall mean the Federal Energy Regulatory Commission.
- 1.2.2** “JTIQ Upgrade” shall mean an upgrade defined as “JTIQ Upgrade” under the MISO Tariff or the SPP Tariff, as applicable.
- 1.2.3** “MISO JTIQ Security” shall mean the security required from Interconnection Customers for the portion of the JTIQ Generator Charge attributable to MISO JTIQ Upgrades
- 1.2.4** “MISO JTIQ Transmission Owner (s)” shall refer to the Transmission Owners who are authorized to construct the JTIQ Upgrades on MISO’s Transmission System and who are signatories to this Agreement.
- 1.2.5** “MISO JTIQ Upgrade” shall mean a JTIQ Upgrade that will be constructed by a MISO JTIQ Transmission Owner.
- 1.2.6** “MISO Tariff” shall mean MISO’s Open Access Transmission, Energy and Operating Reserve Markets Tariff, or its successor tariff.
- 1.2.7** “SPP JTIQ Upgrade” shall mean a JTIQ Upgrade that will be constructed by a SPP transmission-owning member pursuant to the terms of the SPP Tariff.
- 1.2.8** “SPP Tariff” shall mean SPP’s Open Access Transmission Tariff, or its successor tariff.

## **ARTICLE 2: EFFECTIVE DATE AND TERM**

- 2.1 Effective Date.** The effective date of this Agreement shall be \_\_\_\_, or such other date as it is permitted to become effective by the FERC (“Effective Date”).
- 2.2 Term.** This Agreement shall become effective as provided in Article 2.1 and shall continue in full force and effect until: (i) completion of all payments required for the Interconnection Customer’s JTIQ Generator Charge in accordance with the MISO Tariff for each MISO JTIQ Upgrade, or (ii) termination is accepted by the FERC.

## **ARTICLE 3: JTIQ COMMITMENT GROUP**

### **AND RESPONSIBILITY FOR JTIQ GENERATOR CHARGE**

- 3.1** Interconnection Customer shall be included as a member of the annual Commitment Group applicable to the date this Agreement becomes effective.
- 3.2** Interconnection Customer shall pay the JTIQ Generator Charge applicable to each MISO JTIQ Upgrade in monthly payments as invoiced by Transmission Provider, with such monthly amounts calculated in accordance with Attachment JJJ to the MISO Tariff and charged under Schedule 26-I. Interconnection Customer’s obligation for such monthly payments shall, for each MISO JTIQ Upgrade, begin: (i) as each MISO JTIQ Upgrade is placed in service; or (ii) the first August 1 after the Interconnection Customer has been assigned to a JTIQ Commitment Group for MISO JTIQ Upgrades that are in service prior to the Interconnection Customer’s Commitment Group’s Commitment Date.
- 3.3** The payment obligations stated in this Article 3 are in addition to the Interconnection Customer’s obligations to pay the JTIQ Generator Charge applicable to SPP JTIQ Upgrades in accordance with the SPP Tariff.

## **ARTICLE 4: MARKET PARTICIPANT REGISTRATION AND COLLATERAL REQUIREMENTS**

- 4.1** Interconnection Customer shall submit a completed Market Participant Application pursuant to Section 38.2 *et seq.* of the Tariff (Module C) concurrently with and as an attachment to their executed version of this Agreement. Interconnection Customer shall take all steps required by the MISO Tariff and applicable Business Practices Manual to complete the market registration process, including the meeting all requirements of Attachment L to the MISO Tariff applicable to Market Participants no later than thirty (30) Calendar Days after execution of this Agreement.
- 4.2** Interconnection Customer shall comply with applicable collateral requirements under Attachment L of the MISO Tariff. Security provided to satisfy the collateral requirements applicable to Market Participants shall be counted toward the MISO JTIQ Security required pursuant to Article 6 of this Agreement, as set forth in Article 6.2.1.
- 4.3** Once registered, Interconnection Customer shall maintain its status as a Market Participant continuously during the term of this Agreement and shall comply with all MISO Tariff and Business Practices Manual rules applicable to maintaining such status, including collateral requirements.
- 4.4** Nothing in this Article 4 shall be construed to impose any obligation on Interconnection Customer to make offers or otherwise to participate in MISO markets. Nor shall anything in this Agreement be construed to excuse any separate market registration requirements applicable to the registration of a Generating Facility to participate in MISO markets.

