

**AGREEMENT FOR BASE, INTERMEDIATE AND PEAKING  
PURCHASE AND SALE  
OF ELECTRIC ENERGY AND CAPACITY,  
BETWEEN  
THE CITY OF LAKE WORTH  
AND  
ORLANDO UTILITIES COMMISSION  
[REDACTED COPY]**



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**AGREEMENT FOR BASE, INTERMEDIATE AND PEAKING PURCHASE AND SALE  
OF ELECTRIC ENERGY AND CAPACITY**

This AGREEMENT FOR BASE, INTERMEDIATE AND PEAKING PURCHASE AND SALE OF ELECTRIC ENERGY AND CAPACITY (this "Agreement") is entered into as of the: day of \_\_\_\_\_, 2018, by and between THE CITY OF LAKE WORTH, a municipal corporation in the State of Florida, duly constituted under Florida law ("LAKE WORTH"), and the ORLANDO UTILITIES COMMISSION, a municipal quasi-governmental agency organized under the State of Florida ("OUC"). LAKE WORTH and OUC are referred to also individually as a ("Party"), or collectively as the ("Parties")

WHEREAS, LAKE WORTH is a public agency and it owns and operates electric utility and related generation, transmission and distribution assets and properties;

WHEREAS, OUC is a public agency and it owns and operates electric utility and related generation, transmission and distribution assets and properties;

WHEREAS, LAKE WORTH is seeking Base Product, Intermediate Product and Peaking Product (Electric and Capacity) wholesale power supplies ("Wholesale Electric Service") to serve its Load Obligations (as defined below) to its customers and to that end has issued an Invitation To Negotiate ("ITN") for the provision by third parties of such power supplies;

WHEREAS, LAKE WORTH has evaluated the proposal submitted by OUC as one of the lowest and best proposal received in response to the ITN and the supply of a portion of the wholesale power by OUC will help to enable LAKE WORTH to fulfill a municipal purpose to deliver a reliable supply of electricity to customers in its service territory;

WHEREAS, Lake Worth is the owner of an electric generating plant in Lake Worth, Florida, currently consisting of ten generating units with a total summer rating capacity of 91.98 MW, as follows: The capacity of each unit is: Unit GT1, 26 MW; Unit GT2 & S5, 29.28 MW; Unit S3, 25.0 MW; Unit M 1-5, 10.0 MW, and the Lake Worth Solar, 1.7MW AC. Units GT2 and S5 normally operate together in combined-cycle operation and are referred to collectively as the "Lake Worth CC". These generating units are hereinafter referred to collectively as the "Lake Worth Power Plant"; and

WHEREAS Lake Worth has ownership shares under contracts with the Florida Municipal Power Agency ("FMPA") through the St. Lucie 2 Project (22.0 MW) and Stanton 1 Project (10.5 MW) , as well as a 10 MW PPA share in a Solar Project referred to as "Generation Entitlement Contracts". Generation Entitlement Contracts and the energy and capacity generated by the Lake Worth CC are referred to in this Agreement collectively as the "Generation Entitlements". Generation Entitlements shall be amended as changes in generation such as up-rates or down-rates are applied to each Unit. The Solar Project shall receive credit per Prudent Utility Practice. For example during the summer months the Solar Project shall have 50% credit of max generation.

WHEREAS, OUC wishes to supply Wholesale Electric Service to LAKE WORTH to enable LAKE WORTH to meet its Load Obligations to its customers, and LAKE WORTH desires to acquire such power supplies from OUC, on the terms and conditions set forth herein;

NOW, THEREFORE, for and in consideration of the foregoing, the covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, OUC and LAKE WORTH agree as follows:

## **ARTICLE 1 - DEFINITIONS**

Capitalized terms used in this Agreement shall have the meanings set forth in this Article 1 unless the context clearly requires otherwise.

“Ancillary Services” shall mean interconnected operations services identified by the Federal Energy Regulatory Commission or other regulatory bodies or agreements as necessary to effect a transfer of capacity and energy from OUC to LAKE WORTH which OUC provides hereunder from time to time, as are further described in Appendix A.

“Base Product” shall be up [REDACTED] every hour and associated energy delivered during the Term (as nominated per Article 5(c))

“Capacity” shall have the meaning as the highest 60 minute integrated peak for the month

“Capacity Charge” shall have the meaning set forth in Section 6.1

“Capacity Credit” shall mean the Entitlement Credit for St. Lucie, Stanton and the Lake Worth CC (or in simple cycle mode) totaling up to 61.78 MW. In the event of certain conditions, Lake Worth’s S3 may be a substitute Capacity replacement for the Combined Cycle unit at a value of 25.0 MW. The Capacity Credit represents the MW floor for determining capacity charges.

“Capacity Nomination - Annual” shall mean the Capacity amount in MW nominated by Lake Worth to be purchased for each month. This nomination is provided by June 1, prior year. For example, the Capacity Nomination – Annual for Calendar year 2020 shall be provided by no later than June 1, 2019.

“Capacity Nomination - Monthly” shall mean the Capacity amount in MW that might be nominated by Lake Worth to be purchased for a particular month. This nomination can be exercised 30 days prior the beginning of any subsequent month.

“Capacity Rates” shall be the Capacity Rate-Base, the Capacity Rate-Intermediate and the Capacity Rate Peaking.

“Capacity Rate-Base” shall mean \$/MW/Month for the Base Product under Appendix A

“Capacity Rate-Intermediate” shall mean \$/MW/Month for the Intermediate Product under Appendix A

“Capacity Rate-Peaking” shall mean \$/MW/Month for the Peak Product under Appendix A

“Charges” shall mean the Capacity Charge, the Fuel Energy Charge, the Non-Fuel Energy Charge, the Ancillary Services charge, and other charges as allowed by this Agreement.

“Claims” shall mean all third-party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity under this Agreement, and the resulting losses, damages, expenses, third party attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

“Dispatchable Units” shall refer to S3 and the Lake Worth CC unit, which will be made available for dispatch as needed.

“FPL” shall mean Florida Power and Light Company.

“FPL Transmission Agreement” means a transmission agreement executed by and between LAKE WORTH and FPL for the transmission of Wholesale Electric Service from the Delivery Point(s) to the Metering Point(s).

“Delivery Point(s)” shall mean the points of interconnection between FPL and OUC or other points as agreed to by the Parties.

“Economic Dispatch” shall mean accepted utility practices for the dispatching of generating assets to meet the Florida Municipal Power Pool (“FMPP”) system load based upon the lowest possible cost, subject to transmission and operational constraints. Dispatch variables such as startup costs, heat rate, and Variable O&M costs will be updated as necessary but must follow FMPP protocol

“Effective Date” shall mean the date on which the last Party executes the Agreement.

“Fuel Energy Charge” shall have the meaning set forth in Section 6.1.

“Fuel Energy Rate” shall have the meaning set forth in Appendix A.

“Event of default” shall have the meaning, with respect to OUC set forth in Section 15.1, and, with respect to LAKE WORTH set forth in Section 15.2, of this Agreement.

“FERC” shall mean the Federal Energy Regulatory Commission.

“Firm Load” shall mean service with priority equal to that of OUC's retail customers and other OUC wholesale customers with service from OUC system resources equivalent to that of retail customers of OUC.

“Florida PSC” shall mean the Florida Public Service Commission.

“FMPP” shall mean the Florida Municipal Power Pool.

“FRCC” shall mean the Florida Reliability Coordinating Council, Inc.

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“Interest Rate” shall have the meaning set forth in Section 6.2(b).

“Intermediate Product” shall be [REDACTED] of capacity every hour and associated energy delivered during the Term (as nominated per Article 5(c)).

“KWh” shall mean kilowatt-hour.

“MWh” shall mean Megawatt-hour or 1,000 KWh.

“Letter of Credit” shall mean one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a credit rating of at least A- from S&P or A3 from Moody's, in a form reasonably acceptable to the Party in whose favor the letter of credit is issued, the costs of which shall be borne by the applicant therefor.

“Load Obligations” shall mean the power supplies required for LAKE WORTH to meet its obligations to provide retail electricity service in its electric service territory, including power supplies consumed by LAKE WORTH's municipal facilities, required reserves, and FPL transmission losses.

“Meters” shall have the meaning set forth in Section 7.1.

“Metering Point(s)” shall mean the point(s) of interconnection between the FPL transmission system and the LAKE WORTH transmission system.

“Minimum Base Capacity” shall mean for the months of January, February March November and December, 15 MW per month as the

minimum amount of capacity to be purchased each month . For the months of April, May, June, July August, September and October, the Minimum Base Capacity shall be 25 MW per month

“Monthly Peak Load” shall mean the highest Load Obligation for Lake Worth for any 60 minute integrated reading during the calendar month. The highest hour load shall determine the monthly peak load except as described in Section 6.1(b).

“Monthly Wholesale Electric Capacity” shall mean the combination of the Base, Intermediate and/or Peaking Product(s) for each calendar month.

“Monthly Wholesale Electric Energy” shall mean the MWhs delivered at the Delivery Point(s) during each calendar month.

“Non-Fuel Energy Charge” shall have the meaning set forth in Section 6.1.

