

other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any governmental authorities acting in their regulatory or judicial capacity, provided, however, that any such discretionary acts, failures to act or orders of any kind by the Compact or a Member Municipality may not be asserted as an event of *Force Majeure* by the Compact or a Member Municipality as the case may be; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil disturbances or explosions. Nothing in this provision is intended to excuse any Party from performing due to any governmental act, failure to act, or order, where it was reasonably within such Party's power to prevent such act, failure to act, or order. Economic hardship of either Party shall not constitute an event of *Force Majeure*.

1.16 Governmental Authority - Any national, state or local government, independent system operator, regional transmission owner or operator, any political subdivision thereof or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity, excluding the Compact and all Member Municipalities.

1.17 Governmental Rule - Any law, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, or similar form of decision of any Governmental Authority having the effect and force of law.

1.18 ISO - The New England Independent System Operator, or such successor or other entity which oversees the integrated dispatch of power plants in New England and the bulk transmission of electricity throughout the New England power grid.

1.19 kWh, kW - Kilowatt-hour and kilowatts, respectively.

1.20 Member Municipalities - The twenty-one (21) towns and two (2) Counties which are presently members of the Cape Light Compact as of the Effective Date of this Agreement. The Member Municipalities include the following towns in Barnstable County: Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich, Truro, Wellfleet and Yarmouth, and the following towns in Dukes County: Aquinnah, Chilmark, Edgartown, Oak Bluffs, Tisbury and West Tisbury. The Compact acts as agent for the Member Municipalities as set forth in Article 2.2 below.

1.21 Participating Consumer - All Eligible Consumers, excluding those Eligible Consumers who exercise their ability to opt-out, whether prior to the automatic enrollment or anytime thereafter. A Participating Consumer who chooses to opt-out of the Pilot Project at any time is ineligible to become a Participating Consumer for one year.

1.22 Parties - The Compact and Supplier, as the context requires. In the singular, "Party" shall refer to any one of the preceding.

1.23 Pilot Project - The Default Service Pilot Project is a municipal aggregation program developed by the Compact pursuant to its Aggregation Plan and Aggregation Program to provide choice and savings for Eligible Customers through competitive supply. The DTE approved the non-price terms of the Pilot Project, as included in the Compact's August 15, 2001 filing, on October 23, 2001 in DTE 01-63 and on November 20, 2001 in DTE 01-63A (reconsideration).

1.24 Point of Delivery - The point of interconnection between NEPOOL Pool Transmission Facilities ("PTF") and the transmission facilities of the Distribution Company.

1.25 Point of Sale - The electric meter for each Participating Consumer's account, as designated by the Distribution Company.

1.26 Renewable Energy or Green Power - Electric energy generated by equipment or facilities including solar power, wind turbine, hydro power or other renewable energy resource that may be added by mutual agreement of the Parties.

1.27 Restructuring Act - Chapter 164 of the Massachusetts Acts of 1997.

1.28 Supplier - Mirant Americas Retail Energy Marketing, LP, a Delaware limited partnership, duly authorized to conduct business in the Commonwealth of Massachusetts.

ARTICLE 2 RIGHTS GRANTED

2.1 General Description and Limitations - The Supplier is hereby granted the exclusive right to provide All-Requirements Power Supply to Participating Consumers pursuant to the terms of the Compact's Pilot Project, expressly conditioned on the terms and conditions set forth in this Agreement. In accepting this grant, the Parties recognize that the Supplier is only authorized to supply All-Requirements Power Supply to Participating Consumers, and that the Distribution Company will continue to have the right and obligation to supply electricity to all Eligible Consumers or Participating Consumers who opt-out of the Pilot Project and remain on, or return to, Default Service, until changes in law, regulation or policy may allow otherwise. The Supplier further recognizes that this Agreement does not guarantee that any individual Eligible Consumer will be served by the Supplier. All existing and any new Eligible Consumers shall be automatically enrolled in the Pilot Project, unless they choose to opt-out. In the event the geographic boundaries of a Member Municipality change during the term of this Agreement, Supplier shall only be obligated to supply All Requirements Service to those Participating Consumers located within such Member Municipality as such boundaries existed on the Effective Date of this Agreement. As between the Parties, the Supplier has the sole obligation of making appropriate arrangements with the Distribution Company, and any arrangements which may be necessary with the ISO so that Participating Consumers receive the electricity supplies to be delivered pursuant to this Agreement. The Compact specifically authorizes the Distribution Company to provide, and Supplier the right to obtain and utilize as required, twelve months' of historic usage and billing data for each Participating Consumer in

an electronic form. If further action is required by the Distribution Company to authorize Supplier to receive such historical energy consumption and billing data, the Compact agrees to use reasonable efforts, at Supplier's cost, to assist Supplier, if so requested by it, in obtaining such information for Participating Consumers, including, without limitation, assisting Supplier in obtaining permission from such Participating Consumers and/or the DTE, where necessary as a prerequisite to the provision of such information.

2.2 Agency Relationship - The Compact is authorized to act on behalf of the Member Municipalities in contracting for electric supply for Eligible Consumers. The Compact shall seek a resolution from each Member Municipality approving the Supplier as the opt-out competitive supplier for all Eligible Consumers subject to the terms of this Agreement. In any litigation arising under this Agreement, only the Compact has the right to bring claims against the Supplier.

2.3 Compliance with Laws - By entering into this Agreement, the Supplier specifically represents that it has exercised due diligence to review and has fully complied with all relevant regulations and orders of the Federal Energy Regulatory Commission, the DTE, the Office of the Massachusetts Attorney General, and the Massachusetts Division of Energy Resources and any other governmental authorities having jurisdiction over any element of the transactions contemplated by this Agreement.

2.4 Conditions Precedent -

A. The Parties' obligations under this Agreement shall be conditioned upon the Compact receiving approval of this Agreement including without limitation the pricing terms by the DTE prior to the close of business on March 25, 2002. If such approval by the DTE has not been obtained by the close of business on March 25, 2002, either Party may terminate this Agreement without any liability to the other Party except as set forth in subsection (C) below.

B. The Compact's obligations under this Agreement shall be conditioned upon the Supplier fulfilling the following requirements:

(i) obtain a license from the DTE to become a Competitive Supplier (as such term is defined in the Distribution's Company's Terms and Conditions - Competitive Suppliers);

(ii) execute a Competitive Electric Supplier Service Agreement with the Distribution Company in a form reasonably satisfactory to Supplier; and

(iii) execute all appropriate ISO applications and agreements.

If Supplier has not fulfilled all such requirements by March 25, 2002, either Party may terminate this Agreement without any liability to the other Party except for the Supplier's reimbursement of any costs incurred by the Compact under Section 3.2 and Section 3.3 and as set forth in subsection (C) below.

C. The Supplier shall reimburse the Compact for administrative, legal and other costs it incurs in connection with consultations with the Department of Energy Resources, the Massachusetts Attorney General and the Member Municipalities related to this Agreement and in obtaining the DTE's approval of this Agreement. Upon request, the Compact shall provide reasonable documentation to Supplier to support all costs subject to reimbursement hereunder. Costs in excess of fifteen thousand dollars (\$15,000) shall not be reimbursed.

ARTICLE 3 CUSTOMER CHOICE, NOTIFICATION OF RIGHTS, ENROLLMENT; EDUCATION

3.1 Customer Choice - The Parties acknowledge and agree that all Participating Consumers have the right, pursuant to the Restructuring Act, to change their source of electricity supply. The Compact, or Participating Consumers, as the case may be, shall give reasonable notice of any such changes in accordance with the procedures established by the Compact, the Distribution Company and the Supplier pursuant to the terms included in Exhibit A and the Pilot Project. The Parties represent and warrant to each other that they shall not unreasonably interfere with the right of Participating Consumers to opt-out of the Pilot Project, and shall comply with any rules, regulations or policies of the DTE, the Distribution Company and/or other lawful Governmental Authority regarding the procedures for opting out or of switching from one source of electric supply to another. Notwithstanding the foregoing, however, the Parties may make certain efforts with the intent of seeking commercial and industrial customers to affirmatively agree to remain in the Pilot Project, consistent with any Governmental Rules.

3.2 Notification to Eligible Consumers of Opt-Out Rights - Consistent with the requirements of any Governmental Rules and following, in a timely fashion, approval by the DTE of this Agreement, the Compact, with the assistance of and, at the reasonable expense of, Supplier not to exceed \$50,000 (fifty thousand dollars), shall notify all Eligible Consumers enrolled in Default Service that Supplier will be providing electrical supply to such Eligible Consumers subject to the opt-out provisions of the Restructuring Act, the Aggregation Plan and the Pilot Project. The opt-out notice shall be mailed to Eligible Consumers prior to the start of automatic enrollment. In such notifications, the Compact, in consultation with Supplier and subject to any required DTE approval, shall: (1) prominently state all charges to be made by the Supplier; (2) provide a summary of the prices and terms included in Exhibit A as well as fully disclose the prices and terms then being offered for Default Service by the Distribution Company; and (3) state how any Eligible Consumer may opt-out of the Pilot Project prior to enrollment and remain on Default Service from the Distribution Company, and (4) state how all Participating Consumers, subsequent to enrollment, will also have the right to opt-out at any time and return to Default Service or choose a new competitive supplier without paying a fee or penalty to Supplier. All such notices must be approved in advance by the Supplier, such approval not to be unreasonably withheld. In providing the notifications set forth in this Article, and in otherwise conducting the activities in Article 3.4 below, the Compact makes no warranty or representation, express or implied, about the accuracy of any data or other information provided to it by the Distribution Company and, accordingly, is not responsible for any errors or omissions in connection with its notification of Eligible Consumers. Upon

the Supplier's request, the Compact shall provide reasonable supporting documentation of all expenses incurred by it as a result of its notification obligations described in this Article 3.2.

3.3 Education - Prior to and following the commencement of All Requirements Power Supply hereunder, the Parties will engage in a coordinated education program which is described in Exhibit B attached hereto. The costs of this education program shall be borne equally by the Parties, such costs not to exceed ten thousand dollars (\$10,000) per Party. Upon mutual agreement concerning the content and method, either Party may conduct additional educational efforts (beyond those described in Exhibit B) at their sole expense.

3.4 Enrollment - All Eligible Consumers will be automatically enrolled in the Pilot Project under the terms of Exhibit A. Promptly upon approval of this Agreement by the DTE, the Compact shall notify the Distribution Company of such approval and coordinate with the Distribution Company and Supplier to determine procedures to administer the enrollment of existing and new Eligible Consumers and to drop any Participating Consumers who opt-out. The Compact and Supplier will request that the Distribution Company identify all Default Service customers within each Member Municipality and verify all meter and customer account numbers and service and billing addresses and other pertinent information. The Compact and Supplier shall also request (i) the electronic transfer of Participating Customers from the Distribution Company to the Supplier; (ii) the removal of Eligible Customers opting out of the Pilot Program; and (iii) the transfer of resulting lists through Electronic Data Interchange ("EDI") compatible formats. In no event shall either Party be any way responsible for the accuracy or timeliness of any information provided by the Distribution Company or any omissions therein.

ARTICLE 4 TERM OF CONTRACT AND TERMINATION

4.1 Term - This Agreement and the rights granted under it to the Supplier shall terminate on December 31, 2003, unless (a) the Agreement is terminated or extended under the provisions of Article 4.3, or (b) the Agreement is terminated before such date under the provisions of Article 4.4.

4.2 Acceptance and Effective Date - This Agreement shall be effective and in full force upon execution by the Compact and the Supplier.

4.3 Automatic Termination and/or Extension -

A. If the Distribution Company's Default Service tariff rates for 2003 are lower than the price or prices offered by Supplier as specified in Exhibit A, this Agreement shall automatically terminate on December 31, 2002. Notwithstanding the termination of this Agreement, Supplier's obligation to supply All Requirements Power Supply shall continue beyond December 31, 2002 to the extent Supplier is not able to notify Participating Consumers of termination of service sixty (60) days prior to the termination date.

B. Provided that Supplier shall continue to offer a price or prices at a discount to the Distribution Company's Default Service tariff rates, this Agreement may be extended one year beyond December 31, 2003 by mutual, written agreement of the Parties, further subject to the receipt of any and all required regulatory approvals. Such new pricing terms shall be added to and replace Exhibit A as Exhibit A-2. Upon such extension, this Agreement shall continue to be in effect, and all provisions of the Agreement shall retain the same force and effect as before the extension, unless it is terminated by either Party pursuant to the provisions of Article 4.4 or until the date stated in such extension.

4.4 Termination - This Agreement may be terminated at any time upon written notice:

(1) by the Compact, acting on behalf of all Member Municipalities or acting on behalf of one or more Member Municipalities, or the Supplier, if a Party fails to remedy or cure any breach or default of any material provision or condition of this Agreement within thirty (30) days following written notice to do so by the other party; or

(2) by the Compact, acting on behalf of all Member Municipalities or acting on behalf of one or more Member Municipalities, or the Supplier, if any material provision or condition of this Agreement be finally adjudged invalid by any court of competent jurisdiction, or if the DTE exercises its jurisdiction so as to invalidate or disapprove this Agreement in whole or in significant part; or

(3) notwithstanding the foregoing, the failure of the Supplier to provide or arrange for All-Requirements Power Supply to Participating Consumers, in the absence of *Force Majeure* or the Compact's failure to perform, shall constitute an act of default, and the Compact may terminate this Agreement upon the giving of written notice but without providing any cure period. In the event the Supplier has performed its obligations hereunder and its failure to provide or arrange All Requirements Power Supply is a direct result of actions or non-actions by any transmission service provider, the Distribution Company, or the ISO, Supplier's failure shall not be deemed an act of immediate default.

4.5 Obligations upon Termination - Following termination of this Agreement, the Parties shall each discharge by performance all obligations due to any other Party that arose up to the date of termination of the Agreement. Upon the effective date of termination of the Agreement, all rights and privileges granted to the Supplier shall cease, with the exception of the right to collect all monies due for services rendered to that date. If this Agreement is automatically terminated under Article 4.3(A), the Supplier shall not be liable to the Compact, the Member Municipalities or any Participating Consumers for any damages resulting from such termination including, without limitation, any costs incurred by the Compact to obtain a replacement supplier, if any. Notwithstanding the foregoing, if this Agreement is terminated pursuant to Article 4.4(3), Supplier's sole and exclusive liability shall be, any direct, actual costs for electric energy that any such Participating Consumers incur in excess of the prices established in this Agreement as a result of the termination of this Agreement on account of a breach by Supplier. The Compact shall cooperate with Supplier to the fullest extent reasonably possible to ensure that Supplier is not subjected to duplicative claims, arising out of Supplier's

breach of its delivery obligations to such Participating Consumers and/or Member Municipalities. In addition, the Supplier shall pay the Compact's reasonable out-of pocket costs, not to exceed ninety thousand dollars (\$90,000), in obtaining or seeking to obtain a replacement supplier in the event this Agreement is terminated under Article 4.4(3). Upon request, the Compact shall provide documentation to Supplier to support the costs incurred by the Compact to obtain a replacement supplier. Notwithstanding the foregoing, Mirant specifically reserves all rights it may have at law to claim that the Compact and/or Member Municipalities have no standing or otherwise lack the authority to seek monetary damages on behalf of individual Participating Consumers in the event of a termination of this Agreement.

ARTICLE 5 CONTINUING COVENANTS

The Supplier agrees and covenants to perform each of the following obligations during the term of this Agreement.

5.1 Standards of Management and Operations - In performing its obligations hereunder, during the term of this Agreement, the Supplier shall exercise reasonable care to assure that its facilities are prudently and efficiently managed; that it employs an adequate number of competently trained and experienced personnel to carry out its responsibilities; that it delivers a safe and reliable supply of such amounts of electricity to the Point of Delivery as are required under this Agreement; that it complies with all relevant industry standards and practices for the generation and supply of electricity to Participating Consumers; and that, at all times with respect to Participating Consumers, it exercises the highest commercial standards and employs Commercially Reasonable skills, systems and methods available to it. The Supplier shall ensure that the Canal generating facility owned by Supplier's affiliates shall conform with all Governmental Rules related to emissions. In the event Supplier's affiliate is allegedly in violation of any Governmental Rules related to emissions, the Compact shall have the right to terminate this Agreement, provided, however, the Compact's termination right shall be suspended during the time period Supplier's affiliate is defending, in good faith, any alleged violations. If the alleged violation has not been resolved within six months from the initial report of the violation, the Compact's termination right shall be reinstated. If the Compact exercises its termination right pursuant to this Article 5.1, the Supplier shall not be liable to the Compact or the Member Municipalities for any damages resulting from such termination.

5.2 Local Customer Service Access - The Supplier agrees to provide, or cause to be provided, certain customer services to Participating Consumers. Such services shall be reasonably accessible to all Participating Consumers, shall be available during normal working hours, shall allow Participating Consumers to transact business they may have with the Supplier, and shall serve as a communications liaison among the Supplier, the Compact, and the Distribution Company. A toll-free telephone number, publicized in the opt-out notification to Participating Consumers as described in Article 3.2, will be available for Participating Consumers to contact Supplier to resolve concerns, answer questions and transact business with respect to the service received from Supplier. Supplier will also provide a link on its parent's website to a website which will be available to Participating Consumers for general information, product and service information, and other purposes. The customer services

described above shall commence with the opt-out notifications mailed to Eligible Consumers on or about March 25, 2002, pursuant to Article 3.2, and shall continue for a period of ninety (90) days following the termination of this Agreement. Supplier agrees to work closely with the Compact to develop appropriate training scripts, description of services and website content for the program. Notwithstanding the foregoing, the Compact agrees to make available its internet website until the date on which Supplier has successfully established its own website, provided that such date shall occur on or before December 31, 2002.

5.3 Responding to Requests for Information - To the extent authorized by the Participating Consumer(s) and to the extent such individual permission is required by law, the Supplier shall, during normal business hours, respond promptly and without charge therefore to reasonable requests of the Compact for information or explanation regarding the matters covered by this Agreement and the supply of electricity to Participating Consumers. The Supplier agrees to designate a service representative or representatives (the "Service Contacts") who shall be available for these purposes, and shall identify the office address and telephone number of such representative(s). Whenever necessary to comply with this Article 5.3, the service representative(s) shall call upon other employees or agents of the Supplier to obtain such information or explanation as may be reasonably requested. Nothing in this Article 5.3 shall be interpreted as limiting the obligation of the Supplier to respond to complaints or inquiries from Participating Consumers, or to comply with any regulation of the DTE or Attorney General regarding customer service.

5.4 Arranging for Firm All-Requirements Power Supply - The Supplier shall participate in or make appropriate arrangements with the ISO, any relevant regional transmission organization, wholesale suppliers or any other entity to ensure an uninterrupted flow of reliable, safe, firm, All-Requirements Power Supply to the Distribution Company for delivery to Participating Consumers, and take Commercially Reasonable steps to cooperate with the New England Power Pool ("NEPOOL"), the ISO or any other entity to ensure a source of back-up power in the event that the facilities owned or controlled by Supplier's affiliates or other sources of power supply are unable to generate and/or deliver All-Requirements Power Supply to the Point of Delivery. In the event the Supplier is unable to deliver sufficient electricity to the grid to serve Participating Consumers, the Supplier shall utilize such arrangements as may be necessary to continue to serve Participating Consumers under the terms of this Agreement, and shall bear any costs it may incur in carrying out these obligations. The Supplier shall not be responsible to the Compact, any Member Municipality or any Participating Consumers in the event the Distribution Company disconnects, curtails or reduces service to Participating Consumers (notwithstanding whether such disconnection is directed by the ISO) in order to facilitate construction, installation, maintenance, repair, replacement or inspection of any of the Distribution Company's facilities, to maintain the safety and reliability of the Distribution Company's electrical system, or due to any other reason, including emergencies, forced outages, potential overloading of the Distribution Company's transmission and/or distribution circuits, *Force Majeure* or the non-payment of any distribution service costs or other such costs due for services provided by the Distribution Company to a Participating Consumer.

5.5 Non-Discriminatory Provision of Service - Subject to the prices and terms contained in Exhibit A, Supplier shall deliver electricity on a non-discriminatory basis; provided, however, that prices and other terms may vary in accordance with reasonably established classes of customers (e.g., residential, commercial, municipal, industrial) or by such other categories as appear in Exhibit A. To the extent applicable, the Supplier's prices, terms and conditions shall be in accordance with the Massachusetts General Laws, the regulations of the DTE, and other applicable Governmental Rules. To the extent required by any Governmental Rule and/or the conditions of any DTE approval of this Agreement, the Supplier may not deny service to an Eligible Consumer for failure to pay the bills of any other electric company (whether engaged in the distribution, transmission, or generation of electricity) or of any other aggregator, marketer or broker of electricity, but may reasonably deny or condition service, or terminate existing service, based upon any Participating Consumer's failure to pay bills from the Supplier, subject to any Governmental Rules. Provision of electric energy supply shall be subject to Supplier's standard credit policies (to the extent permitted by law) as described in Exhibit A.

5.6 Energy Efficiency and Renewable Energy Programs - The Parties have a mutual interest in advancing the utilization of demand-side management, energy efficiency programs and technology, and renewable energy programs. The Supplier, upon reasonable request of the Compact, shall cooperate with the Compact in the implementation of such programs, including a renewable energy (green power) option for Participating Consumers who voluntarily enter into a separate agreement with Supplier for such option, subject to any applicable terms in Exhibit A. At no time will Supplier take any actions with the intention of materially adversely affecting the operations of any of these programs. Supplier will use Commercially Reasonable efforts to identify any actions which might have a material adverse effect on the implementation of any programs involving demand-side management, energy efficiency and Renewable Energy and will use Commercially Reasonable efforts to consult with the Compact prior to taking such actions.

5.7 Approval of General Communications - The Supplier shall cooperate with the Compact in the drafting and sending of messages and information to Eligible Consumers and/or Participating Consumers concerning the Compact or any matter arising under or related to this Agreement. The Supplier shall, prior to sending any direct mail, advertising, solicitation, bill insert, electronic mail, or other similar written or electronic communication (collectively, "general communications") to Participating Consumers (but excluding individually drafted or tailored communications responding to the specific complaint or circumstance of an individual consumer), provide a copy of such general communication to the Compact for its review to determine whether it is consistent with the purposes and goals of the Compact. The Compact shall have the right to disapprove such general communications and suggest revisions if it finds the communication inconsistent with the purposes and goals of the Compact, factually inaccurate or likely to mislead; provided, however: (i) that the communication shall be deemed approved if the Compact fails to respond within seven calendar days (not including weekends and holidays); and (ii) that no approval shall be necessary for any communication (a) regarding any emergency situation involving any risk to the public health, safety or welfare; (b) which has been approved by the DTE, the Division of

Energy Resources, or any other Governmental Authority; or (c) in the nature of routine monthly or periodic bills, or collection notices, except that any bill insert or message included at the bottom of such bill not within the scope of (a) or (b) above shall require approval. If the Compact disapproves any general communication on the grounds it is inconsistent with the purposes and goals of the Compact, the Supplier, after consultation as provided in this Article 5.7, may nevertheless elect to send such general communication provided that it: (i) clearly indicates on such mailing that it has not been endorsed by the Member Municipality and/or the Compact, (ii) has previously provided all Participating Consumers a meaningful chance to opt not to receive such general communications, (iii) has stated in connection with such chance to opt not to receive such communications that "the Compact and the Member Municipalities want to protect Consumers from receiving marketing materials if you do not wish to do so," and (iv) has otherwise sought input from the Compact as to the means by which Consumers are given a chance to remove their names from any list which may receive general communications.

5.8 Bill Inserts and Messages - The Supplier agrees that if it bills or communicates with Participating Consumers directly, and unless prevented for regulatory or other such reasons from doing so, it shall allow the Compact to include no less than three bill inserts per year into such billings, provided that the Compact pays the cost of printing and reproducing such insert and any incremental postage or handling costs the Supplier may incur as a result of including such insert. The Supplier further agrees that it shall, at its direct cost, if any, and to the extent that it does not conflict with planned use of any message space by the Supplier, provide the Compact access to any message space on any bills the Supplier sends to Participating Consumers, to the extent any bills it sends directly or indirectly through the Distribution Company or other entity contain a bill message space under the control of the Supplier. Supplier shall have the right to disapprove such general communications (that is communications other than those pertaining to the Compact's demand-side management, energy efficiency programs and technology, and renewable energy programs) and suggest revisions if it finds the communication inconsistent with its business interests, factually inaccurate or likely to mislead; provided, however: (i) that the communication shall be deemed approved if the Supplier fails to respond within seven calendar days (not including weekends and holidays); and (ii) that no approval shall be necessary for any communication which has been ordered by the DTE, the Division of Energy Resources, or any other Governmental Authority to be so communicated.

5.9 Consumer Lists - To the extent not prohibited by any Governmental Rule or expressly by any Participating Consumer(s), the Supplier shall, upon request of the Compact, provide a list of the Participating Consumers being served by the Supplier, including such reasonable identifying and aggregate consumption information as the Compact may also request to the extent such information is available to Supplier. The Supplier shall provide such consumer lists in an electronic format reasonably acceptable to both Parties and with no more frequency than once a month.

5.10 **Compliance with Laws** - The Parties shall promptly and fully comply with all existing and future Governmental Rules of all Governmental Authorities having jurisdiction over the activities covered by this Agreement.

5.11 **Consent** - Whenever performance of an obligation of any Party hereto requires the consent or approval of any Governmental Authority, such Party shall make Commercially Reasonable efforts to obtain such consent or approval. In the event the Supplier requests the Compact's assistance in obtaining such consent or approval and the Compact anticipates that it (and/or the Member Municipalities) will incur costs in fulfilling the Supplier's request, it shall give the Supplier an estimate of such costs. Upon receiving the estimate, Supplier shall determine if it continues to request the Compact's assistance, and if so, the Supplier shall reimburse the Compact and/or the Member Municipalities for all costs, up to the estimated dollar amount, reasonably incurred by the Compact and/or Member Municipalities in connection with such efforts.

ARTICLE 6 ROLES OF THE COMPACT AND THE MEMBER MUNICIPALITIES

6.1 **In General** - Under this Agreement, neither the Compact nor the Member Municipalities (except as they or entities under their control are Participating Consumers) shall actually receive, take title to, or be liable for the supply or delivery of All Requirements Power Supply in any manner whatsoever. The Parties specifically agree that the role of the Compact is to a) set the terms and conditions under which All Requirements Power Supply will be provided by the Supplier under this Agreement and to ensure that the Supplier complies with those terms and conditions, and b) act as agent for the Member Municipalities with respect to the matters addressed in this Agreement. It is the sole obligation of the Supplier to arrange for delivery of All-Requirements Power Supply to Participating Consumers. The Parties agree that neither the Compact nor the Member Municipalities are "aggregators," "distribution companies," "electric companies," "generation companies" or "transmission companies" within the meaning of G.L. c. 164, §1 as a result of this Agreement, unless a court, the DTE, or other lawful authority shall adjudicate to the contrary; provided, however, that the Member Municipalities and the Compact may be considered to be operating a municipal load aggregation program pursuant to G.L. c. 164, §134. The Supplier hereby agrees that it will take no action that would make the Compact or the Member Municipalities liable to any Eligible or Participating Consumer due to any act or failure to act on the part of the Supplier relating to the delivery or supply of All Requirements Power Supply.

ARTICLE 7 PRICES AND SERVICES; BILLING

7.1 **Schedule of Prices and Terms** - The Supplier agrees to provide All Requirements Power Supply and other related services as expressly set forth herein in accordance with the prices and terms included in Exhibit A to this Agreement, which Exhibit is hereby incorporated by reference into this Agreement.

7.2 Obligation to Serve - As between the Parties, the Supplier has the sole obligation to obtain sources of supply, whether from generating facilities owned or controlled by its affiliates, through bilateral transactions, or the market, as may be necessary to provide All-Requirements Power Supply for all of the Participating Consumers under the Pilot Project. The Supplier shall make appropriate arrangements to obtain such capacity, electrical energy, and ancillary services for load-following purposes, including, but not limited to, spinning reserves, supplemental reserves, backup supplies and services as may be needed in the event of outages or emergencies, and all other ancillary services as necessary to provide a firm, reliable, and safe All-Requirements Power Supply for Participating Consumers to the Point of Delivery. The Supplier, except as explicitly limited by the terms included in Exhibit A, shall be obligated to accept all Eligible Consumers who become participants in the Compact's Pilot Project, subject to the credit requirements enumerated in Exhibit A, and the terms of any approval or other order of the DTE with respect to this Agreement.

7.3 Metering and Billing - As between the Parties, the Supplier bears sole responsibility for any metering which may be required to bill Participating Consumers, and for rendering of any bills to Participating Consumers. Supplier may discharge this obligation by making appropriate arrangements with the Distribution Company or any other entity. Any metering and billing functions carried out by the Supplier shall be conducted in compliance with relevant rules and regulations of the DTE and the Attorney General of the Commonwealth.

7.4 Standard Terms and Conditions Pertaining to Individual Account Service -

A. Title

Title to All Requirements Power Supply will transfer from Supplier to Participating Consumers at the Point of Sale. Possession of, and risk of loss related to, All Requirements Power Supply will transfer from Supplier to the Distribution Company at the Point of Delivery.

B. Term

Delivery of All Requirements Power Supply will begin on the first meter reading date in May, 2002 as specified in Exhibit A, or as soon as necessary arrangements can be made with the Distribution Company thereafter and will end on the last meter reading date prior to the expiration or termination of this Agreement. Supplier has the right to request a "special" meter reading by the Distribution Company to initiate energy delivery and agrees to accept all costs (if any) for such meter reading.