## **ARTICLE 5: INVOICE, PAYMENT AND REMEDIES**

- 5.1** Once the obligation to pay a JTIQ Generator Charge commences as provided in Article 3.3 of this Agreement, the Transmission Provider shall invoice Interconnection Customer for the portion of the JTIQ Generator Charge attributable to such MISO JTIQ Transmission Owner's JTIQ Upgrades pursuant to Schedule 26-I. The Transmission Provider shall bill and invoice Interconnection Customer for such charges in accordance with the provisions of Section 7 of the MISO Tariff and Business Practice Manuals as if the Interconnection Customer is a Transmission Customer.
- 5.2** Interconnection Customer shall be required to remit payment to the Transmission Provider in accordance with the provisions of Section 7 of the MISO Tariff applicable to Transmission, Customers. Transmission Provider shall remit payments received to the applicable MISO JTIQ Transmission Owner.
- 5.2.1** Interest on any unpaid amounts shall be calculated as set forth in Section 7.3 of the MISO Tariff.
- 5.2.2** In the event the Interconnection Customer fails to pay any JTIQ Generator Charge in accordance with this Agreement within two (2) Business Days after the applicable payment due date, the Transmission Provider shall be entitled to draw on the collateral required pursuant to Article 4.2 of this Agreement. If collateral has been depleted, Interconnection Customer shall provide the Transmission Provider with new collateral in a form consistent with Attachment L within two (2) Business Days of the Transmission Provider's demand for such new collateral.

**5.2.3** In the event that any JTIQ Generator Charge remains unpaid for thirty (30) or more days after the due date, the applicable MISO JTIQ Transmission Owner(s) shall be entitled to draw on the MISO JTIQ Security posted by Interconnection Customer and held by such MISO JTIQ Transmission Owner(s), as provided in Article 6 of this Agreement, in the amount of the missed payments as well as any accrued interest charges based on the FERC regulations at 18 C.F.R § 35.19a. If such MISO JTIQ Security has been depleted, Interconnection Customer shall provide the applicable MISO JTIQ Transmission Owners with new security in a form reasonably acceptable to such MISO JTIQ Transmission Owner within seven (7) Business Days of MISO JTIQ Transmission Owner's demand for such new security.

**5.2.4** The remedies set forth in this Article 5.2 are in addition to any other remedies that Transmission Provider may have under Section 7 of the MISO Tariff.

## **ARTICLE 6: SECURITY**

**6.1** Interconnection Customer is required to provide MISO JTIQ Security in an amount equal to the aggregate amount for each MISO JTIQ Network Upgrade of:

- (a) if the Final Net JTIQ Upgrade Capital Costs is known for a MISO JTIQ Network Upgrade as of the date of tender of this Agreement to the Interconnection Customer, then the Final Net JTIQ Upgrade Capital Costs calculated using the most recent annual update of each MISO JTIQ Transmission Owner's JTIQ Formula Rate Template in proportion to the Interconnection Customer's MW pro-rata share of the Final Commitment MW Total; or

- (b) if the Final Net JTIQ Upgrade Capital Costs is not known for a MISO JTIQ Network Upgrade as of the date of tender of this Agreement, then the Preliminary Net JTIQ Upgrade Capital Cost shall be used as calculated using the most recent annual update of each MISO JTIQ Transmission Owner's JTIQ Formula Rate Template in proportion to the Interconnection Customer's MW pro-rata share of the Final Commitment MW Total.