“Non-Fuel Energy Rate” shall mean the rate as specified in Appendix A.

“Party” and “Parties” shall have the meaning set forth in the first paragraph.

“Payment Date” shall have the meaning set forth in Section 6.2(b).

“Peaking Product” shall be up to 40 MWs of capacity every hour and associated energy delivered during the Term (as nominated per Article 5(c)).

“Prudent Utility Practice” shall mean any of the applicable practices, methods and acts (i) required by the rules, regulations, policies and standards of state regulatory authorities having jurisdiction relating to emergency operations or otherwise required by applicable law; or (ii) otherwise engaged in or approved by a significant portion of the electric utility industry during the relevant time period; which in each case in the exercise of reasonable judgment in light of the facts known or that should have been known at the time a decision was made, could have been expected to accomplish the desired result in a manner consistent with law, regulation, safety, environmental protection, economy, and expedition. Prudent Utility Practice is intended to be acceptable practices, methods or acts generally accepted and lawful in the region, and is not intended to be limited to the optimum practices, methods or acts to the exclusion of all others.

“Rates” shall mean the Capacity Rates, the Monthly Fuel Energy Rates and the Non-Fuel Energy Rate.

“Requesting Party” shall have the meaning set out in Section 18.2.



“S3” shall have the meaning of the Lake Worth unit S3 at a Capacity Rate of 25.6 MW.

“Service Date” shall mean the later of a) the date on which the conditions precedent under Section 12.1 and 12.2 have been satisfied or waived in writing by the applicable Party and (b) January 1, 2018.

“Substitute Capacity” shall mean the substitution by Lake Worth of the S3 unit for the Lake Worth CC (or running the Lake Worth CC under simple cycle mode) with a value of 25.0 MW for S3 and or 19.5 MW for the simple cycle mode).

“Supplemental Energy and Capacity Costs” shall have the meaning set forth in Section 4.2.

“Term” shall mean the period from the Service Date until December 31, 2025, unless sooner terminated in accordance with the terms of this Agreement.

“Transmission Service” shall mean FPL Network Integration Transmission Service between the Delivery Point(s) and LAKE WORTH transmission ties with FPL.

“Wholesale Electric Capacity” shall mean no less than 15 MWs of electric capacity (For the Months of January, February, March, November and December) Otherwise it shall be no less than 25MW of electric Capacity as made available to LAKE WORTH by OUC at the Delivery Point(s) during the Term and under the terms and conditions of this Agreement.

“Wholesale Electric Energy” shall mean electric energy delivered by OUC at the Delivery Point(s) during the Term and under the terms and conditions of this Agreement.

“Wholesale Electric Service” shall have the meaning set forth in Article 2.

## **ARTICLE 2 - WHOLESALE ELECTRIC SERVICE**

Commencing on the Service Date and during the Term, in accordance with the terms and subject to the conditions hereof, OUC shall provide and deliver Wholesale Electric Service (at the Delivery Point(s), contingent on LAKE WORTH acquiring sufficient Transmission Service) and LAKE WORTH shall purchase electric capacity and electric energy to serve its Load Obligation, which services shall be referred to as "Wholesale Electric Service" and consist of the following:

- (a) Ancillary Services described in Appendix A;
- (b) Supply of Monthly Wholesale Electric Energy; and,
- (c) Supply of Monthly Wholesale Electric Capacity.

## ARTICLE 3 - TERM

This Agreement shall be in force and effect as of the Effective Date. The obligations of the Parties in respect of the supply and acceptance of Wholesale Electric Service shall commence on the Service Date and shall continue until December 31, 2022 (“Initial Term”). LAKE WORTH will have two (2) unilateral one (1) year extension until December 31, 2024. LAKE WORTH shall have until June 1<sup>st</sup> of the preceding to exercise each of the one (1) year extensions. The parties will also have a mutual option to extend until December 31 2025 (“Extended Term”), which shall be mutually agreed to by no later than June 1, 2024. This Agreement shall remain in effect for the Term and Extended Term, unless terminated earlier under the terms of this Agreement. Termination or expiration of this Agreement shall not affect or excuse the performance of either Party under any provision of this Agreement that by its nature or terms survives any such termination or expiration.

## ARTICLE 4 - OBLIGATIONS OF LAKE WORTH AND OUC

### Section 4.1 Obligations of LAKE WORTH

- (a) LAKE WORTH shall, during the Term and Extended Term, buy and receive from OUC Wholesale Electric Capacity and will receive Wholesale Electric Energy to serve its Load Obligations.
- (b) LAKE WORTH shall pay OUC a monthly payment in accordance with Section 6.2.
- (c) As of the Service Date, LAKE WORTH shall for the Term and Extended Term maintain Transmission Service to accept energy and capacity under this Agreement. In the event that LAKE WORTH is unable to maintain the Transmission Service, LAKE WORTH is still obligated to make all applicable payments to OUC for the Term and the Extended Term.
- (d) LAKE WORTH shall pay OUC for any Ancillary Services procured by LAKE WORTH from OUC pursuant to Appendix A in accordance with Section 4.2(c).
- (e) LAKE WORTH acknowledges and agrees that OUC shall have no responsibility for the distribution and resale to LAKE WORTH's electric system customers of the electricity delivered by OUC and the collection of any payments from LAKE WORTH's electric system customers.

### Section 4.2 Obligations of OUC

- (a) OUC shall sell and deliver to LAKE WORTH at the Delivery Point(s) Wholesale Electric Service for the duration of the Term and the Extended Term with a firmness and priority of service equal to that of OUC's Firm Load. LAKE WORTH acknowledges and agrees that OUC shall not be responsible for reductions in Wholesale Electric Service during the period of time that deliveries

of Wholesale Electric Energy and Ancillary Services to the Delivery Point(s) cannot be made as a result of problems or limitations on any transmission system other than OUC's; provided, however, in the event of a problem or limitation affecting OUC transmission system, there is insufficient Transmission Service, or LAKE WORTH requires additional Capacity and Energy, due to one of the Generation Entitlements not being available, OUC shall use commercially reasonable efforts to arrange for delivery of the Wholesale Electric Energy and Ancillary Services at alternate delivery points or, if permissible, to the Delivery Point (s). In the event that OUC is able to find viable supply during such periods of time, LAKE WORTH shall reimburse OUC for any such additional direct costs OUC incurs to provide Wholesale Electric Energy and Ancillary Services to such alternate delivery points or, if applicable, to the Delivery Point ("Supplemental Energy and Capacity Costs"). If scheduling requirements of such resources allow sufficient time for OUC to confer with LAKE WORTH, OUC will contact LAKE WORTH's designated representative and provide LAKE WORTH the opportunity to direct OUC not to pursue the alternate delivery points.

(b) OUC shall operate and maintain its generating resources and transmission system assets and equipment in accordance with Prudent Utility Practice.

(c) OUC shall provide Ancillary Services set forth in Appendix A. Each such Ancillary Service shall at OUC's option be provided by OUC either directly or through the FMPP and charged to LAKE WORTH on a direct cost pass-through basis (the "Ancillary Services Charge"). If the Ancillary Service is being provided through the FMPP, the costs to be passed through shall be calculated in a manner consistent with the allocation methodology used by the FMPP, which method is, as of the date of this Agreement, based on the pro rata energy share that the Ancillary Services required to serve LAKE WORTH under this Agreement bears to OUC's total cost of Ancillary Services during the applicable billing period. If the Ancillary Service is provided directly by OUC, the cost shall be calculated as referenced in Appendix A, Section 4.

(d) OUC shall calculate the amount due on a monthly basis for all Wholesale Electric Service provided in the prior calendar month as measured at the Metering Point (as adjusted for FPL transmission losses per the FPL transmission tariff), and shall submit an invoice to LAKE WORTH for payment. The monthly invoice shall be calculated for the Charges by applying the Rates in accordance with Section 6.1.

## **ARTICLE 5 - SALE AND PURCHASE**

a) OUC shall during the Term and Extended Term at its cost and expense sell Wholesale Electric Service including delivery of Wholesale Electric Energy and Ancillary Services to the Delivery Point(s) or, in the event of a problem or limitation affecting OUC transmission system or there is not enough

transmission through OUC-FPL, to such alternate delivery points as OUC with commercially reasonable efforts can arrange to accept delivery of such Wholesale Electric Service. LAKE WORTH shall during the Term and Extended Term buy from Wholesale Electric Capacity and will receive at the Delivery Point(s) Wholesale Electric Energy to serve its Load Obligations. The Charges and Rates for such sale and purchase shall be as set forth in Section 6.1 and Appendix A.

b) Prior to June 1<sup>st</sup> of every year, the Parties will agree on the forecasted peak load for the following year as well as peak load for each calendar month. Monthly Electric Capacity is defined as (i) Lake Worth's projected or forecasted peak load for such year, as agreed by mutual Parties, less (ii) the total capacity of the Generation Entitlements including any Substitute Capacity with the resultant quantity then multiplied by (iii) 1.15 to account for reserve margins. Appendix F has the 2019 Nominations on a monthly basis.

