

ATTACHMENT Y-1

Standard Form System Support Resource (“SSR”) Agreement

Between

(Participant)

and

Midcontinent Independent System Operator, Inc.

This SSR Agreement (“Agreement”), effective as of ____ of _____, ____ (“Effective Date”), is entered into by and between [insert Participant’s name], a [insert business entity type and state] (“Participant”) and Midcontinent Independent System Operator, Inc. (“MISO,” collectively with Participant, the “Parties”).

Recitals

WHEREAS:

- A. Participant owns or operates one or more Generation Resources or Synchronous Condenser Units (“SCUs”) as defined in the MISO Tariff, and MISO requires Participant to supply service in the region served by MISO (“MISO Region”) in order to maintain the reliability of the Transmission System;
- B. MISO is the Regional Transmission Organization (“RTO”) for the MISO Region; and
- C. The Parties enter into this Agreement in order to establish the terms and conditions by which MISO and Participant will discharge some of their respective duties and responsibilities under the MISO Tariff.

Agreements

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein,

MISO and Participant hereby agree as follows:

Section 1. Unit-Specific Terms.

A. Start Date: _____, 20__.

B. Start Time: _____

C. Unit(s):_____.

The unit(s) described above may also be referred to as the “Designated Unit(s)” or “Unit(s)” or “SSR Unit(s)” in this Agreement.

D. Description of Unit(s) [*location, number of generators, etc.; including operational capability for any combined cycle Unit(s), consistent with the requirements in the MISO Tariff*]:

_____, as may be described in more detail on
Exhibit 1 attached hereto.

E. Name Plate Information

SSR Unit(s)

(a) SSR Capacity in MW: _____

For purposes of the remainder of this Agreement, the term “SSR Capacity” shall mean the capabilities stated in Exhibit 1 if other than that stated in this Section.

(b) Power Factor Lagging

(i) _____ P.F. (at Generator Main Leads)

(ii) _____ P.F. (at high side of Main Power Transformer)

(c) Power Factor Leading

(i) _____ P.F. (at Generator Main Leads)

(ii) _____ P.F. (at high side of Main Power Transformer)

F. Delivery Point: _____

G. Revenue Meter Location (Use Resource IDs): _____

H. Operational and Environmental Limitations (check and describe all that apply):

SSR Unit(s):

(a) Operational

☐ Maximum annual hours of operation: _____

☐ Maximum annual MWh: _____

☐ Maximum annual starts: _____

☐ Other: _____

(b) Environmental

☐ Maximum annual NO_x emissions: _____

☐ Maximum annual SO₂ emissions: _____

☐ Other: _____

Section 2. Definitions.

A. Unless herein defined, all definitions and acronyms found in the MISO Tariff shall be incorporated by reference into this Agreement.

B. “BPM” shall mean a MISO Business Practices Manual.

C. “FERC” shall mean the Federal Energy Regulatory Commission.

- D. “MISO Tariff” shall mean the document adopted by MISO and subject to review by FERC, including any attachments or exhibits referenced in that document, as amended from time to time, that contains the scheduling, operating, planning, reliability, and settlement (including customer registration) policies, rules, guidelines, procedures, standards, and criteria of MISO. For the purposes of determining responsibilities and rights at a given time, the MISO Tariff, as amended in accordance with the change procedure(s) described in the MISO Tariff, in effect at the time of the performance or non-performance of an action, shall govern with respect to that action.
- E. “Bankrupt” means any of the events or occurrences described in Section 7.16.1(e) of the MISO Tariff.
- F. “Financing Person” shall mean any secured party, trustee, or mortgagee of an assigning Party, where the assignment is made for collateral security purposes.

Section 3. Term and Termination.

A. Term.

- (1) This Agreement is effective beginning on the Effective Date.
- (2) An SSR Agreement must not exceed a one (1) year term, except in exigent circumstances.
- (3) The “Term” of this Agreement, beginning on the Effective Date, is a period of _____; provided, however, that MISO, in its sole discretion, may terminate this Agreement with respect to any SSR Unit prior to the end of the Term by giving at least sixty (60) days advance written notice to Participant.

- (4) The period beginning on the Start Date and ending when the Agreement terminates is called the “Full Term” of this Agreement. If MISO decides to extend the term of the Agreement, the parties shall re-negotiate an SSR Agreement for a new term. MISO shall file with FERC the new SSR Agreement for the extended service and Participant may make a filing with FERC for compensation, consistent with Section 38.2.7 of the Tariff governing filings associated with this Agreement.
- (5) The Term of this Agreement may be extended by MISO if MISO provides at least ninety (90) days advance written notice of such extension to the Participant. If MISO decides to extend the term of the Agreement, then compensation for the extended term shall be re-determined by FERC for a new period.
- B. Termination by Participant. Participant may, at its option, immediately terminate this Agreement upon the failure of MISO to continue to be certified by FERC as an RTO.
- C. Effect of Termination and Survival of Terms. If this Agreement is terminated by a Party pursuant to the terms hereof with respect to any Unit, the rights and obligations of the Parties hereunder shall terminate with respect to such Unit, except that the rights and obligations of the Parties that have accrued under this Agreement prior to the date of termination shall survive and the rights and obligations of the Parties relating to any Unit with respect to which this Agreement has not been terminated shall survive.