If the Final Commitment MW Total is not known as of the date of tender of this Agreement to the Interconnection Customer, then the amount of security shall be determined in proportion the Threshold MW Value, calculated using the most recent annual update of each MISO JTIQ Transmission Owner's JTIQ Formula Rate Template instead of the Final Commitment MW Total.

The MISO JTIQ Security amount shall be based on the calculations pursuant to Attachment JJJ to the MISO Tariff as updated most recently before tender of this Agreement to Interconnection Customer, as set forth in Appendix A to this Agreement. Any fees or costs associated with the provision of security are the responsibility of Interconnection Customer.

- 6.2** The MISO JTIQ Security for each MISO JTIQ Upgrade shall be provided by Interconnection Customer directly to the applicable MISO JTIQ Transmission Owner in the form of irrevocable security reasonably acceptable to such MISO JTIQ Transmission Owner (for example, a letter of credit in a form consistent with Attachment L of the Tariff, surety bond, or parent guaranty in a form consistent with Attachment L of the Tariff, from an entity qualified in accordance with the creditworthiness requirements of Attachment L of the Tariff). Such MISO JTIQ Security will be provided to the



applicable MISO JTIQ Transmission Owners within the later of: (a) thirty (30) Calendar Days after all Parties have executed this Agreement; (b) thirty (30) Calendar Days after acceptance of this Agreement by FERC if this Agreement is filed unexecuted at FERC and the MISO JTIQ Security amount is being protested by Interconnection Customer; or (c) thirty (30) Calendar Days of the filing of this Agreement if it is filed unexecuted and the JTIQ Security amount is not being protested by Interconnection Customer.

**6.2.1** Interconnection Customer's total obligation to provide security to MISO JTIQ Transmission Owners shall be reduced to reflect any collateral that Interconnection Customer is required to post with Transmission Provider pursuant to Article 4.2 of this Agreement, with such reduction to be distributed evenly among the security provided to each MISO JTIQ Transmission Owner such that the total MISO JTIQ Security provided under this Agreement, including collateral required pursuant to Article 4.2 of this Agreement, equals the amount of security required by Articles 6.1 and 6.2 of this Agreement. In the event of a default under Attachment L of the MISO Tariff, the Transmission Provider may apply such collateral to address such default first with remaining collateral to be used to address defaults in the Interconnection Customer's payment obligations to each MISO JTIQ Transmission Owner.

**6.3** The MISO JTIQ Security, or any applicable reduced security amount, shall remain with the applicable MISO JTIQ Transmission Owner for the remaining term of this Agreement or each MISO JTIQ Upgrade. At Interconnection Customer's request, such MISO JTIQ Security may be reduced to reflect decreased remaining JTIQ Upgrade Cost Responsibility applicable to each MISO JTIQ Upgrade authorized for construction by the

applicable MISO JTIQ Transmission Owner on the first anniversary of the In-Service Date of that upgrade and may continue to be reduced to reflect the decreased remaining balance of JTIQ Cost Responsibility each year over the term of the JTIQ Generator Charge for that MISO JTIQ Upgrade.

**6.4** In the event that the JTIQ Upgrade Cost Responsibility of the Interconnection Customer subsequently increases, the applicable MISO JTIQ Transmission Owner shall notify Interconnection Customer of such increase in writing and Interconnection Customer will be required to provide additional security with this increase to the applicable MISO JTIQ Transmission Owner within thirty (30) Calendar days of the request or additional security.

**6.5** The security obligations stated in this Article 6 are in addition to the Interconnection Customer's obligations to: (1) provide applicable collateral pursuant to Article 4.2 of this Agreement; and (2) provide security to SPP for the JTIQ Generator Charge applicable to SPP JTIQ Upgrades pursuant to the SPP Tariff and applicable agreements.