[(1) For illustration: The monthly peak load forecasted for this example is 96 MW. The amount of the Generation Entitlements will then be subtracted from the forecasted peak, and the resulting value will then be multiplied by 1.15 to account for reserve requirements to yield the Monthly Electric Capacity. The Monthly Electric Capacity will be multiplied by the Monthly Capacity Rate (Appendix A) to determine the Monthly Capacity Charge.

Illustration:

Load Obligation	101.0	MW
-Minus St Lucie	(22.0)	MW
-Minus Stanton 1	(10.5)	MW
-Minus LW CC	(29.28)	MW
Total Supplied by OUC for month MW(Base)	39	MW

Under this example, Lake Worth would pay OUC Capacity Charges equal to the 39 MW of Base nominated for the month.

c) LAKE WORTH shall have the capability to modify their monthly Capacity Nomination – Monthly by the 1<sup>st</sup> of the prior month. For example, the original schedule (5.b) was to take 39 MW of Base for September 2019, but LAKE WORTH now would like to change to 25 MW for September 2019, LAKE WORTH will have until August 1, 2019 to change such nomination. If the modified nomination is an increase, such increase shall be contingent on FPL transmission availability

d) When a Generation Entitlement (or S3 if applicable) is offline but available for Economic Dispatch, and if LAKE WORTH's load requires such

energy, OUC shall provide such replacement at the OUC costs for energy without charging LAKE WORTH a Capacity Charge.

1) For illustration: In a given month, the Lake Worth CC is not dispatched under Economic Dispatch protocols. Stanton and St. Lucie are both available for dispatch. Lake Worth will be credited 61.78 MW for Capacity Deficiency purposes

e) When Generation Entitlements used for capacity purposes are offline for planned maintenance, (including refueling in the case of St. Lucie) and load requires such energy, OUC shall provide such replacement at the OUC cost for energy without charging LAKE WORTH a Capacity Charge. Such planned maintenance will be agreed upon and scheduled in advance.

f) When Generation Entitlements used for capacity purposes are unavailable for reason other than Article 5 (d) & (e) above and load requires such energy, OUC will, if sufficient Transmission and Energy is available, provide Energy and Capacity at the OUC cost (including Capacity Charge).

g) If LAKE WORTH's load, in any particular hour, exceed the Total of the available Generation Entitlements and OUC PPA as nominated (in the illustration above, 40MW) then OUC will, if sufficient Transmission and Energy is available, provide Energy and Capacity at the OUC intermediate cost for capacity and associated energy.

Example 1:

LAKE WORTH load, is 110 MW (includes reserve requirement); Generation Entitlements are 61.78 MW, OUC PPA 40 MW = 8.220 MW Short ( $-110+60.60+40=-8.22$  plus gross-up for FPL transmission losses).

If Transmission and Energy is available, OUC will deliver the 9.0 (8.22 rounded up to the next integer) MW to cover LAKE WORTH Load. The price for 9.0 MW will then be OUC costs for energy for each applicable hour plus the applicable Capacity rate for the Intermediate Product for such year in Appendix A.

Example 2: (Change in nomination)

LAKE WORTH load is 96 MW; Generation Entitlements are 61.78MW, OUC PPA (LAKE WORTH changed the nomination) to 25 MW = 9.2MW Short ( $-96+61.78+25=-9.2$ ).

If Transmission and Energy is available, OUC will deliver the 9.0 MW to cover LAKE WORTH Load. The price will then be OUC costs for

energy plus the applicable Capacity rate for the Intermediate Product for such year in Appendix A.

Example 3: Lake Worth CC is unavailable, substitute S3, insufficient Capacity nomination

LAKE WORTH load is 96 MW (Including Reserves); Original Generation Entitlements are 61.78 MW, Combined Cycle LW is unavailable for reasons other than an agreed upon planned outage and for more than 72 hours resulting in a 29.28MW reduction in entitlements. Lake Worth substitutes Unit S3 for Capacity which provides 25.0MW bringing entitlements to 57.0 MW. Then the calculation shall be as follows:  $96 - (61.78 - 29.28 + 25.0) = -38.5$  required MW. OUC PPA (LAKE WORTH nomination for the month is 35 MW. If Transmission and Energy is available, OUC will then deliver the 4.0 MW to cover LAKE WORTH Load. The price will then be OUC costs for energy and plus the applicable Capacity rate for the Intermediate Product for such year in Appendix A.

h) The Wholesale Electric Capacity and Wholesale Electric Energy sold and delivered by OUC to LAKE WORTH hereunder shall be three phase, 60 hertz alternating current having a nominal voltage as specified by and otherwise in accordance with interconnection protocols.

i) LAKE WORTH has the right but not the obligation to retire existing generation and replace or add additional renewable generation (upon 6 month notice to OUC, with the exception of catastrophic failure of any of the units)

## **ARTICLE 6 - PRICE AND BILLING**

### **Section 6.1 Billing for Services**

Section 6.1.1 For the Wholesale Electric Service that OUC delivers to the Delivery Point(s) based on data from the Metering Point(s), OUC shall deliver an invoice to LAKE WORTH (Sample calculation in Appendix F) and LAKE WORTH shall pay OUC the following Charges as follows:

#### **(a) Monthly Capacity Charge**

The Monthly Capacity Rate as set forth in Appendix A times the amounts scheduled for each of the Base, Intermediate and Peaking Capacity.

#### **(b) Shortfall Capacity Charge**

When the monthly Capacity exceeds the Forecasted Capacity for the month, and as long as such shortfall is more than 5 MW for longer than 2 hours, LAKE

WORTH will be charged the Capacity Charge under the Intermediate Capacity under Appendix A.

(c) Lake Worth Capacity Exception-Planned Outage

Lake Worth and OUC shall, in coordination, plan for up to 30 days annual planned outage for the CC. This planned outage will be agreed upon by both parties and will take place during the months of November-March unless otherwise agreed upon by both parties. During this planned outage, Lake Worth will make available as necessary S3 as an Economic Dispatch substitute for up to 25MW of Capacity.

(d) Lake Worth Capacity Exception-72 Hours

If the Lake Worth Combined Cycle is called upon for Economic Dispatch and is unavailable (for any other reason than lack of Fuel), Lake Worth will have up to 72 hours to make the unit available, including ramp up, before the Combined Cycle is considered unavailable for Capacity Pricing purposes. Prior to the 72 hours, Lake Worth may elect to make S3 and or Lake Worth CC in simple cycle mode available for Economic Dispatch for up to 25 MW Capacity credit. The 72 hours exception can be exercised once every calendar month.

(e) Monthly Fuel Energy Charge

The Monthly Fuel Energy Rates as set forth in Appendix A multiplied by the Monthly Wholesale Electric Energy for the Base, Intermediate and Peaking Products sold in the applicable billing period

(d) Monthly Non-Fuel Energy Charge

The Non-Fuel Energy Rate multiplied by the Monthly Wholesale Electric Energy for the Base, Intermediate and Peaking Products sold in the applicable billing period.

(e) Monthly Ancillary Service Charge

The monthly Ancillary Services Charge shall be the sum of the Monthly Ancillary Service Charges, as outlined in Appendix A and computed in accordance with Section 4.2(c).

Additional Charges for either (i) energy and/or capacity is bought from other vendors (outside OUC) or (ii) other charges incurred by OUC.

Section 6.2 Payment

(a) On or before the tenth (10th) day following the end of each calendar month in which OUC provides LAKE WORTH with Wholesale Electric Service, OUC shall calculate the amount due and payable by LAKE WORTH for Wholesale Electric Service delivered in such prior month in accordance with this Article 6. The amount payable shall be calculated as the sum of the Capacity Charges, the Fuel Energy Charges, the Non-fuel Energy Charge, Ancillary Services Charge and/or any additional charges allowable in this Agreement (if any) for the prior month and shall be itemized on the monthly invoice along with any other information and detail reasonably requested by LAKE WORTH.

(b) Unless otherwise specified herein, payments due under this Agreement shall be due and payable by wire transfer, on or before the later of the fifteenth (15<sup>th</sup>) business day following receipt of the invoice or the twenty-fifth day of the calendar month in which the invoice is received (the "Payment Date"). If an undisputed amount owed is not paid on or before the due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based upon the annual interest rate equal to the prime lending rate plus 100 basis points as published on the date of the invoice in the Wall Street Journal (or, if the Wall Street Journal is not published on that day, the next succeeding date of publication) or the highest rate allowable under Florida's usury laws, whichever is less ("Interest Rate"). If the due date occurs on a weekend or holiday, the late payment charge shall begin to accrue on the next succeeding business day and shall cease accruing on the day prior to payment. Disputes relating to invoicing shall be resolved in accordance with the pre-litigation procedures set forth in Section 19.

(c) In the event an invoice or portion thereof is disputed, the disputing Party shall provide notice of the dispute to the other Party and detail therein the basis for the dispute and its proposed correction or adjustment to the invoice within fifteen (15) business days of receipt of the disputed invoice. Representatives of the Parties shall promptly confer in person or telephonically in a good faith attempt to resolve the dispute within five (5) business days of the notice of dispute. If a correction of or adjustment to the disputed invoice is agreed upon, a revised invoice shall be promptly issued. Payment of the disputed portion shall be made under protest when due, with notice of the objection given to the other Party. Any invoice dispute shall be in writing and shall state the basis for the dispute. Upon resolution of the dispute in accordance with this paragraph or Section 19, any required refund shall be made within five (5) business days of such resolution along with interest accrued at the Interest Rate from and including the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment.