D. Notice. All notices required under this Agreement shall be in accordance with the applicable sections of the MISO Tariff. All notices required to be given in writing under this Agreement shall be deemed delivered three (3) days after being deposited in the U.S. Mail, first class postage prepaid, registered (or certified) mail, return receipt requested, addressed to the other Party at the address specified in this Agreement or shall be deemed delivered on the day of receipt if sent in another manner requiring a signed receipt, such as courier delivery or Federal Express delivery, or if sent during regular business hours, by electronic communication with confirmation of receipt from the other Party. Either Party may change its address for such notices by delivering to the other Party a written notice referring specifically to this Agreement. Written notices shall be transmitted:

If to MISO:

General Counsel
720 City Center Drive
Carmel, IN 46032
Tel. No. (317) 249-5400
Email: *[insert information]*

If to Participant:

[insert information]

Section 4. Representations, Warranties, and Covenants.

A. Participant represents, warrants, and covenants that:

- (1) Participant is duly organized, validly existing and in good standing under the laws of the jurisdiction under which it is organized, and is authorized to do business in the state in which the SSR Unit(s) is/are located within the MISO Region;
- (2) Participant has full power and authority to enter into this Agreement and perform all of Participant's obligations, representations, warranties, and covenants under this Agreement;
- (3) Participant's past and present agreements or Participant's organizational charter or bylaws, if any, or any provision of any indenture, mortgage, lien, lease, agreement, order, judgment, or decree to which Participant is a party or by which its assets or properties are bound do not materially affect performance of Participant's obligations under this Agreement;
- (4) The execution, delivery and performance of this Agreement by Participant have been duly authorized by all requisite action of its governing body;
- (5) Except as set out in an exhibit (if any) to this Agreement, MISO has not, within the twenty-four (24) months preceding the Effective Date, terminated for Default any prior agreement with Participant, any company of which Participant is a successor in interest, or any Affiliate(s) of Participant;
- (6) If any Defaults are disclosed on any such exhibit mentioned in subsection 4.A(5), either (a) MISO has been paid, before execution of this Agreement, all sums due to it in relation to such prior agreement, or (b) MISO, in its reasonable judgment,

has determined that this Agreement is necessary for system reliability, and Participant has made alternate arrangements satisfactory to MISO for the resolution of the Default under the prior agreement with Participant, any company of which Participant is a successor in interest, or any Affiliate of Participant;

- (7) Participant has obtained, or will obtain prior to beginning performance under this Agreement, all licenses, registrations, certifications, permits and other authorizations and has taken, or will take prior to beginning performance under this Agreement, all actions required by applicable laws or governmental regulations except licenses, registrations, certifications, permits or other authorizations that do not materially affect performance under this Agreement;
- (8) Participant is not in violation of any laws, ordinances, or governmental rules, regulations or order of any Governmental Authority or arbitration board materially affecting performance of this Agreement and to which it is subject;
- (9) Participant is not Bankrupt, does not contemplate becoming Bankrupt nor, to its knowledge, will become Bankrupt;
- (10) Participant acknowledges that it has received and is familiar with the MISO Tariff; and
- (11) Participant acknowledges and affirms that the foregoing representations, warranties, and covenants are continuing in nature throughout the Full Term of this Agreement. For purposes of this Section, “materially affecting performance” means resulting in a materially adverse effect on Participant’s performance of its obligations under this Agreement.

B. MISO represents, warrants, and covenants that:

- (1) MISO is the RTO certified under 18 C.F.R. §35.34 for the MISO Region and the subject Generation Resource/SCU is located within the MISO Region;
- (2) MISO is duly organized, validly existing and in good standing under the laws of Delaware, and is authorized to do business in the MISO Region;
- (3) MISO has full power and authority to enter into this Agreement and perform all of MISO's obligations, representations, warranties, and covenants under this Agreement;
- (4) MISO's past and present agreements or MISO's organizational charter or bylaws, if any, or any provision of any indenture, mortgage, lien, lease, agreement, order, judgment, or decree to which MISO is a party or by which its assets or properties are bound do not materially affect performance of MISO's obligations under this Agreement;
- (5) The execution, delivery and performance of this Agreement by MISO have been duly authorized by all requisite action of its governing body;
- (6) MISO has obtained, or will obtain prior to beginning performance under this Agreement, all licenses, registrations, certifications, permits and other authorizations and has taken, or will take prior to beginning performance under this Agreement, all actions required by applicable laws or governmental regulations except licenses, registrations, certifications, permits or other authorizations that do not materially affect performance under this Agreement;

- (7) MISO is not in violation of any laws, ordinances, or governmental rules, regulations or order of any Governmental Authority or arbitration board materially affecting performance of this Agreement and to which it is subject;
- (8) MISO is not Bankrupt, does not contemplate becoming Bankrupt nor, to its knowledge, will become Bankrupt; and
- (9) MISO acknowledges and affirms that the foregoing representations, warranties, and covenants are continuing in nature throughout the Full Term of this Agreement. For purposes of this Section, “materially affecting performance,” means resulting in a materially adverse effect on MISO’s performance of its obligations under this Agreement.