C. Billing and Payment

Unless otherwise specified in an Exhibit to this Agreement, all billing under this Agreement shall be based on the meter readings of each Participating Consumer's meter performed by the Distribution Company. The Supplier shall, or shall cause the Distribution Company or any other entity to, prepare and mail bills to Participating Consumers monthly. If

Supplier arranges for the Distribution Company to perform billing services, Supplier shall adopt the billing and payment terms offered by the Distribution Company to its Default Service customers unless the Supplier and Distribution Company otherwise agree. Supplier shall make such billing and payment terms available to Participating Consumers on its website.

D. Regional and Local Transmission

The prices quoted in Exhibit A do not include current and future charges for distribution service costs collected by the Distribution Company under its distribution service tariff. If in the future Supplier becomes responsible for distribution costs, Supplier shall be entitled to collect such costs from Participating Consumers to the extent permitted by any Governmental Rules. These costs are "pass through" costs as determined by the appropriate regulatory agencies.

E. Taxes

All sales, gross receipts, excise or similar taxes imposed with respect to the sale or consumption of All Requirements Power Supply shall be included on the Participating Consumer's bill and shall be remitted to the appropriate taxing authority by Supplier. Participating Consumers shall be responsible for all taxes (except for taxes on Supplier's income) associated with sales of All Requirements Power Supply under this Agreement. Supplier shall make available a service to provide Participating Consumers who are tax-exempt with an exemption from collection of any taxes, however such Participating Consumers shall be responsible for identifying and requesting any exemption from the collection of any tax by providing appropriate documentation to Supplier.

F. Material and Adverse Change in Law or Regulation

If at any time during the term of this Agreement (i) a final and unappealable Governmental Rule is instituted, repealed, revised or changed or any other similar unanticipated change in circumstance of a significant magnitude and beyond the reasonable control of the Parties occurs and (ii) such event results in a substantial and material adverse economic impact to the Compact, any Member Municipality or Supplier under this Agreement such that, directly as a result of such Governmental Rule the affected party expects to incur a loss in continuing performance under this Agreement for the remaining term thereof, then the affected party may, upon written notice to the others, invoke this Article 7(F) as a basis for immediately initiating good faith negotiations to amend the affected terms of this Agreement. The Parties will negotiate to balance the disparity caused by the event and to restore to the Parties, to the greatest extent possible, the benefit of their respective bargains on the Effective Date. If the Parties are unable to agree on any amendment to this Agreement, any Party may terminate this Agreement, subject to any applicable regulatory requirements and after providing sixty (60) days prior written notice to the DTE and the other Party, without any liability or responsibility except for obligations arising prior to the date of termination and those obligations which expressly survive termination of this Agreement.

G. Limitation of Liability

Recognizing that electricity provided hereunder shall be ultimately delivered by the Distribution Company, to the extent permitted by law, Supplier shall not be liable for any damage to a Participating Consumer's equipment or facilities, or any economic losses, resulting directly or indirectly from any service interruption, power outage, voltage or amperage fluctuations, discontinuance of service, reversal of service, irregular service or similar problems beyond Supplier's reasonable control. TO THE EXTENT PERMITTED BY LAW, EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, SUPPLIER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED (INCLUDING WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE) WITH RESPECT TO THE PROVISION OF SERVICES AND ELECTRIC ENERGY HEREUNDER.

H. No Exemplary, Punitive, Special or Consequential Damages

THE PARTIES SHALL ONLY BE ENTITLED TO RECOVER ACTUAL DAMAGES FOR A BREACH OR VIOLATION OF THIS AGREEMENT. NO PARTY SHALL BE ENTITLED TO RECOVER EXEMPLARY, PUNITIVE, SPECIAL CONSEQUENTIAL, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES FROM THE OTHER PARTY IN ANY ARBITRATION PROCEEDING, COURT PROCEEDING, OR OTHERWISE, HOWEVER CAUSED, WHETHER BY A PARTY'S SOLE OR CONCURRENT NEGLIGENCE OR OTHERWISE, AND EACH PARTY HEREBY WAIVES ANY CLAIM OR RIGHT TO EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES HEREUNDER.

I. Consumer Credit Checks

Supplier agrees to comply with the requirements of 220 CMR 11.05(3)(d) regarding termination of service to residential customers. To the extent permitted by law, Supplier may, subsequent to the scheduled initiation of service, request access to a Participating Consumer's credit history and may request a security deposit from a non-residential Participating Consumer, in either case only if the Participating Consumer fails to make timely payments on two or more bills. No requested security deposit may exceed two months of actual bills. Supplier may terminate service to a non-residential Participating Consumer who fails to provide the security deposit amounts authorized by this paragraph.

J. EDI/EFT

Supplier will provide Electronic Funds Transfer ("EFT") as a payment option to Participating Consumers provided the Participating Consumer and Supplier can mutually access a common Value Added Network ("VAN") and provided further that Supplier is allowed to pass through the costs imposed by VAN providers or the provider of other electronic transmission vehicle. To the extent mutually agreed to by the Parties, Participating Consumers who use EFT as a payment method will receive a percentage discount determined by the Supplier.

ARTICLE 8 DEVELOPMENT OR OFFERING OF RENEWABLE ENERGY SOURCES

8.1 Compliance with Law - The Supplier hereby agrees that it will comply with the applicable provisions of G.L. c. 25A, §11F and any regulations, orders or policies adopted pursuant thereto.

ARTICLE 9 SERVICE PROTECTIONS FOR RESIDENTIAL CUSTOMERS

The Supplier agrees that it shall comply with the provisions of 220 CMR Parts 25, 27, 28 and 29, any amendments thereto, and any code of conduct or policies the DTE may adopt in accordance with G.L. c. 164, §1F(7). The Supplier shall, on or before March 13, 2002, provide a written, detailed description of its billing and termination procedures, customer services, confidentiality and related practices and procedures for approval by the Compact (which approval shall not be unreasonably withheld). Such written description shall also include the Supplier's plans for maintaining "service quality standards," as that phrase is used in §1F(7); for complying with the "affirmative choice" requirements of §1F(7); and for handling customer complaints, including any arbitration procedures. If the Participating Consumer(s) so permit(s) to the extent such permission is required by law or the terms of any DTE order with respect to this Agreement, the Supplier agrees to provide notice to the Compact of any customer complaints received from a Participating Consumer, and to grant the Compact the right to participate in resolution of the dispute, to the extent permitted by DTE regulations and other applicable law. The failure to timely submit such written description, or the submission of practices and procedures which materially fail to comply with DTE regulations and policies, shall be deemed grounds for termination of this Agreement, at the discretion of the Compact after providing written notice of such failure to the Supplier and allowing the Supplier thirty days to cure such failure.

ARTICLE 10 NON-DISCRIMINATION IN HIRING AND EMPLOYMENT

The Supplier agrees to conduct its operations and activities under this Agreement in accordance with all applicable state and federal laws regarding non-discrimination in hiring and employment of employees.

ARTICLE 11

ANNUAL REPORT AND ACCESS TO INFORMATION

11.1 Content of Annual Report - The Supplier shall provide an Annual Report which shall be provided to the Compact and to the Member Municipalities. The Annual Report shall include a reasonably detailed summary of operations for the past year (or partial year), including detail about kWh and kW sales in the Member Municipalities by customer class; a discussion of customer service issues and complaints, if any, that arose during the year; efforts to comply with the Renewable Energy provisions of this Agreement; and such other matters as may be mutually agreed upon by the Parties. The Supplier shall only be required to provide a single Annual Report containing the appropriate information for all Member Municipalities. Supplier agrees to make the Annual Report available to Participating Consumers by including such report on its website.

11.2 Power Supply Report - Within the Annual Report or appended to it, the Supplier shall present a copy of the current "Disclosure Label" required by the DTE of all Competitive Suppliers to be disclosed to their customers which includes information pertaining to their power supply and a reasonably detailed description of the sources of Supplier's power supply used to serve Participating Consumers pursuant to this Agreement, except to the extent such disclosure would violate any confidentiality obligations of Supplier.

11.3 Books and Records - The Supplier shall keep its books and records in accordance with any applicable regulations or guidelines of the DTE, the Federal Energy Regulatory Commission, and any other Governmental Authority. The Compact will have access to all reports mandated by the Securities and Exchange Commission which are available on the Internet "EDGAR" system.

11.4 Copies of Regulatory Reports and Filings - Upon reasonable request, the Supplier shall provide to the Compact a copy of each public periodic or incident-related report or record relating to this Agreement which it files with any Massachusetts or federal agency regulating rates, service, compliance with environmental laws, or compliance with affirmative action and equal opportunity requirements, unless the Supplier is required by law or regulation to keep such reports confidential from the other Parties. The Compact or any Member Municipality to whom the Compact has provided access shall treat any reports and/or filings received from Supplier as confidential information subject to the terms of Article 16. Supplier shall be reimbursed its reasonable costs of providing such copies.

ARTICLE 12

RESOLUTION OF DISPUTES; CHOICE OF LAW

12.1 Choice of Law - This Agreement and the rights of the Parties shall be interpreted and determined in accordance with the laws of the Commonwealth of Massachusetts.

12.2 Dispute Resolution - The Parties shall attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or validity hereof by negotiation between representatives who will have the authority to resolve the dispute. Any Party may give the other Party written notice of any dispute not resolved in the ordinary course

of business. Within ten (10) days after delivery of such notice, the representatives shall attempt to meet at a mutually acceptable time and place to resolve the dispute. If such designated representatives are unable to resolve the dispute within thirty (30) days of receipt of notice of the dispute, either party may bring an action in any court in Suffolk County in the Commonwealth of Massachusetts. In any such judicial action, the "Prevailing Party" shall be entitled to payment from the opposing Party of its reasonable costs and fees, including, but not limited to, attorneys' fees, arising from the civil action. As used herein, the phrase "Prevailing Party" shall mean the Party who, in the reasonable discretion of the finder of fact, most substantially prevails in its claims or defenses in the civil action. Notwithstanding the preceding sentence, the costs and fees payable by the opposing Party shall not exceed an aggregate amount of \$250,000 for all civil actions arising under this Agreement.

ARTICLE 13 INDEMNIFICATION

13.1 Indemnification by Supplier - Subject to the limitation of damages in Article 7.4(H), Supplier shall indemnify, defend and hold harmless the Member Municipalities and the Compact (collectively "Indemnified Parties" and singularly "Indemnified Party") and each Indemnified Party's officers, employees, agents, representatives and independent contractors, from and against any and all costs, claims, liabilities, damages, expenses (including reasonable attorneys' fees), causes of action, suits or judgments, incurred by, on behalf of or involving any one of the foregoing parties to the extent arising, directly or indirectly, from or in connection with (i) any material breach by Supplier of its obligations, covenants, representations or warranties contained in this Agreement and not resulting from the actions of the Distribution Company, the Compact or any Member Municipality or their employees or agents, or (ii) Supplier's actions or omissions taken or made in connection with Supplier's performance of this Agreement. Supplier further agrees, if requested by the Compact or any Member Municipality, to investigate, handle, respond to, and defend any such claim, demand, or suit at its own expense arising under this Article 13.1. Should Supplier defend any such claim against the Compact or any Member Municipality hereunder, it shall have full control of such defense, in its reasonable discretion.

13.2 Notice of Indemnification Claims - If the Compact seeks indemnification pursuant to this Article 13, it shall notify Supplier of the existence of a claim, or potential claim as soon as practicable after learning of such claim, or potential claim, describing with reasonable particularity the circumstances giving rise to such claim. Upon written acknowledgment by the Supplier that it will assume the defense and indemnification of such claim, the Supplier may assert any defenses which are or would otherwise be available to the Compact.

13.3 Survival - Notwithstanding any provision contained herein, the provisions of this Article 13 shall survive the termination of this Agreement for a period of three (3) years with respect to any claims which occurred or arose prior to such termination.

ARTICLE 14 REPRESENTATIONS AND WARRANTIES

14.1 Representations and Warranties -

A. As a material inducement to entering into this Agreement, the Supplier hereby represents and warrants to the Compact as of the Effective Date of this Agreement as follows:

(i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary for it to perform its obligations under this Agreement;

(ii) it has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this Agreement or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due;

(iii) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any Governmental Rule applicable to it;

(iv) subject to the conditions set forth in Article 2.4, this Agreement constitutes a legal, valid and binding obligation of the Supplier enforceable against it in accordance with its terms, and the Supplier has all rights such that it can and will perform its obligations to the Supplier in conformance with the terms and conditions of this Agreement, subject to bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally and general principles of equity; and

(v) no Bankruptcy is pending against it or to its knowledge threatened against it.

B. As a material inducement to entering into this Agreement, the Compact hereby represents and warrants to Supplier as of the effective date of this Agreement as follows:

(i) the Compact was formed by intergovernmental agreement in accordance with the laws of the Commonwealth of Massachusetts;

(ii) this Agreement will (subject to the Governmental approvals described in Article 2.4 above) constitute the legal, valid and binding obligation of the Compact enforceable in accordance with its terms;

(iii) the execution, delivery and performance of this Agreement are within the Compact's powers, have been or will be duly authorized by all necessary action and the Compact is the duly authorized agent of the Member Municipalities with respect to the matters addressed in this Agreement;

(iv) the Compact has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this Agreement or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and

(v) to the best of its knowledge, but without independent inquiry, no Bankruptcy is pending or threatened against any of the Member Municipalities.

ARTICLE 15 INSURANCE AND OTHER FINANCIAL SURETIES AND GUARANTEES

15.1 Insurance - In order to help support the indemnifications provided in Article 13, and its other promises and covenants stated herein, Supplier shall secure and maintain, at its own expense, throughout the term of this Agreement, comprehensive commercial general liability insurance of at least \$5,000,000 combined single limit and excess liability coverage of at least \$5,000,000 with insurers and with the Compact and Member Municipalities named as additional insureds. Supplier shall provide the Compact with evidence, reasonably satisfactory to the Compact, of its insurance hereunder, upon request. The detailed terms of Supplier's insurance are set forth in Exhibit C attached hereto.

15.2 Additional Financial Sureties and Guarantees - In addition to the insurance set forth in Article 15.1, above, the Supplier shall, within two days of the Effective Date of this Agreement, deliver to the Compact financial security for its obligations hereunder, including, without limitation, the indemnification set forth in Article 13, in the form of a guarantee, and in an amount calculated pursuant to the formula in the following paragraph, from Mirant Corporation, or any other mutually acceptable guarantor, in a form reasonably acceptable to the Compact.

The amount of the parent guarantee as stated herein shall be calculated based on estimated savings to Participating Consumers for a period equal to the lesser of (i) twelve months or (ii) the remaining term of this Agreement. The Compact shall return Supplier's parent guarantee to Supplier no later than one year after the termination of this Agreement. The Supplier may change the type and amount of its financial security provided hereunder with the consent of the Compact, such consent not to be unreasonably withheld.

Upon reasonable request during the term of this Agreement and on a continuing basis, the Supplier will provide the Compact with Commercially Reasonable proof of its ability to meet its indemnification obligations to the Compact pursuant to this Agreement. The Supplier will provide the Compact with a copy of its parent's annual report. The Supplier also agrees to notify the Compact in the event that its parent's unsecured, senior long-term debt or current corporate credit rating (not supported by third party credit enhancements) is less than BBB- by Standard & Poor's Rating Group or less than BBB- by Fitch Investor Services, Inc. (a "Downgrade Event"). Should a Downgrade Event occur, the Compact may request that Supplier provide a letter of credit as a substitute form of security in an amount to be determined in accordance with the formula described in the preceding paragraph. Upon receipt

of such notice, Supplier shall have three (3) business days in which to provide such letter of credit to the Compact. As used herein, letter of credit shall mean an irrevocable, transferable, standby letter of credit, issued by a major U.S. commercial bank of the U.S. branch office a foreign bank, in either case, with a credit rating of least (a) "A-" by Standard & Poor's Rating Group ("S&P") and "A3" by Moody's Investor Services ("Moody's"), if such entity is rated by both S&P and Moody's or (b) "A-" by "S&P" or "A3" by Moody's, if such entity is rated by either S&P or Moody's but not both.

15.3 Reserve Fund - In order to ensure timely access to funds and: (a) provide the Compact with further financial security in the event Supplier declines to or otherwise fails to indemnify it pursuant to Article 13 and that the insurance coverage pursuant to Article 15.1 and the other financial sureties provided pursuant to Article 15.2 are unavailable or insufficient, and (b) provide the Compact with a special reserve fund ("Reserve Fund") to give further assurances that the Compact will be able to respond appropriately to any risks associated with this Agreement, Supplier agrees to collect on behalf of the Compact, one mill (\$.001) for every kWh sold to Participating Consumers for the first eight (8) months after the Start-Up Service Date. Supplier shall remit to the Compact or its designee on a monthly basis, by electronic funds transfer or such other mutually acceptable method, the amounts due pursuant to this Article 15.3 and provide reasonable supporting documentation as to the total number of kWh sold in each preceding month upon which such payment is calculated.

Once paid to the Compact or its designee, Supplier shall have no further interest or claim in such Reserve Fund. The Compact may use the Reserve Fund to cover any costs, claims, liabilities, damages, expenses (including reasonable attorney's fees), causes of action, suits or judgments, incurred by or on behalf of the Compact or Member Municipalities. The Compact shall cause all funds collected for it by Supplier hereunder to be deposited in a dedicated, interest-bearing account and shall keep records of the receipts, expenditures and balance in such account which shall be provided on a quarterly basis to Supplier and any governmental agencies which may request such records. These records shall be a matter of public record pursuant to G.L. c. 4, §7, cl. 26 and G.L. c. 66, §10. To the extent there are funds remaining in the Reserve Fund at the expiration or termination of this Agreement (and after the running of any statute of limitations periods which the Compact may deem appropriate or prudent), the Compact may expend such funds and/or rebate them to Participating Consumers for any purpose as may be allowed by law and shall be determined in the sole reasonable discretion of the Compact's Governing Board.

ARTICLE 16 CONFIDENTIALITY

Supplier acknowledges that the Compact is subject to public records laws, including without limitation, G.L. c. 4, §7, cl. 26 and G.L. c. 66, §10. To the extent not prohibited by such laws, all Parties shall keep confidential, and shall not disseminate to any third party (other than such Party's affiliates) or use for any other purpose (except with written authorization, such authorization not to be unreasonably withheld), any information received from the other that is confidential or proprietary in nature unless legally compelled (by deposition, inquiry,

request for production of 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 Governmental Authority, or by requirements of any securities law or regulation or other Governmental Rule) or as necessary to enforce the terms of this Agreement. Either Party may disclose the terms of this Agreement to (i) its affiliates, and to its and their officers, directors, employees, attorneys and accountants, and (ii) the Member Municipalities, who are bound to hold, treat and protect such information on a confidential basis. This Article 16 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, such Party shall request that such disclosure be protected and maintained in confidence to the extent reasonable under the circumstances and use reasonable efforts to protect or limit disclosure with respect to commercially sensitive terms. In addition, notwithstanding the public records laws referenced above, such Party shall provide the other Party with prompt notice of the requirement to disclose confidential information in order to enable the other Party 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 resolve the scope of any required disclosure. In the event the Supplier requests the Compact's assistance in protecting the confidentiality of information and the Compact anticipates that it and/or the Member Municipalities will incur costs in fulfilling the Supplier's request, it shall give the Supplier an estimate of such costs. Upon receiving the estimate, Supplier shall determine if it continues to request the Compact's assistance, and if so, the Supplier shall reimburse the Compact and/or Member Municipalities for all costs, up to the estimated amount, reasonably incurred by the Compact and/or Member Municipalities in connection with such efforts.

For the avoidance of doubt, the information related to this Agreement that is considered confidential and proprietary in nature shall include the following:

- (i) any account information related to the Participating Consumers including, without limitation, historic usage data, metering, and billing and payment information;
- (ii) any information regarding transactions entered into by Supplier and any third parties in connection with the provision of All Requirements Power Supply;
- (iii) any list of Participating Consumers;
- (iv) any information disclosed by a Party during any settlement discussions;
- (v) Supplier's insurance policies;
- (vi) any financial security instrument(s) provided by Supplier, including, but not limited to, any guaranty or letter of credit provided in accordance with Section 15.2 of this Agreement;
- (vii) any non-public information provided by Supplier pursuant to Section 15.2 of this Agreement; and
- (viii) any information which either Party should reasonably understand to be confidential and proprietary by virtue of the sensitive nature of the information.

ARTICLE 17 MISCELLANEOUS

17.1 No Assignment Without Permission - Neither Party shall assign its rights and privileges under this Agreement without the prior written approval of the other Party and such approval may be denied in the reasonable discretion of the non-assigning Party if it determines that the proposed assignee does not have at least the same financial ability as the assigning Party and, in the event of a proposed assignment by Supplier, that it does not meet the objectives as set forth in Article 1 of the Compact Agreement. Notwithstanding the foregoing, the Compact may not unreasonably withhold its consent to an assignment to an affiliated entity under common control or management with Supplier. Further, a sale of 50% or more of the interests of Supplier in this Agreement shall be considered an assignment if, and only if, such sale results in a change in the control and the management of Supplier's operation. Any assignee shall agree in writing to be bound by the terms and conditions of this Agreement. The rights and obligations created by this Agreement shall inure to the benefit of, and be binding upon, the successors and permitted assigns of, the respective Parties hereto.

17.2 Direct Marketing - Prior to the introduction of any new product or service which Supplier may wish to make available to Participating Consumers or other consumers located with a Member Municipality, Supplier agrees to (i) give the Compact written notice of such new product or service and (ii) subject to the entry into reasonable confidentiality terms to the extent permitted by law and mutually acceptable to the Parties, discuss with the Compact the possible inclusion of such new product or service in this or another aggregation program undertaken by the Compact and Member Municipalities in the geographic area encompassing the Member. The Parties agree to negotiate in good faith the terms, conditions, and prices for such products and services which the Parties agree should be included in a Compact aggregation program.

The Supplier also agrees not to engage in any direct marketing to any Participating Consumer that relies upon the Supplier's unique knowledge of, or access to, Participating Consumers (including addresses, telephone numbers or other identifying information) gained as a result of this Agreement, if so requested by such Participating Consumer as set forth in Article 5.7 hereof. For the purposes of this provision, "direct marketing" shall include any telephone call, mailing, electronic mail, or other contact between the Supplier and the Consumer. Broad-based programs of the Supplier that do not rely on unique knowledge or access gained through this Agreement will not constitute such "direct marketing." Supplier further expressly agrees not to sell, disclose or otherwise transfer identification or identifiable information about Participating Consumers (including addresses, telephone numbers or other identifying information) gained as a result of this Agreement except with the express permission of the Participating Consumer.

17.3 Notices - All notices, demands, requests, consents or other communications required or permitted to be given or made under this Agreement shall be in writing and

if to Supplier to:

Mirant Americas Retail Energy Marketing, LP
Attention: Legal Department
1155 Perimeter Center West, Suite 130
Atlanta, Georgia 30338

if to the Compact to:

Ms. Margaret Downey
Administrator
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, Massachusetts 02630
(508) 375-6636 (voice)
(508) 362-4136 (fax)
mags@cape.com

Notices hereunder shall be deemed properly served (i) by hand delivery, on the day and at the time on which delivered to the intended recipient at the address set forth in this Agreement; (ii) if sent by mail, on the third business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this Agreement; or (iii) if by Federal Express or other reputable express mail service, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this Agreement. Any party may change its address and contact person for the purposes of this Article 17.3 by giving notice thereof in the manner required herein.

17.4 Changes in Emergency and Service Contact Persons - In the event that the name or telephone number of any emergency or service contact for the Supplier changes, Supplier shall give prompt notice to the Compact in the manner set forth in Article 17.3. In the event that the name or telephone number of any such contact person for the Compact changes, prompt notice shall be given to the Supplier in the manner set forth in Article 17.3.

17.5 Entire Agreement; Amendments - This Agreement and the Related Documents constitute the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. This Agreement may only be amended or modified by a written instrument signed by all Parties hereto.

17.6 *Force Majeure* - If by reason of *Force Majeure* any Party is unable to carry out, either in whole or in part, its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (i) the non-performing Party, within two (2) weeks after the occurrence of the *Force Majeure*, gives all other Parties hereto written notice describing the particulars of the occurrence; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the *Force Majeure*; (iii) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and (iv) the non-performing Party shall use Commercially Reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations.

17.7 **Expenses** - Except as set forth in Article 2.4(C), every Party hereto shall pay all expenses incurred by it in connection with its entering into this Agreement, including without limitation, all attorneys' fees and expenses.

17.8 **No Joint Venture** - Supplier will perform all services under this Agreement as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Compact and the Supplier hereunder are individual and neither collective nor joint in nature.

17.9 **Joint Workproduct** - This Agreement shall be considered the workproduct of all Parties hereto, and, therefore, no rule of strict construction shall be applied against any Party hereto.

17.10 **Counterparts** - This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement.

17.11 **Waiver** - No waiver by any Party hereto of any one or more defaults by any other Party in the performance of any provision of this Agreement shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of any Party hereto to complain of any action or non-action on the part of any other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party(ies) so failing. A waiver of any of the provisions of this Agreement shall only be effective if made in writing and signed by the Party who is making such waiver.

17.12 **Cooperation** - Each Party acknowledges that this Agreement must be approved by the DTE and agree that they shall use Commercially Reasonable efforts to cooperate in seeking to secure such approval.

17.13 **Related Documents** - The Supplier agrees that it has been provided with and had a reasonable opportunity to read the Compact Agreement, the Aggregation Plan, the Participation Agreement between Barnstable County, Cape Light Compact, County of Dukes County and Vineyard Towns, and the Administrative Services Agreement between Barnstable County and Cape Light Compact, and the Pilot Project (collectively, "Related Documents").

The Parties agree that the Related Documents, in the forms as they exist on the Effective Date of this Agreement, are incorporated into this Agreement by reference, and that they shall be construed harmoniously to the greatest practicable extent; notwithstanding the foregoing, in the event of any conflict between this Agreement and the Related Documents, this Agreement shall govern. The Compact will provide Supplier with amendments to any of the foregoing documents as they are adopted; provided, however, that such amendments are not incorporated into this Agreement as a result of such adoption. Any amendments hereto must be made in accordance with Article 17.5 of this Agreement.

17.14 Advertising Limitations - The Supplier agrees not to use the name of the Cape Light Compact, or make any reference to the Cape Light Compact in any advertising or other information to be distributed publicly for marketing or educational purposes, unless the Compact expressly agrees to such usage. Any proposed use of the name of the Cape Light Compact must be submitted in writing for agreement and prior approval, which shall not be unreasonably withheld, consistent with Article 5.7 hereof. The Compact acknowledges that the Supplier's corporate affiliates own the exclusive right to the trademarked logo and trade name used by Supplier. No right, license or interest in this trademark and/or trade name is granted to the Compact hereunder, and the Compact agrees that it shall not assert any right, license or interest with respect to such trademark and/or trade name.

17.15 Press Releases - The Parties shall not issue a press release or make any public statement with respect to this Agreement without the prior written agreement of the other Party with respect to the form, substance and timing thereof, except either Party may make any such press release or public statement when the releasing Party is advised by its legal counsel that such a press release or public statement is required by law, regulation or stock exchange rules, provided however, in such event, the Parties shall use their reasonably good faith efforts to agree as to the form, substance and timing of such release or statement.


17.16 Headings and Captions - The headings and captions appearing in this Agreement are intended for reference only, and are not to be considered in construing this Agreement.

17.17 Survival of Obligations - Termination of this Agreement for any reason shall not relieve the Company or Supplier of any obligation accrued or accruing prior to such termination.

17.18 Duty to Mitigate - Each Party agrees that it has a duty to mitigate damages and covenants that it will use Commercially Reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written below.

MIRANT AMERICAS RETAIL ENERGY MARKETING, LP
BY: MIRANT AMERICAS DEVELOPMENT, INC.
ITS GENERAL PARTNER

By: 
Name: Douglas Tinkler
Title: Vice President

CAPE LIGHT COMPACT

By: _____
Ms. Margaret Downey
Administrator
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, MA 02630
(508) 375-6636 (voice)
(508) 362-1146 (fax)
mags@cape.com

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written below.

MIRANT AMERICAS RETAIL ENERGY MARKETING, LP
BY: MIRANT AMERICAS DEVELOPMENT, INC.
ITS GENERAL PARTNER

By: _____
Name: _____
Title: _____

CAPE LIGHT COMPACT

By: Margaret I. Downey / 3/13/08
Ms. Margaret Downey
Administrator
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, MA 02630
(508) 375-6636 (voice)
(508) 362-4166 (fax)
mags@cape.com

EXHIBIT A

PRICES AND TERMS

Pricing Schedule Pilot Project for Default Service Customers

System Supply Service

*****Residential***** *****Commercial/Industrial*****

R-1, R-2, R-3, R-4, R-5 G-1 G-2, G-3 G-4, G-5, G-6, G-7 S1, S2

2002

May 1 -- June 30

NStar (cents/kWh)	6.289	6.468	6.410	6.468	6.468
MIRANT	4.898 cents per kilowatt hour for all rate classes				

July 1 -- December 31

Nstar (cents/kWh)	5.520	5.552	5.792	5.520	5.552
MIRANT	4.898* cents per kilowatt hour for all rate classes				

2003

January 1 -- December 31

NStar	prices to be set
MIRANT	4.798* cents per kilowatt hour for all rate classes

** The price of 4.898 shall be payable for the first 8 months of service regardless of the date on which service begins. In the 9th month of service, the price shall change to 4.798. The Parties understand that if service does not begin on May 1, 2002, the price stated above for January 1, 2003 will be 4.898 (not 4.798) and will remain 4.898 through the 8th month of service.*

Renewable Energy Supply

(Voluntary Consumer Option)

May 1, 2002 -- December 31, 2003

NStar

(no Green Option available from NStar)

MIRANT

7.185 cents per kilowatt hour for 50% green supply to individual consumer
9.935 cents per kilowatt hour for 100% green supply to individual consumer

Terms for System Supply Service

Price: The System Supply Service price for All Requirements Power Supply shall be as stated on Exhibit A through December 31, 2003. However, the Supplier may offer price reductions to Participating Consumers at any time during the term of this Agreement.