### Section 6.3 Taxes, Fees and Levies. Sales for Resale



(a) OUC shall process payment for all present (from the execution of this Agreement and the Service Date) and any future taxes, fees and levies that may be assessed upon OUC by any governmental authority not controlling or controlled by OUC on the sale to LAKE WORTH of Wholesale Electric Service or any component thereof. OUC shall promptly notify LAKE WORTH of the commencement of any legislative, regulatory, administrative or other governmental action, of which it becomes aware, imposing such taxes, fees and/or levies upon the sale of Wholesale Electric Service. Each such tax, fee and levy shall be identified in a separate line item on the monthly invoice from OUC to LAKE WORTH for Wholesale Electric Service. LAKE WORTH shall reimburse OUC for the increase in any such taxes, fees and levies paid by OUC as a result of providing Wholesale Electric Service to LAKE WORTH under this Agreement. In the event of the imposition of any such taxes, fees or levies on the sale of Wholesale Electric Service hereunder, each Party shall use reasonable efforts to minimize all such taxes, fees or levies so long as neither Party is materially adversely affected by such efforts and no such measures will create a subsidy for LAKE WORTH by OUC's retail or other wholesale customers or a subsidy by LAKE WORTH of OUC's retail or other wholesale customers.

(b) All Wholesale Electric Service delivered by OUC to LAKE WORTH hereunder shall be sales for resale by LAKE WORTH. LAKE WORTH shall obtain and provide OUC with any certificates reasonably requested by OUC to evidence that the deliveries hereunder are sales for resale.

#### Section 6.4 Audit Rights.

Each Party has the right, after reasonable notice, at its sole expense and during normal business hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any invoice, bill, statement, Charges or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party statements evidencing the quantity of Wholesale Electric Service delivered at the Delivery Point(s) or alternate delivery points (as applicable). If any such examination reveals any inaccuracy in any invoice, bill or statement, the necessary adjustments in such invoice, bill or statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any invoice, bill statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

## **ARTICLE 7 - SERVICE FACILITIES AND METERING**

### Section 7.1 Measurement

Wholesale Electric Energy shall be measured by metering equipment approved by

OUC at or adjacent to the Metering Points, which metering equipment shall constitute the basis of measuring energy, and computation of bills for energy consumption.

### Section 7.2 Testing

OUC, upon notice to Lake Worth, shall have the right in the presence of a representative of Lake Worth, to read and check Lake Worth's meters and/or metering equipment, for any reason, including when there is any disagreement as to the correctness of the readings or the accuracy of said meters or metering equipment. In the event of such disagreement, the Parties shall retain a mutually agreeable independent inspector, the cost of which shall be borne equally by each Party. The determination of the independent inspector as to the correctness of the meter reading shall be accepted by the Parties as final. The Parties agree that said meters and metering equipment will be considered accurate provided calibration is within one (1) percent, fast or slow, of accuracy. Should any meter be beyond this range of accuracy, an adjustment shall be made for the period of known accuracy, based upon the average of three (3) months consumption, prior to the period in question, but no adjustment shall extend over a period of more than three (3) months.

### Section 7.3 Meter Fails

If a Metering Device fails to register, or if the measurement made by a Metering Device is found upon testing to be inaccurate by more than one percent (1.0%), an adjustment shall be made correcting all measurements by the inaccurate or defective Metering Device, for both the amount of the inaccuracy and the period of the inaccuracy, in the following manner:

- (a) In the event that the Parties cannot agree on the actual period during which the inaccurate measurements were made, the period during which the measurements are to be adjusted shall be the shorter of (a) the last one-half of the period from the last previous test of the Metering Device to the test that found the Metering Device to be defective or inaccurate, or (b) the ninety (90) days immediately preceding the test that found the Metering Device to be defective or inaccurate.
- (b) To the extent that the adjustment period covers a period of deliveries for which billings have already been made by OUC, OUC shall use the corrected measurements as determined in accordance with this Article 7 to compute the adjustment necessary for the period of the inaccuracy and shall adjust billing for this period from such recomputed amount.

## **ARTICLE 8 - CONTINUITY OF SERVICE**

### Section 8.1 Interruptions.

OUC shall supply and deliver Wholesale Electric Energy and Ancillary Services hereunder to the Delivery Point(s) on a firm basis with priority equal to that of OUC's Firm Load. OUC shall not be responsible for any failure to deliver Monthly Wholesale Service due to (a) transmission system operations outside of OUC's transmission system or (b) interruptions of transmission service within OUC's transmission system if initiated by the FRCC security coordinator. OUC shall not be liable for third-party Claims arising out any failure to supply Wholesale Electric Service hereunder, or for interruption, reversal or abnormal voltage of the supply, unless such failure, interruption, reversal or abnormal voltage is the result of gross negligence or intentional misconduct on its part, and any liability of OUC for any Claims arising out of or related to such failure, interruption, reversal or abnormal voltage of the supply by OUC shall be limited to \$100,000 per occurrence.

#### Section 8.2 Capacity Shortfalls.

In the event of an OUC capacity shortfall that requires load interruption, OUC shall affect load interruption of OUC Firm Load (including other wholesale customers with equal firmness) and LAKE WORTH retail customers on a pro rata basis showing no adverse distinction between LAKE WORTH, or OUC' s Firm Load.

#### Section 8.3 Shortfall Notification.

OUC will promptly inform LAKE WORTH as soon as possible under the circumstances upon becoming aware of any event, occurrence or circumstance that will result in load shedding or otherwise cause a material reduction or an interruption or suspension of delivery of Wholesale Electric Service to LAKE WORTH.

### **ARTICLE 9 - DELIVERY VOLTAGE**

The delivery voltage at each Delivery Point(s) shall be as agreed between FPL and OUC. OUC and LAKE WORTH shall maintain close coordination with respect to future delivery points in the interests of system reliability. Each party shall endeavor, to the extent practicable, to keep the other party advised of significant developments related to their respective power supply facilities.

### **ARTICLE 10 - DELIVERY AND LOSSES**

#### Section 10.1 Delivery

Title to and risk of loss related to the Wholesale Electric Service shall transfer from OUC to LAKE WORTH at the Delivery Point(s) (or alternate delivery point(s)) free and clear of all liens, security interests, Claims and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point(s). OUC shall not incur any expense or risk beyond the Delivery Point(s) (or alternate delivery point(s)) and LAKE WORTH shall not incur any expenses or risk up to and at the Delivery Point(s).

## Section 10.2 FPL Losses

Losses for Monthly Wholesale Electric Energy between the Delivery Point(s) (or alternate delivery point(s)) and the Metering Point(s) for LAKE WORTH's electric distribution system shall be determined in accordance with FPL's approved transmission tariff.

## **ARTICLE 11 - CONDITIONS PRECEDENT**

### Section 11.1. Conditions to Obligations of LAKE WORTH.

The obligations of LAKE WORTH under this Agreement to purchase and receive Wholesale Electric Service shall commence on the Service Date, and such obligations are subject to the fulfillment and satisfaction of each of the following conditions on or before December 31, 2018, any one or more of which may be waived only in writing, in whole or in part, by LAKE WORTH:

**(a) Representations, Warranties and Covenants True at the Effective Date.**

(i) All representations and warranties of OUC contained in this Agreement shall be true and correct in all material respects as of the date when made and at and as of the Effective Date as though such representations and warranties had been made or given on such date (except to the extent such representations and warranties specifically pertain to an earlier date), except

(A) for changes contemplated by this Agreement and

(B) where the failure to be true and correct will not have a material adverse effect on LAKE WORTH's rights, remedies or benefits under this Agreement;

(ii) OUC shall have performed and complied with, in all material respects, its obligations that are to be performed or complied with by it hereunder prior to or on the Effective Date; and

**(b) No Material Adverse Change.** No change in the business, properties, assets, generation resources, transmission system, financial condition, results of operations or prospects of OUC shall have occurred and be continuing or with the passage of time, the giving of notice or both, shall be reasonably likely to occur which have a material adverse effect on OUC's ability to perform its obligations under this Agreement.

**(c) Absence of Litigation.** No Claims, actions, suits, investigations, grievances, arbitrations or proceedings shall be pending or threatened against LAKE WORTH or OUC with respect to the transactions contemplated hereunder or the adverse outcome of which would have a material adverse effect on the ability of LAKE WORTH or OUC to perform its respective obligations under this Agreement.

(d) Required Approvals. All the approvals and authorizations set forth in Appendix B hereto, shall have been received.

Section 11.2. Conditions to Obligations of OUC.

The obligations of OUC under this Agreement to sell and delivery Wholesale Electric Service shall commence on the Service Date, and such obligations are subject to the fulfillment and satisfaction, on or before the dates indicated, of each of the following conditions, any one or more of which may be waived only in writing, in whole or in part, by OUC:

(a) Representations, Warranties and Covenants True at the Effective Date.