Section 5. Participant Obligations.

Participant shall comply with, and be bound by, the MISO Tariff as it pertains to the provision of SSR Service.

Section 6. MISO Obligations.

MISO shall comply with, and be bound by, all MISO Tariff provisions.

Section 7. Tests for SSR Unit(s).

A. Capacity Tests for SSR Reliability.

- (1) A “Capacity Test” is a test of an SSR Unit according to the Generation Verification Tested Capacity provisions in the MISO Tariff and BPMs, as modified as stated in this Agreement. The capacity as shown by a Capacity Test is called “Tested Capacity.” (2) MISO may require that a Capacity Test be

run at MISO's discretion at any time when the SSR Unit is on-line, but MISO may not require more than four (4) Capacity Tests in a contract year. MISO must give Participant at least two (2) hours advance notice, after the SSR Unit is on line, of a Capacity Test required by MISO, unless Participant agrees to less than two (2) hours. Participant may perform as many Capacity Tests as it desires, but Participant may not perform a Capacity Test without the prior approval of MISO, which approval MISO may not unreasonably withhold or delay. The Parties will reasonably cooperate to coordinate a Capacity Test. MISO has the right to reasonable advance notice of, and to have personnel present during, a Capacity Test.

B. Test Report. The Party receiving the Capacity Test results (the "Capacity Test Report") shall give the Capacity Test Report to the other Party to this Agreement within twenty-four (24) hours after the test is run.

C. Effect of Capacity Test for Reliability.

- (1) A determination of Tested Capacity is effective as of the beginning of the hour in which the Capacity Test is started.
- (2) For all hours in which Tested Capacity is less than SSR Capacity, then Billing Capacity is reduced as set out below and remains so reduced until a subsequent Capacity Test establishes that Tested Capacity equals or exceeds SSR Capacity.
- (3) After the Effective Date, MISO shall dispatch the SSR Unit(s), for SSR energy, for the electrical energy and/or reactive power produced by the SSR Unit(s), including ramping energy and/or reactive power, during a Capacity Test requested

by MISO, net of auxiliary equipment and other electrical requirements of the SSR Unit(s) that are supplied by the SSR Unit(s). MISO shall also dispatch an SSR Unit, to provide SSR energy, for any electrical energy and/or reactive power produced by the SSR Unit during a Capacity Test requested by Participant to attempt to show that Tested Capacity equals or exceeds SSR Capacity, net of auxiliary equipment and other electrical requirements of the SSR Unit that are supplied by the SSR Unit.

- D. The Parties shall coordinate scheduling for additional testing of an SSR Unit and dispatch times for other, limited runs of an SSR Unit that assists in the readiness of the SSR Unit, consistent with Good Utility Practice and Outage Scheduler practices (*e.g.*, testing in accordance with environmental and insurance requirements applicable to the SSR Unit). MISO shall not unreasonably withhold or delay approval of Participant's requests for such limited runs that recognize the need, as much as practicable, to ensure availability when the SSR Unit is expected to be needed for reliability purposes. During times for such limited runs, MISO shall commit the SSR Unit as if for reliability purposes. The SSR Unit shall return to full service, as dispatched by MISO for reliability purposes (rescheduling the other MISO-approved activities), in the event the SSR Unit is needed for reliability.

Section 8. Operation.

- A. Designated Unit Maintenance. Before the start of each contract year, Participant shall

furnish MISO with its proposed schedule for Generator Planned Outages for inspection, repair, maintenance, and overhaul of the Designated Unit(s) for the contract year in accordance with MISO's outage scheduling system. MISO shall approve or reject Generator Planned Outages in accordance with MISO's Business Practices Manuals. MISO shall, if requested by Participant, endeavor to accommodate changes to the schedule to the extent that reliability of the MISO System is not materially affected by those changes. In all cases, MISO must find a time for Participant to perform maintenance in a reasonable timeframe as defined by Good Utility Practice.

B. Planning Data. Participant shall timely report to MISO those items and conditions necessary for MISO's internal planning and compliance with MISO's guidelines in effect from time to time. The information supplied must include, without limitation, the following:

- (1) Availability Plan (*i.e.*, Day-Ahead Offer) for the next day in accordance with MISO Tariff deadlines;
- (2) Revised Availability Plan reflecting changes in the Availability Plan in accordance with MISO Tariff deadlines; and
- (3) Status of each Designated Unit with respect to Environmental Limitations, if any. Participant shall timely report to MISO the status of each Designated Unit with respect to Operational Limitations.

C. Delivery.

- (1) MISO shall notify Participant of the hours and levels, if any, that the Designated

Unit is to operate as instructed (“Delivery Plan Instructed Hours of Operation”). This information is called the “Delivery Plan.” MISO shall notify Participant according to the Scheduling Rules for SSR Units of the MISO Tariff. MISO shall not notify Participant to operate at levels above those stated in the Availability Plan, and MISO shall not notify Participant to operate the SSR Unit in a way that would violate the limitations on operation set out in Section 1 above.