Start-Up Service Date: All Participating Consumers shall be enrolled for service at the start of their monthly billing cycle. The date of the first enrollment is May 1, 2002, unless the Parties agree to alter this date for operational or other reasons.

Renewable Energy in System Supply: The Supplier shall include Renewable Energy in the All Requirements Power Supply mix in an amount equal to the DTE's Renewable Portfolio Standards starting with the 2003 requirement on the Start-Up Service Date (*May 1, 2002 as stated above*) or pay all penalties imposed by the DTE related to Renewable Energy requirements.

Term: The period of delivery of All Requirements Power Supply shall be consistent with the provisions of Article 4 of this Agreement. Participating Consumers will receive a written notice from the Supplier sixty (60) days in advance of termination of the Agreement.

Customer Opt-Out: Participating Consumers are free to opt-out of the Pilot Project utilizing established EDI drop protocols. Participating Consumers are to provide thirty (30) days notice to the Supplier of such termination. There are no fees or charges for Participating Consumers to opt-out or terminate service. A Participating Consumer who terminates service with the Supplier will be ineligible to re-enter the Pilot Project for a minimum of 12 months.

Terms for Renewable Energy Supply

Consumer Participation: All Requirements Power Supply of Renewable Energy will be offered on a voluntary basis to all Eligible Consumers. All Eligible Consumers voluntarily choosing the Renewable Energy supply shall sign an individual agreement with the Supplier that will be consistent with this Agreement, except for the terms of Participating Consumer termination, for which Supplier may charge a fee. This distinction shall be clearly disclosed to consumers in marketing information and in the individual contract offered by the Supplier.

Price: The price for the Renewable Energy supply shall be as stated on Exhibit A. However, the Supplier may offer price reductions during the term of this Agreement.

Renewable Energy Development Charge: The price for Renewable Energy supply shall include an additional 5 mill (0.5 cent) per kilowatt hour consumer contribution to a local renewable energy development fund to be maintained and utilized by the Cape Light Compact. The Supplier shall collect and transfer to the Compact on a monthly basis and at no charge, funds resulting from this consumer contribution. In all marketing, individual contract, and sign-up information, consumers shall be fully apprised of the nature of the development charge and its purposes for local renewable energy development.

EXHIBIT B

EDUCATION PROGRAM

1.0 Terms and Cost: Consistent with the terms of Article 3.3 of the ESA, prior to and immediately following the commencement of service start-up, the Parties will engage in a coordinated Education Program described herein. The costs of this Education Program shall be borne equally by the Parties and is estimated at a total combined cost of \$20,000. This estimated combined cost does not include the expense of required notifications, establishment and operation of a service center and 1-800 customer information line, or additional educational efforts that either Party may undertake at their sole expense, or as otherwise provided in the ESA. It does include the activities noted below, undertaken primarily during a 40 day period. The focus of the Education Program is to make the public aware of the supply program for Default Service customers, advertise additional information sources, and explain the opt-out information being mailed to Eligible Consumers.

2.0 Three Part Program: The Education program will consist of a Media Plan, Development of Electronic Information Sources, and Public Presentations.

2.1 Media Plan

Press conference announcing Pilot and introducing supplier

Meetings with newspaper editorial boards

Press release on opt-out mailing and start-up of 1-800 service center

Display ads describing the program and the opt-out process and 1-800 number

Notices in newspapers and towns halls describing the program and opt-out and 1-800 number

Public postings in: Cape Cod Community College, local libraries, senior centers

Flyer describing the program and opt-out and 1-800 service center

Cable television show describing the program and opt-out and providing 1-800 number

PSAs noting the program and opt-out and 1-800 service center

2.2 Electronic Information Sources

Development of Compact website information on the supply program and referral to 1-800 number customer service center

Assistance in development of script and training information in cooperation with the Supplier for 1-800 customer call-in line

2.3 Public Presentations

Boards of Selectmen

Civic and Business Organizations

Public Meetings

3.0 Education Program Schedule: The schedule below assumes timely preparation of mailing lists as well as space and time availability in the media. Meetings and public presentations will be scheduled upon mutually agreeable schedules. On-going education will continue beyond the 40-day period outlined below through the media and the 1-800 customer service center number.

Day 0: Press conference announcing Pilot and introducing supplier

Day 10: Press release on opt-out mailing and start-up of 1-800 service center

Day 10: Mail drop for customer notification (return deadline on Day 40)

Day 12: Display ads describing the program and the opt-out process and 1-800 number

Day 12: Notices in newspapers and towns halls describing the program and opt-out and 1-800 number

Day 14: Flyer describing the program and opt-out and 1-800 service center

Day 14: Cable television show describing the program and opt-out and providing 1-800 number

Day 16 through Day 30: PSAs noting the program and opt-out and 1-800 service center

Day 35: Display ads describing the program and deadline for opt-out process and 1-800 number

Day 40: Deadline for return of opt-out card

Post 40 Day: On-going education through the media and the 1-800 customer service center number and individual opt-out mailings to new default service customers

EXHIBIT C

1. The Supplier shall maintain commercial general liability insurance throughout the term of the agreement and for a period of at least two years following the contract term.
2. The insurance may be provided on a claims made basis. In the event such insurance is cancelled or non-renewed, Supplier agrees to provide a 36 month discovery period endorsement for obligations under this agreement.
3. The insurance shall include coverage for bodily injury liability, property damage liability, advertising injury liability and personal injury liability.
4. To the extent available at commercially reasonable terms and conditions, personal injury liability coverage shall include non-employment discrimination in accordance w/ AEGIS form 8100 (1/1/98).
5. To the extent available at commercially reasonable terms and conditions, the insurance shall include Failure to Supply coverage and such coverage shall be in accordance with AEGIS form 8100 (1/1/98).
6. The insurance shall include blanket contractual liability coverage, including the power supply agreement between Supplier and Cape Light Compact.
7. The limit of commercial general liability insurance shall be at least \$5 million each occurrence. Separate aggregate limits of \$5 million may be applicable to products and completed operations liability coverage and failure to supply liability coverage.
8. The Supplier shall maintain umbrella or excess liability insurance subject to a limit of at least \$5 million in addition to commercial general liability insurance policy limits.
9. Such liability insurance shall include Cape Light Compact and member municipalities as additional insureds, but only for obligations arising out of this agreement.
10. The policies shall be endorsed to require that such additional insureds receive at least 30-days notice of cancellation or non-renewal.
11. Such insurance shall contain a standard separation of insureds clause, whereby the actions of one insured will not negate coverage for another insured.
12. The Supplier shall provide Cape Light Compact with a certificate of insurance to evidence compliance with the requirements. Renewal certificates shall be provided automatically within 30-days of policy renewal throughout the term of the contract and two years following the contract term.

2004 PILOT ELECTRIC SUPPLY AGREEMENT

WHEREAS, the Massachusetts Legislature has adopted Chapter 164 of the Acts of 1997, (the "Restructuring Act"), which, *inter alia*, (1) allows for competition in the generation and supply of electricity to customers, (2) authorizes municipalities to aggregate the electrical load of electricity consumers within their boundaries, and (3) allows municipal aggregators to formulate an aggregation plan and conduct aggregation programs;

WHEREAS, several municipalities in Barnstable County and Dukes County ("Member Municipalities") have formed the Cape Light Compact ("Compact") and entered into an "Inter-Governmental Agreement of the Cape Light Compact" ("Compact Agreement"), for the purposes, *inter alia*, of acting as a municipal aggregator and negotiating the best rates for the supply of electricity to consumers located on Cape Cod and Martha's Vineyard;

WHEREAS, all twenty-one Barnstable County and Dukes County towns presently belong to the Compact;

WHEREAS, the Compact has developed a Default Service Pilot Project (the "Pilot Project") to aggregate consumers located within the Member Municipalities presently receiving Default Service and to negotiate competitive rates for the supply of electricity for such consumers;

WHEREAS, the Massachusetts Department of Telecommunications and Energy ("DTE") approved the Pilot Project by a letter dated October 23, 2001, as well as in the November 20, 2001 Order on Motion for Reconsideration, both in DTE 01-63;

WHEREAS, the DTE also approved the Pilot Electric Supply Agreement dated March 13, 2002 between the Compact and Mirant Americas Retail Energy Marketing, LP ("Supplier") pursuant to which Supplier agreed to sell All-Requirements Power Supply to Default Service customers pursuant to the Pilot Project through December 31, 2003; and

WHEREAS, the Compact and Supplier desire to enter into a new Pilot Electric Supply Agreement on substantially the same terms and conditions for calendar year 2004.

NOW THEREFORE, IT IS AGREED THAT, the Compact and the Supplier hereby enter into this Pilot Electric Supply Agreement ("Agreement") subject to the terms and conditions below.

ARTICLE 1 DEFINITIONS When used in this Agreement, the following terms shall have the meanings given, unless a different meaning is expressed or clearly indicated by the context. Words defined in this Article 1 which are capitalized shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined herein shall be given their common and ordinary meaning.

1.1 **Aggregation Plan** - The "Cape Light Compact Aggregation Plan" as adopted or amended by the Compact, from time to time, and as approved by the DTE on August 10, 2000 in DTE 00-47. The Aggregation Plan is a plan developed by the Compact to aggregate electric consumers for the primary purpose of negotiating the best rates for the supply and distribution of electricity for such consumers.

1.2 **Aggregation Program** - The Community Choice Power Supply Program is one of the two programs described in, and implemented under, the Aggregation Plan.

1.3 **Agreement** - This Pilot Electric Supply Agreement.

1.4 **All-Requirements Power Supply** - Service under which the Supplier provides all of the electrical energy, capacity, reserves, and ancillary services for firm power supply to Participating Consumers at the Point of Sale.

1.5 **Bankruptcy** means with respect to a Party that such Party (i) ceases doing business as a going concern, generally does not pay its debts as they become due or admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent, or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other Governmental Rule, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties, or makes an assignment for the benefit of creditors, or said Party takes any corporate action to authorize or that is in contemplation of the actions set forth in this clause (i); or (ii) a proceeding is initiated against the Party seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other Governmental Rule and, such proceeding is not dismissed within ninety (90) days after the commencement, or any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties is appointed without the consent or acquiescence of said Party, and such appointment is not vacated or stayed on appeal or otherwise within ninety (90) days after the appointment, or, within ninety (90) days after the expiration of any such stay, has not been vacated, *provided that*, notwithstanding the foregoing, the exercise of rights to take over operation of a Party's assets, or to foreclose on any of a Party's assets, by a secured creditor of such Party (including the appointment of a receiver or other representative in connection with the exercise of such rights) shall not constitute a Bankruptcy.

1.6 **Commercially Reasonable** - Any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known, or which in the exercise of due diligence, should have been known, at the time the decision was made, would have been expected in the industry to accomplish the desired result consistent with reliability, safety, expedition, project economics and applicable law and regulations.

1.7 **Compact** - The Cape Light Compact, formed in October 1997, by an intergovernmental agreement under the Massachusetts General Laws and presently consisting of twenty-one (21)

towns in Barnstable and Duke Counties and the two counties themselves for which the Compact acts as agent.

1.8 **Compact Agreement** - The Inter-Governmental Agreement of the Cape Light Compact, as in effect on July 31, 1998 and as may be amended from time to time.

1.9 **Counties** - Barnstable County and the County of Dukes County. In the singular, County shall refer to either of the two Counties.

1.10 **Default Service** - As defined in G.L. c. 164, §1 and in orders of the Massachusetts Department of Telecommunications and Energy, as amended or promulgated, as the case may be, from time to time.

1.11 **Distribution Company** - The Commonwealth Electric Company, or any successor company(ies) or entity(ies) providing electricity distribution services in each Member Municipality.

1.12 **DTE** - The Massachusetts Department of Telecommunications and Energy, or any successor state agency.

1.13 **Eligible Consumer** - A residential, commercial, industrial, municipal, or other consumer of electricity who is receiving Default Service from the Distribution Company as of the Effective Date of this Agreement or any consumer who physically relocates into a Member Municipality and would be automatically enrolled to receive electric supply service under the Distribution's Company Default Service tariff. All Eligible Consumers must reside or be otherwise located at one or more locations within the geographic boundaries of a Member Municipality, as such boundaries exist on the Effective Date of this Agreement. Eligible Consumers shall not include those consumers who are on Standard Offer Service ("SOS") as of the Effective Date of this Agreement or thereafter. Additionally, consumers who may be temporarily switched to Default Service from SOS or switched to Default Service from competitive supply shall not be considered Eligible Consumers.

1.14 **Effective Date** - The effective date of this Agreement, pursuant to Article 4.2 below.

1.15 **Force Majeure** - Any cause not within the reasonable control of the affected Party which precludes that party from carrying out, in whole or in part, its obligations under this Agreement, including, but not limited to, Acts of God; winds; hurricanes; tornadoes; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes; lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any governmental authorities acting in their regulatory or judicial capacity, provided, however, that any such discretionary acts, failures to act or orders of any kind by the Compact or a Member Municipality may not be asserted as an event of *Force Majeure* by the Compact or a Member Municipality as the case may be; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil disturbances or explosions. Nothing in this provision is intended to excuse any Party from performing due to any governmental act, failure to act, or order, where it was

reasonably within such Party's power to prevent such act, failure to act, or order. Economic hardship of either Party shall not constitute an event of *Force Majeure*.

1.16 Governmental Authority - Any national, state or local government, independent system operator, regional transmission owner or operator, any political subdivision thereof or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity, excluding the Compact and all Member Municipalities.

1.17 Governmental Rule - Any law, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, or similar form of decision of any Governmental Authority having the effect and force of law.

1.18 ISO - The New England Independent System Operator, or such successor or other entity which oversees the integrated dispatch of power plants in New England and the bulk transmission of electricity throughout the New England power grid.

1.19 kWh, kW - Kilowatt-hour and kilowatts, respectively.

1.20 Member Municipalities - The twenty-one (21) towns and two (2) Counties which are presently members of the Cape Light Compact as of the Effective Date of this Agreement. The Member Municipalities include the following towns in Barnstable County: Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich, Truro, Wellfleet and Yarmouth, and the following towns in Dukes County: Aquinnah, Chilmark, Edgartown, Oak Bluffs, Tisbury and West Tisbury. The Compact acts as agent for the Member Municipalities as set forth in Article 2.2 below.

1.21 Participating Consumer - All Eligible Consumers, excluding those Eligible Consumers who exercise their ability to opt-out, whether prior to the automatic enrollment or anytime thereafter. A Participating Consumer who chooses to opt-out of the Pilot Project at any time is ineligible to become a Participating Consumer for one year.

1.22 Parties - The Compact and Supplier, as the context requires. In the singular, "Party" shall refer to any one of the preceding.

1.23 Pilot Project - The Default Service Pilot Project is a municipal aggregation program developed by the Compact pursuant to its Aggregation Plan and Aggregation Program to provide choice and savings for Eligible Customers through competitive supply. The DTE approved the non-price terms of the Pilot Project, as included in the Compact's August 15, 2001 filing, on October 23, 2001 in DTE 01-63 and on November 20, 2001 in DTE 01-63A (reconsideration).

1.24 Point of Delivery - The point of interconnection between NEPOOL Pool Transmission Facilities ("PTF") and the transmission facilities of the Distribution Company.

1.25 Point of Sale - The electric meter for each Participating Consumer's account, as designated by the Distribution Company.

1.26 **Restructuring Act** - Chapter 164 of the Massachusetts Acts of 1997.

1.27 **Supplier** – Mirant Americas Retail Energy Marketing, LP, a Delaware limited partnership, duly authorized to conduct business in the Commonwealth of Massachusetts.

ARTICLE 2 RIGHTS GRANTED

2.1 **General Description and Limitations** - The Supplier is hereby granted the exclusive right to provide All-Requirements Power Supply to Participating Consumers pursuant to the terms of the Compact's Pilot Project, expressly conditioned on the terms and conditions set forth in this Agreement. In accepting this grant, the Parties recognize that the Supplier is only authorized to supply All-Requirements Power Supply to Participating Consumers, and that the Distribution Company will continue to have the right and obligation to supply electricity to all Eligible Consumers or Participating Consumers who opt-out of the Pilot Project and remain on, or return to, Default Service, until changes in law, regulation or policy may allow otherwise. The Supplier further recognizes that this Agreement does not guarantee that any individual Eligible Consumer will be served by the Supplier. All existing and any new Eligible Consumers shall be automatically enrolled in the Pilot Project, unless they choose to opt-out. In the event the geographic boundaries of a Member Municipality change during the term of this Agreement, Supplier shall only be obligated to supply All-Requirements Service to those Participating Consumers located within such Member Municipality as such boundaries existed on the Effective Date of this Agreement. As between the Parties, the Supplier has the sole obligation of making appropriate arrangements with the Distribution Company, and any arrangements which may be necessary with the ISO so that Participating Consumers receive the electricity supplies to be delivered pursuant to this Agreement. The Compact specifically authorizes the Distribution Company to provide, and Supplier the right to obtain and utilize as required, twenty-four (24) months' of historic usage and billing data for each Participating Consumer in an electronic form. If further action is required by the Distribution Company to authorize Supplier to receive such historical energy consumption and billing data, the Compact agrees to use reasonable efforts, at Supplier's cost, to assist Supplier, if so requested by it, in obtaining such information for Participating Consumers, including, without limitation, assisting Supplier in obtaining permission from such Participating Consumers and/or the DTE, where necessary as a prerequisite to the provision of such information.

2.2 **Agency Relationship** - The Compact is authorized to act on behalf of the Member Municipalities in contracting for electric supply for Eligible Consumers. The Compact shall seek a resolution from each Member Municipality approving the Supplier as the opt-out competitive supplier for all Eligible Consumers subject to the terms of this Agreement. In any litigation arising under this Agreement, only the Compact has the right to bring claims against the Supplier.

2.3 **Compliance with Laws** - By entering into this Agreement, the Supplier specifically

represents that it has exercised due diligence to review and has fully complied with all relevant regulations and orders of the Federal Energy Regulatory Commission, the DTE, the Office of the Massachusetts Attorney General, and the Massachusetts Division of Energy Resources and any other governmental authorities having jurisdiction over any element of the transactions contemplated by this Agreement.

2.4 Condition Precedent - The Parties' obligations under this Agreement shall be conditioned upon the following events.

a) The Compact receiving approval of this Agreement including, without limitation, the pricing terms by the DTE prior to the close of business on December 1, 2003. If such approval by the DTE has not been obtained by the close of business on December 1, 2003, either Party may terminate this Agreement without any liability to the other Party.

b) The price offered by Supplier, as specified in Exhibit A, being lower than the Distribution Company's Default Service tariff rates for the period January 1, 2004 through June 30, 2004. If Supplier's price is not lower than the Distribution Company's Default Service tariff rates for such period, this Agreement shall automatically terminate on the date on which the Parties become aware of the Distribution Company's lower rates. In the event this Agreement automatically terminates as described above, Supplier and/or the Distribution Company shall promptly notify Participating Consumers that they will be transferred or returned to Default Service from the Distribution Company.

ARTICLE 3 CUSTOMER CHOICE, NOTIFICATION OF OPT-OUT RIGHTS, ENROLLMENT

3.1 Customer Choice - The Parties acknowledge and agree that all Participating Consumers have the right, pursuant to the Restructuring Act, to change their source of electricity supply. The Compact, or Participating Consumers, as the case may be, shall give reasonable notice of any such changes in accordance with the procedures established by the Compact, the Distribution Company and the Supplier pursuant to the terms of the Pilot Project. The Parties represent and warrant to each other that they shall not unreasonably interfere with the right of Participating Consumers to opt-out of the Pilot Project, and shall comply with any rules, regulations or policies of the DTE, the Distribution Company and/or other lawful Governmental Authority regarding the procedures for opting out or of switching from one source of electric supply to another. Notwithstanding the foregoing, however, the Parties may make certain efforts with the intent of seeking commercial and industrial customers to affirmatively agree to remain in the Pilot Project, consistent with any Governmental Rules.

3.2 Notification to Eligible Consumers of Opt-Out Rights - Consistent with the requirements of any Governmental Rules and following, in a timely fashion, approval by the DTE of this Agreement, the Supplier shall continue to notify all new Eligible Consumers who are automatically enrolled in Default Service that Supplier will be providing electrical supply to such new Eligible Consumers subject to the opt-out provisions of the Restructuring Act, the

Aggregation Plan and the Pilot Project. The opt-out notice shall be mailed to new Eligible Consumers shortly after the customer is auto-enrolled. The notification shall: (1) prominently state all charges to be made by the Supplier; (2) provide a summary of the price included in Exhibit A as well as fully disclose the prices and terms then being offered for Default Service by the Distribution Company; and (3) state how any new Eligible Consumer may opt-out of the Pilot Project after auto-enrollment and choose Default Service from the Distribution Company; and (4) state how all Participating Consumers will also have the right to opt-out at any time and return to Default Service or choose a new competitive supplier without paying a fee or penalty to Supplier. All such notices must be approved in advance by the Compact, such approval not to be unreasonably withheld. In providing the notifications set forth in this Article, and in otherwise conducting the activities in Article 3.3 below, neither the Supplier nor the Compact makes any warranty or representation, express or implied, about the accuracy of any data or other information provided to it by the Distribution Company and, accordingly, is not responsible for any errors or omissions in connection with the notification to new Eligible Consumers.

3.3 Auto-Enrollment - All new Eligible Consumers will be automatically enrolled in the Pilot Project at the price set forth in Exhibit A. Promptly upon approval of this Agreement by the DTE, the Compact shall notify the Distribution Company of such approval. Eligible Customers shall be auto-enrolled consistent with the existing auto-enroll procedures. In no event shall either Party be any way responsible for the accuracy or timeliness of any information provided by the Distribution Company or any omissions therein.

ARTICLE 4 TERM OF CONTRACT AND TERMINATION

4.1 Term - This Agreement and the rights granted under it to the Supplier shall terminate on December 31, 2004, unless (a) the Agreement is terminated or extended under the provisions of Article 4.3, or (b) the Agreement is terminated before such date under the provisions of Article 4.4.

4.2 Acceptance and Effective Date - This Agreement shall be effective and in full force upon execution by the Compact and the Supplier.

4.3 Automatic Termination and/or Extension -

A. If the Distribution Company's Default Service tariff rates for the period July 1, 2004 through December 31, 2004 are lower than the price offered by Supplier as specified in Exhibit A, this Agreement shall automatically terminate on June 30, 2004. In the event this Agreement automatically terminates as described above, Supplier and/or the Distribution Company shall promptly notify Participating Consumers that they will be transferred or returned to Default Service from the Distribution Company.

B. Provided that Supplier shall continue to offer a price at a discount to the Distribution Company's Default Service tariff rates, this Agreement may be extended one year beyond December 31, 2004 by mutual, written agreement of the Parties, further subject to the receipt of

any and all required regulatory approvals. Such new pricing terms shall be added to and replace Exhibit A as Exhibit A-2. Upon such extension, this Agreement shall continue to be in effect, and all provisions of the Agreement shall retain the same force and effect as before the extension, unless it is terminated by either Party pursuant to the provisions of Article 4.4 or until the date stated in such extension.

4.4 Events of Default - An "Event of Default" shall mean, with respect to a Party, the occurrence of any of the following:

(1) the failure to perform any material provision or condition of this Agreement if such failure is not remedied within thirty (30) days following written notice to do so by the other party; or

(2) the failure of the Supplier to provide or arrange for All-Requirements Power Supply to Participating Consumers, in the absence of *Force Majeure* or the Compact's failure to perform, provided that such failure is not the result of actions or non-actions by any transmission service provider, the Distribution Company, or the ISO, and further provided that in the case of such failure there shall be no cure period.

4.5 Termination Following an Event of Default - Either Party may terminate this Agreement, upon written notice to the other Party, following an Event of Default. The Parties shall each discharge by performance all obligations due to any other Party that arose up to the date of termination of the Agreement. Upon the effective date of termination of the Agreement, all rights and privileges granted to the Supplier shall cease, with the exception of the right to collect all monies due for services rendered to that date. If this Agreement is automatically terminated under Article 4.3(A), the Supplier shall not be liable to the Compact, the Member Municipalities or any Participating Consumers for any damages resulting from such termination including, without limitation, any costs incurred by the Compact to obtain a replacement supplier, if any. Notwithstanding the foregoing, if this Agreement is terminated pursuant to Article 4.4, Supplier's sole and exclusive liability shall be, any direct, actual costs for electric energy that any such Participating Consumers incur in excess of the prices established in this Agreement as a result of the termination of this Agreement on account of a breach by Supplier. The Compact shall cooperate with Supplier to the fullest extent reasonably possible to ensure that Supplier is not subjected to duplicative claims, arising out of Supplier's breach of its delivery obligations to such Participating Consumers and/or Member Municipalities. In addition, the Supplier shall pay the Compact's reasonable out-of-pocket costs, not to exceed ninety thousand dollars (\$90,000), in obtaining or seeking to obtain a replacement supplier in the event this Agreement is terminated under Article 4.4. Upon request, the Compact shall provide reasonably detailed documentation to Supplier to support the costs incurred by the Compact to obtain a replacement supplier. Notwithstanding the foregoing, Mirant specifically reserves all rights it may have at law to claim that the Compact and/or Member Municipalities have no standing or otherwise lack the authority to seek monetary damages on behalf of individual Participating Consumers in the event of a termination of this Agreement.

4.6 Bankruptcy - THE COMPACT ACKNOWLEDGES THAT ON JULY 14, 2003, SUPPLIER FILED A VOLUNTARY PETITION FOR RELIEF UNDER CHAPTER 11 OF THE

UNITED STATES BANKRUPTCY CODE (CASE NO. 03-46590) (THE "FILING") AND THAT SUCH CASE IS PENDING IN THE UNITED STATES BANKRUPTCY COURT, NORTHERN DISTRICT OF TEXAS, FORT WORTH DIVISION ("BANKRUPTCY COURT"). UNTIL SUCH TIME AS SUPPLIER EMERGES FROM CHAPTER 11 BANKRUPTCY THROUGH THE CONFIRMATION OF A PLAN OF REORGANIZATION, THE FILING SHALL NOT CONSTITUTE AN EVENT OF DEFAULT UNDER THIS AGREEMENT; PROVIDED, HOWEVER, THAT IN THE EVENT THAT (A) SUPPLIER FILES A MOTION WHICH CONTEMPLATES THE SALE OF SUBSTANTIALLY ALL OF ITS ASSETS; (B) SUPPLIER FILES A CHAPTER 11 PLAN WHICH CONTEMPLATES THE SALE OF SUBSTANTIALLY ALL OF ITS ASSETS; (C) SUPPLIER FILES A MOTION OR REQUEST TO CONVERT ITS CHAPTER 11 CASE TO A CHAPTER 7 PROCEEDING; (D) THE BANKRUPTCY COURT ENTERS AN ORDER CONVERTING SUPPLIER'S CASE FROM A CHAPTER 11 PROCEEDING TO A CHAPTER 7 PROCEEDING; OR (E) THE BANKRUPTCY COURT ENTERS AN ORDER APPOINTING A TRUSTEE OR EXAMINER (WITH EXPANDED POWERS) IN SUPPLIER'S BANKRUPTCY CASE, ANY SUCH EVENT (A) THROUGH (E) SHALL CONSTITUTE AN EVENT OF DEFAULT UNDER THIS AGREEMENT.

4.7 Supplier Representation Regarding Bankruptcy Matters - Supplier believes that it has the full right and authority to enter into this Agreement without further approval of the Bankruptcy Court. However, if this Agreement requires approval, in Supplier's reasonable opinion, by the creditors' and equity committees and/or the Bankruptcy Court, neither Party will be bound under this Agreement until Supplier has obtained such approvals; and further, Supplier agrees to promptly seek such approvals if required or if Supplier's ability to enter into this Agreement without such approvals is challenged by a third party including, but not limited to, the DTE or any party to any proceedings regarding this Agreement. Each of Supplier and the Compact reserves the right to request the Bankruptcy Court approval.

ARTICLE 5 CONTINUING COVENANTS

The Supplier agrees and covenants to perform each of the following obligations during the term of this Agreement.

5.1 Standards of Management and Operations - In performing its obligations hereunder, during the term of this Agreement, the Supplier shall exercise reasonable care to assure that its facilities are prudently and efficiently managed; that it employs an adequate number of competently trained and experienced personnel to carry out its responsibilities; that it delivers a safe and reliable supply of such amounts of electricity to the Point of Delivery as are required under this Agreement; that it complies with all relevant industry standards and practices for the generation and supply of electricity to Participating Consumers; and that, at all times with respect to Participating Consumers, it exercises the highest commercial standards and employs Commercially Reasonable skills, systems and methods available to it. To the extent Supplier or its affiliates owns or controls the Canal generating facility, the Supplier shall ensure that the Canal generating facility conforms with all Governmental Rules related to emissions. In the

event Supplier's affiliate is allegedly in violation of any Governmental Rules related to emissions, the Compact shall have the right to terminate this Agreement, provided, however, the Compact's termination right shall be suspended during the time period Supplier's affiliate is defending, in good faith, any alleged violations. If the alleged violation has not been resolved within six months from the initial report of the violation, the Compact's termination right shall be reinstated. If the Compact exercises its termination right pursuant to this Article 5.1, the Supplier shall not be liable to the Compact or the Member Municipalities for any damages resulting from such termination.