(i) All representations and warranties of LAKE WORTH contained in this Agreement shall be true and correct in all material respects when made and at and as of the Effective Date and at and as of the Service Date as though such representations and warranties had been made or given on such date (except to the extent such representations and warranties specifically pertain to an earlier date), except for;

(A) for changes contemplated by this Agreement and

(B) where the failure to be true and correct will not have a material adverse effect on OUC's rights, remedies or benefits under this Agreement;

(ii) LAKE WORTH shall have performed and complied with, in all material respects, its respective obligations that are to be performed or complied with by them hereunder prior to or on the Effective Date or the Service Date (as applicable); and

(b) Required Approvals. All the approvals and authorizations set forth in Appendix B hereto, shall have been received on or before December 31, 2018.

(c) No Material Adverse Change. No material adverse change in the Load Obligation, electric facilities, electric business, financial condition, results of operations or prospects of LAKE WORTH shall have occurred and be continuing, or with the passage of time, the giving of notice or both, shall be reasonably likely to occur as of the Service Date.

(d) Absence of Litigation/Legislative Action. No Claims, actions, suits, grievances, investigations, arbitrations or proceedings shall be pending or threatened against LAKE WORTH or OUC with respect to this Agreement which might have a material adverse effect on the ability of LAKE WORTH or OUC to perform its respective obligations under this Agreement.

(e) PSC Regulation. No new law shall be pending or passed which would cause OUC to become regulated by the Florida PSC by virtue of its service duties under this Agreement.

Section 11.3. Coordination:

LAKE WORTH and OUC shall cooperate with each other and use all commercially reasonable efforts to (a) promptly prepare and file all necessary documentation, (b) effect all necessary applications, notices, petitions and filings and execute all agreements and documents, and (obtain all necessary consents, approvals and authorizations, including those of other parties necessary or advisable to consummate the transactions contemplated by this Agreement, all of which are set forth in Appendix B.

Each Party shall keep the other Party reasonably apprised of the status of the conditions precedent to the occurrence of the Service Date applicable to it. The Parties shall reasonably coordinate so that subject to the satisfaction of other prior conditions, the certificates and opinions to be delivered by a Party hereunder in connection with the Effective Date have been provided by the Effective Date.

**ARTICLE 12 - TERMINATION PRIOR TO SERVICE DATE**

Section 12.1. Termination Prior to Service Date.

(a) If the conditions precedent to LAKE WORTH's and OUC's obligations hereunder set forth in Article 11 hereof have not been satisfied or waived on or prior to the express date specified therein or December 31, 2018, notwithstanding the reasonable effort of the Party to satisfy or waive the condition, then at any time thereafter, either Party may terminate this Agreement on written notice of termination to the other Party, without any liability or obligation of any Party to the others as a result of such termination, unless prior to the delivery of any such written notice of termination the condition or conditions precedent which had not been satisfied are satisfied.

(b) If the Agreement is terminated by OUC pursuant to Section 11.2 or by LAKE WORTH under 11.1, then the following shall apply:

(i) If OUC exercises its right to terminate this Agreement under Section 11.2, then neither party shall thereafter have any further obligations to the other hereunder.

(ii) If LAKE WORTH terminates this Agreement pursuant to Section 11.1 then OUC shall thereafter (a) have no further obligations hereunder and (b) shall have the right to require LAKE WORTH to assume OUC's rights, obligations and liabilities under any or all contracts entered into by OUC with LAKE WORTH's prior written approval solely for the purpose of providing electric energy and capacity to LAKE WORTH under this Agreement that are described in Appendix D.

Section 12.2. Notice.

Each Party shall notify the other Party promptly if any information comes to its attention prior to the Effective Date or prior to the Service Date, as applicable that it believes will potentially excuse such Party from the performance of its obligations under this Agreement or might reasonably cause any condition set forth in Article 11 not to be satisfied on or prior to the Service Date

## **ARTICLE 13 - REPRESENTATIONS AND WARRANTIES**

### Section 13.1. General Representations and Warranties.

Each Party hereby represents and warrants to the other that:

(a) It is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and is duly qualified to do business in all jurisdictions where such qualification is required.

(b) It has or will have prior to the Effective Date full power and authority to enter this Agreement and perform its obligations hereunder. The execution, delivery and performance of this Agreement have been duly authorized by all necessary municipal and other action and do not and will not contravene its organizational documents or conflict with, result in a breach of, or entitle any party (with due notice or lapse of time or both) to terminate, accelerate or declare a default under, any agreement or instrument to which it is a party or by which it is bound.

(c) The execution, delivery and performance by it of this Agreement will not result in any violation by it of any law, rule or regulation applicable to it. It is not a party to, nor subject to or bound by, any judgment, injunction or decree of any court or other governmental entity which may restrict or interfere with the performance of this Agreement by it or may materially and adversely affect the business, property, financial condition, results of operations or prospects of such Party.

(d) This Agreement is its valid and binding obligation, enforceable against it in accordance with its terms, except as (i) such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights generally and (ii) the remedy of specific performance and injunctive relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

(e) Except for those approvals listed in Appendix B and approval of a transmission service agreement between LAKE WORTH and FPL by the FERC, no consent, waiver, order, approval, authorization or order of, or registration, qualification or filing with, any court or other governmental agency or authority or other person is required for the execution, delivery and performance by such Party of this Agreement and the consummation by such Party of the transactions contemplated hereby. No consent or waiver of any party to any contract to which such Party is a party or by which it is bound is required for the execution, delivery and performance by such Party

of this Agreement that has not been or will by the Effective Date have been duly obtained.

(f) There is no action, suit, grievance, arbitration or proceeding pending or, to the knowledge of such Party, threatened against or affecting such Party at law or in equity, before any federal, state, municipal or other governmental court, department, commission, board, arbitrator, bureau, agency or instrumentality which prohibits or impairs its ability to execute and deliver this Agreement or to consummate any of the transactions contemplated hereby. Such Party has not received written notice of and otherwise is not aware of any such pending or threatened investigation, inquiry or review by any governmental entity.

**Section 13.2. Disclaimers.**

EXCEPT AS EXPRESSLY SET FORTH HEREIN, EACH PARTY EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO THE PROVISION OR RECEIPT OF WHOLESALE ELECTRIC SERVICE HEREUNDER, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.

**ARTICLE 14 - SECURITY**

**Section 14.1. OUC Security**

OUC shall maintain a rating on senior unsecured debt securities of OUC by Standard and Poor's Corporation, Moody's Investors Service, Inc., Fitch IBCA or another nationally recognized rating service reasonably acceptable to LAKE WORTH of BBB+ its equivalent or a rating equivalent to LAKE WORTH senior unsecured debt securities, if any, whichever is lower. In the event that OUC's credit rating fails to meet said credit standing and OUC fails to restore its credit rating to said standing within 12 months after its rating has fallen, OUC shall notify LAKE WORTH thereof and shall upon request by LAKE WORTH provide a Letter of Credit, cash or bond sufficient to assure OUC's due performance under this Agreement.

**Section 15.2. LAKE WORTH Security**

The LAKE WORTH shall maintain a rating on senior unsecured debt securities of LAKE WORTH, if any such securities are rated, by Standard and Poor's Corporation, Moody's Investors Service, Inc., Fitch IBCA or another nationally recognized rating service reasonably acceptable to OUC of BBB+ or its equivalent, or a rating equivalent to OUC senior unsecured debt securities, whichever is lower. In the event that LAKE WORTH issues any senior unsecured debt securities and the rating on such securities falls below such specified minimum rating and LAKE WORTH fails to restore its credit rating to such specified minimum rating standing within 12 months after its rating has fallen below the rating described above, LAKE WORTH shall within thirty (30) days of a written request by OUC therefor provide a Letter of Credit, cash or bond or other



assurances reasonably sufficient to assure LAKE WORTH's due performance of its purchase and payment obligations under this Agreement.

## **ARTICLE 15 - EVENTS OF DEFAULT**

### Section 15.1. Events of default by OUC.

Any one or more of the following shall constitute an "Event of default" hereunder with respect to OUC:

(a) OUC shall fail to pay any amounts to be paid by OUC hereunder to LAKE WORTH and such failure shall continue for a period of more than ten (10) Business Days after notice by LAKE WORTH.

(b) A default shall occur in the performance of any other material covenant or condition to be performed by OUC hereunder (other than a default specified in Section 16.1(a)) and such default shall continue un-remedied for a period of thirty (30) days after notice from LAKE WORTH specifying the nature of such default; provided, however, that if such default (other than the failure to make payments when due) cannot reasonably be remedied by OUC within thirty (30) days, subject to commencement of action to remedy the default within such thirty (30) day period, OUC shall have up to an additional sixty (60) days to remedy the default.