- (2) Participant shall produce and deliver electrical energy and/or reactive power from the SSR Unit to the Delivery Point at the levels specified in the Delivery Plan.
- (3) MISO may dispatch the Designated Unit when necessary to ensure transmission system security, including any emergency situation. MISO may not dispatch the Designated Unit if compliance with the dispatch would cause the Designated Unit to exceed the Operational or Environmental Limitations, if any, set forth in Section 1 above or at levels greater than are shown in the Availability Plan. Notwithstanding the foregoing, Participant retains the responsibility for operating the Designated Unit in accordance with limits provided by applicable law.
- (4) During the hours of operation of the SSR Unit specified in the Delivery Plan, Participant may only participate in the MISO Energy and Ancillary Services Markets from the SSR Unit in accordance with the relevant conditions in the MISO Tariff. Participant shall offer its SSR Capacity into the MISO Energy and Ancillary Services Markets to the extent permitted by the Operational and Environmental Limitations when the SSR Unit(s) is/are available and not needed

to address the reliability issues pertaining to this Agreement, consistent with Section 38.2.7 of the Tariff. Participant shall designate the Commitment Status and the Dispatch Status of the SSR Unit(s) as Economic in order for the calculation of compensation to be based on non-zero SSR Unit Compensation. (as that term is used in Section 38.2.7). Such offers into MISO markets shall be cost-based, including Start-Up, No Load, and Energy Offers. Participant may also offer, from the SSR Unit(s), Zonal Resource Credits into the Planning Resource Auction or include the SSR Unit(s) in a Fixed Resource Adequacy Plan pursuant to the terms of the Tariff.

Section 9. Payment Provisions.

A. For the transfer of any funds under this Agreement directly between MISO and Participant and pursuant to the Settlement procedures described in the MISO Tariff, the following shall apply:

(1) Participant appoints MISO to act as its agent with respect to such funds transferred and authorizes MISO to exercise such powers and perform such duties as described in this Agreement or the MISO Tariff, together with such powers or duties as are reasonably incidental thereto.

(2) MISO shall not have any duties, responsibilities to, or fiduciary relationship with Participant and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement except as expressly set forth herein or in the MISO Tariff.

- B. Compensation for the SSR Unit(s). MISO shall compensate Participant according to the terms of Exhibit 2 to this Agreement.
- C. Settlement Provisions for the SSR Unit(s). At the conclusion of each calendar month, MISO shall conduct a settlement process for compensation under this Agreement, consistent with MISO Tariff requirements.
- D. Performance-Related Payment Adjustments.
- (1) For an SSR Unit, a “Nonresponsive Event” means any hour or hours during which Participant is requested to, but does not, deliver to MISO electrical energy from each unit at a level within a tolerance band of 95% of the level shown in the Delivery Plan on each hour (on a megawatt-hour/hour basis) or does not maintain reactive capability consistent with NERC standards.
 - (2) Each day that a Nonresponsive Event continues after Participant receives the initial notice from MISO of the Nonresponsive Event is a separate Nonresponsive Event. A Nonresponsive Event is measured on a daily basis.
 - (3) Participant is excused from the Nonresponsive Event payment reduction arising from any Nonresponsive Event that is (a) not due to intentionally incomplete, inaccurate, or dishonest reporting to MISO by Participant of the availability of the Designated Unit, or (b) caused by a failure of the MISO Transmission System.

- (4) If a Nonresponsive Event is not excused, then to reflect this lower-than-expected quality of firmness, MISO's payments to Participant are reduced by the maximum daily Unexcused Nonresponsive Amount of 2.0 percent of the Monthly SSR Payment set forth in Exhibit 2.
- (5) MISO shall provide Participant notice, confirmed in writing within three (3) days of any original notice, of MISO's determination that a Nonresponsive Event is unexcused.
- (6) MISO may offset any amounts due by Participant to MISO under this Section 9.D against any amounts due by MISO to Participant under this Agreement.
- (7) Subject to the maximum daily amount of 2.0 percent of the Monthly SSR Payment set forth in Exhibit 2, the Unexcused Nonresponsive Amount reduces payments to Participant (see Exhibit 2), and is composed of two parts:
 - (a) A fixed component equal to a proportionate reduction in the Monthly SSR Payment to Participant (see Exhibit 2) according to the reduction in Billing Capacity below the SSR Capacity, calculated for that portion of the month during which such reduction occurs. Billing Capacity is the lower of (i) the SSR Capacity and (ii) the Tested Capacity if lower than SSR Capacity for reasons not reported through the Outage Scheduler or if such reporting to MISO is intentionally incomplete, inaccurate, or dishonest.

(b) A variable component equal to the product of: (i) the difference between: a) the level shown in the Delivery Plan and b) the amount of electrical energy and/or reactive power delivered to MISO; and (ii) an SSR Unit's Hourly Ex Post LMP in any hour or hours in which a Nonresponsive Event occurs.