5.2 Local Customer Service Access - The Supplier agrees to provide, or cause to be provided, certain customer services to Participating Consumers. Such services shall be reasonably accessible to all Participating Consumers, shall be available during normal working hours, shall allow Participating Consumers to transact business they may have with the Supplier, and shall serve as a communications liaison among the Supplier, the Compact, and the Distribution Company. A toll-free telephone number will be available for Participating Consumers to contact Supplier to resolve concerns, answer questions and transact business with respect to the service received from Supplier. The customer services described above shall commence January 1, 2004 and shall continue for a period of ninety (90) days following the termination of this Agreement.

5.3 Responding to Requests for Information - To the extent authorized by the Participating Consumer(s) and to the extent such individual permission is required by law, the Supplier shall, during normal business hours, respond promptly and without charge therefore to reasonable requests of the Compact for information or explanation regarding the matters covered by this Agreement and the supply of electricity to Participating Consumers. The Supplier agrees to designate a service representative or representatives (the "Service Contacts") who shall be available for these purposes, and shall identify the office address and telephone number of such representative(s). Whenever necessary to comply with this Article 5.3, the service representative(s) shall call upon other employees or agents of the Supplier to obtain such information or explanation as may be reasonably requested. Nothing in this Article 5.3 shall be interpreted as limiting the obligation of the Supplier to respond to complaints or inquiries from Participating Consumers, or to comply with any regulation of the DTE or Attorney General regarding customer service.

5.4 Arranging for Firm All-Requirements Power Supply - The Supplier shall participate in or make appropriate arrangements with the ISO, any relevant regional transmission organization, wholesale suppliers or any other entity to ensure an uninterrupted flow of reliable, safe, firm, All-Requirements Power Supply to the Distribution Company for delivery to Participating Consumers, and take Commercially Reasonable steps to cooperate with the New England Power Pool ("NEPOOL"), the ISO or any other entity to ensure a source of back-up power in the event that the facilities owned or controlled by Supplier's affiliates or other sources of power supply are unable to generate and/or deliver All-Requirements Power Supply to the Point of Delivery. In the event the Supplier is unable to deliver sufficient electricity to the grid to serve Participating Consumers, the Supplier shall utilize such arrangements as may be necessary to continue to serve Participating Consumers under the terms of this Agreement, and shall bear

any costs it may incur in carrying out these obligations. The Supplier shall not be responsible to the Compact, any Member Municipality or any Participating Consumers in the event the Distribution Company disconnects, curtails or reduces service to Participating Consumers (notwithstanding whether such disconnection is directed by the ISO) in order to facilitate construction, installation, maintenance, repair, replacement or inspection of any of the Distribution Company's facilities, to maintain the safety and reliability of the Distribution Company's electrical system, or due to any other reason, including emergencies, forced outages, potential overloading of the Distribution Company's transmission and/or distribution circuits, *Force Majeure* or the non-payment of any distribution service costs or other such costs due for services provided by the Distribution Company to a Participating Consumer.

5.5 Non-Discriminatory Provision of Service - Subject to the prices and terms contained in Exhibit A, Supplier shall deliver electricity on a non-discriminatory basis; provided, however, that prices and other terms may vary in accordance with reasonably established classes of customers (e.g., residential, commercial, municipal, industrial) or by such other categories as appear in Exhibit A. To the extent applicable, the Supplier's prices, terms and conditions shall be in accordance with the Massachusetts General Laws; the regulations of the DTE, and other applicable Governmental Rules. To the extent required by any Governmental Rule and/or the conditions of any DTE approval of this Agreement, the Supplier may not deny service to an Eligible Consumer for failure to pay the bills of any other electric company (whether engaged in the distribution, transmission, or generation of electricity) or of any other aggregator, marketer or broker of electricity, but may reasonably deny or condition service, or terminate existing service, based upon any Participating Consumer's failure to pay bills from the Supplier, subject to any Governmental Rules. Provision of electric energy supply shall be subject to Supplier's standard credit policies (to the extent permitted by law) as described in Exhibit A.

5.6 Energy Efficiency and Renewable Energy Programs - The Parties have a mutual interest in advancing the utilization of demand-side management, energy efficiency programs and technology, and renewable energy programs. The Supplier, upon reasonable request of the Compact, shall cooperate with the Compact regarding the implementation of such programs. At no time will Supplier take any actions with the intention of materially adversely affecting the operations of any of these programs. Supplier will use Commercially Reasonable efforts to identify any actions which might have a material adverse effect on the implementation of any programs involving demand-side management, energy efficiency and renewable energy and will use Commercially Reasonable efforts to consult with the Compact prior to taking such actions.

5.7 Approval of General Communications - The Supplier shall cooperate with the Compact in the drafting and sending of messages and information to Eligible Consumers and/or Participating Consumers concerning the Compact or any matter arising under or related to this Agreement. The Supplier shall, prior to sending any direct mail, advertising, solicitation, bill insert, electronic mail, or other similar written or electronic communication (collectively, "general communications") to Participating Consumers (but excluding individually drafted or tailored communications responding to the specific complaint or circumstance of an individual consumer), provide a copy of such general communication to the Compact for its review to determine whether it is consistent with the purposes and goals of the Compact. The Compact

shall have the right to disapprove such general communications and suggest revisions if it finds the communication inconsistent with the purposes and goals of the Compact, factually inaccurate or likely to mislead; provided, however: (i) that the communication shall be deemed approved if the Compact fails to respond within seven calendar days (not including weekends and holidays); and (ii) that no approval shall be necessary for any communication (a) regarding any emergency situation involving any risk to the public health, safety or welfare; (b) which has been approved by the DTE, the Division of Energy Resources, or any other Governmental Authority; or (c) in the nature of routine monthly or periodic bills, or collection notices, except that any bill insert or message included at the bottom of such bill not within the scope of (a) or (b) above shall require approval. If the Compact disapproves any general communication on the grounds it is inconsistent with the purposes and goals of the Compact, the Supplier, after consultation as provided in this Article 5.7, may nevertheless elect to send such general communication provided that it: (i) clearly indicates on such mailing that it has not been endorsed by the Member Municipality and/or the Compact, (ii) has previously provided all Participating Consumers a meaningful chance to opt not to receive such general communications, (iii) has stated in connection with such chance to opt not to receive such communications that "the Compact and the Member Municipalities want to protect Consumers from receiving marketing materials if you do not wish to do so," and (iv) has otherwise sought input from the Compact as to the means by which Consumers are given a chance to remove their names from any list which may receive general communications.

5.8 Bill Inserts and Messages - The Supplier agrees that if it bills or communicates with Participating Consumers directly, and unless prevented for regulatory or other such reasons from doing so, it shall allow the Compact to include no less than three bill inserts per year into such billings, provided that the Compact pays the cost of printing and reproducing such insert and any incremental postage or handling costs the Supplier may incur as a result of including such insert. The Supplier further agrees that it shall, at its direct cost, if any, and to the extent that it does not conflict with planned use of any message space by the Supplier, provide the Compact access to any message space on any bills the Supplier sends to Participating Consumers, to the extent any bills it sends directly or indirectly through the Distribution Company or other entity contain a bill message space under the control of the Supplier. Supplier shall have the right to disapprove such general communications (that is communications other than those pertaining to the Compact's demand-side management, energy efficiency programs and technology, and renewable energy programs) and suggest revisions if it finds the communication inconsistent with its business interests, factually inaccurate or likely to mislead; provided, however: (i) that the communication shall be deemed approved if the Supplier fails to respond within seven calendar days (not including weekends and holidays); and (ii) that no approval shall be necessary for any communication which has been ordered by the DTE, the Division of Energy Resources, or any other Governmental Authority to be so communicated.

5.9 Consumer Lists - To the extent not prohibited by any Governmental Rule or expressly by any Participating Consumer(s), the Supplier shall, upon request of the Compact, provide a list of the Participating Consumers being served by the Supplier, including such reasonable identifying and aggregate consumption information as the Compact may also request to the extent such information is available to Supplier. The Supplier shall provide such consumer lists

in an electronic format reasonably acceptable to both Parties and with no more frequency than once a month.

5.10 Compliance with Laws - The Parties shall promptly and fully comply with all existing and future Governmental Rules of all Governmental Authorities having jurisdiction over the activities covered by this Agreement.

5.11 Consent - Whenever performance of an obligation of any Party hereto requires the consent or approval of any Governmental Authority, such Party shall make Commercially Reasonable efforts to obtain such consent or approval. In the event the Supplier requests the Compact's assistance in obtaining such consent or approval and the Compact anticipates that it (and/or the Member Municipalities) will incur costs in fulfilling the Supplier's request, it shall give the Supplier an estimate of such costs. Upon receiving the estimate, Supplier shall determine if it continues to request the Compact's assistance, and if so, the Supplier shall reimburse the Compact and/or the Member Municipalities for all costs, up to the estimated dollar amount, reasonably incurred by the Compact and/or Member Municipalities in connection with such efforts.

ARTICLE 6 ROLES OF THE COMPACT AND THE MEMBER MUNICIPALITIES

6.1 In General - Under this Agreement, neither the Compact nor the Member Municipalities (except as they or entities under their control are Participating Consumers) shall actually receive, take title to, or be liable for the supply or delivery of All-Requirements Power Supply in any manner whatsoever. The Parties specifically agree that the role of the Compact is to a) set the terms and conditions under which All-Requirements Power Supply will be provided by the Supplier under this Agreement and to ensure that the Supplier complies with those terms and conditions, and b) act as agent for the Member Municipalities with respect to the matters addressed in this Agreement. It is the sole obligation of the Supplier to arrange for delivery of All-Requirements Power Supply to Participating Consumers. The Parties agree that neither the Compact nor the Member Municipalities are "aggregators," "distribution companies," "electric companies," "generation companies" or "transmission companies" within the meaning of G.L. c. 164, §1 as a result of this Agreement, unless a court, the DTE, or other lawful authority shall adjudicate to the contrary; provided, however, that the Member Municipalities and the Compact may be considered to be operating a municipal load aggregation program pursuant to G.L. c. 164, §134. The Supplier hereby agrees that it will take no action that would make the Compact or the Member Municipalities liable to any Eligible or Participating Consumer due to any act or failure to act on the part of the Supplier relating to the delivery or supply of All-Requirements Power Supply.

ARTICLE 7 PRICES AND SERVICES; BILLING

7.1 Schedule of Prices and Terms - The Supplier agrees to provide All-Requirements Power Supply and other related services as expressly set forth herein in accordance with the price included in Exhibit A to this Agreement, which Exhibit is hereby incorporated by reference into this Agreement.

7.2 Obligation to Serve - As between the Parties, the Supplier has the sole obligation to obtain sources of supply, whether from generating facilities owned or controlled by its affiliates, through bilateral transactions, or the market, as may be necessary to provide All-Requirements Power Supply for all of the Participating Consumers under the Pilot Project. The Supplier shall make appropriate arrangements to obtain such capacity, electrical energy, and ancillary services for load-following purposes, including, but not limited to, spinning reserves, supplemental reserves, backup supplies and services as may be needed in the event of outages or emergencies, and all other ancillary services as necessary to provide a firm, reliable, and safe All-Requirements Power Supply for Participating Consumers to the Point of Delivery. The Supplier, except as explicitly limited by the terms included in Exhibit A, shall be obligated to accept all Eligible Consumers who become participants in the Compact's Pilot Project, subject to the terms of any approval or other order of the DTE with respect to this Agreement.

7.3 Metering and Billing - As between the Parties, the Supplier bears sole responsibility for any metering which may be required to bill Participating Consumers, and for rendering of any bills to Participating Consumers. Supplier may discharge this obligation by making appropriate arrangements with the Distribution Company or any other entity. Any metering and billing functions carried out by the Supplier shall be conducted in compliance with relevant rules and regulations of the DTE and the Attorney General of the Commonwealth.

7.4 Standard Terms and Conditions Pertaining to Individual Account Service -

A. Title

Title to All-Requirements Power Supply will transfer from Supplier to Participating Consumers at the Point of Sale. Possession of, and risk of loss related to, All-Requirements Power Supply will transfer from Supplier to the Distribution Company at the Point of Delivery.

B. Term

Delivery of All-Requirements Power Supply will begin on the first meter reading date in January, 2004, as specified in Exhibit A, or as soon as necessary arrangements can be made with the Distribution Company thereafter and will end on the last meter reading date prior to the expiration or termination of this Agreement. Supplier has the right to request a "special" meter reading by the Distribution Company to initiate energy delivery and agrees to accept all costs (if any) for such meter reading.

C. Billing and Payment

Unless otherwise specified in an Exhibit to this Agreement, all billing under this Agreement shall be based on the meter readings of each Participating Consumer's meter performed by the Distribution Company. The Supplier shall, or shall cause the Distribution Company or any other entity to, prepare and mail bills to Participating Consumers monthly. If Supplier arranges for the Distribution Company to perform billing services, Supplier shall adopt the billing and payment terms offered by the Distribution Company to its Default Service customers unless the Supplier and Distribution Company otherwise agree. Supplier shall make such billing and payment terms available to Participating Consumers on its website.

D. Regional and Local Transmission

The prices quoted in Exhibit A do not include current and future charges for distribution service costs collected by the Distribution Company under its distribution service tariff. If in the future Supplier becomes responsible for distribution costs, Supplier shall be entitled to collect such costs from Participating Consumers to the extent permitted by any Governmental Rules. These costs are "pass through" costs as determined by the appropriate regulatory agencies.

E. Taxes

All sales, gross receipts, excise or similar taxes imposed with respect to the sale or consumption of All-Requirements Power Supply shall be included on the Participating Consumer's bill and shall be remitted to the appropriate taxing authority by Supplier. Participating Consumers shall be responsible for all taxes (except for taxes on Supplier's income) associated with sales of All-Requirements Power Supply under this Agreement. Supplier shall make available a service to provide Participating Consumers who are tax-exempt with an exemption from collection of any taxes, however such Participating Consumers shall be responsible for identifying and requesting any exemption from the collection of any tax by providing appropriate documentation to Supplier.

F. Material and Adverse Change in Law or Regulation

If at any time during the term of this Agreement (i) a final and unappealable Governmental Rule is instituted, repealed, revised or changed or any other similar unanticipated change in circumstance of a significant magnitude and beyond the reasonable control of the Parties occurs and (ii) such event results in a substantial and material adverse economic impact to the Compact, any Member Municipality or Supplier under this Agreement such that, directly as a result of such Governmental Rule the affected party expects to incur a loss in continuing performance under this Agreement for the remaining term thereof, then the affected party may, upon written notice to the others, invoke this Article 7.4(F) as a basis for immediately initiating good faith negotiations to amend the affected terms of this Agreement. The Parties will negotiate to balance the disparity caused by the event and to restore to the Parties, to the greatest extent possible, the benefit of their respective bargains on the Effective Date. If the Parties are unable to agree on any amendment to this Agreement, any Party may terminate this Agreement, subject to any applicable regulatory requirements and after providing sixty (60) days prior written notice to the DTE and the other Party, without any liability or responsibility except for obligations

arising prior to the date of termination and those obligations which expressly survive termination of this Agreement.

G. Limitation of Liability

Recognizing that electricity provided hereunder shall be ultimately delivered by the Distribution Company, to the extent permitted by law, Supplier shall not be liable for any damage to a Participating Consumer's equipment or facilities, or any economic losses, resulting directly or indirectly from any service interruption, power outage, voltage or amperage fluctuations, discontinuance of service, reversal of service, irregular service or similar problems beyond Supplier's reasonable control. TO THE EXTENT PERMITTED BY LAW, EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, SUPPLIER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED (INCLUDING WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE) WITH RESPECT TO THE PROVISION OF SERVICES AND ELECTRIC ENERGY HEREUNDER.

H. No Exemplary, Punitive, Special or Consequential Damages

THE PARTIES SHALL ONLY BE ENTITLED TO RECOVER ACTUAL DAMAGES FOR A BREACH OR VIOLATION OF THIS AGREEMENT. NO PARTY SHALL BE ENTITLED TO RECOVER EXEMPLARY, PUNITIVE, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES FROM THE OTHER PARTY IN ANY ARBITRATION PROCEEDING, COURT PROCEEDING, OR OTHERWISE, HOWEVER CAUSED, WHETHER BY A PARTY'S SOLE OR CONCURRENT NEGLIGENCE OR OTHERWISE, AND EACH PARTY HEREBY WAIVES ANY CLAIM OR RIGHT TO EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES HEREUNDER.

I. Consumer Credit Checks

Supplier agrees to comply with the requirements of 220 CMR 11.05(3)(d) regarding termination of service to residential customers. To the extent permitted by law, Supplier may, subsequent to the scheduled initiation of service, request access to a Participating Consumer's credit history and may request a security deposit from a non-residential Participating Consumer, in either case only if the Participating Consumer fails to make timely payments on two or more bills. No requested security deposit may exceed two months of actual bills. Supplier may terminate service to a non-residential Participating Consumer who fails to provide the security deposit amounts authorized by this paragraph.

J. EDI/EFT

Supplier will provide Electronic Funds Transfer ("EFT") as a payment option to Participating Consumers provided the Participating Consumer and Supplier can mutually access a common Value Added Network ("VAN") and provided further that Supplier is allowed to pass through the costs imposed by VAN providers or the provider of other electronic transmission vehicle. To the extent mutually agreed to by the Parties, Participating Consumers who use EFT as a payment method will receive a percentage discount determined by the Supplier.

ARTICLE 8 DEVELOPMENT OR OFFERING OF RENEWABLE ENERGY SOURCES

8.1 Compliance with Law - The Supplier hereby agrees that it will comply with the applicable provisions of G.L. c. 25A, §11F and any regulations, orders or policies adopted pursuant thereto.

ARTICLE 9 SERVICE PROTECTIONS FOR RESIDENTIAL CUSTOMERS

To the extent applicable, Supplier agrees that it shall comply with the provisions of 220 CMR Parts 25, 27, 28 and 29, any amendments thereto, and any code of conduct or policies the DTE may adopt in accordance with G.L. c. 164, §1F(7). The Supplier shall, on or before March 13, 2002, provide a written, detailed description of its billing and termination procedures, customer services, confidentiality and related practices and procedures for approval by the Compact (which approval shall not be unreasonably withheld). Such written description shall also include the Supplier's plans for maintaining "service quality standards," as that phrase is used in §1F(7); for complying with the "affirmative choice" requirements of §1F(7); and for handling customer complaints, including any arbitration procedures. If the Participating Consumer(s) so permit(s) to the extent such permission is required by law or the terms of any DTE order with respect to this Agreement, the Supplier agrees to provide notice to the Compact of any customer complaints received from a Participating Consumer, and to grant the Compact the right to participate in resolution of the dispute, to the extent permitted by DTE regulations and other applicable law. The failure to timely submit such written description, or the submission of practices and procedures which materially fail to comply with DTE regulations and policies, shall be deemed grounds for termination of this Agreement, at the discretion of the Compact after providing written notice of such failure to the Supplier and allowing the Supplier thirty days to cure such failure.

ARTICLE 10 NON-DISCRIMINATION IN HIRING AND EMPLOYMENT

The Supplier agrees to conduct its operations and activities under this Agreement in accordance with all applicable state and federal laws regarding non-discrimination in hiring and employment of employees.

ARTICLE 11 ACCESS TO INFORMATION

11.1 Power Supply Report - Supplier shall present a copy of the current "Disclosure Label" required by the DTE of all Competitive Suppliers to be disclosed to their customers which includes information pertaining to their power supply and a reasonably detailed description of the

sources of Supplier's power supply used to serve Participating Consumers pursuant to this Agreement, except to the extent such disclosure would violate any confidentiality obligations of Supplier.

11.2 Books and Records - The Supplier shall keep its books and records in accordance with any applicable regulations or guidelines of the DTE, the Federal Energy Regulatory Commission, and any other Governmental Authority. The Compact will have access to all reports mandated by the Securities and Exchange Commission which are available on the Internet "EDGAR" system.

11.3 Copies of Regulatory Reports and Filings - Upon reasonable request, the Supplier shall provide to the Compact a copy of each public periodic or incident-related report or record relating to this Agreement which it files with any Massachusetts or federal agency regulating rates, service, compliance with environmental laws, or compliance with affirmative action and equal opportunity requirements, unless the Supplier is required by law or regulation to keep such reports confidential from the other Parties. The Compact or any Member Municipality to whom the Compact has provided access shall treat any reports and/or filings received from Supplier as confidential information subject to the terms of Article 16. Supplier shall be reimbursed its reasonable costs of providing such copies.

ARTICLE 12 RESOLUTION OF DISPUTES; CHOICE OF LAW

12.1 Choice of Law - This Agreement and the rights of the Parties shall be interpreted and determined in accordance with the laws of the Commonwealth of Massachusetts.

12.2 Dispute Resolution - The Parties shall attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or validity hereof by negotiation between representatives who will have the authority to resolve the dispute. Any Party may give the other Party written notice of any dispute not resolved in the ordinary course of business. Within ten (10) days after delivery of such notice, the representatives shall attempt to meet at a mutually acceptable time and place to resolve the dispute. If such designated representatives are unable to resolve the dispute within thirty (30) days of receipt of notice of the dispute, either party may bring an action in any court in Suffolk County in the Commonwealth of Massachusetts. In any such judicial action, the "Prevailing Party" shall be entitled to payment from the opposing Party of its reasonable costs and fees, including, but not limited to, attorneys' fees, arising from the civil action. As used herein, the phrase "Prevailing Party" shall mean the Party who, in the reasonable discretion of the finder of fact, most substantially prevails in its claims or defenses in the civil action. Notwithstanding the preceding sentence, the costs and fees payable by the opposing Party shall not exceed an aggregate amount of \$250,000 for all civil actions arising under this Agreement.

ARTICLE 13 INDEMNIFICATION

13.1 Indemnification by Supplier - Subject to the limitation of damages in Article 7.4(H), Supplier shall indemnify, defend and hold harmless the Member Municipalities and the Compact (collectively "Indemnified Parties" and singularly "Indemnified Party") and each Indemnified Party's officers, employees, agents, representatives and independent contractors, from and against any and all costs, claims, liabilities, damages, expenses (including reasonable attorneys' fees), causes of action, suits or judgments, incurred by, on behalf of or involving any one of the foregoing parties to the extent arising, directly or indirectly, from or in connection with (i) any material breach by Supplier of its obligations, covenants, representations or warranties contained in this Agreement and not resulting from the actions and/or non-actions of the Distribution Company, the Compact or any Member Municipality or their employees or agents, or (ii) Supplier's actions or omissions taken or made in connection with Supplier's performance of this Agreement. Supplier further agrees, if requested by the Compact or any Member Municipality, to investigate, handle, respond to, and defend any such claim, demand, or suit at its own expense arising under this Article 13.1. Should Supplier defend any such claim against the Compact or any Member Municipality hereunder, it shall have full control of such defense, in its reasonable discretion.

13.2 Notice of Indemnification Claims - If the Compact seeks indemnification pursuant to this Article 13, it shall notify Supplier of the existence of a claim, or potential claim as soon as practicable after learning of such claim, or potential claim, describing with reasonable particularity the circumstances giving rise to such claim. Upon written acknowledgment by the Supplier that it will assume the defense and indemnification of such claim, the Supplier may assert any defenses which are or would otherwise be available to the Compact.

13.3 Survival - Notwithstanding any provision contained herein, the provisions of this Article 13 shall survive the termination of this Agreement for a period of three (3) years with respect to any claims which occurred or arose prior to such termination.

ARTICLE 14 REPRESENTATIONS AND WARRANTIES

14.1 Representations and Warranties -

A. As a material inducement to entering into this Agreement, the Supplier hereby represents and warrants to the Compact as of the Effective Date of this Agreement as follows:

(i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary for it to perform its obligations under this Agreement;

(ii) it has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this Agreement or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due;

(iii) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any Governmental Rule applicable to it;

(iv) subject to the conditions set forth in Article 2.4, this Agreement constitutes a legal, valid and binding obligation of the Supplier enforceable against it in accordance with its terms, and the Supplier has all rights such that it can and will perform its obligations to the Compact in conformance with the terms and conditions of this Agreement, subject to bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally and general principles of equity.

B. As a material inducement to entering into this Agreement, the Compact hereby represents and warrants to Supplier as of the effective date of this Agreement as follows:

(i) the Compact was formed by intergovernmental agreement in accordance with the laws of the Commonwealth of Massachusetts;

(ii) this Agreement will (subject to the Governmental approvals described in Article 2.4 above) constitute the legal, valid and binding obligation of the Compact enforceable in accordance with its terms;

(iii) the execution, delivery and performance of this Agreement are within the Compact's powers, have been or will be duly authorized by all necessary action and the Compact is the duly authorized agent of the Member Municipalities with respect to the matters addressed in this Agreement;

(iv) the Compact has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this Agreement or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and

(v) to the best of its knowledge, but without independent inquiry, no Bankruptcy is pending or threatened against any of the Member Municipalities.

C. Each Party further represents and warrants:

(i) The Parties have negotiated and entered into this post-petition Agreement in the ordinary courses of their respective businesses, in good faith, for fair consideration and on an arm's length basis; and

(ii) Neither Party shall attempt to effect any right of set-off with respect to this such post-petition Agreement and any pre-petition obligations.

ARTICLE 15 INSURANCE AND RESERVE FUND

15.1 Insurance - In order to help support the indemnifications provided in Article 13, and its other promises and covenants stated herein, Supplier shall secure and maintain, at its own expense, throughout the term of this Agreement, comprehensive commercial general liability insurance of at least \$5,000,000 combined single limit and excess liability coverage of at least \$5,000,000 with insurers and with the Compact and Member Municipalities named as additional insureds. Supplier shall provide the Compact with evidence, reasonably satisfactory to the Compact, of its insurance hereunder, upon request. The detailed terms of Supplier's insurance are set forth in Exhibit B attached hereto.

15.2 Reserve Fund - In order to ensure timely access to funds and: (a) provide the Compact with further financial security in the event Supplier declines to or otherwise fails to indemnify it pursuant to Article 13 and that the insurance coverage pursuant to Article 15.1 is unavailable or insufficient, and (b) provide the Compact with a special reserve fund ("Reserve Fund") to give further assurances that the Compact will be able to respond appropriately to any risks associated with this Agreement, Supplier agrees to collect on behalf of the Compact, one mill (\$.001) or such lesser number as the Compact may specify (including zero) for every kWh sold to Participating Consumers during calendar year 2004. Supplier shall remit to the Compact or its designee on a monthly basis, by electronic funds transfer or such other mutually acceptable method, the amounts due pursuant to this Article 15.2 and provide reasonable supporting documentation as to the total number of kWh sold in each preceding month upon which such payment is calculated.

Once paid to the Compact or its designee, Supplier shall have no further interest or claim in such Reserve Fund. The Compact may use the Reserve Fund to cover any costs, claims, liabilities, damages, expenses (including reasonable attorney's fees), causes of action, suits or judgments, incurred by or on behalf of the Compact or Member Municipalities. The Compact shall cause all funds collected for it by Supplier hereunder to be deposited in a dedicated, interest-bearing account and shall keep records of the receipts, expenditures and balance in such account which shall be provided on a quarterly basis to Supplier and any governmental agencies which may request such records. These records shall be a matter of public record pursuant to G.L. c. 4, §7, cl. 26 and G.L. c. 66, §10. To the extent there are funds remaining in the Reserve Fund at the expiration or termination of this Agreement (and after the running of any statute of limitations periods which the Compact may deem appropriate or prudent), the Compact may expend such funds and/or rebate them to Participating Consumers for any purpose as may be allowed by law and shall be determined in the sole reasonable discretion of the Compact's Governing Board.

ARTICLE 16 CONFIDENTIALITY

Supplier acknowledges that the Compact is subject to public records laws, including without limitation, G.L. c. 4, §7, cl. 26 and G.L. c. 66, §10. To the extent not prohibited by such laws, all Parties shall keep confidential, and shall not disseminate to any third party (other than such

Party's affiliates) or use for any other purpose (except with written authorization, such authorization not to be unreasonably withheld), any information received from the other that is confidential or proprietary in nature unless legally compelled (by deposition, inquiry, request for production of 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 Governmental Authority, or by requirements of any securities law or regulation or other Governmental Rule) or as necessary to enforce the terms of this Agreement. Either Party may disclose the terms of this Agreement to (i) its affiliates, and to its and their officers, directors, employees, attorneys and accountants, and (ii) the Member Municipalities, who are bound to hold, treat and protect such information on a confidential basis. This Article 16 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, such Party shall request that such disclosure be protected and maintained in confidence to the extent reasonable under the circumstances and use reasonable efforts to protect or limit disclosure with respect to commercially sensitive terms. In addition, notwithstanding the public records laws referenced above, such Party shall provide the other Party with prompt notice of the requirement to disclose confidential information in order to enable the other Party 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 resolve the scope of any required disclosure. In the event the Supplier requests the Compact's assistance in protecting the confidentiality of information and the Compact anticipates that it and/or the Member Municipalities will incur costs in fulfilling the Supplier's request, it shall give the Supplier an estimate of such costs. Upon receiving the estimate, Supplier shall determine if it continues to request the Compact's assistance, and if so, the Supplier shall reimburse the Compact and/or Member Municipalities for all costs, up to the estimated amount, reasonably incurred by the Compact and/or Member Municipalities in connection with such efforts.

For the avoidance of doubt, the information related to this Agreement that is considered confidential and proprietary in nature shall include the following:

- (i) any account information related to the Participating Consumers including, without limitation, historic usage data, metering, and billing and payment information;
- (ii) any information regarding transactions entered into by Supplier and any third parties in connection with the provision of All-Requirements Power Supply;
- (iii) any list of Participating Consumers;
- (iv) any information disclosed by a Party during any settlement discussions;
- (v) Supplier's insurance policies;
- (vi) any non-public information provided by Supplier pursuant to Section 15.2 of this Agreement; and
- (vii) any information which either Party should reasonably understand to be confidential and proprietary by virtue of the sensitive nature of the information.