#### **ARTICLE 7: TRUE UPS AND RECONCILIATION; AUDIT RIGHTS**

**7.1** Each MISO JTIQ Transmission Owner shall update the cost information supporting the portion of the JTIQ Generator Charge attributable to its JTIQ Upgrades on a periodic basis in accordance with Section 5 of Attachment JJJ and Section IV.A of Schedule 26-1 to the MISO Tariff. If such update results in an adjustment of the JTIQ Generator Charge, the applicable MISO Transmission Owner shall adhere to the True Up Adjustments process and timing described in Section 5.E of Attachment JJJ of the MISO Tariff. In the event that such adjustment results in an adjustment to the JTIQ Generator

Charge, Interconnection Customer shall be responsible for paying such adjusted amount in accordance with Schedule 26-I.

- 7.2** Subject to applicable confidentiality requirements, each Party shall make available to other Parties information necessary to verify the costs incurred by other Parties for which the requesting Party is responsible under this Agreement and carry out obligations and responsibilities under this Agreement, provided that the Parties shall not use such information for purposes other than those contemplated by this Agreement.
- 7.3** Subject to applicable confidentiality requirements: (1) the accounts and records related to the design, engineering, procurement, and construction of the JTIQ Upgrades shall be subject to audit for a period of twenty-four (24) months following the In-Service Date of each such JTIQ Upgrade; and (2) the accounts and records related to the true-up adjustment provided for in Article 7.1 of this Agreement shall be subject to audit for a period of twenty-four (24) months following the date the true-up adjustment is reflected in the Interconnection Customer's payment invoice. Interconnection Customer at its expense shall have the right, during normal business hours, and upon prior reasonable notice to the other Parties, to audit such accounts and records. Any audit authorized by this Article 7.3 shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to obligations under this Agreement.

## **ARTICLE 8: BREACH AND DEFAULT**

- 8.1** Upon a breach under this Agreement, a non-breaching Party or Parties shall give written notice of such breach to the breaching party with a copy to all non-breaching Parties.

Except as otherwise may be provided in applicable provisions of the MISO Tariff, the breaching party shall have thirty (30) Calendar Days from receipt of the notice of breach within which to cure such breach; and, if cured within such time, the breach specified in such notice shall be deemed cured and treated as if it had not occurred. If a breach is not cured within thirty Calendar Days, the breaching Party shall be in default under this Agreement.

## **8.2 Default.**

**8.2.1** Interconnection Customer Default: Interconnection Customer shall be in default of this Agreement if Interconnection Customer: (i) fails to make two (2) consecutive monthly payments when due; provided that, the Transmission Provider has given Interconnection Customer notice of and Interconnection Customer has failed to cure such late payments; (ii) fails to provide security, including additional security, required in accordance with Articles 5.3 of this Agreement within thirty (30) Calendar Days of the applicable MISO JTIQ Transmission Owner's demand for such security; (iii) fails to provide Market Participant collateral as required Article 7 of this Agreement in accordance with applicable requirements of the MISO Tariff; (iv) terminates operation of its Generating Facility prior to the end of the Term of this Service Agreement; or (v) is declared to be in default under its generator interconnection agreement. In the event of default, Interconnection Customer shall promptly pay to each MISO JTIQ Transmission Owner all payments still owed under this Agreement. In the event that Interconnection Customer does not promptly pay all amounts due and owing, any unpaid MISO JTIQ Transmission Owner may draw on the remaining

balance of the MISO JTIQ Security provided by the Interconnection Customer.

This payment or draw on the MISO JTIQ Security does not limit any and all rights and remedies available to the MISO JTIQ Transmission Owner allowed by law with respect to such default or collecting all amounts owed for the remaining months due under this Agreement. Interconnection Customer shall indemnify the MISO JTIQ Transmission Owners for reasonable costs, attorney fees and/or expenses incurred with respect to a default or collecting all amounts owed for the remaining months, including, as applicable, any tax gross-up obligations under this Agreement.