E. Procedure in the Event of a Material, Unforeseen Repair. In the event of a material, unforeseen repair that affects the SSR Unit, Participant shall provide MISO written notice before incurring repair costs, together with reasonable information in support thereof. Upon such written notification, MISO shall provide written notice to Participant either that: (i) it elects to exercise its rights to terminate regarding the affected Unit(s) by giving sixty (60) days advance written notice to Participant because the unforeseen repairs could not result in the return to service on a timeline that serves system reliability; or (ii) it agrees that Participant shall conduct such repairs, subject to the terms of parts (1) and (2) of this Section 9.E. Participant shall not be deemed to have a Nonresponsive Event, nor shall Participant be subject to any other performance penalties under this Agreement or the MISO Tariff for the period of time after Participant notifies MISO in writing of the need for repairs as provided in this Section 9.E until repairs have been completed. MISO will provide to Participant written notification pursuant to the terms of parts (1) and (2) of this Section 9.E that directs Participant to conduct such repairs.

(1) Non-Emergency Repairs. Except as provided for in part 2 of this Section

9.E, before MISO may issue a written notice that unforeseen repairs should be undertaken, Participant shall make and receive approval of a Federal Power Act (“FPA”) Section 205 filing at FERC to modify compensation under this Agreement to provide for the recovery of the costs of unforeseen repairs and shall serve such filing on all parties to the original filing for compensation for this Agreement. Participant shall not conduct such unforeseen repairs unless and until MISO receives from Participant notice that FERC approved additional compensation to provide for the recovery of additional repair costs.

- (2) Emergency Repairs. If MISO reasonably believes that system security and reliability require any unforeseen repairs to be conducted before FERC can act on a Section 205 filing (“Emergency Repairs”), then MISO shall so notify Participant in writing and direct Participant to make such Emergency Repairs. Participant shall make any desired Section 205 filing at FERC as soon as reasonably practicable thereafter to modify the level of compensation under this Agreement to provide for recovery of such costs. MISO shall reasonably cooperate with Participant’s efforts to support its Section 205 filing based upon MISO’s notification.

Section 10. Default.

A. Event of Default.

- (1) Failure to make payment or transfer funds as provided in the MISO Tariff

shall constitute a material breach and shall constitute an event of default ("Default") unless cured within three (3) Business Days after delivery by the non-breaching Party of written notice of the failure to the breaching Party. Provided further that if such a material breach, regardless of whether such breach is cured within the allotted time after written notice of the material breach, occurs more than three (3) times within a rolling twelve (12)-month period, the fourth such breach shall constitute a Default by the breaching Party.

(2) For any material breach other than a failure to make payment or transfer funds, the occurrence and continuation of any of the following events shall constitute an event of Default by Participant:

(a) Except as excused under subsection (4) or (5) below, a material breach, other than a failure to make payment or transfer funds, of this Agreement by Participant, including any material failure by Participant to comply with the MISO Tariff, unless cured within fourteen (14) Business Days after delivery by MISO of written notice of the material breach to Participant. Participant must begin work or other efforts within three (3) Business Days to cure such material breach after delivery by MISO of written notice of such material breach by Participant and must prosecute such work or other efforts with reasonable diligence, consistent with Good Utility Practice, until the breach is cured. Provided further that if

a material breach, regardless of whether such breach is cured within the allotted time after written notice of the material breach, occurs more than three (3) times within a rolling twelve (12)-month period, the fourth (4th) such breach shall constitute a Default.

- (b) Participant becomes Bankrupt, except for the filing of a petition in involuntary bankruptcy, or similar involuntary proceedings that is dismissed within ninety (90) days thereafter.
 - (c) A Designated Unit's operation is abandoned without intent to return it to operation during the Full Term as it applies to the Designated Unit; or
 - (d) Three or more unexcused Nonresponsive Events occur during a contract year.
- (3) Except as excused under subsection (4) or (5) below, a material breach of this Agreement by MISO, including any material failure by MISO to comply with the MISO Tariff, other than a failure to make payment or transfer funds, shall constitute a Default by MISO unless cured within fourteen (14) Business Days after delivery by Participant of written notice of the material breach to MISO. MISO must begin work or other efforts within three (3) Business Days to cure such material breach after delivery by Participant of written notice of such material breach by MISO and must prosecute such work or other efforts with reasonable diligence, consistent

with Good Utility Practice, until the breach is cured. Provided further that if a material breach, regardless of whether such breach is cured within the allotted time after notice of the material breach, occurs more than three (3) times within a rolling twelve (12)-month period, the fourth such breach shall constitute a Default.

- (4) For any material breach other than a failure to make payment or transfer funds, the breach shall not result in a Default if the breach cannot reasonably be cured within fourteen (14) calendar days, prompt written notice is provided by the breaching Party to the other Party, and the breaching Party began work or other efforts to cure the breach within three (3) Business Days after delivery of the notice to the breaching Party and prosecutes the curative work or efforts with reasonable diligence, consistent with Good Utility Practice, until the curative work or efforts are completed.
- (5) If, due to a Force Majeure Event, a Party is in breach with respect to any obligation hereunder, such breach shall not result in a Default by that Party.

B. Remedies for Default.

- (1) MISO's Remedies for Default. In the event of a Default by Participant, MISO may pursue any remedies MISO has under this Agreement, at law, or in equity, subject to the provisions of Section 12: Dispute Resolution of this Agreement. In

the event of a Default by Participant, if the MISO Tariff does not specify a remedy for a particular Default, MISO may, at its option, upon written notice to Participant, immediately terminate this Agreement, with termination to be effective upon the date of delivery of notice.