ARTICLE 17

MISCELLANEOUS

17.1 No Assignment Without Permission - Neither Party shall assign its rights and privileges under this Agreement without the prior written approval of the other Party and such approval may be denied in the reasonable discretion of the non-assigning Party if it determines that the proposed assignee does not have at least the same financial ability as the assigning Party and, in the event of a proposed assignment by Supplier, that it does not meet the objectives as set forth in Article 1 of the Compact Agreement. Notwithstanding the foregoing, the Compact may not unreasonably withhold its consent to an assignment to an affiliated entity under common control or management with Supplier. Further, a sale of 50% or more of the interests of Supplier in this Agreement shall be considered an assignment if, and only if, such sale results in a change in the control and the management of Supplier's operation. Any assignee shall agree in writing to be bound by the terms and conditions of this Agreement. The rights and obligations created by this Agreement shall inure to the benefit of, and be binding upon, the successors and permitted assigns of, the respective Parties hereto.

17.2 Direct Marketing - Prior to the introduction of any new product or service which Supplier may wish to make available to Participating Consumers or other consumers located with a Member Municipality, Supplier agrees to (i) give the Compact written notice of such new product or service and (ii) subject to the entry into reasonable confidentiality terms to the extent permitted by law and mutually acceptable to the Parties, discuss with the Compact the possible inclusion of such new product or service in this or another aggregation program undertaken by the Compact and Member Municipalities in the geographic area encompassing the Member. The Parties agree to negotiate in good faith the terms, conditions, and prices for such products and services which the Parties agree should be included in a Compact aggregation program.

The Supplier also agrees not to engage in any direct marketing to any Participating Consumer that relies upon the Supplier's unique knowledge of, or access to, Participating Consumers (including addresses, telephone numbers or other identifying information) gained as a result of this Agreement, if so requested by such Participating Consumer as set forth in Article 5.7 hereof. For the purposes of this provision, "direct marketing" shall include any telephone call, mailing, electronic mail, or other contact between the Supplier and the Consumer. Broad-based programs of the Supplier that do not rely on unique knowledge or access gained through this Agreement will not constitute such "direct marketing." Supplier further expressly agrees not to sell, disclose or otherwise transfer identification or identifiable information about Participating Consumers (including addresses, telephone numbers or other identifying information) gained as a result of this Agreement except with the express permission of the Participating Consumer.

17.3 Notices - All notices, demands, requests, consents or other communications required or permitted to be given or made under this Agreement shall be in writing and

if to Supplier to:

Mirant Americas Retail Energy Marketing, LP

Attention: Legal Department
1155 Perimeter Center West, Suite 130
Atlanta, Georgia 30338

if to the Compact to:

Ms. Margaret T. Downey
Administrator
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, Massachusetts 02630
(508) 375-6636 (voice)
(508) 362-4136 (fax)
mags@cape.com

Notices hereunder shall be deemed properly served (i) by hand delivery, on the day and at the time on which delivered to the intended recipient at the address set forth in this Agreement; (ii) if sent by mail, on the third business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this Agreement; or (iii) if by Federal Express or other reputable express mail service, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this Agreement. Any party may change its address and contact person for the purposes of this Article 17.3 by giving notice thereof in the manner required herein.

17.4 Changes in Emergency and Service Contact Persons - In the event that the name or telephone number of any emergency or service contact for the Supplier changes, Supplier shall give prompt notice to the Compact in the manner set forth in Article 17.3. In the event that the name or telephone number of any such contact person for the Compact changes, prompt notice shall be given to the Supplier in the manner set forth in Article 17.3.

17.5 Entire Agreement; Amendments - This Agreement and the Related Documents, as set forth in Article 17.13, constitute the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. This Agreement may only be amended or modified by a written instrument signed by all Parties hereto.

17.6 Force Majeure - If by reason of *Force Majeure* any Party is unable to carry out, either in whole or in part, its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (i) the non-performing Party, within two (2) weeks after the occurrence of the *Force Majeure*, gives all other Parties hereto written notice describing the particulars of the occurrence; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the *Force Majeure*; (iii) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance

shall be excused as a result of the occurrence; and (iv) the non-performing Party shall use Commercially Reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations.

17.7 Expenses – Every Party hereto shall pay all expenses incurred by it in connection with its entering into this Agreement, including, without limitation, all attorneys' fees and expenses.

17.8 No Joint Venture - Supplier will perform all services under this Agreement as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Compact and the Supplier hereunder are individual and neither collective nor joint in nature.

17.9 Joint Workproduct - This Agreement shall be considered the workproduct of all Parties hereto, and, therefore, no rule of strict construction shall be applied against any Party hereto.

17.10 Counterparts - This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement.

17.11 Waiver - No waiver by any Party hereto of any one or more defaults by any other Party in the performance of any provision of this Agreement shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of any Party hereto to complain of any action or non-action on the part of any other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party(ies) so failing. A waiver of any of the provisions of this Agreement shall only be effective if made in writing and signed by the Party who is making such waiver.

17.12 Cooperation - Each Party acknowledges that this Agreement must be approved by the DTE and agree that they shall use Commercially Reasonable efforts to cooperate in seeking to secure such approval.

17.13 Related Documents - The Supplier agrees that it has been provided with and had a reasonable opportunity to read the Compact Agreement, the Aggregation Plan, the Participation Agreement between Barnstable County, Cape Light Compact, County of Dukes County and Vineyard Towns, and the Administrative Services Agreement between Barnstable County and Cape Light Compact, and the Pilot Project (collectively, "Related Documents"). The Parties agree that the Related Documents, in the forms as they exist on the Effective Date of this Agreement, are incorporated into this Agreement by reference, and that they shall be construed harmoniously to the greatest practicable extent; notwithstanding the foregoing, in the event of any conflict between this Agreement and the Related Documents, this Agreement shall govern. The Compact will provide Supplier with amendments to any of the foregoing documents as they are adopted; provided, however, that such amendments are not incorporated into this Agreement as a result of such adoption. Any amendments hereto must be made in accordance with Article 17.5 of this Agreement.

17.14 Advertising Limitations - The Supplier agrees not to use the name of the Cape Light Compact, or make any reference to the Cape Light Compact in any advertising or other information to be distributed publicly for marketing or educational purposes, unless the Compact expressly agrees to such usage. Any proposed use of the name of the Cape Light Compact must be submitted in writing for agreement and prior approval, which shall not be unreasonably withheld, consistent with Article 5.7 hereof. The Compact acknowledges that the Supplier's corporate affiliates own the exclusive right to the trademarked logo and trade name used by Supplier. No right, license or interest in this trademark and/or trade name is granted to the Compact hereunder, and the Compact agrees that it shall not assert any right, license or interest with respect to such trademark and/or trade name.

17.15 Press Releases - The Parties shall not issue a press release or make any public statement with respect to this Agreement without the prior written agreement of the other Party with respect to the form, substance and timing thereof, except either Party may make any such press release or public statement when the releasing Party is advised by its legal counsel that such a press release or public statement is required by law, regulation or stock exchange rules, provided however, in such event, the Parties shall use their reasonably good faith efforts to agree as to the form, substance and timing of such release or statement.

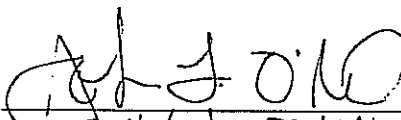
17.16 Headings and Captions - The headings and captions appearing in this Agreement are intended for reference only, and are not to be considered in construing this Agreement.

17.17 Survival of Obligations - Termination of this Agreement for any reason shall not relieve the Company or Supplier of any obligation accrued or accruing prior to such termination.

17.18 Duty to Mitigate - Each Party agrees that it has a duty to mitigate damages and covenants that it will use Commercially Reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written below.

MIRANT AMERICAS RETAIL ENERGY MARKETING, LP
BY: MIRANT AMERICAS DEVELOPMENT, INC.
ITS GENERAL PARTNER

By: 
Name: JOHN L. O'NEAL
Title: VP
Dated: October 14, 2003

CAPE LIGHT COMPACT

By: _____
Ms. Margaret T. Downey
Administrator
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, MA 02630
(508) 375-6636 (voice)
(508) 362-4166 (fax)
mags@cape.com

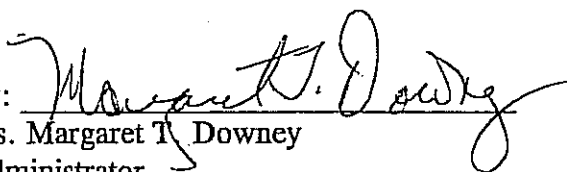
Dated: _____

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MIRANT AMERICAS RETAIL ENERGY MARKETING, LP
BY: MIRANT AMERICAS DEVELOPMENT, INC.
ITS GENERAL PARTNER

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Title: _____
Dated: _____

CAPE LIGHT COMPACT

By: 
Ms. Margaret T. Downey
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Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, MA 02630
(508) 375-6636 (voice)
(508) 362-4166 (fax)
mags@cape.com

Dated: 10/15/03

**EXHIBIT A
PRICES**

Pilot Project for Default Service Customers

******Residential****** ******Commercial/Industrial******
R-1, R-2 R-3, R-4, R-5 G-1 G-2, G-3 G-4, G-5, G-6, G-7 S1, S2

January 1, 2004 – December 31, 2004

5.751 cents per kilowatt hour for all rate classes

Note: The price of 5.751 includes a one mill (\$.001) adder, pursuant to the Compact's request, for the purpose of establishing a Reserve Fund pursuant to Section 15.2 of the Agreement. At the Compact's request, this adder may be reduced or eliminated.

EXHIBIT B INSURANCE

1. The Supplier shall maintain commercial general liability insurance throughout the term of the Agreement and for a period of at least two (2) years following the contract term.
2. The insurance may be provided on a claims made basis. In the event such insurance is cancelled or non-renewed, Supplier agrees to provide a 36 month discovery period endorsement for obligations under this Agreement.
3. The insurance shall include coverage for bodily injury liability, property damage liability, advertising injury liability and personal injury liability.
4. To the extent available at commercially reasonable terms and conditions, personal injury liability coverage shall include non-employment discrimination in accordance with AEGIS form 8100 (1/1/98).
5. To the extent available at commercially reasonable terms and conditions, the insurance shall include Failure to Supply coverage and such coverage shall be in accordance with AEGIS form 8100 (1/1/98).
6. The insurance shall include blanket contractual liability coverage, including the power supply agreement between Supplier and Cape Light Compact.
7. The limit of commercial general liability insurance shall be at least \$5 million each occurrence. Separate aggregate limits of \$5 million may be applicable to products and completed operations liability coverage and failure to supply liability coverage.
8. The Supplier shall maintain umbrella or excess liability insurance subject to a limit of at least \$5 million in addition to commercial general liability insurance policy limits.
9. Such liability insurance shall include Cape Light Compact and member municipalities as additional insureds, but only for obligations arising out of this agreement.
10. The policies shall be endorsed to require that such additional insureds receive at least 30-days notice of cancellation or non-renewal.
11. Such insurance shall contain a standard separation of insureds clause, whereby the actions of one insured will not negate coverage for another insured.
12. The Supplier shall provide Cape Light Compact with a certificate of insurance to evidence compliance with the requirements. Renewal certificates shall be provided automatically within 30 days of policy renewal throughout the term of the contract and two (2) years following the contract term.

Exhibit B

Letter dated October 15, 2003 of Mirant Americas Retail Energy Marketing, LP,
John L. O'Neal, Vice President and Chief Commercial Officer

October 15, 2003

Secretary Mary Cottrell
Department of Telecommunications and Energy
One South Station
Boston, MA 02110



Re: Support of the Cape Light Compact's proposed extension of its Municipal Aggregation Default Service Pilot Project and approval of the Pilot Electric Supply Agreement

Dear Secretary Cottrell:

Mirant Americas Retail Energy Marketing, LP ("Mirant") and the Cape Light Compact ("Compact") entered into a new Pilot Electric Supply Agreement dated October 15, 2003 (the "Agreement") whereby Mirant agreed to sell all requirements power supply to Default Service customers pursuant to a municipal aggregation program developed by the Compact to provide choice and savings for eligible customers through competitive supply (the "Pilot Project"). Notwithstanding the foregoing, the parties' obligations under the Agreement are expressly conditioned upon the Compact receiving approval of the Agreement from the Department of Telecommunications and Energy (the "DTE"). As the Pilot Project and previous Pilot Electric Supply Agreement will both expire on December 31, 2003, Mirant desires to express its strong support of the Compact's petition to extend the term of the Pilot Project through December 31, 2004 and to obtain approval of the new Agreement.

On July 14, 2003, Mirant and approximately seventy affiliated entities filed Chapter 11 proceedings in the United States Bankruptcy Court, Northern District of Texas, Fort Worth Division (Jointly Administered Case No. 03-46590-DML). As of early September 2003, the Debtor entities collectively possessed approximately \$855 million in unencumbered cash (with non-debtor affiliates possessing approximately \$255 million of additional unencumbered cash). The Debtors have moved to obtain secured debtor-in-possession financing in the amount of \$500 million, and the hearing on the motion is scheduled for October 15, 2003. The Bankruptcy Court has ruled that the Debtors are administratively solvent, and the Debtors are performing all of their obligations on a post-petition basis. Further, the Bankruptcy Court has entered an order authorizing the Debtors to continue to engage in trading activities.

Pursuant to the Agreement, Mirant is obligated to supply all requirements service to Default Service customers of Commonwealth Electric Company through December 31,

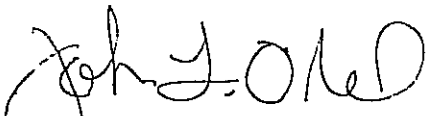
2004. Mirant fully intends to fulfill such supply obligations as well as the other obligations of the Agreement.

Sincerely,

Mirant Americas Retail Energy Marketing, LP

By: Mirant Americas Development, Inc.

Its General Partner

A handwritten signature in black ink, appearing to read "John L. O'Neal". The signature is stylized with a large, looped "J" and "O".

John L. O'Neal

Vice President and Chief Commercial Officer

COMPETITIVE ELECTRIC SUPPLY AGREEMENT

WHEREAS, the Massachusetts Legislature has adopted Chapter 164 of the Acts of 1997, (the "Restructuring Act"), which, *inter alia*, (1) allows for competition in the generation and supply of electricity to customers, (2) authorizes municipalities to aggregate the electrical load of electricity consumers within their boundaries, and (3) allows municipal aggregators to formulate an aggregation plan and conduct aggregation programs;

WHEREAS, all of the municipalities in Barnstable County and Dukes County have formed the Cape Light Compact ("Compact") and entered into an "Inter-Governmental Agreement of the Cape Light Compact" ("Compact Agreement"), for the purposes, *inter alia*, of acting as a municipal aggregator and negotiating the best rates for the supply of electricity to consumers located on Cape Cod and Martha's Vineyard;

WHEREAS, all twenty-one Barnstable County and Dukes County towns and the two counties presently belong to the Compact (the "Member Municipalities");

WHEREAS, Consolidated Edison Solutions, Inc., a New York corporation duly authorized to conduct business in the Commonwealth of Massachusetts ("Supplier"), desires to provide All-Requirements Power Supply to the Compact's Member Municipalities and to Consumers residing within the Member Municipalities under the Aggregation Plan, pursuant to the terms and conditions of this Agreement; and

WHEREAS, the Compact desires that Supplier provide competitive retail power supply to the Member Municipalities and Consumers.

NOW THEREFORE, IT IS AGREED THAT, the Compact and Supplier hereby enter into this Competitive Electric Supply Agreement ("Agreement") subject to the terms and conditions below.

ARTICLE 1 DEFINITIONS

When used in this Agreement, the following terms shall have the meanings given, unless a different meaning is expressed or clearly indicated by the context. Words defined in this Article 1 which are capitalized shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined herein shall be given their common and ordinary meanings.

1.1 **Aggregation Plan** - The "Cape Light Compact Aggregation Plan" as adopted or amended by the Compact, from time to time.

1.2 **Aggregation Program** - The Community Choice Power Supply Program, implemented under the Aggregation Plan.

1.3 **Agreement** - This Competitive Electric Supply Agreement.

1.4 **All-Requirements Power Supply** - Service under which Supplier provides all of the electrical energy, capacity, reserves, ancillary services, transmission service, transmission and distribution losses, congestion management, and such other services or products necessary for firm power supply to Consumers at the Point of Sale.

1.5 **Bankruptcy** - Bankruptcy means with respect to a Party that such Party (i) ceases doing business as a going concern, generally does not pay its debts as they become due or admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent, or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other Governmental Rule, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties, or makes an assignment for the benefit of creditors, or said Party takes any action to authorize or that is in contemplation of the actions set forth in this clause (i); or (ii) a proceeding is initiated against the Party seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other Governmental Rule and, such proceeding is not dismissed within ninety (90) days after the commencement, or any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties is appointed without the consent or acquiescence of said Party, and such appointment is not vacated or stayed on appeal or otherwise within ninety (90) days after the appointment, or, within ninety (90) days after the expiration of any such stay, has not been vacated, *provided that*, notwithstanding the foregoing, the exercise of rights to take over operation of a Party's assets, or to foreclose on any of a Party's assets, by a secured creditor of such Party (including the appointment of a receiver or other representative in connection with the exercise of such rights) shall not constitute a Bankruptcy.

1.6 **Commercially Reasonable** - Any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known, or which in the exercise of due diligence, should have been known, at the time the decision was made, would have been expected in the industry to accomplish the desired result consistent with reliability, safety, expedition, project economics and applicable law and regulations.

1.7 **Compact** - The Cape Light Compact, formed in October 1997, by an intergovernmental agreement under the Massachusetts General Laws and presently consisting of twenty-one (21) towns in Barnstable and Duke Counties and the two counties themselves for which the Compact acts as agent.

1.8 **Compact Agreement** - The Inter-Governmental Agreement of the Cape Light Compact, as in effect on July 31, 1998 and as may be amended from time to time.

1.9 **Consumers** - A residential, commercial, industrial, municipal, or other consumer of electricity who receives electric supply service through the Distribution Company's distribution

or transmission service from any supplier, at one or more locations within the geographic boundaries of a Member Municipality.

1.10 Counties - Barnstable County and the County of Dukes County. In the singular, "County" shall refer to either of the two Counties.

1.11 Distribution Company - The Commonwealth Electric Company (d/b/a NSTAR Electric), or any successor company(ies) or entity(ies) providing electricity distribution services in each Member Municipality.

1.12 DTE - The Massachusetts Department of Telecommunications and Energy, or any successor state agency.

1.13 Effective Date - The effective date of this Agreement, pursuant to Article 4 (Term of Contract and Termination) below.

1.14 Force Majeure - Any cause not within the reasonable control of the affected Party which precludes that Party from carrying out, in whole or in part, its obligations under this Agreement, including, but not limited to, Acts of God; winds; hurricanes; tornadoes; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes; lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any Governmental Authority acting in its regulatory or judicial capacity, provided, however, that any such discretionary acts, failures to act or orders of any kind by the Compact or a Member Municipality may not be asserted as an event of *Force Majeure* by the Compact or a Member Municipality as the case may be; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil disturbances or explosions. Nothing in this provision is intended to excuse any Party from performing due to any governmental act, failure to act, or order, where it was reasonably within such Party's power to prevent such act, failure to act, or order. Economic hardship of either Party shall not constitute an event of *Force Majeure*.

1.15 General Communications - The type of communications described and defined in Article 5.7 (General Communications) herein.

1.16 Governmental Authority - Any national, state or local government, independent system operator, regional transmission owner or operator, any political subdivision thereof or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity, excluding the Compact and all Member Municipalities.

1.17 Governmental Rule - Any law, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, or similar form of decision of any Governmental Authority having the effect and force of law.

1.18 Green Power - Electric energy generated by equipment or facilities including solar power, biomass, landfill gas, wind turbine, hydro power or other renewable energy generating

resource or technology, as may defined by G.L. c. 25A, §11F or G.L. c. 164, §1, or, that may be otherwise added by mutual agreement of the Parties.

1.19 **ISO** - The New England Independent System Operator, or such successor or other entity which oversees the integrated dispatch of power plants in New England and the bulk transmission of electricity throughout the New England power grid.

1.20 **kWh, kW** - Kilowatt-hour and kilowatts, respectively.

1.21 **Member Municipalities** - The twenty-one (21) towns and two (2) Counties which are presently members of the Cape Light Compact as of the Effective Date of this Agreement. The Member Municipalities include the following towns in Barnstable County: Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich, Truro, Wellfleet and Yarmouth, and the following towns in Dukes County: Aquinnah, Chilmark, Edgartown, Oak Bluffs, Tisbury and West Tisbury. The Compact acts as agent for the Member Municipalities as set forth in Article 2.2 (Agency Relationship) below.

1.22 **NEPOOL** - The New England Power Pool.

1.23 **Parties** - The Compact and Supplier, as the context requires. In the singular, "Party" shall refer to either of the preceding.

1.24 **Point of Delivery** - The point of interconnection between NEPOOL Pool Transmission Facilities and the transmission facilities of the Distribution Company.

1.25 **Point of Sale** - The electric meter(s) for each Consumer's account, as designated by the Distribution Company.

1.26 **Related Documents** - The Compact Agreement, the Aggregation Plan, and the Administrative Services Agreement between Barnstable County and the Compact.

1.27 **Reserve Fund** - The fund described in Article 15.3 (Reserve Fund) of this Agreement.

1.28 **Restructuring Act** - Chapter 164 of the Massachusetts Acts of 1997.

1.29 **Supplier** - Consolidated Edison Solutions, Inc, a New York corporation duly authorized to conduct business in the Commonwealth of Massachusetts.

ARTICLE 2 RIGHTS GRANTED

2.1 **General Description and Limitations** - Supplier is hereby granted the exclusive right to provide All-Requirements Power Supply to Consumers pursuant to the terms and conditions set forth in this Agreement. Supplier is hereby granted the right to provide All-Requirements Power Supply to Consumers pursuant to the terms of the Compact's Aggregation Plan and Aggregation Program, and expressly conditioned on the terms and conditions set forth in this Agreement. In

accepting this grant, the Parties recognize that Supplier is only authorized to supply All-Requirements Power Supply to Consumers, and that the Distribution Company presently has the right and obligation to distribute and deliver electricity to individual customers, until changes in law, regulation or policy may allow otherwise. Supplier further recognizes i) that it is only authorized by this Agreement to supply All-Requirements Power Supply to Consumers in the Member Municipalities; and ii) that this Agreement does not guarantee that any individual Consumer will be served by Supplier, except that the Compact agrees that, for Consumers for which the Compact has legal authority to choose a source of electricity supply (such as town buildings and facilities owned or operated by Member Municipalities or other municipal agencies, where applicable), it will maintain Supplier as its provider of electricity supply beginning on the Effective Date for the remaining term of this Agreement, subject to any existing obligation under contract. As between the Parties, Supplier has the sole obligation of making appropriate arrangements with the Distribution Company, and any arrangements which may be necessary with the ISO so that Consumers receive the electricity supplies to be delivered pursuant to this Agreement. The Compact specifically authorizes the Distribution Company to provide, and Supplier the right to obtain and utilize as required, all billing and energy consumption information for Member Municipalities' accounts that are reasonably available from the Distribution Company. If further action is required by the Distribution Company to authorize Supplier to receive such historical energy consumption and billing data, the Compact agrees to use reasonable efforts, at Supplier's cost, to assist Supplier, if so requested by it, in obtaining such information; and with respect to Consumers, including, without limitation, assisting Supplier, at Supplier's cost, in obtaining permission from such Consumers and/or the DTE, where necessary as a prerequisite to the provision of such information.

Notwithstanding the foregoing paragraph or anything else in this Agreement to the contrary, the Member Municipalities may construct, directly or in jointly with others, Green Power projects located within their boundaries.

2.2 Agency Relationship - The Compact is authorized to act on behalf of the Member Municipalities in contracting for electric supply for such Member Municipalities. In any litigation arising under this Agreement, both the Compact and one or more Member Municipalities (acting individually or jointly) have the right to bring claims against Supplier.

2.3 Compliance with Laws - By entering into this Agreement, Supplier specifically represents that it has exercised due diligence to review and has fully complied with all relevant regulations and orders of the Federal Energy Regulatory Commission, the DTE, the Attorney General of the Commonwealth, and the Massachusetts Division of Energy Resources and any other Governmental Authority having jurisdiction over any element of the transactions contemplated by this Agreement.

2.4 Further Conditions and Limitations - The Compact and the Member Municipalities expressly reserve the right to adopt such local bylaws, ordinances, rules, regulations and policies as they may deem necessary in the exercise of their governmental powers, and nothing in this Agreement shall be interpreted as limiting the governmental powers of the Compact or of the Member Municipalities as may be granted by law.

2.5 Conditions Precedent -

The obligations of the Compact under this Agreement shall be conditioned upon Supplier fulfilling the following requirements:

- (i) obtaining a license from the DTE to become a Competitive Supplier (as such term is defined in the Distribution's Company's Terms and Conditions - Competitive Suppliers);
- (ii) executing a Competitive Electric Supplier Service Agreement with the Distribution Company in a form reasonably satisfactory to Supplier;
- (iii) executing all appropriate ISO applications and agreements;
- (iv) obtaining authorization from the FERC to sell power at market-based rates.

If Supplier has not fulfilled all such requirements by October 1, 2004, any Party may terminate this Agreement without any liability to the other Parties.

2.6 Ownership and Use of Consumer Data - Supplier acknowledges that the Compact shall have exclusive ownership of all right, title and interest in and to all Consumer data (including addresses, telephone numbers or other identifying information) made available to Supplier as a result of execution of this Agreement. Supplier shall use Consumer data solely to provide All-Requirements Power Supply to Consumers and to render other services expressly required or permitted under this Agreement. Any other use of Consumer data without the prior written consent of the Compact is strictly prohibited. Except as expressly provided in this Agreement, Supplier shall not disclose any Consumer data to any third-party and Supplier shall take all reasonable measures to protect Consumer data from access by, or beneficial use, for any third-party. To the extent that the provision of All-Requirements Power Supply or other services under this Agreement requires that Supplier have access to or make use of any Consumer data, Supplier treat such Consumer data as confidential information. Supplier may use Consumer data to engage in direct marketing only during the term of this Agreement and subject to the terms forth in Article 17.2 (Direct Marketing). A violation of this Article 2.6 shall be grounds for termination under Article 4.2(1). Supplier agrees violation of this Article 2.6 shall constitute irreparable harm.

ARTICLE 3 CUSTOMER CHOICE NOTIFICATION OF RIGHTS; ENROLLMENT

3.1 Customer Choice - The Parties acknowledge and agree that, subject to existing Agreements, all Consumers have the right, pursuant to the Restructuring Act, to change their source of electricity supply, as set forth in Article 2.1 (General Description and Limitations) of this Agreement. The Member Municipalities, the Compact, or Consumers, as the case may be, shall give reasonable notice of any such changes in accordance with any terms formulated by the DTE or as included in Exhibit A and the Aggregation Plan. The Parties represent and warrant to

each other that they shall not unreasonably interfere with the right of Consumers to opt out, and shall comply with any rules, regulations or policies of the DTE or other lawful authority regarding the process of opting out or of switching from one source of electric supply to another; provided, however, that the Compact agrees that the Member Municipalities will not switch their source of generation supply from Supplier during the term of this Agreement, for uses over which they exercise legal control.

3.2 Notification of Rights - Consistent with the requirements of law, and following in a timely fashion approval by the DTE of this Agreement, the Compact, with the assistance of Supplier shall notify all Consumers in the Member Municipalities of the date upon which they will be automatically enrolled in the Aggregation Program, and that Supplier will be providing electrical supply to Consumers subject to the opt-out provisions of the Restructuring Act, the Aggregation Plan and Aggregation Program, and Exhibit A. The Compact, in its discretion as to form and content but subject to any required DTE approval, shall: (1) prominently state all charges to be made by Supplier; (2) provide a summary of the prices and terms included in Exhibit A as well as fully disclose the prices and terms then being offered for Standard Offer service by the Distribution Company; and (3) state how the Consumer may gain access to Standard Offer service, and that any ratepayer qualified for Standard Offer service choosing to opt-out within one hundred eighty (180) days after automatic enrollment may do so without penalty and be entitled to return to Standard Offer service. All such notices must be approved in advance by Supplier, such approval not to be unreasonably withheld.

3.3 Enrollment - All Consumers receiving Standard Offer or Default Service will be automatically enrolled in the Aggregation Program under the terms of Exhibit A. This enrollment shall be administratively arranged by Supplier and the Distribution Company with the cooperation and reasonable support from the Compact by identifying all Standard Offer and Default Service Consumers within the Member Municipalities and verifying any required meter and customer codes. The Parties shall work together with the Distribution Company to develop procedures with the objective of automatically enrolling Consumers at the close of the monthly billing cycle in the month of introduction of their respective customer group(s), according to the schedule in Exhibit A, and whereby new Consumers will be added to and Consumers who opt out dropped from the Aggregation Program.

At any time during the term of this Agreement, Consumers who have previously opted out or who relocate to or within the Member Municipalities shall have the right to receive electrical supply from Supplier, subject to the prices and terms in Exhibit A. Besides accurately and promptly transmitting information provided by such Consumers to the Distribution Company and following any procedural or other such steps which may be mutually agreed to, Supplier shall have no obligation to effect adds and drops at Consumer's request, such processing being the responsibility of the Distribution Company.

In addition, each consumer being served under other competitive supply programs offered by the Compact will be automatically enrolled as a Consumer under this Agreement when such program terminates or is otherwise completed. Consumers enrolled in competitive supply programs offered by third-parties will not be automatically enrolled as Consumers under this

Agreement when such program terminates or is otherwise completed. Supplier agrees that consumers under such third-parties competitive supply programs may affirmatively opt-in and receive All-Requirements Power Supply hereunder. Supplier agrees that when such third-party competitive supply programs terminate, Supplier will negotiate with the Compact in good faith to include consumers that had been enrolled in other programs as Consumers under this Agreement.