(c) A custodian, receiver, liquidator or trustee of OUC or of all or substantially all of the property of either, is appointed or takes possession and such appointment or possession remains uncontested or in effect for more than sixty (60) days; or OUC makes an assignment for the benefit of its creditors or admits in writing its inability to pay its debts as they mature; or OUC is adjudicated bankrupt or insolvent; or an order for relief is entered under the Federal Bankruptcy Code against OUC; or all or substantially all of the material property of either is sequestered by court order and the order remains in effect for more than sixty (60) days; or a petition is filed against OUC under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or subsequently in effect, and is not stayed or dismissed within sixty (60) days after filing.

(d) OUC files a petition in voluntary bankruptcy or seeks relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or subsequently in effect; or consents to the filing of any petition against it under any such law; or consents to the appointment of or taking possession by a custodian, receiver, trustee or liquidator of OUC or all or substantially all of the property of either.

### Section 15.2. Events of default by LAKE WORTH.

Any one or more of the following shall constitute an "Event of default" hereunder with respect to LAKE WORTH:

(a) LAKE WORTH shall fail to pay any amounts to be paid by LAKE WORTH hereunder to OUC and such failure shall continue for a period of more than ten (10) days after notice by OUC.

(b) default shall occur in the performance of any material covenant or condition to be performed by LAKE WORTH hereunder (other than a default specified in Section 16.2 (a)) and such default shall continue un-remedied for a period of thirty (30) days after notice from OUC specifying the nature of such default; provided, however, that if such default cannot reasonably be remedied by LAKE WORTH within thirty (30) days, subject to commencement of action to remedy the default within such thirty (30) day period, LAKE WORTH shall have up to additional sixty (60) days to remedy the default.

(c) A custodian, receiver, liquidator or trustee of LAKE WORTH or of all or substantially all of either of their property is appointed or takes possession and such appointment or possession remains uncontested or in effect for more than sixty (60) days; or LAKE WORTH makes an assignment for the benefit of its creditors or admits in writing its inability to pay its debts as they mature; or LAKE WORTH is adjudicated bankrupt or insolvent; or an order for relief is entered under the Federal Bankruptcy Code against LAKE WORTH; or all or substantially all of the material property of LAKE WORTH is sequestered by court order and the order remains in effect for more than sixty (60) days; or a petition is filed against LAKE WORTH under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or subsequently in effect, and is not stayed or dismissed within sixty (60) days after filing.

(d) LAKE WORTH files a petition in voluntary bankruptcy or seeks relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or subsequently in effect; or consents to the filing of any petition against it under any such law; or consents to the appointment of or taking possession by a custodian, receiver, trustee or liquidator of LAKE WORTH or all or substantially all of its property.

### Section 15.3. Remedies.

The Parties shall have the following remedies available to them with respect to the occurrence of an Event of default with respect to the other Party hereunder:

(a) Upon the occurrence of an Event of default by either Party hereunder, the non-defaulting Party shall have the right to (i) invoice and collect all amounts then due to it from the defaulting Party hereunder (subject to any applicable limitation of liability or cap on damages), and (ii) terminate this Agreement at any time during the continuation of such Event of default upon written notice to the

defaulting Party. Notwithstanding any other provision of this Agreement, after the occurrence of an Event of default and for so long as the Event of default is continuing and has not been cured, the non-defaulting Party shall have the right, upon written notice to the defaulting Party, to suspend all performance under this Agreement until such Event of default has been cured.

(b) If LAKE WORTH terminates this Agreement as a result of the occurrence of an Event of default by OUC, then LAKE WORTH shall thereafter have no further obligations hereunder and shall have all rights and remedies available to it under applicable law, including the right to recover damages and shall thereafter have no further obligations hereunder other than (upon OUC's request) assume OUC's rights, and further obligations and liabilities under any or all contracts entered into by OUC with LAKE WORTH's express, prior written approval solely for the purpose of providing electric energy and capacity to LAKE WORTH under this Agreement.

(c) If OUC terminates this Agreement as a result of the occurrence of an Event of default by LAKE WORTH, then OUC shall thereafter (a) have no further obligations hereunder and shall have all rights and remedies available to it hereunder and under applicable law, including the right to recover damages and (b) to have the right to require LAKE WORTH to assume OUC's rights, obligations and liabilities under any or all contracts entered into by OUC with LAKE WORTH's express, prior written approval solely for the purpose of providing electric energy and capacity to LAKE WORTH under this Agreement.

(d) The remedies provided for in this Section 15.3 shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise). The remedies provided for in this Section 15.3 shall be subject to the limitations of liability and caps on damages set forth in Article 16.

## **ARTICLE 16 - LIMITATION OF LIABILITY**

### **Section 16.1. No Consequential Damages.**

NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER INDEMNITY PROVISIONS OR OTHERWISE, INCLUDING WITHOUT LIMITATION, LOST PROFITS, LOST REVENUES, COST OF CAPITAL; LOSS OF USE, LOSS OF GOODWILL, REPLACEMENT POWER OR CLAIMS OF CUSTOMERS, UNLESS SUCH DAMAGES ARE A COMPONENT OR ELEMENT OF A CLAIM THAT IS SUBJECT TO INDEMNIFICATION HEREUNDER AND COVERED UNDER A PRIMARY POLICY OF LIABILITY INSURANCE, IF ANY, ISSUED BY A THIRD PARTY SURETY.

Section 16.2. Aggregate Cap on Liability.

NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, THE TOTAL AGGREGATE LIABILITY OF OUC TO LAKE WORTH AND OF LAKE WORTH TO OUC UNDER THIS AGREEMENT, WHETHER BASED ON CLAIMS ARISING UNDER TORT, CONTRACT, STRICT LIABILITY OR ANY OTHER THEORY OF RECOVERY, SHALL NOT EXCEED THE FOLLOWING:

(i) FOR EITHER PARTY, OTHER THAN AS TO THE CONDITIONS SET FORTH IN 16.2 (ii) (FOR OUC) AND 16.2 (iii) (FOR LAKE WORTH), THE AMOUNT(S) SET FORTH IN APPENDIX D;

(ii) FOR OUC, WHERE LAKE WORTH CAN DEMONSTRATE OUC HAS BREACHED THIS AGREEMENT FOR PURPOSES OF PURSUING MORE FAVORABLE MARKET SALES FOR ENERGY OR CAPACITY, THE AMOUNT(S) SET FORTH IN APPENDIX D;

(iii) FOR LAKE WORTH, WHERE OUC CAN DEMONSTRATE LAKE WORTH HAS BREACHED THIS AGREEMENT FOR PURPOSES OF PURSUING OTHER POWER SUPPLY OPTIONS, INCLUDING THE PARTIAL OR FULL SALE OF THE LAKE WORTH UTILITY SYSTEM, THE AMOUNT(S) SET FORTH IN APPENDIX D.

**ARTICLE 17 - INDEMNIFICATION**

Section 17.1. Indemnification by OUC.

To the extent permitted by Florida law and subject to the limitations set out in Article 16, OUC shall indemnify, defend and hold harmless LAKE WORTH and its respective officials, officers, directors, agents, representatives and employees from and against any and all loss, costs, expense, Claims, demands, liabilities (including reasonable attorneys' fees), judgments, fines, settlements and other amounts arising from any and all Claims relating to or arising out of:

(a) any willful misconduct or illegal acts of OUC;

(b) any damages awarded against LAKE WORTH in a Claim by a third party to the extent arising from the negligent acts or omissions of OUC or any of its agents or employees in exercising its rights or performing its obligations hereunder after the Effective Date.

Section 17.2. Indemnification by LAKE WORTH.

To the extent permitted by Florida law and subject to the limitations set out in Article 16, LAKE WORTH shall indemnify, defend and hold harmless OUC, its officers, directors, agents, employees and Affiliates from and against any and all loss, costs, expense, Claims, demands, liabilities (including reasonable attorneys' fees), judgments, fines,

settlements and other amounts arising from any and all Claims relating to or arising out of:

- (a) any willful misconduct or illegal acts of LAKE WORTH;
- (b) any damages awarded against OUC in a Claim by a third party to the extent arising from the negligent acts or omissions of LAKE WORTH or any of its agents or employees in exercising its rights or performing its obligations hereunder after the Effective Date.

## **ARTICLE 18 - DISPUTE RESOLUTION**

### Section 18.1.        Resolution by Officers of the Parties.

Except as otherwise expressly, specifically set forth herein, in the event of any dispute between the Parties as to a matter referred to herein or as to the interpretation of any part of this Agreement, including this Section 18.1 or as to the determination of any rights or obligations or entitlements arising from or related to this Agreement or as to the calculation of any amounts payable under this Agreement, the Parties shall refer the matter to their respective duly authorized representatives, for resolution. Should such representatives of the respective Parties fail to resolve the dispute within twenty (20) days from such referral, the Parties agree that any such dispute shall be first referred to non-binding mediation in accordance with Section 18.2. Should mediation be unsuccessful within the times specified in Section 18.2, the Parties may pursue any legal or equitable remedies available under Florida Law.