(2) Participant's Remedies for Default.

- (a) Unless otherwise specified in this Agreement or in the MISO Tariff, and subject to the provisions of Section 12: Dispute Resolution of this Agreement, in the event of a Default by MISO, Participant's remedies shall be limited to:
 - (i) Immediate termination of this Agreement upon written notice to MISO,
 - (ii) Monetary recovery in accordance with the Settlement procedures set forth in the MISO Tariff, and
 - (iii) Specific performance.
- (b) However, in the event of a material breach by MISO of any of its representations, warranties or covenants, Participant's sole remedy shall be immediate termination of this Agreement upon written notice to MISO.
- (c) If as a final result of any dispute resolution MISO, as the settlement agent, is determined to have over-collected from a Market Participant(s), with the result that refunds are owed by Participant to MISO, as the settlement agent such Market Participant(s) may request MISO to allow such Market

Participant to proceed directly against Participant, in lieu of receiving full payment from MISO. In the event of such request, MISO, in its sole discretion, may agree to assign to such Market Participant MISO's rights to seek refunds from Participant, and Participant shall be deemed to have consented to such assignment. This subsection (c) shall survive termination of this Agreement.

- (3) A Default or breach of this Agreement by a Party shall not relieve either Party of the obligation to comply with the MISO Tariff.

C. Force Majeure.

- (1) If, due to a Force Majeure Event, either Party is in breach of this Agreement with respect to any obligation hereunder, such Party shall take reasonable steps, consistent with Good Utility Practice, to remedy such breach. If either Party is unable to fulfill any obligation by reason of a Force Majeure Event, it shall give notice and the full particulars of the obligations affected by such Force Majeure Event to the other Party in writing or by telephone (if followed by written notice) as soon as reasonably practicable, but not later than fourteen (14) calendar days, after such Party becomes aware of the event. A failure to give timely notice of the Force Majeure event shall constitute a waiver of the claim of Force Majeure Event. The Party experiencing the Force Majeure Event shall also provide notice, as soon as reasonably practicable, when the Force Majeure Event ends.

- (2) Notwithstanding the foregoing, a Force Majeure Event does not relieve a Party affected by a Force Majeure Event of its obligation to make payments or of any consequences of non-performance pursuant to the MISO Tariff or under this Agreement, except that the excuse from Default provided by subsection 10.A(5) above is still effective.

- D. Duty to Mitigate. Except as expressly provided otherwise herein, each Party shall use commercially reasonable efforts to mitigate any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

Section 11. Limitation of Damages and Liability and Indemnification.

- A. EXCEPT AS EXPRESSLY LIMITED IN THIS AGREEMENT OR MISO BUSINESS PRACTICES, MISO OR PARTICIPANT MAY SEEK FROM THE OTHER, THROUGH APPLICABLE DISPUTE RESOLUTION PROCEDURES SET FORTH IN MISO PROTOCOLS, ANY MONETARY DAMAGES OR OTHER REMEDY OTHERWISE ALLOWABLE UNDER INDIANA LAW, AS DAMAGES FOR DEFAULT OR BREACH OF THE OBLIGATIONS UNDER THIS AGREEMENT; PROVIDED, HOWEVER, THAT NEITHER PARTY IS LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR INJURY THAT MAY OCCUR, IN WHOLE OR IN PART, AS A RESULT OF A DEFAULT UNDER THIS AGREEMENT, A TORT, OR ANY OTHER CAUSE, WHETHER OR NOT A PARTY HAD KNOWLEDGE OF THE CIRCUMSTANCES THAT RESULTED IN THE SPECIAL, INDIRECT, PUNITIVE OR

CONSEQUENTIAL DAMAGES OR INJURY, OR COULD HAVE FORESEEN THAT SUCH DAMAGES OR INJURY WOULD OCCUR.

B. The Parties have expressly agreed that, other than subsections A and B of this Section, this Agreement shall not include any other limitations of liability or indemnification provisions, and that such issues shall be governed solely by applicable law, in a manner consistent with the Choice of Law and Venue subsection 13.A of this Agreement, regardless of any contrary provisions that may be included in or subsequently added to the MISO Tariff (outside of this Agreement).

Section 12. Dispute Resolution.

- A. In the event of a dispute, including a dispute regarding a Default, under this Agreement, Parties to this Agreement shall first attempt resolution of the dispute using the applicable dispute resolution procedures set forth in the MISO Tariff.
- B. In the event of a dispute, including a dispute regarding a Default, under this Agreement, each Party shall bear its own costs and fees, including, but not limited to attorneys' fees, court costs, and its share of any mediation or arbitration fees.

Section 13. Miscellaneous.

- A. Choice of Law and Venue. Notwithstanding anything to the contrary in this Agreement, this Agreement shall be deemed entered into in Indiana and, with the exception of matters governed exclusively by federal law, shall be governed by and construed and interpreted in accordance with the laws of the State of Indiana that apply to contracts executed in and performed entirely within the State of Indiana, without reference to any rules of conflict

of laws. Neither Party waives primary jurisdiction as a defense; provided that any court suits regarding this Agreement shall be brought in a state or federal court located within Indiana, and the Parties hereby waive any defense of *forum non-conveniens*.