ARTICLE 4 TERM OF CONTRACT AND TERMINATION

4.1 Term - This Agreement and the rights granted under it to Supplier shall commence on January 1, 2005 (the "Effective Date") and terminate on December 31, 2005, unless the Agreement is terminated before such date under the provisions of Article 4.2 (Termination).

4.2 Termination - This Agreement may be terminated at any time upon written notice:

(1) by the Compact (acting on behalf of all Member Municipalities or acting on behalf of one or more Member Municipalities), or Supplier, if either Party fails to remedy or cure any breach or default of any material provision or condition of this Agreement (including, but not limited to, Article 9 and Article 2.6) within sixty (60) days following written notice to do so by the nonbreaching Party;

(2) by the Compact (acting on behalf of all Member Municipalities or acting on behalf of one or more Member Municipalities), or Supplier, if any material provision or condition of this Agreement be finally adjudged invalid by any court of competent jurisdiction, or if the DTE exercises any lawful jurisdiction so as to invalidate or disapprove this Agreement in whole or in significant part; or

(3) notwithstanding the foregoing, the failure of Supplier to provide or arrange for All-Requirements Power Supply to Consumers, in the absence of *Force Majeure* or the Compact failure to perform, shall constitute an act of default, and the Compact may terminate this Agreement upon the giving of written notice but without providing any cure period. In the event Supplier has performed its obligations hereunder and its failure to provide or arrange All-Requirements Power Supply is a direct result of actions or non-actions by any transmission service provider, the Distribution Company, or the ISO, Supplier's failure shall not be deemed an act of immediate default or

(4) by the Compact, in the event that the financial sureties and guaranties provided by Supplier in connection with this Agreement are revoked, terminated or otherwise fail.

4.3 Obligations upon Termination - Following termination of this Agreement, the Parties shall each discharge by performance all obligations due to any other Party that arose up to the date of termination of the Agreement. Upon the effective date of termination of the Agreement, all rights and privileges granted to Supplier shall cease, with the exception of the right to collect all monies due for services rendered to that date.

ARTICLE 5 CONTINUING COVENANTS

Supplier agrees and covenants to perform each of the following obligations during the term of this Agreement.

5.1 Standards of Management and Operations - In performing its obligations hereunder, during the term of this Agreement, Supplier shall exercise reasonable care to assure that its facilities are prudently and efficiently managed; that it employs an adequate number of competently trained and experienced personnel to carry out its responsibilities; that it delivers a safe and reliable supply of such amounts of electricity to the Point of Delivery as are required under this Agreement; that it complies with all relevant industry standards and practices for the generation and supply of electricity to Consumers; and that, at all times with respect to Consumers, it exercises the highest commercial standards and employs Commercially Reasonable skills, systems and methods available to it.

5.2 Local Customer Service Access - Supplier agrees to provide, or cause to be provided, certain customer services to Consumers. Such services shall be reasonably accessible to all Consumers, shall be available during normal working hours, shall allow Consumers to transact business they may have with Supplier, and shall serve as a communications liaison among Supplier, the Compact, Consumers and the Distribution Company. A toll-free telephone number will be established by and available for Consumers to contact Supplier to resolve concerns, answer questions and transact business with respect to the service received from Supplier. Such toll-free phone line shall be attended by service personnel during regular business hours (9:00 AM – 5:00 PM) and routed to a voice message after hours. Supplier and the Compact agree to develop an augmented schedule for staffing the customer service center during periods when All-Requirements Power Supply commences to a major Consumer class under the Aggregation Program. Supplier will also provide a link on its parent's website to a website which will be available to Consumers for general information, product and service information, and other purposes.

5.3 Responding to Requests for Information - To the extent authorized by the Consumers and to the extent such individual permission is required by law, Supplier shall, during normal business hours, respond promptly and without charge therefore to reasonable requests of the Compact for information or explanation regarding the matters covered by this Agreement and the supply of electricity to Consumers. Supplier agrees to designate a service representative or representatives (the "Service Contacts") who shall be available for these purposes, and shall identify the office address and telephone number of such representative(s). Whenever necessary to comply with this Article 5.3, the Service Contact Person shall call upon other employees or agents of Supplier to obtain such information or explanation as may be reasonably requested. Nothing in this Article 5.3 shall be interpreted as limiting the obligation of Supplier to respond to complaints or inquiries from Consumers, or to comply with any regulation of the DTE or the Attorney General of the Commonwealth regarding customer service.

5.4 Arranging for Firm All-Requirements Power Supply - Supplier shall participate in or make appropriate arrangements with the ISO, any relevant regional transmission organization,

wholesale suppliers or any other entity to ensure an uninterrupted flow of reliable, safe, firm, All-Requirements Power Supply to the Distribution Company for delivery to Consumers, and take Commercially Reasonable steps to cooperate with the NEPOOL, the ISO or any other entity to ensure a source of back-up power in the event that the facilities owned or controlled by Supplier's affiliates or other sources of power supply are unable to generate and/or deliver All-Requirements Power Supply to the Point of Delivery. In the event Supplier is unable to deliver sufficient electricity to the grid to serve Consumers, Supplier shall utilize such arrangements as may be necessary to continue to serve Consumers under the terms of this Agreement, and shall bear any costs it may incur in carrying out these obligations. Supplier shall not be responsible to the Compact in the event the Distribution Company disconnects, curtails or reduces service to Consumers (notwithstanding whether such disconnection is directed by the ISO) in order to facilitate construction, installation, maintenance, repair, replacement or inspection of any of the Distribution Company's facilities, to maintain the safety and reliability of the Distribution Company's electrical system, or due to any other reason, including emergencies, forced outages, potential overloading of the Distribution Company's transmission and/or distribution circuits, *Force Majeure* or the non-payment of any distribution service costs or other such costs due for services provided by the Distribution Company to a Consumer.

5.5 Non-Discriminatory Provision of Service - Supplier shall supply electric energy to the Point of Delivery for all Consumers who receive local distribution and transmission service from the Distribution Company in the Member Municipalities and who do not opt out, or having opted out, request service, except as provided below in this Article 5.5. Subject to the prices and terms contained in Exhibit A, electricity shall be provided on a non-discriminatory basis; provided, however, that prices and other terms may vary in accordance with reasonably-established classes of customers (e.g., residential, commercial, municipal, industrial) or by such other categories as appear in Exhibit A. To the extent applicable, Supplier's prices, terms and conditions shall be in accordance with the Massachusetts General Laws, the regulations of the DTE, and other applicable provisions of law. To the extent required by law and/or the conditions of any DTE approval of this Agreement, Supplier may not deny service to a prospective customer for failure to pay the bills of any other electric company (whether engaged in the distribution, transmission, or generation of electricity) or of any other aggregator, marketer or broker of electricity, but may reasonably deny or condition new service, or terminate existing service, based upon the Consumer's failure to pay bills from Supplier, subject to applicable provisions of law. Provision of electric energy supply shall be subject to Supplier's standard credit policies, to the extent permitted by law, as described in Exhibit A.

5.6 Energy Efficiency and Green Power Programs - The Parties have a mutual interest in advancing the utilization of demand-side management, energy efficiency programs and technology, and Green Power programs. Supplier, upon reasonable request of the Compact, shall cooperate with the Compact in the implementation of such programs. At no time will Supplier take any actions with the intention of materially adversely affecting the operations of any of these programs. Supplier will use Commercially Reasonable efforts to identify any actions which might have a material adverse effect on the implementation of any programs involving demand-side management, energy efficiency and Green Power and will use Commercially Reasonable efforts to consult with the Compact prior to taking such actions. Supplier shall also comply with

the obligations set forth in Article 8 (Development or Offering of Green Power) of this Agreement.

5.7 Approval of General Communications - Supplier shall cooperate with the Compact in the drafting and sending of messages and information to Consumers concerning the Compact or any matter arising under or related to this Agreement. Supplier shall, prior to sending any direct mail, advertising, solicitation, bill insert, electronic mail, or other similar written or electronic communication (collectively, "General Communications") to Consumers (but excluding individually drafted or tailored communications responding to the specific complaint or circumstance of an individual consumer), provide a copy of such General Communication to the Compact for its review to determine whether it is consistent with the purposes and goals of the Compact. The Compact shall have the right to disapprove such General Communications and suggest revisions if it finds the General Communication inconsistent with the purposes and goals of the Compact, factually inaccurate or likely to mislead; provided, however: (i) that the General Communication shall be deemed approved if the Compact fails to respond within seven (7) calendar days (not including weekends and holidays); and (ii) that no approval shall be necessary for any General Communication (a) regarding any emergency situation involving any risk to the public health, safety or welfare; (b) which has been approved by the DTE, the Division of Energy Resources, or any other Governmental Authority; or (c) in the nature of routine monthly or periodic bills, or collection notices, except that any bill insert or message included at the bottom of such bill not within the scope of (a) or (b) above shall require approval. If the Compact, acting on behalf of one or more Member Municipalities, objects to a mailing or other communication on the grounds it is inconsistent with the goals of the Compact, Supplier, after consultation as provided in this Article 5.7, may nevertheless elect to send such mailing or communication provided that it: i) clearly indicates on such mailing that it has not been endorsed by the Member Municipality and/or the Compact, ii) has previously provided all Consumers a meaningful chance to opt not to receive such General Communications, and iii) has stated in connection with such chance to opt not to receive such communications that "the Compact and the Member Municipalities want to protect Consumers from receiving marketing materials if you do not wish to do so," and iv) has otherwise sought input from the Compact as to the means by which Consumers are given a chance to remove their names from any list which may receive General Communications.

5.8 Bill Inserts and Messages - Supplier agrees that if it bills or communicates with Consumers directly, and unless prevented for regulatory or other such reasons from doing so, it shall allow the Compact to include no less than three bill inserts per year into such billings, provided that the Compact pays the cost of printing and reproducing such insert and any incremental postage or handling costs Supplier may incur as a result of including such insert. Supplier shall provide a copy of such communications to the Compact. Supplier further agrees that it shall, at its direct cost, if any, and to the extent that it does not conflict with planned use of any message space by Supplier, provide the Compact access to any message space on any bills Supplier sends to Consumers, to the extent any bills it sends directly or indirectly through the Distribution Company or other entity contain a bill message space under the control of Supplier.

5.9 Consumer Lists - To the extent not prohibited by any Governmental Rule or expressly by any Consumer, Supplier shall, upon request of the Compact, provide a list of the Consumers being served by Supplier, including such reasonable identifying and aggregate consumption information as the Compact may also request to the extent such information is available to Supplier. Supplier shall provide such consumer lists in an electronic format reasonably acceptable to both Parties and with no more frequency than once a month.

5.10 Compliance with Laws - The Parties shall promptly and fully comply with all existing and future Governmental Rules of all Governmental Authorities having jurisdiction over the activities covered by this Agreement.

5.11 Consent - Whenever performance of an obligation of any Party hereto requires the consent or approval of any Governmental Authority, such Party shall make Commercially Reasonable efforts to obtain such consent or approval. In the event Supplier requests the Compact's assistance in obtaining such consent or approval and the Compact anticipates that it will incur costs in fulfilling Supplier's request, it shall give Supplier an estimate of such costs. Upon receiving the cost estimate, Supplier shall determine if it continues to request the Compact's assistance, and if so, Supplier shall reimburse the Compact for all costs, up to the estimated dollar amount, reasonably incurred by the Compact in connection with such efforts.

ARTICLE 6 ROLES OF THE COMPACT AND THE MEMBER MUNICIPALITIES

Under this Agreement, the Compact and the Member Municipalities (except as they or entities under their control are direct customers) shall not actually receive, take title to, or be liable for the supply or delivery of All-Requirements Power Supply in any manner whatsoever. The Parties specifically agree that the role of the Compact is to a) set the terms and conditions under which All-Requirements Power Supply will be provided by Supplier under this Agreement and to ensure that Supplier complies with those terms and conditions, and b) act as agent for the Member Municipalities with respect to the matters addressed in this Agreement. It is the sole obligation of Supplier to arrange for delivery of All-Requirements Power Supply to Consumers. The Parties agree that neither the Compact nor the Member Municipalities are "aggregators," "distribution companies," "electric companies," "generation companies" or "transmission companies" within the meaning of G.L. c. 164, §1 as a result of this Agreement, unless a court, the DTE, or other lawful authority shall adjudicate to the contrary. Supplier hereby agrees that it will take no action that would make the Compact or its agents liable to any Consumer due to any act or failure to act on the part of Supplier relating to the delivery or supply of All-Requirements Power Supply.

ARTICLE 7 PRICES AND SERVICES; BILLING

7.1 Schedule of Prices and Terms - Supplier agrees to provide All-Requirements Power Supply and other related services as expressly set forth herein in accordance with the prices and terms included in Exhibit A to this Agreement, which Exhibit is hereby incorporated by reference into this Agreement.

7.2 Obligation to Serve - As between the Parties, Supplier has the sole obligation to obtain sources of supply, whether from generating facilities owned or controlled by its affiliates, through bilateral transactions, or the market, as may be necessary to provide All-Requirements Power Supply for all of the Consumers who do not opt out of the Compact's Aggregation Program. Supplier shall make appropriate arrangements to obtain such capacity, electrical energy, and ancillary services for load-following purposes, including, but not limited to, spinning reserves, supplemental reserves, backup supplies and services as may be needed in the event of outages or emergencies, and all other ancillary services as necessary to provide a firm, reliable, and safe All-Requirements Power Supply for Consumers to the Point of Delivery. Supplier, except as explicitly limited in the terms included in Exhibit A, shall be obligated to accept all Consumers who are or become participants in the Compact's Aggregation Program, regardless of their location and energy needs, subject to the credit requirements enumerated in Exhibit A, Article 5.5 (Non-Discriminatory Provision of Service) hereof and applicable law and the terms of any approval or other order of the DTE with respect to this Agreement.

7.3 Metering and Billing - As between the Parties, Supplier bears sole responsibility for any metering which may be required to bill Consumers, and for rendering of any bills to Consumers. Supplier may discharge this obligation by making appropriate arrangements with the Distribution Company or any other entity. Any metering and billing functions carried out by Supplier shall be conducted in compliance with relevant rules and regulations of the DTE and the Attorney General of the Commonwealth.

7.4 Terms and Conditions Pertaining to Individual Account Service -

A. Title

Title to All-Requirements Power Supply will transfer from Supplier to Consumers at the Point of Sale. Possession of, and risk of loss related to, All-Requirements power Supply will transfer from Supplier to the Distribution Company at the Point of Delivery.

B. Term

Delivery of All-Requirements Power Supply will begin on January 1, 2005 as specified in Exhibit A, or as soon as necessary arrangements can be made with the Distribution Company thereafter and will end on the last meter reading date prior to the expiration or termination of this Agreement. Supplier has the right to request a "special" meter reading by the Distribution Company to initiate energy delivery and agrees to accept all costs (if any) for such meter reading.

C. Billing and Payment

Unless otherwise specified in an Exhibit to this Agreement, all billing under this Agreement shall be based on the meter readings of each Consumer's meter(s) performed by the Distribution Company. Supplier shall, or shall cause the Distribution Company or any other entity to, prepare and mail bills to Consumers monthly. If Supplier arranges for the Distribution Company to perform billing services, Supplier shall adopt the billing and payment terms offered

by the Distribution Company. Payment shall be net thirty (30) days from the date of billing. The Consumer will pay a late charge of 1.5% per month, or the maximum rate allowed by state law if that rate is less, for payments received after the due date. Billing may take place through the Distribution Company at Supplier's option. In the event that necessary billing data is not received from the Distribution Company in time to prepare monthly bills, Supplier reserves the right to issue a bill based on an estimate of the Consumer's total kWh usage for that billing period. Any over-charge or under-charge will be accounted for in the next billing period for which actual meter data is available.

D. Regional and Local Transmission

The prices quoted in Exhibit A do not include current and future charges for distribution service costs collected by the Distribution Company under its distribution service tariff or local transmission costs as may be imposed by the regional power pool or individual electric utilities that have FERC transmission tariffs. It is Supplier's understanding that these costs will be collected by the Distribution Company under its transmission tariff charge. If in the future Supplier becomes responsible for distribution costs, Supplier shall be entitled to collect such costs from Consumers to the extent permitted by any Governmental Rules. These costs are "pass through" costs as determined by the appropriate regulatory agencies.

E. Taxes

All sales, gross receipts, excise or similar taxes imposed with respect to the sale or consumption of All-Requirements Power Supply shall be included on each Consumer's bill and shall be remitted to the appropriate taxing authority by Supplier. Consumers shall be responsible for all taxes (except for taxes on Supplier's income) associated with sales under the Agreement. Consumers shall be responsible for identifying and requesting any exemption from the collection of any tax by providing appropriate documentation to Supplier.

F. EDI/EFT

Supplier may provide Electronic Funds Transfer ("EFT") as a payment option to Consumers provided the Consumers and Supplier can mutually access a common Value Added Network ("VAN") and provided further that Supplier is allowed to pass through the costs imposed by VAN providers or the provider of other electronic transmission vehicle.

ARTICLE 8 DEVELOPMENT OR OFFERING OF GREEN POWER

Supplier hereby agrees that it will comply with the applicable provisions of G.L. c. 25A, §11F and any regulations, orders or policies adopted pursuant thereto. The Parties agree that in view of opportunities to reduce the environmental cost of electric power generation, the Compact and Supplier have a mutual interest in advancing the use of Green Power. Supplier and the Compact agree that subsequent to execution of this agreement, and prior to initiation of service, the Parties will consider options to incorporate Green Power purchases beyond those that may be required by law, regulations or policies that may be adopted pursuant to the provisions of G.L. c.

25A, section 11 F. The purpose of such consideration will be to determine viable options that may be included as part of the power supply portfolio, and/or offered individually to Consumers, and to determine the costs of such options. The Parties also agree to such considerations at mutually acceptable times following initiation of service as new sources of Green Power become available. Upon mutual agreement on cost and viability based on such considerations, the Parties will amend Exhibit A to incorporate a Green Power supply option or options as part of the power supply to be procured by Supplier. The Parties agree that all of Supplier's reasonable costs for examination and implementation of any Green Power options hereunder, other than those normally incurred in marketing and similar activities, will be reimbursed by the Compact.

ARTICLE 9 SERVICE PROTECTIONS FOR RESIDENTIAL CUSTOMERS

Supplier agrees that it shall comply with the provisions of 220 CMR Parts 25, 27, 28 and 29, any amendments thereto, and any code of conduct or policies the DTE may adopt in accordance with G.L. c. 164, §1F(7). Supplier shall, on or before October 1, 2004, provide a written, detailed description of its billing and termination procedures, customer services, confidentiality and related practices and procedures for approval by the Compact (which approval shall not be unreasonably withheld). Such written description shall also include Supplier's plans for maintaining "service quality standards," as that phrase is used in §1F(7); for complying with the "affirmative choice" requirements of §1F(7); and for handling customer complaints, including any arbitration procedures. If the Consumer(s) so permit(s) to the extent such permission is required by law or the terms of any DTE order with respect to this Agreement, Supplier agrees to provide notice to the Compact of any customer complaints received from a Consumer, and to grant the Compact the right to participate in resolution of the dispute, to the extent permitted by DTE regulations and other applicable law. The failure to timely submit such written description, or the submission of practices and procedures which materially fail to comply with DTE regulations and policies, shall be deemed grounds for termination of this Agreement, at the discretion of the Compact after providing written notice of such failure to Supplier and allowing Supplier sixty (60) days to cure such failure.

ARTICLE 10 NON-DISCRIMINATION IN HIRING AND EMPLOYMENT

Supplier agrees to conduct its operations and activities under this Agreement in accordance with all applicable state and federal laws regarding non-discrimination in hiring and employment of employees.

ARTICLE 11 POWER SUPPLY INFORMATION AND ACCESS TO INFORMATION

11.1 Power Supply Information - Upon request, Supplier shall provide to Compact detail about kWh and kW sales in the Member Municipalities; information regarding efforts to comply with the Green Power provisions of this Agreement; and such other matters as may be mutually agreed upon by the Parties.

11.2 Power Supply Report - On an annual basis, Supplier shall present a copy of the current "Disclosure Label" required by the DTE of all Competitive Suppliers to be disclosed to their customers which includes information pertaining to their power supply and a reasonably detailed description of the sources of Supplier's power supply used to serve Consumers pursuant to this Agreement, except to the extent such disclosure would violate any confidentiality obligations of Supplier

11.3 Books and Records - Supplier shall keep its books and records in accordance with any applicable regulations or guidelines of the DTE, the Federal Energy Regulatory Commission, and any other Governmental Authority. The Compact will have access to all reports mandated by the Securities and Exchange Commission which are available on the Internet "EDGAR" system. Upon reasonable request by the Compact and at the Compact's expense, Supplier shall provide back-up for any charge under this Agreement questioned by the Compact.

11.4 Copies of Regulatory Reports and Filings - Upon reasonable request, Supplier shall provide to the Compact a copy of each public periodic or incident-related report or record relating to this Agreement which it files with any Massachusetts or federal agency regulating rates, service, compliance with environmental laws, or compliance with affirmative action and equal opportunity requirements, unless Supplier is required by law or regulation to keep such reports confidential from the other Parties. The Compact shall treat any reports and/or filings received from Supplier as confidential information subject to the terms of Article 16 (Confidentiality). Supplier shall be reimbursed its reasonable costs of providing such copies.

ARTICLE 12 RESOLUTION OF DISPUTES; CHOICE OF LAW

12.1 Choice of Law - This Agreement and the rights of the Parties shall be interpreted and determined in accordance with the laws of the Commonwealth of Massachusetts.

12.2 Dispute Resolution - Unless otherwise expressly provided for in this Agreement, the dispute resolution procedures of this Article 12.2 shall be the exclusive mechanism to resolve disputes arising under this Agreement. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this Agreement. Any dispute that arises under or with respect to this Agreement that cannot be resolved shall in the first instance be the subject of informal negotiations between the Parties involved in the dispute. The dispute shall be considered to have arisen when one Party sends the other Party(ies) involved in the dispute a written notice of dispute. The period for informal negotiations shall be fourteen (14) days from receipt of the written notice of dispute unless such time period is modified by written agreement of the Parties involved in the dispute. In the event that the parties involved in the dispute cannot resolve a dispute by informal negotiations, the Parties agree to submit the dispute to mediation. Within fourteen (14) days following the expiration of the time period for informal negotiations, the Parties shall propose and agree upon a neutral and otherwise qualified mediator. In the event that the Parties fail to agree upon a mediator, the Parties shall request that the American Arbitration Association, Boston, Massachusetts, appoint a mediator. The period for mediation shall commence upon the appointment of the mediator and shall not exceed sixty (60) days, unless such time period is modified by written agreement of the Parties. The decision to continue

mediation shall be in the sole discretion of each party involved in the dispute. The Parties will bear their own costs of the mediation. The mediator's fees shall be shared equally by all Parties involved in the dispute. In the event that the Parties cannot resolve a dispute by informal negotiations or mediation, venue for judicial enforcement shall be Barnstable County Superior Court, Massachusetts. Notwithstanding the foregoing, injunctive relief may be sought without resorting to alternative dispute resolution to prevent irreparable harm that would be caused by a breach of this Agreement. In any judicial action, the "Prevailing Party" shall be entitled to payment from the opposing party of its reasonable costs and fees, including but not limited to attorneys' fees and travel expenses, arising from the civil action. As used herein, the phrase "Prevailing Party" shall mean the party who, in the reasonable discretion of the finder of fact, most substantially prevails in its claims or defenses in the civil action.

ARTICLE 13 INDEMNIFICATION

13.1 Indemnification by Supplier - Supplier shall indemnify, defend and hold harmless the Member Municipalities and the Compact (collectively "Indemnified Parties" and singularly "Indemnified Party") and each Indemnified Party's officers, employees, agents, representatives and independent contractors, from and against any and all costs, claims, liabilities, damages, expenses (including reasonable attorneys' fees), causes of action, suits or judgments, incurred by, on behalf of or involving any one of the foregoing parties to the extent arising, directly or indirectly, from or in connection with (i) any material breach by Supplier of its obligations, covenants, representations or warranties contained in this Agreement and not resulting from the actions of the Distribution Company, the Compact or any Member Municipality or their employees or agents, or (ii) Supplier's actions or omissions taken or made in connection with Supplier's performance of this Agreement. Supplier further agrees, if requested by the Compact or any Member Municipality, to investigate, handle, respond to, and defend any such claim, demand, or suit at its own expense arising under this Article 13.1.

13.2 Notice of Indemnification Claims - If the Compact or any Member Municipality seeks indemnification pursuant to this Article 13, the Compact shall notify Supplier of the existence of a claim, or potential claim as soon as practicable after learning of such claim, or potential claim, describing with reasonable particularity the circumstances giving rise to such claim. Upon written acknowledgment by Supplier that it will assume the defense and indemnification of such claim, Supplier may assert any defenses which are or would otherwise be available to the Compact and/or a Member Municipality, as the case may be.

13.3 Survival - Notwithstanding any provision contained herein, the provisions of this Article 13 and the Financial Sureties and Guaranties provided by Supplier pursuant to Article 15.2 (Additional Financial Sureties and Guarantees) shall survive the termination of this Agreement for a period of three (3) years with respect to a) any claims which occurred or arose prior to such termination and b) any losses occurring as a result of the termination.

13.4 Duty to Mitigate - All Parties agree that they have a duty to mitigate damages and covenants that they will use Commercially Reasonable efforts to minimize any damages they may incur as a result of any other Party's performance or non-performance of this Agreement.

ARTICLE 14 REPRESENTATIONS AND WARRANTIES

14.1 Representations and Warranties by Supplier - As a material inducement to entering into this Agreement, Supplier hereby represents and warrants to the Compact as of the Effective Date of this Agreement as follows:

(i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary for it to perform its obligations under this Agreement;

(ii) it has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this Agreement or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due;

(iii) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any Governmental Rule applicable to it;

(iv) subject to the conditions set forth in Article 2.5 (Conditions Precedent), this Agreement constitutes a legal, valid and binding obligation of Supplier enforceable against it in accordance with its terms, and Supplier has all rights such that it can and will perform its obligations to Supplier in conformance with the terms and conditions of this Agreement, subject to bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally and general principles of equity;

(v) no Bankruptcy is pending against it or to its knowledge threatened against it;

(vi) none of the documents or other written information furnished by or on behalf of Supplier to the Compact and/or the Member Municipalities pursuant to this Agreement, contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading; and

(vii) all information furnished by Supplier in response to the request for proposals for competitive electric supply services is true and accurate.

14.2 Representations and Warranties by the Compact - As a material inducement to entering into this Agreement, the Compact hereby represents and warrants to Supplier as of the effective date of this Agreement as follows:

(i) the Compact was formed by intergovernmental agreement in accordance with the laws of the Commonwealth of Massachusetts;

(ii) this Agreement will constitute the legal, valid and binding obligation of the Compact enforceable in accordance with its terms;

(iii) the execution, delivery and performance of this Agreement are within the Compact's powers, have been or will be duly authorized by all necessary action and the Compact is the duly authorized agent of the Member Municipalities with respect to the matters addressed in this Agreement;

(iv) the Compact has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this Agreement or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and

(v) no Bankruptcy is pending or threatened against it or any Member Municipality.

ARTICLE 15 INSURANCE AND OTHER FINANCIAL SURETIES AND GUARANTEES

15.1 Insurance - In order to help support the indemnifications provided in Article 13 (Indemnification), and its other promises and covenants stated herein, Supplier shall secure and maintain, at its own expense, throughout the term of this Agreement, comprehensive commercial general liability insurance of at least \$5,000,000 combined single limit and excess liability coverage of at least \$5,000,000 with insurers and with the Compact and Member Municipalities named as additional insureds. Supplier shall provide the Compact with evidence, reasonably satisfactory to the Compact, of its insurance hereunder, upon request. The detailed terms of Supplier's insurance are set forth in Exhibit B attached hereto.

15.2 Additional Financial Sureties and Guarantees – In addition to the insurance set forth in Article 15.1, above, Supplier shall, within two (2) days of the Effective Date of this Agreement, deliver to the Compact financial security for its obligations hereunder, including, without limitation, the indemnification set forth in Article 13 (Indemnification), in the form of a payment guarantee in the form attached hereto as Exhibit C.

Supplier may change the type and amount of its financial security provided hereunder with the consent of the Compact, such consent not to be unreasonably withheld.

Upon reasonable request during the term of this Agreement and on a continuing basis, Supplier will provide the Compact with Commercially Reasonable proof of its ability to meet its indemnification obligations to the Compact and the Member Municipalities pursuant to this Agreement. Supplier will provide the Compact with a copy of its parent's annual report. Supplier also agrees to notify the Compact in the event that its parent's unsecured, senior long-term debt or current corporate credit rating (not supported by third-party credit enhancements) is less than BBB- by Standard & Poor's Rating Group or less than BBB- by Fitch Investor Services, Inc. (a "Downgrade Event"). Should a Downgrade Event occur, the Compact may request that

Supplier provide a substitute form of security in an amount to be determined in accordance with the formula described in the preceding paragraph. Upon receipt of such notice, Supplier shall have three (3) business days in which to provide such substitute form of security to the Compact.