### Section 18.2.        Mediation Procedures.

A Party submitting a dispute to non-binding mediation pursuant to the procedures set forth in Florida Statutes, Section 44.101 (the "Requesting Party") shall do so by delivering to the other Party a notice demanding or requesting, as the case may be, mediation of the dispute and naming three acceptable mediators. Within ten (10) days after the receipt of the notice from the Requesting Party, the other Party shall, in writing, serve upon the Requesting Party a notice of acceptance of one of the three mediators provided or offer three alternate mediators for consideration. Within five (5) days, the Parties shall confer and mutually agree and appoint a mediator from the lists provided. To the extent practicable, the mediator shall have special competence and experience with respect to the subject matter of the dispute(s). No mediator appointed shall have the power to render any binding or enforceable award, order, decree or disposition or amend or add to this Agreement. Within ten (10) days after the mediator is appointed, a time and date for the mediation shall be scheduled and documented in writing. The mediator thereupon shall proceed promptly to hear and facilitate an amiable resolution of the controversy. If mediation is successful, any settlement achieved through mediation shall be confidential to the extent permissible under Florida law and not in violation of the Florida Statute 119 and made in writing and in duplicate, and one copy shall be delivered to each of the Parties. Each Party

shall pay the costs of its own counsel and share equally the fee and cost of the mediator.

Section 18.3.        Settlement.

If the resolution of the dispute and the terms of any settlement agreement, amendment to the Agreement or other document or instrument executed in connection therewith will require the approval of the Board of a Party, a request for such approval shall be promptly submitted for the Board's consideration. Once accepted by the Parties, the decision of the mediator and any award made hereunder shall be binding upon each Party and the successors and assigns and any trustee or receiver of each Party.

Section 18.4.        Legal Remedies.

If mediation is unsuccessful, either Party may pursue any legal rights and remedies made available under Florida Law. The Parties agree that the exclusive venue for any dispute arising hereunder that is not resolved through the dispute resolution procedures set forth in Section 18.1 and 18.2 shall be the State Circuit Court in Orange County, Florida.

Section 18.5.        Continued Performance.

Except to the extent a Party has the right to suspend performance under Section 15.3 hereof no dispute shall interfere with the Parties' continued fulfillment of their obligations under this Agreement pending the outcome of the mediation process or a decision by the Florida courts.

**ARTICLE 19 - FORCE MAJEURE**

Section 19.1.        Force Majeure Standard.

A Party shall be excused from performing its obligations under this Agreement and shall not be liable in damages or otherwise, if and only to the extent that it is unable to so perform or is prevented from performing by an event of Force Majeure.

Section 19.2.        Force Majeure definition.

An event of "Force Majeure" means an event or circumstance that prevents or unduly frustrates the performance by a Party of its obligations under this Agreement (other than the duty to make payments when due, which shall not be excused by Force Majeure) which is not within the reasonable control of, or the result of the negligence of, such Party and which by the exercise of due diligence such Party is unable to overcome or avoid. Force Majeure includes, without limitation, hurricanes, tornadoes, flood, lightning, drought, earthquake, fire, explosion, terrorist attack, civil disturbance, strikes, acts of God, acts of the public enemy, orders, directives (including the state security coordinator), restraints and requirements of the government and governmental agencies, either federal, state or local, civil or military, or any other cause beyond a Party's control. Force Majeure shall not include (i) events solely

affecting the cost of operating any generating facility, (ii) changes in market conditions which cause the price of energy or capacity to fluctuate including, without limitation, weather, fuel prices and supply and demand, or (iii) the inability of a Party to make a profit or avoid a loss in performing its obligations under this Agreement.

Section 19.3. Obligation to Diligently Cure Force Majeure.

If a Party shall rely on the occurrence of an event of Force Majeure as a basis for being excused from performance of its obligations under this Agreement, then such Party shall:

Provide written notice to the other Party promptly but in no event later than five (5) Business Days of the occurrence of the event or condition giving an estimation of the expected duration and the probable impact on the performance of its obligations hereunder;

(a) Exercise all reasonable efforts to continue to perform its obligations hereunder;

(b) Expeditiously take reasonable action to correct or cure the event or condition excusing performance, provided that settlement of strikes or other labor disputes shall be completely within the sole discretion of the affected Party; and

(c) Exercise all commercially reasonable efforts to mitigate or limit damages to the other Party.

**ARTICLE 20 - MISCELLANEOUS**

Section 20.1. Assignment; Successors and Assigns.

This Agreement shall inure to the benefit of and bind the respective successors and permitted assigns of the Parties, including any successor to any Party by consolidation, merger, or acquisition of all or substantially all of the assets of such Party. No assignment by any Party (or any successor or assignee thereof) of its rights and obligations hereunder shall be made or become effective without the prior written consent of the other Party in each case obtained (which in the case of an assignment by OUC shall include approval by the City Commission of LAKE WORTH), which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the immediately preceding sentence, OUC or any permitted assignee of OUC may assign this Agreement as collateral security to any lender from time to time providing financing to OUC in connection with the transactions contemplated hereby, provided that OUC is not relieved of any obligation or liability hereunder as a result of such assignment. LAKE WORTH, at the cost and expense of OUC, shall execute and deliver such documents as may be reasonably requested by OUC which are necessary to accomplish any such assignment, transfer, pledge or other disposition of rights and interests to any such lender so long as LAKE WORTH's rights, remedies, benefits and privileges under this Agreement are not thereby materially altered, amended, diminished or otherwise impaired. Any assignments by any Party shall be in such form

as to ensure that such Party's obligations under this Agreement will be assumed, accepted and honored fully and timely by any transferee, assignee or successor party.

Section 20.2.        Notices.

With the exception of communications within the ordinary course of the day to day performance and administration of this Agreement, all notices, requests and other communications hereunder (herein collectively a "notice" or "notices") shall be deemed to have been duly delivered, given or made to or upon any Party if in writing and delivered by hand against receipt, or by certified or registered mail, postage pre-paid, return receipt requested, or to a courier who guarantees next business day delivery to such Party at its address set forth below or to such other address as such Party may at any time, or from time to time, direct by notice given in accordance with this Section 20.2.

IF TO OUC:

Vice President, Electric and Water Production  
100 W. Anderson Street  
Orlando, Florida 32801  
Tel: 407-423-9100  
Facsimile: 407-275-4120

IF TO LAKE WORTH:

Utilities Director  
City of Lake Worth  
1900 2<sup>nd</sup> Avenue North  
Lake Worth, Florida 33461  
Telephone: 561-533-7369

The date of delivery of any such notice, request or other communication shall be the earlier of (i) the date of actual receipt or (ii) three (3) Business Days after such notice, request or other communication is sent by certified or registered mail, (iii) if sent by courier who guarantees next business day delivery, the business day next following the day such notice, request or other communication is actually delivered to the courier.

Section 20.3.        Governing Law.

The rights and obligations of the Parties shall be construed and interpreted in accordance with the substantive law of the State of Florida without giving effect to its principles for choice of law.

Section 20.4.        Confidentiality.

Each Party shall keep confidential, and shall not disseminate to any third party (other than such Party's Affiliates) or use for any purpose other than the performance, administration, management and enforcement of this Agreement (except with the written authorization of the other Party), any information received from the other that is



designated as confidential or proprietary by the other Party unless legally compelled by the Florida Sunshine Law disclosure requirements, deposition, inquiry, request for documents, subpoena, civil investigative demand or similar process, or by order of a court or tribunal of competent jurisdiction or in order to comply with applicable rules or requirements of any stock exchange, government department or agency or other regulatory authority, or by requirements of any securities law or regulation or other legal requirement or as necessary to enforce the terms of this Agreement. This Section 20.4 shall survive the termination of this Agreement for a period of two (2) years. If any Party is compelled to disclose any confidential information of the other Party that is exempt from the disclosure requirements of the Florida Sunshine Law, such Party shall, at the cost and expense of the other Party, provide the other Party with prompt notice of the requirement to disclose confidential information in order to enable the other Party, at such other Party's costs and expense, to seek an appropriate protective order or other remedy, and such Party shall consult with the other Party with respect to the other Party taking steps to resist or narrow the scope of any required disclosure. The Parties shall reasonably coordinate in the preparation and issuance of all publicity relating to this Agreement.

Section 20.5.        No Partnership.

Nothing contained in this Agreement shall be construed to create a partnership, joint venture or other legal relationship that may invoke fiduciary obligations between the Parties.

Section 20.6.        Fees and Expenses.

Except as otherwise provided herein, LAKE WORTH and OUC shall each pay for its own costs, fees and expenses in connection with, or in anticipation of, this Agreement and the consummation of the transactions contemplated hereby.

Section 20.7.        Captions.

The captions to sections throughout this Agreement and attachments and appendices hereto are intended solely for ease of reference and to facilitate reading and reference to all sections and provisions of this Agreement and such attachments and appendices. Such captions shall not affect the meaning or interpretation of this Agreement or such attachment or appendices.

Section 20.8.        Entire Agreement and Amendments.

This Agreement and all of the attachments and appendices referred to herein sets forth the entire agreement of the Parties with respect to the subject matter herein and takes precedence over all prior discussions or understandings. This Agreement may not be amended, modified or changed except by an agreement in writing signed by the Parties.

Section 20.9.        Severability.