B. Assignment.

- (1) Notwithstanding anything herein to the contrary, a Party shall not assign or otherwise transfer all or any of its rights or obligations under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed, except that a Party may assign or transfer its rights and obligations under this Agreement without the prior written consent of the other Party (if neither the assigning Party or the assignee is then in Default of any Agreement with MISO):
 - (a) Where any such assignment or transfer is to an Affiliate of the Party; or
 - (b) Where any such assignment or transfer is to a successor to or transferee of the direct or indirect ownership or operation of all or part of the Party, or its facilities; or
 - (c) For collateral security purposes to aid in providing financing for itself, provided that the assigning Party gives written notice to the other Party of any such assignment. Prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement entered into by either Party pursuant to this Section, the assigning Party, the secured creditor, the trustee or mortgagee shall provide the other Party written notice of the date and particulars of any such exercise of

assignment right(s). If requested by the Party making any such collateral assignment to a Financing Person, the other Party shall execute and deliver a consent to such assignment containing customary provisions, including representations as to corporate authorization, enforceability of this Agreement and absence of known Defaults, notices of Default, and an opportunity for the Financing Person to cure Defaults.

- (2) An assigning Party shall provide prompt written notice of the assignment to the other Party. Any attempted assignment that violates this Section is void and ineffective. Any assignment under this Agreement shall not relieve either Party of its obligations under this Agreement, nor shall either Party's obligations be enlarged, in whole or in part, by reason thereof.

- C. No Third Party Beneficiary. Except with respect to the rights of other Market Participants in Section 10.B and the Financing Persons in Section 13.B, (1) nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any third party, (2) no third party shall have any rights or interest, direct or indirect, in this Agreement or the services to be provided hereunder and (3) this Agreement is intended solely for the benefit of the Parties, and the Parties expressly disclaim any intent to create any rights in any third party as a third-party beneficiary to this Agreement or the services to be provided hereunder. Nothing in this Agreement shall create a contractual relationship between one Party and the customers of the other Party, nor shall it create a duty of any kind to such customers.

- D. No Waiver. Parties shall not be required to give notice to enforce strict adherence to all provisions of this Agreement. No breach or provision of this Agreement shall be deemed waived, modified or excused by a Party unless such waiver, modification or excuse is in writing and signed by an authorized officer of such Party. The failure by or delay of either Party in enforcing or exercising any of its rights under this Agreement shall (1) not be deemed a waiver, modification or excuse of such right or of any breach of the same or different provision of this Agreement, and (2) not prevent a subsequent enforcement or exercise of such right. Each Party shall be entitled to enforce the other Party's covenants and promises contained herein, notwithstanding the existence of any claim or cause of action against the enforcing Party under this Agreement or otherwise.
- E. Headings. Titles and headings of paragraphs and sections within this Agreement are provided merely for convenience and shall not be used or relied upon in construing this Agreement or the Parties' intentions with respect thereto.
- F. Severability. In the event that any of the provisions, or portions or applications thereof, of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, that determination shall not affect the enforceability or validity of the remaining portions of this Agreement, and this Agreement shall continue in full force and effect as if it had been executed without the invalid provision; provided, however, if either Party determines, in its sole discretion, that there is a material change in this Agreement by reason thereof, the Parties shall promptly enter into negotiations to replace the unenforceable or invalid provision with a valid and enforceable provision. If the Parties are not able to reach an agreement as the result of such negotiations within

fourteen (14) days, either Party shall have the right to terminate this Agreement on three (3) days written notice.

- G. Entire Agreement. All exhibits attached to this Agreement are incorporated into this Agreement by reference and made a part of this Agreement as if repeated verbatim in this Agreement. This Agreement represents the Parties' final and mutual understanding with respect to its subject matter. It replaces and supersedes any prior agreements or understandings, whether written or oral. No representations, inducements, promises, or agreements, oral or otherwise, have been relied upon or made by any Party, or anyone on behalf of a Party, that are not fully expressed in this Agreement. An agreement, statement, or promise not contained in this Agreement is not valid or binding.
- H. Amendment. The standard form of this Agreement may only be modified through the procedure for modifying the MISO Tariff as described in the MISO Tariff. Any changes to the terms of the standard form of this Agreement shall not take effect until a new Agreement is executed between the Parties.
- I. MISO's Right to Audit Participant. Participant shall keep detailed records for a period of three years of all activities under this Agreement giving rise to any information, statement, charge, payment or computation delivered to MISO under the MISO Tariff. Such records shall be retained and shall be available for audit or examination by MISO as hereinafter provided. MISO has the right during Business Hours and upon reasonable written notice and reasonable cause to examine the records of Participant as necessary to verify the accuracy of any such information, statement, charge, payment or computation made under this Agreement. If any such examination reveals any inaccuracy in any

information, statement, charge, payment or computation, the necessary adjustments in such information, statement, charge, payment, computation, or procedures used in supporting its ongoing accuracy will be promptly made.

