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Appendix P1 -Feasibility Study Agreement

THIS AGREEMENT is made and entered into this ____ day of _____, 20__ by and between _____, a _____ organized and existing under the laws of the State of _____, ("Interconnection Customer,") and Long Island Lighting Company d/b/a LIPA ("LIPA"). Interconnection Customer and LIPA each may be referred to as a "Party," or collectively as the "Parties."

RECITALS

WHEREAS, Interconnection Customer is proposing to develop a Small Generator or generating capacity addition to an existing Small Generator consistent with the Interconnection Request completed by Interconnection Customer on _____; and

WHEREAS, Interconnection Customer desires to interconnect the Small Generator with LIPA's Distribution System; and

WHEREAS, Interconnection Customer has requested LIPA to perform a feasibility study to assess the feasibility of interconnecting the proposed Small Generator with LIPA's Distribution System, and of any Affected Systems;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein the Parties agreed as follows:

1.0 When used in this Agreement, with initial capitalization, the terms specified shall have the meanings indicated or the meanings specified in the PSEG Long Island Small Generator Interconnection Procedures for Distributed Resources less than 10 MW Connected in parallel with LIPA Distribution Systems (PSEG Long Island Small Generator Interconnection Procedures).

2.0 The Interconnection Customer elects and LIPA shall cause to be performed an interconnection feasibility study consistent with the PSEG Long Island Small Generator Interconnection Procedures.

3.0 The scope of the feasibility study shall be subject to the assumptions set forth in Attachment A to this Agreement.

4.0 The feasibility study shall be based on the technical information provided by the Interconnection Customer in the Interconnection Request, as may be modified as the result of the scoping meeting. LIPA reserves the right to request additional technical information from the Interconnection Customer as may reasonably become necessary consistent with Good Utility Practice during the course of the feasibility study and as designated in accordance with the PSEG Long Island Small Generator Interconnection Procedures. If the Interconnection Customer modifies its Interconnection Request, the time to complete the feasibility study may be extended by agreement of the Parties.

5.0 In performing the study, LIPA shall rely, to the extent reasonably practicable, on existing studies of recent vintage. The Interconnection Customer shall not be charged for such existing studies; however, the Interconnection Customer shall be responsible for charges associated with any new study or modifications to existing studies that are reasonably necessary to perform the feasibility study.

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6.0 The feasibility study report shall provide the following analyses for the purpose of identifying any potential adverse system impacts that would result from the interconnection of the Small Generator as proposed:

- 6.1 Initial identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection;
- 6.2 Initial identification of any thermal overload or voltage limit violations resulting from the interconnection;
- 6.3 Initial review of grounding requirements and electric system protection; and
- 6.4 Description and non-binding estimated cost of facilities required to interconnect the proposed Small Generator and to address the identified short circuit and power flow issues.

7.0 The feasibility study shall model the impact of the Small Generator regardless of purpose in order to avoid the further expense and interruption of operation for reexamination of feasibility and impacts if the Interconnection Customer later changes the purpose for which the Small Generator is being installed.

8.0 The study shall include the feasibility of any interconnection at a proposed project site where there could be multiple potential Points of Interconnection, as requested by the Interconnection Customer and at the Interconnection Customer's cost.

9.0 A deposit of the lesser of 50 percent of good faith estimated feasibility study costs or earnest money of \$10,000 may be required from the Interconnection Customer.

10.0 Once the feasibility study is completed, a feasibility study report shall be prepared and transmitted to the Interconnection Customer. Barring unusual circumstances, the feasibility study must be completed and the feasibility study report transmitted within thirty (30) Business Days of the Interconnection Customer's agreement to conduct a feasibility study.

11.0 Any study fees shall be based on the actual costs associated with the study and will be invoiced to the Interconnection Customer after the study is completed and delivered and will include a summary of professional time.

12.0 The Interconnection Customer must pay any study costs that exceed the deposit without interest within thirty (30) calendar days on receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, LIPA shall refund such excess within thirty (30) calendar days of the invoice without interest. LIPA shall not be obligated to perform or continue to perform any Interconnection Study work for the Interconnection Customer unless the Interconnection Customer has paid all amounts in compliance herewith.

13.0 Miscellaneous.

- 13.1 Accuracy of Information. Except as Interconnection Customer may otherwise specify in writing when it provides information to LIPA under this Agreement, Interconnection Customer represents and warrants that the information it provides to LIPA shall be accurate and complete as of the date the information is provided. Interconnection Customer shall promptly provide LIPA with any additional information needed to update information previously provided.