**8.2.2** A MISO JTIQ Transmission Owner shall be in default of this Agreement if: (1) it fails to provide Interconnection Customer or Transmission Provider with any of the information access and audit rights provided in this Agreement; (2) such failure is not cured following notice from Interconnection Customer or Transmission Provider as provided in Section 8.1; and (3) such failure has a material adverse effect on Interconnection Customer's ability to perform under this Agreement.

### **8.3 Cross Default.**

**8.3.1** Default by the Interconnection Customer of its JTIQ security agreement or applicable security requirements under the SPP Tariff shall be deemed a default under this Agreement.

**8.3.2** A breach by an Interconnection Customer with a MISO generator interconnection agreement of any provision, covenant or other term or condition contained in this Agreement shall be considered a breach under such Interconnection Customer's

GIA referenced in the recitals to this Agreement. An event of default by Interconnection Customer under this Agreement shall, after the passage of all applicable notice and cure or grace periods, be considered a default under the GIA referenced in the recitals to this JTIQ Commitment Agreement. Transmission Provider shall provide notice to SPP of any default under this JTIQ Commitment Agreement.

- 8.4** Neither default nor termination of this Agreement shall relieve the Interconnection Customer of its obligation to pay the JTIQ Generator Charge in accordance with Schedule 26-I of the MISO Tariff.

#### **ARTICLE 9: ASSIGNMENT**

- 9.1** This Agreement shall inure to the benefit of and be binding upon each Party's successors and permitted assigns. No Party shall assign this Agreement or their related contractual rights without the prior written consent of the other Parties, which prior written consent shall not be unreasonably withheld or delayed; provided that the assignee is at least as creditworthy as the assigning Party and the assignee of Interconnection Customer shall provide MISO JTIQ Transmission Owner(s) with security as contemplated herein; and provided further that Interconnection Customer shall have the right to assign this Agreement, without the consent of either Transmission Provider or MISO JTIQ Transmission Owner(s), for collateral security purposes to aid in providing financing for the Generating Facility, provided that Interconnection Customer will promptly notify Transmission Provider and Owner of any such assignment. No assignment of this Agreement shall release or discharge any Party from their future obligations hereunder

unless all such obligations are assumed by the successor or assignee of that Party in writing.

## **ARTICLE 10: GENERAL**

**10.1 Entire Agreement.** This Agreement represents the entire agreement between the Parties with reference to payment of those portions of the JTIQ Generator Charge and security applicable to MISO JTIQ Upgrades. This JTIQ Commitment Agreement may not be amended, modified, or waived other than by a written document signed by all Parties.

### **10.2 Confidentiality**

**10.2.1 Definition.** Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by a Party to another Party prior to the execution of this Service Agreement. Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Party receiving the information that the information is confidential. Such confidentiality will be maintained in accordance with this Article 10.2. If requested by the receiving Party, the disclosing Party shall provide in writing, the basis for asserting that the information referred to in this Article warrants confidential treatment, and the requesting Party.

**10.2.2 Term.** During the term of this Agreement, and for a period of three (3) years after the expiration or termination of this Agreement, except as otherwise provided in

Article 10 with regard to CEII, each Party shall hold in confidence and shall not disclose to any person Confidential Information. CEII shall be treated in accordance with FERC policy and regulations.

**10.2.3 Scope.** Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a non-Party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or breach of this JTIQ Commitment Agreement; or (6) is required to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this JTIQ Commitment Agreement. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the receiving Party that it no longer is confidential.

**10.2.4 Release of Confidential Information.** No Party shall release or disclose Confidential Information to any other person, except to its affiliates (limited by the Standards of Conduct requirements), subcontractors, employees, agents,



consultants, or to non-parties who may be or are considering providing financing to or equity participation with Interconnection Customer, or to potential purchasers or assignees of Interconnection Customer, on a need-to-know basis in connection with this Agreement, unless such person has first been advised of the confidentiality provisions of this Article 10 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article 10.2.