The invalidity or unenforceability of any provisions of this Agreement shall not affect the other provisions hereof. If any provision of this Agreement is held to be invalid, such provision shall not be severed from this Agreement; instead, the scope of the rights and duties created thereby shall be reduced to the minimum extent necessary to conform such provision to applicable law, preserving to the greatest extent the intent of the Parties to create such rights and duties as set out herein. If necessary to preserve the intent of the Parties, the Parties shall negotiate in good faith to amend this Agreement, adopting a substitute provision for the one deemed invalid or unenforceable that is legally binding and enforceable.

Section 20.10. Further Assurances.

In connection with this Agreement and the transactions contemplated hereby, upon the request of either Party the other Party shall execute and deliver any additional documents and instruments and perform any additional acts that may be reasonably necessary or appropriate to effectuate and perform the provisions of this Agreement and such transactions and the intention of the Parties.

Section 20.11. Laws and Regulations; Changes in Law.

This Agreement and the rights, obligations, and performances of the Parties under this Agreement are subject to all applicable state and federal laws, and to all duly promulgated orders and other duly authorized actions of governmental authorities having jurisdiction. Each Party hereto shall be responsible for taking all necessary actions to satisfy any regulatory and other requirements that may be imposed by any federal, state, or municipal statute, rule, regulation, or ordinance that may be in effect from time to time relative to the performance of such Party hereunder.

If and to the extent that, after the Effective Date of this Agreement, any laws or regulations which govern any transaction or duty of a Party contemplated herein shall change so as to (a) make this Agreement or any provision hereof unlawful or (b) subject either Party to regulation by the Florida PSC to OUC of providing Wholesale Electric Service, then the affected Party may require the other to negotiate and use reasonable efforts to agree on such modifications to this Agreement as shall be reasonably necessary for the Agreement to accommodate any such legal or regulatory changes. If the Parties are unable to agree on terms, conditions or such other measures to prevent (x) the Agreement from being illegal or (y) a Party being subject to Florida PSC regulation then the affected Party(ies) may terminate this Agreement upon 180 day's prior written notice with no further obligation to the other.

If and to the extent that, after the Effective Date of this Agreement, any laws or regulations which govern any transaction or duty of a Party contemplated herein shall result in any additional or new costs, expenses, charges, fees and/or assessments that are attributable or related (in whole or in part) to the production and/or provision of Wholesale Electric Energy or Wholesale Electric Capacity to LAKE WORTH, including environmental-related costs, renewable portfolio standards (only if applicable to wholesale contracts), charges, fees, or expenses incurred by OUC to supply the

Wholesale Electric Energy or Wholesale Electric Capacity, LAKE WORTH shall reimburse OUC for LAKE WORTH's pro-rata share of such costs, expenses, charges, fees and/or assessments, which amounts shall be calculated and recovered as determined by OUC in a commercially reasonable manner. OUC shall allocate increases in variable operating costs to Fuel Charges and increases in fixed operating costs to Capacity Charges. Any such cost increases resulting from capital expenditures shall be allocated to LAKE WORTH based on the cost of the capital expenditure annualized over the economic life of the capital addition and the ratio of Wholesale Electric Capacity to the total capacity of OUC's firm obligations. Change in costs for which LAKE WORTH might become liable to pay under this Section 20.11 shall not include any costs recovered in the Fuel Energy Charge. OUC shall promptly notify LAKE WORTH upon the determination of any additional or new costs, expenses, charges, fees and/or assessments and the calculation of the pro rata portion of such costs proposed to be recovered from the LAKE WORTH.

Section 20.12. Counterparts.

This Agreement and any amendment or modification hereto may be executed simultaneously in two or more counterparts, any of which need not contain the signatures of more than one Party, but all such counterparts taken together shall constitute one and the same Agreement or instrument. This Agreement, as executed by the Parties.

Section 20.13. Interpretation.

In the event of any dispute concerning the construction or interpretation of this Agreement or any ambiguity hereof, there shall be no presumption that this Agreement or any provision hereof be construed against the Party who drafted this Agreement. In this Agreement, unless the context otherwise requires, the singular shall include the plural, the masculine shall include the feminine and neuter, and vice versa; the term "includes" or "including" shall mean including, without limitation; references to an Article, Section, Appendix or Schedule shall mean an Article, Section, Appendix or Schedule of this Agreement; and the terms "hereof", "herein", "hereto", "hereunder" and "herewith" refer to this Agreement as a whole. Reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented and restated through the date as of which such reference is made.

Section 20.14. Independent Relationship.

Unless specifically and expressly set forth herein to the contrary, nothing in this Agreement shall be construed or interpreted to make a Party or its employees or agents, the agent, representative or employees of the other Party.

Section 20.15. No Third-Party Beneficiaries.

This Agreement shall not confer any rights or remedies upon any third party not a party hereto, except designated indemnitees and permitted assignees and successors.

Section 20.16. Waivers.

The failure of a Party hereto to exercise any right or remedy or enforce at any time any provision of this Agreement shall not be construed to be a waiver of such right, remedy or provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of a Party thereafter to exercise such right or remedy or enforce each and every such provision. In order to be enforceable, a waiver under this Agreement must be in writing, state that it is a waiver and be signed by an authorized representative of the Party to be bound thereby. Any waiver shall be subject to the terms, conditions and limitations thereof, and no waiver of any breach, default or non-performance of this Agreement shall be held to constitute a waiver of any other or subsequent breach, default or non-performance of this Agreement.

Section 20.17. Duty to Mitigate.

Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts consistent with Prudent Utility Practice to minimize any damages it may incur as a result of any other Party's breach, default or non-performance of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK-

SIGNATURE PAGE(S) FOLLOW]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Parties have caused this Agreement for Purchase and Sale of Electric Energy and Capacity to be duly executed as an instrument under seal by their respective duly authorized representatives as of the date and year first above written.

**Orlando Utilities Commission**

By: \_\_\_\_\_  
Clint Bullock  
General Manager and CEO

Attest:

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

Approved as to form and legality,  
OUC Legal Department

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

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018 by Clint Bullock, General Manager and Chief Executive Officer of the Orlando Utilities Commission, who is personally known to me or who has produced \_\_\_\_\_ as identification and who (did/did not) take an oath.

NOTARY PUBLIC  
Printed Name of Notary \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

ATTEST:

**CITY OF LAKE WORTH**

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

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

(seal)

Approved as to correctness and form:

Approved as to substance:

By: \_\_\_\_\_  
\_\_\_\_\_, City Attorney

By: \_\_\_\_\_  
\_\_\_\_\_, City Manager

**APPENDIX A**

**PRICING FOR WHOLESALE ELECTRIC SERVICE**

Section 1 Monthly Fuel Energy Rates

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

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

[REDACTED]

[REDACTED]

[REDACTED]

## **APPENDIX B**

### **REQUIRED APPROVALS AND AGREEMENTS**

#### OUC

1. Approval of this Agreement by the OUC Board.

#### LAKE WORTH

1. Approval of this Agreement by the City Commission of LAKE WORTH.
2. Execution and delivery of an agreement for Transmission Service between LAKE WORTH and FPL and the filing of such agreement with the FERC by FPL and the approval of such agreement by the FERC.

**APPENDIX C**  
**DELIVERY POINTS AND METERING POINTS**

DELIVERY POINTS

1. Interconnection(s) between OUC and FPL transmission systems.

METERING POINTS

1. Interconnections between FPL and Lake Worth transmission systems (Hypoluxo Substation).

Metering Points may be added or deleted upon the mutual written agreement of the Parties.

**APPENDIX D**

**LIMITATION OF LIABILITY**

- 1 The limitation of liability applicable to each of the Parties under Section 16.2(i) is as follows:

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

- 2 The limitation of liability applicable to OUC under Section 16.2(ii) and applicable to LAKE WORTH under Section 16.2(iii), respectively, is as follows:

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

## EXHIBIT E - GENERATION ENTITLEMENT CONTRACTS

St. Lucie Power Sales Contract, by and between the Florida Municipal Power Agency and the Lake Worth Utilities Authority, dated June 1, 1982, as amended by Amendment No. 1, dated January 1, 1983 and Amendment No. 2 dated April 1, 1983.

St. Lucie Project Support Contract, by and between the Florida Municipal Power Agency, and the Lake Worth Utilities Authority, dated June 1, 1982; as amended by Amendment No. 1, dated January 1, 1983, and Amendment No. 2, dated April 1, 1983.

Nuclear Reliability Exchange Agreement, by and between Florida Power & Light and Florida Municipal Power Agency dated March 26, 1982; as amended by Amendment 1 dated February 18, 1983, as amended by Amendment 2 dated February 12, 1991, and as amended by Amendment 3 dated August 19, 2004.

Stanton I Power Sales Contracts, by and between the Florida Municipal Power Agency and the Lake Worth Utilities Authority, dated January 16, 1984.

Stanton I Project Support Contract, by and between the Florida Municipal Power Agency and the City of Lake Worth, dated January 16, 1984.

## EXHIBIT E – CAPACITY CREDITS

For purposes of Capacity Pricing the following MW capacity will be applied:

St. Lucie 22.0 MW

Stanton I 10.5 MW

Lake Worth Combined Cycle 29.28 MW

Lake Worth Unit 3 25.0MW