- J. Participant's Right to Audit MISO. Participant's right to data and audit of MISO shall be as described in the MISO Tariff and shall not exceed the rights described in the MISO Tariff.
- K. Further Assurances. Each Party agrees that during the term of this Agreement it will take such actions, provide such documents, do such things and provide such further assurances as may reasonably be requested by the other Party to permit performance of this Agreement.
- L. Conflicts. This Agreement is subject to applicable federal, state, and local laws, ordinances, rules, regulations, orders of any Governmental Authority and tariffs. Nothing in this Agreement may be construed as a waiver of any right to question or contest any federal, state and local law, ordinance, rule, regulation, order of any Governmental Authority, or tariff. In the event of a conflict between this Agreement and an applicable federal, state, and local law, ordinance, rule, regulation, order of any Governmental Authority or tariff, the applicable federal, state, and local law, ordinance, rule, regulation, order of any Governmental Authority or tariff shall prevail, provided that Participant shall give notice to MISO of any such conflict affecting Participant. In the event of a conflict between the MISO Tariff and this Agreement, the provisions expressly set forth in this Agreement shall control.

- M. No Partnership. This Agreement may not be interpreted or construed to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party has any right, power, or authority to enter any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party except as provided in Section 9.A.
- N. No State Public Utility Created. This Agreement may not be interpreted or construed as modifying the jurisdictional status of MISO, including, but not limited to establishment of MISO as a state public utility under the laws of any jurisdiction, as a result of MISO's performance under this Agreement.
- O. Construction. In this Agreement, the following rules of construction apply, unless expressly provided otherwise or unless the context clearly requires otherwise:
- (1) The singular includes the plural, and the plural includes the singular.
 - (2) The present tense includes the future tense, and the future tense includes the present tense.
 - (3) Words importing any gender include the other gender.
 - (4) The word "shall" denotes a duty.
 - (5) The word "must" denotes a condition precedent or subsequent.
 - (6) The word "may" denotes a privilege or discretionary power.
 - (7) The phrase "may not" denotes a prohibition.

- (8) References to statutes, tariffs, regulations or the MISO Tariff include all provisions consolidating, amending, or replacing the statutes, tariffs, regulations or the MISO Tariff referred to.
- (9) References to “writing” include printing, typing, lithography, and other means of reproducing words in a tangible visible form.
- (10) The words “including,” “includes,” and “include” are deemed to be followed by the words “without limitation.”
- (11) Any reference to a day, week, month or year is to a calendar day, week, month or year unless otherwise indicated.
- (12) References to Articles, Sections (or subdivisions of Sections), Exhibits, annexes or schedules are to this Agreement, unless expressly stated otherwise.
- (13) Unless expressly stated otherwise, references to agreements, the MISO Tariff and other contractual instruments include all subsequent amendments and other modifications to the instruments, but only to the extent the amendments and other modifications are not prohibited by this Agreement.
- (14) References to persons or entities include their respective successors and permitted assigns and, for governmental entities, entities succeeding to their respective functions and capacities.
- (15) References to time are to Eastern Standard Time.
- (16) References to any capitalized word or phrase not defined herein shall have the meanings from the MISO Tariff.

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

SIGNED, ACCEPTED AND AGREED TO by each undersigned signatory who, by signature hereto, represents and warrants that he or she has full power and authority to execute this Agreement.

Midcontinent Independent System Operator, Inc.:

By: _____

Name: _____

Title: _____

Date: _____

Participant:

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT 1

Detailed Description of SSR Unit(s)

[Describe Generation Unit(s)/SCU more specifically]

EXHIBIT 2

Description of Compensation

A. Fixed Component of Compensation

Pursuant to Section 9 of the Agreement, MISO shall pay Participant a Monthly SSR Payment as provided in FERC orders during the term of the Agreement, and payment prorated for any partial monthly availability for SSR service. If this Agreement is terminated with respect to less than all Designated Units (as applicable), the Monthly SSR Payment shall be reduced by an appropriate amount following the notice of termination to reflect the removal of such Unit(s) from service under this Agreement. Such reduced amount shall be submitted by Participant to FERC for approval in a Federal Power Act (“FPA”) Section 205 filing to modify this Agreement to provide for the reduced Monthly SSR Payment, which filing shall be served (at the least) upon all parties to the FERC proceeding that initiated review of compensation under the Agreement. The FERC-approved reduced amount shall be applicable the later of (a) the date that is sixty (60) days following notice of termination or (b) the date on which MISO elected to make such termination effective.

Each Monthly SSR Payment shall be made regardless of dispatch of the SSR Unit(s) during that month. If the Agreement is terminated effective during the course of a month of extended service, then the Monthly SSR Payment shall be prorated for that portion of the month in which extended service was provided. The compensation provided for under this Agreement may be further modified pursuant to Section 7 (adjustment to Monthly SSR Payment based on Capacity Tests) and/or Section 9 (“Performance-Related Payment Adjustments” and/or

“Compensation in the Event of a Material, Unforeseen Circumstance”) of the Agreement.

Compensation shall be settled on a monthly basis.

If the Agreement is terminated by MISO prior to the end of the Term, *[describe any needed going-forward recovery related to MISO termination of the Agreement regarding one or more units]* _____.

B. Hourly Component of Compensation

Pursuant to Section 9 of the Agreement, MISO shall pay Participant the hourly compensation provided for under the Tariff.