**10.2.5 Rights** Each Party retains all rights, title, and interest in the Confidential Information that it discloses to the receiving Party. The disclosure by a Party to the receiving Party of Confidential Information shall not be deemed a waiver by the disclosing Party or any other person or entity of the right to protect the Confidential Information from public disclosure. Nothing in this Agreement shall limit or otherwise modify Transmission Provider's rights and obligations with respect to Confidential Information as set forth in the Tariff.

**10.2.6 No Warranties.** By providing Confidential Information, no Party makes any warranties or representations as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to another Party nor to enter into any further agreements or proceed with any other relationship or joint venture.

**10.2.7 Standard of Care.** Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own

Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to another Party under this Agreement or its regulatory requirements.

**10.2.8 Order of Disclosure.** If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires any Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the disclosing Party with prompt notice of such request(s) or requirement(s) so that the disclosing Party may seek an appropriate protective order or waive compliance with the terms of this Agreement. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

**10.2.9 Termination of Agreement.** Upon termination of this Agreement for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from another Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the requesting Party) or return to the requesting Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the requesting Party, except that each Party may keep one copy for archival purposes, provided that the

obligation to treat it as Confidential Information in accordance with this Article

10.2 shall survive such termination.

**10.2.10 Remedies.** The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's breach of its obligations under this Article 10.2. Each Party accordingly agrees that the disclosing Party shall be entitled to equitable relief, by way of injunction or otherwise, if the receiving Party breaches or threatens to breach its obligations under this Article 10.2, which equitable relief shall be granted without bond or proof of damages, and the breaching Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the breach of this Section 10.2, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article 10.2.

**10.2.11. Disclosure to FERC, its Staff or a State** Notwithstanding anything in this Article 10.2 to the contrary, and pursuant to 18 CFR § 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from a Party that is otherwise required to be maintained in confidence pursuant to this Agreement, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 CFR §

388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this Agreement prior to the release of the Confidential Information to FERC or its staff. The Party shall notify the other Parties to this Service Agreement when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such information would be made public, pursuant to 18 CFR § 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations.

**10.2.12 Competitively Sensitive Information.** Subject to the exception in the preceding paragraph of this Article 10.2, any information that a disclosing Party claims is competitively sensitive, commercial or financial information under this Agreement shall not be disclosed by the receiving Party to any person not employed or retained by the receiving Party, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the receiving Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the disclosing Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this Agreement or as the Regional Transmission Organization or a Local Balancing Authority operator including disclosing the Confidential Information to a regional or national reliability organization. The Party asserting confidentiality shall notify the receiving Party in writing of the

information that Party claims is confidential. Prior to any disclosures of that Party's Confidential Information under this subparagraph, or if any non-Party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the Party who received the Confidential Information from the disclosing Party agrees to promptly notify the disclosing Party in writing and agrees to assert confidentiality and cooperate with the disclosing Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

### **10.3 Force Majeure.**

**10.3.1 Notice.** The Party unable to carry out an obligation imposed on it by this Agreement due to a Force Majeure event shall notify the other Parties in writing or verbally with subsequent notice in writing within a reasonable time after the occurrence of the cause relied on.

**10.3.2 Duration of Force Majeure.** Except as set forth in Article 10.3.3, no Party will be considered in Default as to any obligation under this Agreement if prevented from fulfilling the obligation due to an event of Force Majeure. A Party shall not be responsible for any non-performance or be considered in Breach or Default under this Agreement due to Force Majeure. A Party shall be excused from whatever performance is affected for only the duration of the Force Majeure event and while the Party exercises Reasonable Efforts to alleviate such situation. As soon as the non-performing Party is able to resume performance of its obligations

excused as a result of the occurrence of Force Majeure, such Party shall give prompt notice thereof to the other Parties.

**10.3.3 Obligation to Make Payments.** Any Party's obligation to make payments or provide security shall not be suspended by Force Majeure.

**10.4 Disputes.** Any dispute hereunder shall be referred to senior representatives of each Party. If the senior representatives are not able to resolve the dispute within thirty (30) Calendar Days, the dispute resolution procedures provided in Attachment X of the Tariff shall apply to the resolution of any dispute hereunder.