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- 13.2 Disclaimer of Warranty. In preparing the system impact study, LIPA and any subcontractor or consultant to LIPA shall have to rely on information provided by Interconnection Customer, and possibly by third parties, and may not have control over the accuracy of such information. Accordingly, neither LIPA nor any subcontractor or consultant to LIPA makes any warranties, express or implied, whether arising by operation of law, course of performance or dealing, custom, usage in the trade or profession, or otherwise, including without limitation implied warranties or merchantability and fitness for a particular purpose, with regard to the accuracy, content or conclusions of the feasibility study. Developer acknowledges that it has not relied on any representations or warranties not specifically set forth herein and that no such representation or warranties have formed the basis of its bargain hereunder.
- 13.3 Force Majeure. For purposes of this Agreement, "Force Majeure Event" means any event: (a) that is beyond the reasonable control of the affected Party; and (b) that the affected Party is unable to prevent or provide against by exercising reasonable diligence, including the following events or circumstances, but only to the extent they satisfy the preceding requirements: acts of war, public disorder, insurrection, or rebellion; floods, hurricanes, earthquakes, lightning, storms, and other natural calamities; explosions or fires; strikes, work stoppages, or labor disputes; embargoes; and sabotage. If a Force Majeure Event prevents a Party from fulfilling any obligations under this Agreement, such Party will promptly notify the other Party in writing, and will keep the other Party informed on a continuing basis of the scope and duration of the Force Majeure Event. The affected Party will specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the affected Party is taking to mitigate the effects of the event on its performance. The affected Party will be entitled to suspend or modify its performance of obligations under this Agreement, other than the obligation to make payments then due or becoming due under this Agreement.
- 13.4 Limitations of Liability. In no event shall any Party or its subcontractor consultant be liable for indirect, special, incidental, punitive, or consequential damages of any kind including loss of profits, arising under or in connection with this Agreement or the feasibility study or any reliance on the feasibility study by Developer or third parties, even if one or more of the Parties or its subcontractor consultants have been advised of the possibility of such damages. Nor shall LIPA be liable for any delay in delivery or for the non-performance or delay in performance of LIPA's obligations under this Agreement.
- 13.5 Indemnification. Interconnection Customer shall at all times indemnify, defend, and save harmless LIPA, and their respective directors, officers, members, employees and agents from any and all damages, losses, claims and liabilities ("Losses") by or to third parties arising out of or resulting from the performance by LIPA under this Agreement, any bankruptcy filings made by Interconnection Customer, or the actions or omissions of Interconnection Customer in connection with this Agreement, except to the extent such Losses arise from the gross negligence or willful misconduct by LIPA or their respective directors, officers, members, employees or agents. The amount of any indemnity payment hereunder shall be reduced (including, without limitation, retroactively) by any insurance proceeds or other amounts actually recovered by the indemnified party in respect of the indemnified action, claim, demand, cost, damage or liability. The obligations of Interconnection Customer to indemnify LIPA shall be several, and not joint or joint and several.
- 13.6 Third-Party Beneficiaries. Without limitation of Sections 13.2, 13.3 and 13.5 of this Agreement, Interconnection Customer further agrees that a subcontractor or consultant hired

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by LIPA to conduct or review, or to assist in the conducting or reviewing, an Interconnection Feasibility Study shall be deemed third party beneficiaries with respect to Sections 13.2, 13.3, 13.4 and 13.5.

- 13.7 **Term and Termination.** This Agreement shall be effective from the date hereof and unless earlier terminated in accordance with this Section 13.7, shall continue in effect for a term of one year or until the feasibility study for Interconnection Customer's Small Generator is completed, whichever event occurs first. Interconnection Customer or LIPA may terminate this Agreement upon the withdrawal of the Interconnection Customer's Application under Section II.A.4 of PSEG Long Island's Small Generator Interconnection Procedures.
- 13.8 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to any choice of laws provisions.
- 13.9 **Severability.** In the event that any part of this Agreement is deemed as a matter of law to be unenforceable or null or void, such unenforceable or void part shall be deemed severable from this Agreement and the Agreement shall continue in full force and effect as if each part was not contained herein.
- 13.10 **Counterparts.** This Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as the original instrument.
- 13.11 **Amendment.** No amendment, modification or waiver of any term hereof shall be effective unless set forth in writing signed by the Parties hereto.
- 13.12 **Survival.** All warranties, limitations of liability, indemnification and confidentiality provisions provided herein shall survive the expiration or termination hereof.
- 13.13 **Independent Contractor.** LIPA shall at all times be deemed to be an independent contractor and none of their employees or the employees of its subcontractors shall be considered to be employees of Interconnection Customer as a result of this Agreement.
- 13.14 **No Implied Waivers.** The failure of a Party to insist upon or enforce strict performance of any of the provisions of this Agreement shall not be construed as a waiver or relinquishment to any extent of such party's right to insist or rely on any such provision, rights and remedies in that or any other instances; rather, the same shall be and remain in full force and effect.
- 13.15 **Successors and Assigns.** This Agreement, and each and every term and condition hereof, shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns. No assignment shall be permitted where the assignee is currently in litigation with one of the Parties to this Agreement.
- 13.16 **Due Authorization.** Each Party to this Agreement represents and warrants that it has full power and authority to enter into this Agreement and to perform its obligations hereunder, that execution of this Agreement will not violate any other agreement with a third party, and that the person signing this Agreement on its behalf has been properly authorized and empowered to enter into this Agreement.
- 14.0 All disputes shall be resolved in accordance with the procedures set forth in Section II.A.9 of the PSEG Long Island Small Generator Interconnection Procedures.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

**Long Island Electric Utility Servco LLC
acting as agent of and on behalf of
Long Island Lighting Company d/b/a LIPA**

[Insert name of Interconnection Customer]

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Print)

Name: _____
(Print)

Title: _____

Title: _____

Date: _____

Date: _____