15.3 Reserve Fund - In order to ensure timely access to funds and: (a) provide the Compact with further financial security in the event Supplier declines to or otherwise fails to indemnify it pursuant to Article 13 (Indemnification) and that the insurance coverage pursuant to Article 15.1 (Insurance) and the other financial sureties provided pursuant to Article 15.2 (Additional Financial Sureties and Guarantees) are unavailable or insufficient, and (b) provide the Compact with a special reserve fund ("Reserve Fund") to give further assurances that the Compact will be able to respond appropriately to any risks associated with this Agreement, Supplier agrees to collect on behalf of the Compact, one mill (\$.001) for every kWh sold to Consumers for the duration of service under this Agreement. The County may elect to release Supplier, in whole or in part, from this obligation. If the County elects to do so, it shall provide Supplier with sixty (60) days advance written notice of its decision. Supplier shall remit to the Compact or its designee on a monthly basis, by electronic funds transfer or such other mutually acceptable method, the amounts due pursuant to this Article 15.3 and provide reasonable supporting documentation as to the total number of kWh sold in each preceding month upon which such payment is calculated.

Once paid to the Compact or its designee, Supplier shall have no further interest or claim in such Reserve Fund. The Compact may use the Reserve Fund to cover any costs, claims, liabilities, damages, expenses (including reasonable attorney's fees), causes of action, suits or judgments, incurred by or on behalf of the Compact or Member Municipalities. The Compact shall cause all funds collected for it by Supplier hereunder to be deposited in a dedicated, interest-bearing account. The Compact may expend such funds for any purpose as may be allowed by law and as determined in the reasonable discretion of the Compact's Governing Board.

ARTICLE 16 CONFIDENTIALITY

The Parties' confidentiality obligations are governed by a Confidentiality Agreement dated as of November 25, 2003 (the "Confidentiality Agreement").

ARTICLE 17 MISCELLANEOUS

17.1 No Assignment Without Permission - Supplier shall not assign its rights and privileges under this Agreement without the prior written approval of the Compact. Such approval may be denied in the reasonable discretion of the Compact if it determines that the proposed assignee does not have at least the same financial and technical ability as the assigning Supplier. Notwithstanding the foregoing, the Compact may not unreasonably withhold its consent to an assignment to an affiliated entity under common control or management with Supplier. Supplier's assignee shall agree in writing to be bound by the terms and conditions of this Agreement. The Compact may assign this Agreement without the prior consent of Supplier. The

rights and obligations created by this Agreement shall inure to the benefit of, and be binding upon, the successors and permitted assigns of, the respective Parties hereto.

17.2 Direct Marketing - Prior to the introduction of any new product or service which Supplier may wish to make available to Member Municipalities or other Consumers located within a Member Municipality, Supplier agrees to (i) give the Compact written notice of such new product or service and (ii) subject to the entry into reasonable confidentiality terms to the extent permitted by law and mutually acceptable to the Parties, discuss with the Compact the possible inclusion of such new product or service in this or another aggregation program undertaken by the Compact and Member Municipalities in the geographic area encompassing the Member Municipalities. The Parties agree to negotiate in good faith the terms, conditions, and prices for such products and services which the Parties agree should be included in a Compact aggregation program.

Supplier also agrees not to engage in any direct marketing to any Consumer that relies upon Supplier's unique knowledge of, or access to, particular Consumer data gained as a result of this Agreement.. For the purposes of this provision, "direct marketing" shall include any telephone call, mailing, electronic mail, or other contact between Supplier and the Consumer. Broad-based programs of Supplier that do not rely on unique knowledge or access gained through this Agreement will not constitute such "direct marketing."

17.3 Notices - All notices, demands, requests, consents or other communications required or permitted to be given or made under this Agreement shall be in writing and addressed to:

if to Supplier to:

Mr. Anthony Giorgio
Director, Commodity Sales
Consolidated Edison Solutions, Inc.
701 Westchester Ave; Suite 301 East
White Plains, NY 10604
(914) 286-7778 (voice)
(914) 286-7736 (fax)
giorgioa@conedsolutions.com

Mr. James Dixon
Vice President & General Counsel
Consolidated Edison Solutions, Inc.
701 Westchester Ave; Suite 301 East
White Plains, NY 10604
(914) 286-7085 (voice)
(914) 686-1413 (fax)
dixonj@conedsolutions.com

if to the Compact to:

Ms. Margaret Downey
Administrator
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, Massachusetts 02630
(508) 375-6636 (voice)
(508) 362-4136 (fax)
mags@cape.com

Mr. Joseph Soares
Power Supply Planner
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, MA 02630
(508) 375-6623 (voice)
(508) 362-4136 (fax)
jas@cape.com

Notices hereunder shall be deemed properly served (i) by hand delivery, on the day and at the time on which delivered to the intended recipient at the address set forth in this Agreement; (ii) if sent by mail, on the third business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this Agreement; or (iii) if by Federal Express or other reputable express mail service, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this Agreement. Any party may change its address and contact person for the purposes of this Article 17.3 by giving notice thereof in the manner required herein.

17.4 Changes in Emergency and Service Contact Persons - In the event that the name or telephone number of any emergency or service contact for Supplier changes, Supplier shall give prompt notice to the Compact in the manner set forth in Article 17.3 (Notices). In the event that the name or telephone number of any such contact person for the Compact changes, prompt notice shall be given to Supplier in the manner set forth in Article 17.3 (Notices).

17.5 Entire Agreement; Amendments - This Agreement, the Confidentiality Agreement and the Related Documents constitute the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. This Agreement may only be amended or modified by a written instrument signed by all Parties hereto.

17.6 Force Majeure - If by reason of *Force Majeure* any Party is unable to carry out, either in whole or in part, its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (i) the non-performing Party, within two (2) weeks after the occurrence of the *Force Majeure*, gives all other Parties hereto written notice describing the particulars of the occurrence; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the *Force Majeure*; (iii) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and (iv) the non-performing Party shall use Commercially Reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations. If an event of *Force Majeure* continues for a period of one hundred eighty (180) days or longer, either Party may treat such an event as an event of default and may terminate this Agreement by sending the other party a written notice to cure as set forth in Article 4.2 (Termination).

17.7 Expenses - Each Party hereto shall pay all expenses incurred by it in connection with its entering into this Agreement, including without limitation, all attorneys' fees and expenses.

17.8 No Joint Venture - Supplier will perform all services under this Agreement as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of any other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Compact and Supplier hereunder are individual and neither collective nor joint in nature.

17.9 Joint Workproduct - This Agreement shall be considered the workproduct of both Parties hereto, and, therefore, no rule of strict construction shall be applied against either Party.

17.10 Counterparts - This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement.

17.11 Waiver - No waiver by any Party hereto of any one or more defaults by any other Party in the performance of any provision of this Agreement shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of any Party hereto to complain of any action or non-action on the part of any other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party(ies) so failing. A waiver of any of the provisions of this Agreement shall only be effective if made in writing and signed by the Party who is making such waiver.

17.12 Cooperation - All Parties acknowledge that this Agreement must be approved by the DTE in an adjudicatory hearing and agree that they shall use commercially reasonable efforts in good faith and in full cooperation with the other Parties to secure such approval.

17.13 Related Documents - Supplier agrees that it has been provided with and had a reasonable opportunity to read the Related Documents and to ask questions about the terms and conditions of the Related Documents. The Parties agree that the Related Documents, in the forms as they exist on the Effective Date of this Agreement, are incorporated into this Agreement by reference, and that they shall be construed harmoniously to the greatest practicable extent; notwithstanding the foregoing, in the event of any conflict between this Agreement and the Related Documents, this Agreement shall govern. The Compact will provide Supplier with amendments to any of the foregoing documents as they are adopted; provided, however, that such amendments are not incorporated into this Agreement as a result of such adoption. Any amendments hereto must be made in accordance with Article 17.5 (Entire Agreement; Amendments) of this Agreement.

17.14 Advertising Limitations - Supplier agrees not to use the name of the Cape Light Compact or any Member Municipality, or make any reference to the Cape Light Compact or any Member Municipality in any advertising or other information to be distributed publicly for marketing or educational purposes, unless the Compact expressly agrees to such usage. Any proposed use of the name of the Cape Light Compact or any Member Municipality must be submitted in writing for agreement and prior approval, which shall not be unreasonably withheld, consistent with Article 5.7 (General Communications) hereof. The Compact acknowledges that Supplier's corporate affiliates own the exclusive right to the trademarked logo and trade name used by Supplier. No right, license or interest in this trademark and/or trade name is granted to the Compact hereunder, and the Compact agrees that it shall not assert any right, license or interest with respect to such trademark and/or trade name.

17.15 Press Releases - The Parties shall not issue a press release or make any public statement with respect to this Agreement without the prior written agreement of the other Party with respect to the form, substance and timing thereof, except either Party may make any such press release or

public statement when the releasing Party is advised by its legal counsel that such a press release or public statement is required by law, regulation or stock exchange rules, provided however, in such event, the Parties shall use their reasonably good faith efforts to agree as to the form, substance and timing of such release or statement.

17.16 Headings and Captions - The headings and captions appearing in this Agreement are intended for reference only, and are not to be considered in construing this Agreement.

17.17 Survival of Obligations - Termination of this Agreement for any reason shall not relieve the Company or Supplier of any obligation accrued or accruing prior to such termination.

17.18 Remedies

A. General

Subject to the limitations set forth in Section 17.18(B) below, the Compact, each of the Member Municipalities, and the Supplier reserve and shall have all rights and remedies available to each of them at law or in equity with respect to the performance or non-performance of the other parties hereto under this Agreement.

B. Limitations

NO PARTY HERETO SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT. Notwithstanding the foregoing, Supplier acknowledges that the preceding sentence shall not limit the Compact's rights under Article 13.1 (Indemnification) to seek indemnification from Supplier or consequential, punitive, or incidental damages or other such losses claimed by third-parties, subject to any limitations set forth in the Payment Guarantee.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

CONSOLIDATED EDISON SOLUTIONS, INC.

BY:

By: JoAnn F. Ryan
Name: _____
Title: _____
Dated: July 16, 2004

**JoAnn F. Ryan
President and CEO
ConEdison Solutions**

CAPE LIGHT COMPACT

By: _____
Ms. Margaret Downey
Administrator
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, MA 02630
(508) 375-6636 (voice)
(508) 362-4166 (fax)
mags@cape.com

Dated: July 16, 2004

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

CONSOLIDATED EDISON SOLUTIONS, INC.

BY:

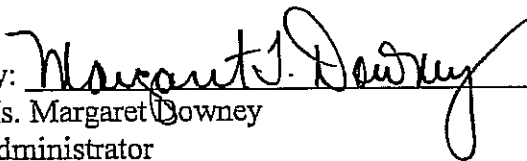
By: _____

Name: _____

Title: _____

Dated: July 16, 2004

CAPE LIGHT COMPACT

By:  _____

Ms. Margaret Downey

Administrator

Cape Light Compact

P.O. Box 427

Superior Court House

Barnstable, MA 02630

(508) 375-6636 (voice)

(508) 362-4166 (fax)

mags@cape.com

Dated: July 16, 2004

EXHIBIT A
PRICES AND TERMS

- Start Date: All-requirements retail power supply will commence on January 1, 2005 for the default service load and March 1, 2005 for the standard offer service load.
- Minimum Term: The term for all-requirements retail power supply is **one year**, from January 1, 2005 through December 31, 2005.
- Annual Pricing (stated in \$/MWh of metered retail sales):
 - January 1, 2005 through December 31, 2005: \$71.26/MWh.
- This price includes a cost of retail related services of \$1.50/MWh.
- This price does **not include the Cape Light Compact's one-half mil adder; Con Edison Solutions will adjust the price to include the adder if so requested by the Compact prior to the Start Date.**
- This price does **not include any applicable taxes.**
- This price includes Renewable Portfolio Standard Renewable Energy Certificates (REC's) at the current price of \$51.41 per MWh.
- Other conditions:
 - The Cape Light Compact will not issue another solicitation for competitive supply covering the term of this Agreement.
 - To the extent the Cape Light Compact procures RECs, or assigns its firm rights to enter into contracts to purchase RECs, to Con Edison Solutions at less than the assumed price set forth above of \$51.41 per MWh, Con Edison Solutions shall reduce its price of \$71.26/MWh (the "Price") on a proportionate basis to reflect such dollar for dollar reduction in the price of the RECs.

Confidential Treatment of This Exhibit A:

The terms set forth in this Exhibit A are being voluntarily provided, subject to the Cape Light Compact's promise that it be provided confidential treatment for one hundred twenty (120) days, pursuant to M.G.L. c. 4, §7, cl. 26(g) which provides an exemption to the definition of "Public Records" that allows withholding from public disclosure of "trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy and upon a promise of confidentiality...." Con Edison Solutions has requested that Exhibit A be withheld from public disclosure since the most efficacious and cost-effective arrangement by Con Edison Solutions and the Cape Light Compact of the power supply and Renewable Energy Certificates set forth herein might be compromised by premature disclosure of this Exhibit A.

EXHIBIT B INSURANCE

1. Supplier shall maintain commercial general liability insurance throughout the term of the Agreement and for a period of at least two years following the contract term.
2. The insurance may be provided on a claims made basis. In the event such insurance is cancelled or non-renewed, Supplier agrees to provide a 36 month discovery period endorsement for obligations under this agreement.
3. The insurance shall include coverage for bodily injury liability, property damage liability, advertising injury liability and personal injury liability.
4. To the extent available at commercially reasonable terms and conditions, personal injury liability coverage shall include non-employment discrimination in accordance with AEGIS form 8100 (1/1/98).
5. To the extent available at commercially reasonable terms and conditions, the insurance shall include Failure to Supply coverage and such coverage shall be in accordance with AEGIS form 8100(1/1/98).
6. The insurance shall include blanket contractual liability coverage, including the Competitive Electric Supply Agreement between Supplier and the Cape Light Compact.
7. The limit of commercial general liability insurance shall be at least \$5 million each occurrence. Separate aggregate limits of \$5 million may be applicable to products and completed operations liability coverage and failure to supply liability coverage.
8. Supplier shall maintain umbrella or excess liability insurance subject to a limit of at least \$5 million in addition to commercial general liability insurance policy limits.
9. Such liability insurance shall include Cape Light Compact and Member Municipalities as additional insureds, but only for obligations arising out of this agreement.
10. The policies shall be endorsed to require that such additional insureds receive at least 30 days notice of cancellation or non-renewal.
11. Such insurance shall contain a standard separation of insureds clause, whereby the actions of one insured will not negate coverage for another insured.
12. Supplier shall provide Cape Light Compact with a certificate of insurance to evidence compliance with the requirements. Renewal certificates shall be provided automatically within 30 days of policy renewal throughout the term of the contract and two years following the contract term.

EXHIBIT C

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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COMPETITIVE ELECTRIC SUPPLY AGREEMENT

WHEREAS, the Massachusetts Legislature has adopted Chapter 164 of the Acts of 1997, (the "Restructuring Act"), which, *inter alia*, (1) allows for competition in the generation and supply of electricity to customers, (2) authorizes municipalities to aggregate the electrical load of electricity consumers within their boundaries, and (3) allows municipal aggregators to formulate an aggregation plan and conduct aggregation programs;

WHEREAS, all of the municipalities in Barnstable County and Dukes County have formed the Cape Light Compact ("Compact") and entered into an "Inter-Governmental Agreement of the Cape Light Compact" ("Compact Agreement"), for the purposes, *inter alia*, of acting as a municipal aggregator and negotiating the best rates for the supply of electricity to consumers located on Cape Cod and Martha's Vineyard;

WHEREAS, all twenty-one Barnstable County and Dukes County towns and the two counties presently belong to the Compact (the "Member Municipalities");

WHEREAS, Consolidated Edison *Solutions*, Inc., a New York corporation duly authorized to conduct business in the Commonwealth of Massachusetts ("Supplier"), desires to continue to provide All-Requirements Power Supply to the Compact's Member Municipalities and to Consumers residing within the Member Municipalities under the Aggregation Plan, pursuant to the terms and conditions of this Agreement;

WHEREAS, Consolidated Edison *Solutions*, Inc. has been chosen by the Compact from among several competitive suppliers to be the Compact's Supplier for the Term set forth in this Agreement; and

WHEREAS, the Compact desires that Supplier provide competitive retail power supply to the Member Municipalities and Consumers.

NOW THEREFORE, IT IS AGREED THAT, the Compact and Supplier hereby enter into this Competitive Electric Supply Agreement ("Agreement") subject to the terms and conditions below.

ARTICLE 1 DEFINITIONS

When used in this Agreement, the following terms shall have the meanings given, unless a different meaning is expressed or clearly indicated by the context. Words defined in this Article 1 which are capitalized shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined herein shall be given their common and ordinary meanings.

1.1 **Aggregation Plan** - The "Cape Light Compact Aggregation Plan" as adopted or amended by the Compact, from time to time.

1.2 Aggregation Program - The Community Choice Power Supply Program, implemented under the Aggregation Plan.

1.3 Agreement - This Competitive Electric Supply Agreement.

1.4 All-Requirements Power Supply - Service under which Supplier provides all of the electrical energy, capacity, reserves, ancillary services, transmission service, transmission and distribution losses, congestion management, and such other services or products necessary for firm power supply to Consumers at the Point of Sale.

1.5 Bankruptcy - Bankruptcy means with respect to a Party that such Party (i) ceases doing business as a going concern, generally does not pay its debts as they become due or admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent, or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other Governmental Rule, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties, or makes an assignment for the benefit of creditors, or said Party takes any action to authorize or that is in contemplation of the actions set forth in this clause (i); or (ii) a proceeding is initiated against the Party seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other Governmental Rule and, such proceeding is not dismissed within ninety (90) days after the commencement, or any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties is appointed without the consent or acquiescence of said Party, and such appointment is not vacated or stayed on appeal or otherwise within ninety (90) days after the appointment, or, within ninety (90) days after the expiration of any such stay, has not been vacated, *provided that*, notwithstanding the foregoing, the exercise of rights to take over operation of a Party's assets, or to foreclose on any of a Party's assets, by a secured creditor of such Party (including the appointment of a receiver or other representative in connection with the exercise of such rights) shall not constitute a Bankruptcy.

1.6 Basic/Default Service - Service provided by a distribution company to a customer who is not receiving generation service from a competitive supplier or any successor service as determined by the DTE.

1.7 Cape Light Compact Greensm - a Compact program whereby Consumers will have the option to pay a premium, in excess of their standard electricity charges, for certificates representing attributes of energy derived from new renewable energy resources.

1.8 Commercially Reasonable - Any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known, or which in the exercise of due diligence, should have been known, at the time the decision was made, would have been expected in the industry to accomplish the desired result consistent with reliability, safety, expedition, project economics and applicable law and regulations.

1.9 **Compact** - The Cape Light Compact, formed in October 1997, by an intergovernmental agreement under the Massachusetts General Laws and presently consisting of twenty-one (21) towns in Barnstable and Duke Counties and the two counties themselves for which the Compact acts as agent.

1.10 **Compact Agreement** - The Inter-Governmental Agreement of the Cape Light Compact, as in effect on July 31, 1998 and as may be amended from time to time.

1.11 **Consumers** - A residential, commercial, industrial, municipal, or other consumer of electricity who receives electric supply service through the Distribution Company's distribution or transmission service from any supplier, at one or more locations within the geographic boundaries of a Member Municipality.

1.12 **Counties** - Barnstable County and the County of Dukes County. In the singular, "County" shall refer to either of the two Counties.

1.13 **Distribution Company** - The Commonwealth Electric Company (d/b/a NSTAR Electric), or any successor company(ies) or entity(ies) providing electricity distribution services in each Member Municipality.

1.14 **DTE** - The Massachusetts Department of Telecommunications and Energy, or any successor state agency.

1.15 **Effective Date** - The effective date of this Agreement, pursuant to Article 4 (Term of Contract and Termination) below.

1.16 **Force Majeure** - Any cause not within the reasonable control of the affected Party which precludes that Party from carrying out, in whole or in part, its obligations under this Agreement, including, but not limited to, Acts of God; winds; hurricanes; tornadoes; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes; lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any Governmental Authority acting in its regulatory or judicial capacity, provided, however, that any such discretionary acts, failures to act or orders of any kind by the Compact or a Member Municipality may not be asserted as an event of *Force Majeure* by the Compact or a Member Municipality as the case may be; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil disturbances or explosions. Nothing in this provision is intended to excuse any Party from performing due to any governmental act, failure to act, or order, where it was reasonably within such Party's power to prevent such act, failure to act, or order. Economic hardship of either Party shall not constitute an event of *Force Majeure*.

1.17 **General Communications** - The type of communications described and defined in Article 5.7 (General Communications) herein.

1.18 Governmental Authority - Any national, state or local government, independent system operator, regional transmission owner or operator, any political subdivision thereof or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity, excluding the Compact and all Member Municipalities.

1.19 Governmental Rule - Any law, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, or similar form of decision of any Governmental Authority having the effect and force of law.

1.20 Green Power - Electric energy generated by equipment or facilities including solar power, biomass, landfill gas, wind turbine, hydro power or other renewable energy generating resource or technology, as may defined by G.L. c. 25A, §11F or G.L. c. 164, §1, or, that may be otherwise added by mutual agreement of the Parties.

1.21 ISO - The New England Independent System Operator, or such successor or other entity which oversees the integrated dispatch of power plants in New England and the bulk transmission of electricity throughout the New England power grid.

1.22 kWh, kW - Kilowatt-hour and kilowatts, respectively.

1.23 Member Municipalities - The twenty-one (21) towns and two (2) Counties which are presently members of the Cape Light Compact as of the Effective Date of this Agreement. The Member Municipalities include the following towns in Barnstable County: Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich, Truro, Wellfleet and Yarmouth, and the following towns in Dukes County: Aquinnah, Chilmark, Edgartown, Oak Bluffs, Tisbury and West Tisbury. The Compact acts as agent for the Member Municipalities as set forth in Article 2.2 (Agency Relationship) below.

1.24 NEPOOL - The New England Power Pool.

1.25 Parties - The Compact and Supplier, as the context requires. In the singular, "Party" shall refer to either of the preceding.

1.26 Point of Delivery - The point of interconnection between NEPOOL Pool Transmission Facilities and the transmission facilities of the Distribution Company.

1.27 Point of Sale - The electric meter(s) for each Consumer's account, as designated by the Distribution Company.

1.28 Related Documents - The Compact Agreement, the Aggregation Plan, and the Administrative Services Agreement between Barnstable County and the Compact.

1.29 Reserve Fund - The fund described in Article 15.3 (Reserve Fund) of this Agreement.

1.30 Restructuring Act - Chapter 164 of the Massachusetts Acts of 1997.

1.31 **Supplier** – Consolidated Edison *Solutions*, Inc., a New York corporation duly authorized to conduct business in the Commonwealth of Massachusetts.

ARTICLE 2 RIGHTS GRANTED

2.1 **General Description and Limitations** - Supplier is hereby granted the exclusive right to provide All-Requirements Power Supply to Consumers pursuant to the terms and conditions set forth in this Agreement. Supplier is hereby granted the right to provide All-Requirements Power Supply to Consumers pursuant to the terms of the Compact's Aggregation Plan and Aggregation Program, and expressly conditioned on the terms and conditions set forth in this Agreement. In accepting this grant, the Parties recognize that Supplier is only authorized to supply All-Requirements Power Supply to Consumers, and that the Distribution Company presently has the right and obligation to distribute and deliver electricity to individual customers, until changes in law, regulation or policy may allow otherwise. Supplier further recognizes i) that it is only authorized by this Agreement to supply All-Requirements Power Supply to Consumers in the Member Municipalities; and ii) that this Agreement does not guarantee that any individual Consumer will be served by Supplier, except that the Compact agrees that, for Consumers for which the Compact has legal authority to choose a source of electricity supply (such as town buildings and facilities owned or operated by Member Municipalities or other municipal agencies, where applicable), it will maintain Supplier as its provider of electricity supply beginning on the Effective Date for the remaining term of this Agreement, subject to any existing obligation under contract. As between the Parties, Supplier has the sole obligation of making appropriate arrangements with the Distribution Company, and any arrangements which may be necessary with the ISO so that Consumers receive the electricity supplies to be delivered pursuant to this Agreement. The Compact specifically authorizes the Distribution Company to provide, and Supplier the right to obtain and utilize as required, all billing and energy consumption information for Member Municipalities' accounts that are reasonably available from the Distribution Company. If further action is required by the Distribution Company to authorize Supplier to receive such historical energy consumption and billing data, the Compact agrees to use reasonable efforts, at Supplier's cost, to assist Supplier, if so requested by it, in obtaining such information; and with respect to Consumers, including, without limitation, assisting Supplier, at Supplier's cost, in obtaining permission from such Consumers and/or the DTE, where necessary as a prerequisite to the provision of such information.

Notwithstanding the foregoing paragraph or anything else in this Agreement to the contrary, the Member Municipalities may construct, directly or in jointly with others, Green Power projects located within their boundaries.

2.2 **Agency Relationship** - The Compact is authorized to act on behalf of the Member Municipalities in contracting for electric supply for such Member Municipalities. In any litigation arising under this Agreement, both the Compact and one or more Member Municipalities (acting individually or jointly) have the right to bring claims against Supplier.

2.3 Compliance with Laws - By entering into this Agreement, Supplier specifically represents that it has exercised due diligence to review and has fully complied with all relevant regulations and orders of the Federal Energy Regulatory Commission, the DTE, the Attorney General of the Commonwealth, and the Massachusetts Division of Energy Resources and any other Governmental Authority having jurisdiction over any element of the transactions contemplated by this Agreement.

2.4 Further Conditions and Limitations - The Compact and the Member Municipalities expressly reserve the right to adopt such local bylaws, ordinances, rules, regulations and policies as they may deem necessary in the exercise of their governmental powers, and nothing in this Agreement shall be interpreted as limiting the governmental powers of the Compact or of the Member Municipalities as may be granted by law.

2.5 Conditions Precedent -

The obligations of the Compact under this Agreement shall be conditioned upon Supplier fulfilling the following requirements:

- (i) maintaining its Competitive Supplier license from the DTE (as such term is defined in the Distribution's Company's Terms and Conditions - Competitive Suppliers);
- (ii) executing a Competitive Electric Supplier Service Agreement with the Distribution Company in a form reasonably satisfactory to Supplier;
- (iii) executing any appropriate ISO applications and agreements;
- (iv) obtaining authorization from the FERC to sell power at market-based rates.

If Supplier has not fulfilled all such requirements by the date of this Agreement, any Party may terminate this Agreement without any liability to the other Parties.

2.6 Ownership and Use of Consumer Data - Supplier acknowledges that the Compact shall have exclusive ownership of all right, title and interest in and to all Consumer data (including addresses, telephone numbers or other identifying information) made available to Supplier as a result of execution of this Agreement. Supplier shall use Consumer data solely to provide All-Requirements Power Supply to Consumers and to render other services expressly required or permitted under this Agreement. Any other use of Consumer data without the prior written consent of the Compact is strictly prohibited. Except as expressly provided in this Agreement, Supplier shall not disclose any Consumer data to any third-party and Supplier shall take all reasonable measures to protect Consumer data from access by, or beneficial use, for any third-party. To the extent that the provision of All-Requirements Power Supply or other services under this Agreement requires that Supplier have access to or make use of any Consumer data, Supplier shall treat such Consumer data as confidential information. Supplier may use Consumer data to engage in direct marketing only during the term of this Agreement and subject to the terms forth in Article 17.2 (Direct Marketing). A violation of this Article 2.6 shall be grounds

for termination under Article 4.2(1). Supplier agrees violation of this Article 2.6 shall constitute irreparable harm.

ARTICLE 3 CUSTOMER CHOICE NOTIFICATION OF RIGHTS; ENROLLMENT

3.1 Customer Choice - The Parties acknowledge and agree that, subject to existing Agreements, all Consumers have the right, pursuant to the Restructuring Act, to change their source of electricity supply, as set forth in Article 2.1 (General Description and Limitations) of this Agreement. The Member Municipalities, the Compact, or Consumers, as the case may be, shall give reasonable notice of any such changes in accordance with any terms formulated by the DTE or as included in Exhibit A and the Aggregation Plan. The Parties represent and warrant to each other that they shall not unreasonably interfere with the right of Consumers to opt out, and shall comply with any rules, regulations or policies of the DTE or other lawful authority regarding the process of opting out or of switching from one source of electric supply to another; provided, however, that the Compact agrees that the Member Municipalities will not switch their source of generation supply from Supplier during the term of this Agreement, for uses over which they exercise legal control.

3.2 Notification of Rights - Consistent with the requirements of law, the Compact, with the assistance of Supplier shall notify all Consumers in the Member Municipalities of the date upon which they will be automatically enrolled in the Aggregation Program, and that Supplier will be providing electrical supply to Consumers subject to the opt-out provisions of the Restructuring Act, the Aggregation Plan and Aggregation Program, and Exhibit A. The Compact, in its discretion as to form and content shall: (1) prominently state all charges to be made by Supplier; (2) provide a summary of the prices and terms included in Exhibit A as well as fully disclose the prices and terms then being offered for Basic/Default Service or any equivalent service by the Distribution Company; and (3) state how the Consumer may gain access to Basic/Default Service and that any ratepayer choosing to opt-out after automatic enrollment may do so without penalty and be entitled to return to Basic/Default Service. All such notices must be approved in advance by Supplier, such approval not to be unreasonably withheld.

3.3 Enrollment - All Consumers currently receiving All-Requirements Power Supply from Supplier will continue to be enrolled in the Aggregation Program under the terms of Exhibit A unless and until such Consumers opt-out.

Any Consumer which is new to the Member Municipalities' respective territories will be automatically enrolled by Supplier in the Aggregation Program. This enrollment shall be administratively arranged by Supplier and the Distribution Company with the cooperation and reasonable support from the Compact by identifying all new Basic/Default Service Consumers within the Member Municipalities and verifying any required meter and customer codes. The Parties shall work together with the Distribution Company to develop procedures with the objective of automatically enrolling Consumers at the close of the monthly billing cycle in the month of introduction of their respective customer group(s), according to the schedule in Exhibit

A, and whereby new Consumers will be added to and Consumers who opt out dropped from the Aggregation Program.