**10.5 Applicable Law.** The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of the state where the Point of Interconnection for the Interconnection Customer's Project is located, without regard to its conflicts of law principles.

**10.6 Regulatory Approval.** This JTIQ Commitment Agreement and its terms shall be subject to approval, if applicable, by the FERC. This JTIQ Commitment Agreement and its terms shall also be subject to, as applicable, the MISO Tariff, which is incorporated herein by reference.

**10.7 Reservation of Rights.** Nothing in this Agreement shall limit the rights of the Parties or of FERC under Sections 205 and 206 of the Federal Power Act and FERC's rules and regulations thereunder.

**10.8 Liability.** A Party shall not be liable to another Party or to any third party or other person for any damages arising out of actions under this Agreement, including, but not limited to, any act or omission that results in an interruption, deficiency or imperfection of Interconnection Service, except as provided in the MISO Tariff. The provisions set forth

in the MISO Tariff shall be additionally applicable to any Party acting in good faith to implement or comply with its obligations under this Agreement, regardless of whether the obligation is preceded by a specific directive.

**10.9 No Waiver.** It is mutually understood that any failure by a Party or inconsistency to enforce or require the strict keeping and performance by other Party or Parties of any of the provisions of this Agreement shall not constitute a waiver of such provisions, and shall not affect or impair such provisions in any way, or the right of the first Party at any time to avail itself of such remedies as it may have for any breach or breaches of such provisions. The waiver, illegality, invalidity and/or unenforceability of any provision appearing in this Agreement shall not affect the validity of this Agreement as a whole or the validity or any other provisions therein.

**10.10 Waiver of Jury.** TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS SERVICE AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

**10.11** This JTIQ Commitment Agreement is entered into by the authorized representatives of MISO, the MISO JTIQ Transmission Owner, and the Interconnection Customer whose signatures are set forth below. Executed counterparts of this JTIQ Agreement may be delivered by electronic means, such as email, by a party and the receiving party may rely on the receipt of such executed counterpart as if the original has been received.

## ARTICLE 11: NOTICES

**11.1 General.** Any notice, demand or request required or permitted to be given by a Party to another Party and any instrument required or permitted to be tendered or delivered by a Party in writing to another Party may be so given, tendered or delivered, as the case may be, by depositing the same with the United States Postal Service with postage prepaid, for transmission by certified or registered mail, addressed to the Parties, or personally delivered to the Parties, at the address set out below:

Interconnection Customer's Representative and Address	MISO JTIQ Transmission Owner Contact Name and Address
MISO JTIQ Transmission Owner Contact Name and Address	MISO JTIQ Transmission Owner Contact Name and Address
MISO JTIQ Transmission Owner Contact Name and Address	MISO JTIQ Transmission Owner Contact Name and Address
MISO Contact Name and Address	



IN WITNESS WHEREOF, the Parties have caused this JTIQ Commitment Agreement to be executed by their respective authorized officials.

**MIDCONTINENT INDEPENDENT SYSTEM OPERATOR, INC.**

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**[Insert name of Interconnection Customer]**

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**[Insert name of MISO JTIQ Transmission Owner]**

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**[Insert name of MISO JTIQ Transmission Owner]**

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**[Insert name of MISO JTIQ Transmission Owner]**

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**[Insert name of MISO JTIQ Transmission Owner]**

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**[Insert name of MISO JTIQ Transmission Owner]**

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

APPENDIX A: MISO JTIQ UPGRADES

1. MISO JTIQ Upgrades

The MISO JTIQ Upgrades covered by this Agreement are:

JTIQ Upgrade	Constructing MISO JTIQ Transmission Owner

2. Calculation of Initial Security Requirements

Pursuant to Article 6.2 of this Agreement, MISO JTIQ Security for the JTIQ Upgrades is calculated as follows:

Aggregate Amount: \$ \_\_\_\_\_ reflecting the sum of lines below:

1. Required Market Participant/Transmission Customer Collateral:  
\$ \_\_\_\_\_(reduces lines 2-6 equally)
2. JTIQ Upgrade [enter ID of JTIQ Upgrade] constructed by MISO JTIQ Transmission Owner [enter ID of MISO JTIQ Transmission Owner]:  
  
JTIQ Formula Rate Template, Exhibit I, Line 26 (“Net JTIQ Upgrade Capital Costs”) \$[enter amount] divided by JTIQ Formula Rate Template, Exhibit I, Line 32 (“MW Used in Calculations”) [enter MW value] multiplied by the [enter MW of generator] MW of the generation facility included in this Agreement to equal

\$[enter amount of security]. This amount is reduced by \$[enter 1/5 amount of collateral] to produce a total MISO JTIQ Security amount of \$[enter amount of security] for this JTIQ Network Upgrade.

3. JTIQ Upgrade [enter ID of JTIQ Upgrade] constructed by MISO JTIQ Transmission Owner [enter ID of MISO JTIQ Transmission Owner]:

JTIQ Formula Rate Template, Exhibit I, Line 26 (“Net JTIQ Upgrade Capital Costs”) \$[enter amount] divided by JTIQ Formula Rate Template, Exhibit I, Line 32 (“MW Used in Calculations”) [enter MW value] multiplied by the [enter MW of generator] MW of the generation facility included in this Agreement to equal \$[enter amount of security]. This amount is reduced by \$[enter 1/5 amount of collateral] to produce a total MISO JTIQ Security amount of \$[enter amount of security] for this JTIQ Network Upgrade.

4. JTIQ Upgrade [enter ID of JTIQ Upgrade] constructed by MISO JTIQ Transmission Owner [enter ID of MISO JTIQ Transmission Owner]:

JTIQ Formula Rate Template, Exhibit I, Line 26 (“Net JTIQ Upgrade Capital Costs”) \$[enter amount] divided by JTIQ Formula Rate Template, Exhibit I, Line 32 (“MW Used in Calculations”) [enter MW value] multiplied by the [enter MW of generator] MW of the generation facility included in this Agreement to equal \$[enter amount of security]. This amount is reduced by \$[enter 1/5 amount of collateral] to produce a total MISO JTIQ Security amount of \$[enter amount of security] for this JTIQ Network Upgrade.

5. JTIQ Upgrade [enter ID of JTIQ Upgrade] constructed by MISO JTIQ Transmission Owner [enter ID of MISO JTIQ Transmission Owner]:

JTIQ Formula Rate Template, Exhibit I, Line 26 (“Net JTIQ Upgrade Capital Costs”)  $\$[\text{enter amount}]$  divided by JTIQ Formula Rate Template, Exhibit I, Line 32 (“MW Used in Calculations”)  $[\text{enter MW value}]$  multiplied by the  $[\text{enter MW of generator}]$  MW of the generation facility included in this Agreement to equal  $\$[\text{enter amount of security}]$ . This amount is reduced by  $\$[\text{enter } 1/5 \text{ amount of collateral}]$  to produce a total MISO JTIQ Security amount of  $\$[\text{enter amount of security}]$  for this JTIQ Network Upgrade.

6. JTIQ Upgrade  $[\text{enter ID of JTIQ Upgrade}]$  constructed by MISO JTIQ Transmission Owner  $[\text{enter ID of MISO JTIQ Transmission Owner}]$ :  
  
JTIQ Formula Rate Template, Exhibit I, Line 26 (“Net JTIQ Upgrade Capital Costs”)  $\$[\text{enter amount}]$  divided by JTIQ Formula Rate Template, Exhibit I, Line 32 (“MW Used in Calculations”)  $[\text{enter MW value}]$  multiplied by the  $[\text{enter MW of generator}]$  MW of the generation facility included in this Agreement shall be the total MISO JTIQ Security amount  $\$[\text{enter amount of security}]$ .