At any time during the term of this Agreement, Consumers who have previously opted out may return to supply by the Supplier at the Supplier's discretion at a price determined by the then prevailing market conditions. Consumers who relocate to or within the Member Municipalities shall have the right to receive electrical supply from Supplier, subject to the prices and terms in Exhibit A. Besides accurately and promptly transmitting information provided by such Consumers to the Distribution Company and following any procedural or other such steps which may be mutually agreed to, Supplier shall have no obligation to effect adds and drops at Consumer's request, such processing being the responsibility of the Distribution Company.

Consumers enrolled in competitive supply programs offered by third-parties will not be automatically enrolled as Consumers under this Agreement when such program terminates or is otherwise completed. Supplier agrees that Consumers under such third-parties competitive supply programs may affirmatively opt-in and receive All-Requirements Power Supply at the Supplier's discretion at a price determined by the then prevailing market conditions. Supplier agrees that when such third-party competitive supply programs terminate, Supplier will negotiate with the Compact in good faith to include consumers that had been enrolled in other programs as Consumers under this Agreement.

ARTICLE 4 TERM OF CONTRACT AND TERMINATION

4.1 **Term** - This Agreement and the rights granted under it to Supplier shall commence on December 1, 2005 (the "Effective Date") and terminate on January 31, 2007, unless the Agreement is terminated before such date under the provisions of Article 4.2 (Termination). The term of this Agreement may be extended in accordance with the provisions of Article 4.4 (Extension).

4.2 **Termination** - This Agreement may be terminated at any time upon written notice:

(1) by the Compact (acting on behalf of all Member Municipalities or acting on behalf of one or more Member Municipalities), or Supplier, if either Party fails to remedy or cure any breach or default of any material provision or condition of this Agreement (including, but not limited to, Article 9 and Article 2.6) within sixty (60) days following written notice to do so by the nonbreaching Party;

(2) by the Compact (acting on behalf of all Member Municipalities or acting on behalf of one or more Member Municipalities), or Supplier, if any material provision or condition of this Agreement be finally adjudged invalid by any court of competent jurisdiction, or if the DTE exercises any lawful jurisdiction so as to invalidate or disapprove this Agreement in whole or in significant part; or

(3) notwithstanding the foregoing, the failure of Supplier to provide or arrange for All-Requirements Power Supply to Consumers, in the absence of *Force Majeure* or the Compact

failure to perform, shall constitute an act of default, and the Compact may terminate this Agreement upon the giving of written notice but without providing any cure period. In the event Supplier has performed its obligations hereunder and its failure to provide or arrange All-Requirements Power Supply is a direct result of actions or non-actions by any transmission service provider, the Distribution Company, or the ISO, Supplier's failure shall not be deemed an act of immediate default; or

(4) by the Compact, in the event that the financial sureties and guaranties provided by Supplier in connection with this Agreement are revoked, terminated or otherwise fail.

4.3 Obligations upon Termination - Following termination of this Agreement, the Parties shall each discharge by performance all obligations due to any other Party that arose up to the date of termination of the Agreement. Upon the effective date of termination of the Agreement, all rights and privileges granted to Supplier shall cease, with the exception of the right to collect all monies due for services rendered to that date.

4.4 Extension - This Agreement may be extended beyond January 31, 2007, by mutual, written agreement of the Parties. Any new pricing terms shall be added to and replace Exhibit A as Exhibit A-2. Upon any such extension, this Agreement shall continue to be in effect, and all provisions of the Agreement shall retain the same force and effect as before the extension, unless it is terminated by either Party pursuant to the provisions of Article 4.2 or until the date stated in such extension.

ARTICLE 5 CONTINUING COVENANTS

Supplier agrees and covenants to perform each of the following obligations during the term of this Agreement.

5.1 Standards of Management and Operations - In performing its obligations hereunder, during the term of this Agreement, Supplier shall exercise reasonable care to assure that its facilities are prudently and efficiently managed; that it employs an adequate number of competently trained and experienced personnel to carry out its responsibilities; that it delivers a safe and reliable supply of such amounts of electricity to the Point of Delivery as are required under this Agreement; that it complies with all relevant industry standards and practices for the generation and supply of electricity to Consumers; and that, at all times with respect to Consumers, it exercises the highest commercial standards and employs Commercially Reasonable skills, systems and methods available to it.

5.2 Local Customer Service Access - Supplier agrees to provide, or cause to be provided, certain customer services to Consumers. Such services shall be reasonably accessible to all Consumers, shall be available during normal working hours, shall allow Consumers to transact business they may have with Supplier, and shall serve as a communications liaison among Supplier, the Compact, Consumers and the Distribution Company. A toll-free telephone number will be established by and available for Consumers to contact Supplier to resolve concerns, answer questions and transact business with respect to the service received from Supplier. Such

toll-free phone line shall be attended by service personnel during regular business hours (9:00 AM – 5:00 PM) and routed to a voice message after hours. Supplier and the Compact agree to develop an augmented schedule for staffing the customer service center during periods when All-Requirements Power Supply commences to a major Consumer class under the Aggregation Program. Supplier will also provide a link on its parent's website to a website which will be available to Consumers for general information, product and service information, and other purposes.

5.3 Responding to Requests for Information - To the extent authorized by the Consumers and to the extent such individual permission is required by law, Supplier shall, during normal business hours, respond promptly and without charge therefore to reasonable requests of the Compact for information or explanation regarding the matters covered by this Agreement and the supply of electricity to Consumers. Supplier agrees to designate a service representative or representatives (the "Service Contacts") who shall be available for these purposes, and shall identify the office address and telephone number of such representative(s). Whenever necessary to comply with this Article 5.3, the Service Contact Person shall call upon other employees or agents of Supplier to obtain such information or explanation as may be reasonably requested. Nothing in this Article 5.3 shall be interpreted as limiting the obligation of Supplier to respond to complaints or inquiries from Consumers, or to comply with any regulation of the DTE or the Attorney General of the Commonwealth regarding customer service.

5.4 Arranging for Firm All-Requirements Power Supply - Supplier shall participate in or make appropriate arrangements with the ISO, any relevant regional transmission organization, wholesale suppliers or any other entity to ensure an uninterrupted flow of reliable, safe, firm, All-Requirements Power Supply to the Distribution Company for delivery to Consumers, and take Commercially Reasonable steps to cooperate with the NEPOOL, the ISO or any other entity to ensure a source of back-up power in the event that the facilities owned or controlled by Supplier's affiliates or other sources of power supply are unable to generate and/or deliver All-Requirements Power Supply to the Point of Delivery. In the event Supplier is unable to deliver sufficient electricity to the grid to serve Consumers, Supplier shall utilize such arrangements as may be necessary to continue to serve Consumers under the terms of this Agreement, and shall bear any costs it may incur in carrying out these obligations. Supplier shall not be responsible to the Compact in the event the Distribution Company disconnects, curtails or reduces service to Consumers (notwithstanding whether such disconnection is directed by the ISO) in order to facilitate construction, installation, maintenance, repair, replacement or inspection of any of the Distribution Company's facilities, to maintain the safety and reliability of the Distribution Company's electrical system, or due to any other reason, including emergencies, forced outages, potential overloading of the Distribution Company's transmission and/or distribution circuits, *Force Majeure* or the non-payment of any distribution service costs or other such costs due for services provided by the Distribution Company to a Consumer.

5.5 Non-Discriminatory Provision of Service - Supplier shall supply electric energy to the Point of Delivery for all Consumers who receive local distribution and transmission service from the Distribution Company in the Member Municipalities and who do not opt out, or having opted out, request service, except as provided below in this Article 5.5. Subject to the prices and terms

contained in Exhibit A, electricity shall be provided on a non-discriminatory basis; provided, however, that prices and other terms may vary in accordance with reasonably-established classes of customers (e.g., residential, commercial, municipal, industrial) or by such other categories as appear in Exhibit A. To the extent applicable, Supplier's prices, terms and conditions shall be in accordance with the Massachusetts General Laws, the regulations of the DTE, and other applicable provisions of law. To the extent required by law, Supplier may not deny service to a prospective customer for failure to pay the bills of any other electric company (whether engaged in the distribution, transmission, or generation of electricity) or of any other aggregator, marketer or broker of electricity, but may reasonably deny or condition new service, or terminate existing service, based upon the Consumer's failure to pay bills from Supplier, subject to applicable provisions of law. Provision of electric energy supply shall be subject to Supplier's standard credit policies, to the extent permitted by law, as described in Exhibit A.

5.6 Energy Efficiency and Green Power Programs - The Parties have a mutual interest in advancing the utilization of demand-side management, energy efficiency programs and technology, and Green Power programs. Supplier, upon reasonable request of the Compact, shall cooperate with the Compact in the implementation of such programs. At no time will Supplier take any actions with the intention of materially adversely affecting the operations of any of these programs. Supplier will use Commercially Reasonable efforts to identify any actions which might have a material adverse effect on the implementation of any programs involving demand-side management, energy efficiency and Green Power and will use Commercially Reasonable efforts to consult with the Compact prior to taking such actions. Supplier shall also comply with the obligations set forth in Article 8 (Development or Offering of Green Power) of this Agreement.

5.7 Approval of General Communications - Supplier shall cooperate with the Compact in the drafting and sending of messages and information to Consumers concerning the Compact or any matter arising under or related to this Agreement. Supplier shall, prior to sending any direct mail, advertising, solicitation, bill insert, electronic mail, or other similar written or electronic communication (collectively, "General Communications") to Consumers (but excluding individually drafted or tailored communications responding to the specific complaint or circumstance of an individual consumer), provide a copy of such General Communication to the Compact for its review to determine whether it is consistent with the purposes and goals of the Compact. The Compact shall have the right to disapprove such General Communications and suggest revisions if it finds the General Communication inconsistent with the purposes and goals of the Compact, factually inaccurate or likely to mislead; provided, however: (i) that the General Communication shall be deemed approved if the Compact fails to respond within seven (7) calendar days (not including weekends and holidays); and (ii) that no approval shall be necessary for any General Communication (a) regarding any emergency situation involving any risk to the public health, safety or welfare; (b) which has been approved by the DTE, the Division of Energy Resources, or any other Governmental Authority; or (c) in the nature of routine monthly or periodic bills, or collection notices, except that any bill insert or message included at the bottom of such bill not within the scope of (a) or (b) above shall require approval. If the Compact, acting on behalf of one or more Member Municipalities, objects to a mailing or other communication on the grounds it is inconsistent with the goals of the Compact, Supplier, after consultation as

provided in this Article 5.7, may nevertheless elect to send such mailing or communication provided that it: i) clearly indicates on such mailing that it has not been endorsed by the Member Municipality and/or the Compact, ii) has previously provided all Consumers a meaningful chance to opt not to receive such General Communications, and iii) has stated in connection with such chance to opt not to receive such communications that "the Compact and the Member Municipalities want to protect Consumers from receiving marketing materials if you do not wish to do so," and iv) has otherwise sought input from the Compact as to the means by which Consumers are given a chance to remove their names from any list which may receive General Communications.

5.8 Bill Inserts and Messages - Supplier agrees that if it bills or communicates with Consumers directly, and unless prevented for regulatory or other such reasons from doing so, it shall allow the Compact to include no less than three bill inserts per year into such billings, provided that the Compact pays the cost of printing and reproducing such insert and any incremental postage or handling costs Supplier may incur as a result of including such insert. Supplier shall provide a copy of such communications to the Compact. Supplier further agrees that it shall, at its direct cost, if any, and to the extent that it does not conflict with planned use of any message space by Supplier, provide the Compact access to any message space on any bills Supplier sends to Consumers, to the extent any bills it sends directly or indirectly through the Distribution Company or other entity contain a bill message space under the control of Supplier.

5.9 Consumer Lists - To the extent not prohibited by any Governmental Rule or expressly by any Consumer, Supplier shall, upon request of the Compact, provide a list of the Consumers being served by Supplier, including such reasonable identifying and aggregate consumption information as the Compact may also request to the extent such information is available to Supplier. Supplier shall provide such consumer lists in an electronic format reasonably acceptable to both Parties and with no more frequency than once a month.

5.10 Compliance with Laws - The Parties shall promptly and fully comply with all existing and future Governmental Rules of all Governmental Authorities having jurisdiction over the activities covered by this Agreement.

5.11 Consent - Whenever performance of an obligation of any Party hereto requires the consent or approval of any Governmental Authority, such Party shall make Commercially Reasonable efforts to obtain such consent or approval. In the event Supplier requests the Compact's assistance in obtaining such consent or approval and the Compact anticipates that it will incur costs in fulfilling Supplier's request, it shall give Supplier an estimate of such costs. Upon receiving the cost estimate, Supplier shall determine if it continues to request the Compact's assistance, and if so, Supplier shall reimburse the Compact for all costs, up to the estimated dollar amount, reasonably incurred by the Compact in connection with such efforts.

ARTICLE 6 ROLES OF THE COMPACT AND THE MEMBER MUNICIPALITIES

Under this Agreement, the Compact and the Member Municipalities (except as they or entities under their control are direct customers) shall not actually receive, take title to, or be

liable for the supply or delivery of All-Requirements Power Supply in any manner whatsoever. The Parties specifically agree that the role of the Compact is to a) set the terms and conditions under which All-Requirements Power Supply will be provided by Supplier under this Agreement and to ensure that Supplier complies with those terms and conditions, and b) act as agent for the Member Municipalities with respect to the matters addressed in this Agreement. It is the sole obligation of Supplier to arrange for delivery of All-Requirements Power Supply to Consumers. The Parties agree that neither the Compact nor the Member Municipalities are “aggregators,” “distribution companies,” “electric companies,” “generation companies” or “transmission companies” within the meaning of G.L. c. 164, §1 as a result of this Agreement, unless a court, the DTE, or other lawful authority shall adjudicate to the contrary. Supplier hereby agrees that it will take no action that would make the Compact or its agents liable to any Consumer due to any act or failure to act on the part of Supplier relating to the delivery or supply of All-Requirements Power Supply.

ARTICLE 7 PRICES AND SERVICES; BILLING

7.1 Schedule of Prices and Terms - Supplier agrees to provide All-Requirements Power Supply and other related services as expressly set forth herein in accordance with the prices and terms included in Exhibit A to this Agreement, which Exhibit is hereby incorporated by reference into this Agreement.

7.2 Obligation to Serve - As between the Parties, Supplier has the sole obligation to obtain sources of supply, whether from generating facilities owned or controlled by its affiliates, through bilateral transactions, or the market, as may be necessary to provide All-Requirements Power Supply for all of the Consumers who do not opt out of the Compact’s Aggregation Program. Supplier shall make appropriate arrangements to obtain such capacity, electrical energy, and ancillary services for load-following purposes, including, but not limited to, spinning reserves, supplemental reserves, backup supplies and services as may be needed in the event of outages or emergencies, and all other ancillary services as necessary to provide a firm, reliable, and safe All-Requirements Power Supply for Consumers to the Point of Delivery. Supplier, except as explicitly limited in the terms included in Exhibit A, shall be obligated to accept all Consumers who are or become participants in the Compact’s Aggregation Program, regardless of their location and energy needs, subject to the credit requirements enumerated in Exhibit A, Article 5.5 (Non-Discriminatory Provision of Service) hereof and applicable law.

7.3 Metering and Billing - As between the Parties, Supplier bears sole responsibility for any metering which may be required to bill Consumers, and for rendering of any bills to Consumers. Supplier may discharge this obligation by making appropriate arrangements with the Distribution Company or any other entity. Any metering and billing functions carried out by Supplier shall be conducted in compliance with relevant rules and regulations of the DTE and the Attorney General of the Commonwealth.

7.4 Terms and Conditions Pertaining to Individual Account Service -

A. Title

Title to All-Requirements Power Supply will transfer from Supplier to Consumers at the Point of Sale. Possession of, and risk of loss related to, All-Requirements Power Supply will transfer from Supplier to the Distribution Company at the Point of Delivery.

B. Term

Delivery of All-Requirements Power Supply will begin on the first Consumer meter read dates in December, 2005 as specified in Exhibit A, or as soon as necessary arrangements can be made with the Distribution Company thereafter and will end on the last Consumer meter read dates in January, 2007 unless extended or modified in accordance with Article 4.4. Supplier has the right to request a "special" meter reading by the Distribution Company to initiate energy delivery and agrees to accept all costs (if any) for such meter reading.

C. Billing and Payment

Unless otherwise specified in an Exhibit to this Agreement, all billing under this Agreement shall be based on the meter readings of each Consumer's meter(s) performed by the Distribution Company. Supplier shall, or shall cause the Distribution Company or any other entity to, prepare and mail bills to Consumers monthly. If Supplier arranges for the Distribution Company to perform billing services, Supplier shall adopt the billing and payment terms offered by the Distribution Company. Payment shall be net thirty (30) days from the date of billing. The Consumer will pay a late charge of 1.5% per month, or the maximum rate allowed by state law if that rate is less, for payments received after the due date. Billing may take place through the Distribution Company at Supplier's option. In the event that necessary billing data is not received from the Distribution Company in time to prepare monthly bills, Supplier reserves the right to issue a bill based on an estimate of the Consumer's total kWh usage for that billing period. Any over-charge or under-charge will be accounted for in the next billing period for which actual meter data is available.

D. Regional and Local Transmission

The prices quoted in Exhibit A do not include current and future charges for distribution service costs collected by the Distribution Company under its distribution service tariff or local transmission costs as may be imposed by the regional power pool or individual electric utilities that have FERC transmission tariffs. It is Supplier's understanding that these costs will be collected by the Distribution Company under its transmission tariff charge. If in the future Supplier becomes responsible for distribution costs, Supplier shall be entitled to collect such costs from Consumers to the extent permitted by any Governmental Rules. These costs are "pass through" costs as determined by the appropriate regulatory agencies.

E. Taxes

All sales, gross receipts, excise or similar taxes imposed with respect to the sale or consumption of All-Requirements Power Supply shall be included on each Consumer's bill and

shall be remitted to the appropriate taxing authority by Supplier. Consumers shall be responsible for all taxes (except for taxes on Supplier's income) associated with sales under the Agreement. Consumers shall be responsible for identifying and requesting any exemption from the collection of any tax by providing appropriate documentation to Supplier.

F. EDI/EFT

Supplier may provide Electronic Funds Transfer ("EFT") as a payment option to Consumers provided the Consumers and Supplier can mutually access a common Value Added Network ("VAN") and provided further that Supplier is allowed to pass through the costs imposed by VAN providers or the provider of other electronic transmission vehicle.

ARTICLE 8 DEVELOPMENT OR OFFERING OF GREEN POWER

8.1 Offering of Green Power -

A. Cape Light Compact Greensm

Supplier hereby agrees that it will incorporate the Cape Light Compact Greensm program into Supplier's provision of All Requirements Power Supply under this Agreement and offer such program to any Consumers who affirmatively choose to participate. The Supplier and the Compact agree that Supplier shall be reimbursed by the Compact (or participating Consumers, if the Compact so directs) for any reasonable costs Supplier incurs in the implementation of Cape Light Compact Greensm.

B. Green Power

Supplier hereby agrees that it will comply with the applicable provisions of G.L. c. 25A, §11F and any regulations, orders or policies adopted pursuant thereto. The Parties agree that in view of opportunities to reduce the environmental cost of electric power generation, the Compact and Supplier have a mutual interest in advancing the use of Green Power. Supplier and the Compact agree that subsequent to execution of this agreement, the Parties will consider options to incorporate Green Power purchases beyond those that may be required by law, regulations or policies that may be adopted pursuant to the provisions of G.L. c. 25A, section 11 F and beyond the Cape Light Compact Greensm. The purpose of such consideration will be to determine viable options that may be included as part of the power supply portfolio, and/or offered individually to Consumers, and to determine the costs of such options. The Parties also agree to such considerations at mutually acceptable times following initiation of service as new sources of Green Power become available. Upon mutual agreement on cost and viability based on such considerations, the Parties will amend Exhibit A to incorporate an additional Green Power supply option (beyond Cape Light Compact Greensm) or options as part of the power supply to be procured by Supplier. The Parties agree that all of Supplier's reasonable costs for examination and implementation of any additional Green Power options hereunder, other than those normally incurred in marketing and similar activities, will be reimbursed by the Compact.

8.2 Renewable Energy Projects- Supplier hereby agrees that it will incorporate as part of its All Requirements Power Supply, any and all Green Power that the Compact purchases from renewable energy projects in the Member Municipalities.

ARTICLE 9 SERVICE PROTECTIONS FOR RESIDENTIAL CUSTOMERS

Supplier agrees that it shall comply with the provisions of 220 CMR Parts 25, 27, 28 and 29, any amendments thereto, and any code of conduct or policies the DTE may adopt in accordance with G.L. c. 164, §1F(7). Supplier shall, on or before December 16, 2005, provide a written, detailed description of its billing and termination procedures, customer services, confidentiality and related practices and procedures for approval by the Compact (which approval shall not be unreasonably withheld). Such written description shall also include Supplier's plans for maintaining "service quality standards," as that phrase is used in §1F(7); for complying with the "affirmative choice" requirements of §1F(7); and for handling customer complaints, including any arbitration procedures. If the Consumer(s) so permit(s) to the extent such permission is required by law, Supplier agrees to provide notice to the Compact of any customer complaints received from a Consumer, and to grant the Compact the right to participate in resolution of the dispute, to the extent permitted by DTE regulations and other applicable law. The failure to timely submit such written description, or the submission of practices and procedures which materially fail to comply with DTE regulations and policies, shall be deemed grounds for termination of this Agreement, at the discretion of the Compact after providing written notice of such failure to Supplier and allowing Supplier sixty (60) days to cure such failure.

ARTICLE 10 NON-DISCRIMINATION IN HIRING AND EMPLOYMENT

Supplier agrees to conduct its operations and activities under this Agreement in accordance with all applicable state and federal laws regarding non-discrimination in hiring and employment of employees.

ARTICLE 11 POWER SUPPLY INFORMATION AND ACCESS TO INFORMATION

11.1 Power Supply Information -

A. Quarterly Reports of Sales

The Supplier will provide the Compact with a quarterly report of sales which will contain: (i) the actual kWh sales for each calendar month of the reporting period; (ii) the number of customer accounts active in each calendar month of the report; and (iii) the hourly load data from the Supplier's ISO load asset(s) for all customers served by Supplier during the period of the report. The quarterly report will be due to the Compact within thirty (30) days following the close of each quarter (March 31, June 30, September 30, December 31). The kWh sales and

number of customer accounts shall be listed in the report both by rate code and rate name as shown on Exhibit B attached hereto. This information shall be provided in electronic format.

B. Customer-Related Data

During the term of All Requirements Power Supply to individual accounts (as defined in Article 7.4B), Supplier will maintain customer-related data in electronic form as specified in Exhibit C attached hereto, and will make such data available to the Compact upon request.

C. Additional Information

Upon request, Supplier shall provide to the Compact, within a reasonable time, information regarding efforts to comply with the Green Power provisions of this Agreement; and such other matters as may be mutually agreed upon by the Parties, acting in good faith.

D. Standard of Care

The Supplier shall use good industry practice in preparing and providing any information or data required under this Agreement. To the extent the Supplier determines that any information or data provided hereunder is in error, it shall provide such information or data to the Compact within a Commercially Reasonable time.

11.2 Power Supply Report - Within fifteen (15) days of the end of the quarter, Supplier shall present a copy of the current "Disclosure Label" required by the DTE of all Competitive Suppliers to be disclosed to their customers which includes information pertaining to their power supply and a reasonably detailed description of the sources of Supplier's power supply used to serve Consumers pursuant to this Agreement, except to the extent such disclosure would violate any confidentiality obligations of Supplier. Supplier shall post the "Disclosure Label" on their web site under Cape Light Compact power supply program.

11.3 Books and Records - Supplier shall keep its books and records in accordance with any applicable regulations or guidelines of the DTE, the Federal Energy Regulatory Commission, and any other Governmental Authority. The Compact will have access to all reports mandated by the Securities and Exchange Commission which are available on the Internet "EDGAR" system. Upon reasonable request by the Compact and at the Compact's expense, Supplier shall provide back-up for any charge under this Agreement questioned by the Compact.

11.4 Copies of Regulatory Reports and Filings - Upon reasonable request, Supplier shall provide to the Compact a copy of each public periodic or incident-related report or record relating to this Agreement which it files with any Massachusetts or federal agency regulating rates, service, compliance with environmental laws, or compliance with affirmative action and equal opportunity requirements, unless Supplier is required by law or regulation to keep such reports confidential from the other Parties. The Compact shall treat any reports and/or filings received from Supplier as confidential information subject to the terms of Article 16 (Confidentiality). Supplier shall be reimbursed its reasonable costs of providing such copies.

ARTICLE 12 RESOLUTION OF DISPUTES; CHOICE OF LAW

12.1 Choice of Law - This Agreement and the rights of the Parties shall be interpreted and determined in accordance with the laws of the Commonwealth of Massachusetts.

12.2 Dispute Resolution - Unless otherwise expressly provided for in this Agreement, the dispute resolution procedures of this Article 12.2 shall be the exclusive mechanism to resolve disputes arising under this Agreement. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this Agreement. Any dispute that arises under or with respect to this Agreement that cannot be resolved shall in the first instance be the subject of informal negotiations between the Parties involved in the dispute. The dispute shall be considered to have arisen when one Party sends the other Party(ies) involved in the dispute a written notice of dispute. The period for informal negotiations shall be fourteen (14) days from receipt of the written notice of dispute unless such time period is modified by written agreement of the Parties involved in the dispute. In the event that the parties involved in the dispute cannot resolve a dispute by informal negotiations, the Parties agree to submit the dispute to mediation. Within fourteen (14) days following the expiration of the time period for informal negotiations, the Parties shall propose and agree upon a neutral and otherwise qualified mediator. In the event that the Parties fail to agree upon a mediator, the Parties shall request that the American Arbitration Association, Boston, Massachusetts, appoint a mediator. The period for mediation shall commence upon the appointment of the mediator and shall not exceed sixty (60) days, unless such time period is modified by written agreement of the Parties. The decision to continue mediation shall be in the sole discretion of each party involved in the dispute. The Parties will bear their own costs of the mediation. The mediator's fees shall be shared equally by all Parties involved in the dispute. In the event that the Parties cannot resolve a dispute by informal negotiations or mediation, either Party may seek judicial enforcement. Notwithstanding the foregoing, injunctive relief may be sought without resorting to alternative dispute resolution to prevent irreparable harm that would be caused by a breach of this Agreement. In any judicial proceeding, the "Prevailing Party" shall be entitled to payment from the opposing party of its reasonable costs and fees, including but not limited to attorneys' fees and travel expenses, arising from the civil action. As used herein, the phrase "Prevailing Party" shall mean the party who, in the reasonable discretion of the finder of fact, most substantially prevails in its claims or defenses in the civil action. Venue for any judicial proceeding involving a dispute arising from this Agreement shall be Barnstable County Superior Court, Massachusetts.

ARTICLE 13 INDEMNIFICATION

13.1 Indemnification by Supplier - Supplier shall indemnify, defend and hold harmless the Member Municipalities and the Compact (collectively "Indemnified Parties" and singularly "Indemnified Party") and each Indemnified Party's officers, employees, agents, representatives and independent contractors, from and against any and all costs, claims, liabilities, damages, expenses (including reasonable attorneys' fees), causes of action, suits or judgments, incurred by, on behalf of or involving any one of the foregoing parties to the extent arising, directly or indirectly, from or in connection with (i) any material breach by Supplier of its obligations,

covenants, representations or warranties contained in this Agreement and not resulting from the actions of the Distribution Company, the Compact or any Member Municipality or their employees or agents, or (ii) Supplier's actions or omissions taken or made in connection with Supplier's performance of this Agreement. Supplier further agrees, if requested by the Compact or any Member Municipality, to investigate, handle, respond to, and defend any such claim, demand, or suit at its own expense arising under this Article 13.1.

13.2 Notice of Indemnification Claims - If the Compact or any Member Municipality seeks indemnification pursuant to this Article 13, the Compact shall notify Supplier of the existence of a claim, or potential claim as soon as practicable after learning of such claim, or potential claim, describing with reasonable particularity the circumstances giving rise to such claim. Upon written acknowledgment by Supplier that it will assume the defense and indemnification of such claim, Supplier may assert any defenses which are or would otherwise be available to the Compact and/or a Member Municipality, as the case may be.

13.3 Survival - Notwithstanding any provision contained herein, the provisions of this Article 13 and the Financial Sureties and Guaranties provided by Supplier pursuant to Article 15.2 (Additional Financial Sureties and Guarantees) shall survive the termination of this Agreement for a period of three (3) years with respect to a) any claims which occurred or arose prior to such termination and b) any losses occurring as a result of the termination.

13.4 Duty to Mitigate – All Parties agree that they have a duty to mitigate damages and covenants that they will use Commercially Reasonable efforts to minimize any damages they may incur as a result of any other Party's performance or non-performance of this Agreement.

ARTICLE 14 REPRESENTATIONS AND WARRANTIES

14.1 Representations and Warranties by Supplier - As a material inducement to entering into this Agreement, Supplier hereby represents and warrants to the Compact as of the Effective Date of this Agreement as follows:

(i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary for it to perform its obligations under this Agreement;

(ii) it has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this Agreement or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due;

(iii) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any Governmental Rule applicable to it;

(iv) subject to the conditions set forth in Article 2.5 (Conditions Precedent), this Agreement constitutes a legal, valid and binding obligation of Supplier enforceable against it in accordance with its terms, and Supplier has all rights such that it can and will perform its obligations to Supplier in conformance with the terms and conditions of this Agreement, subject to bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally and general principles of equity;

(v) no Bankruptcy is pending against it or to its knowledge threatened against it;

(vi) none of the documents or other written information furnished by or on behalf of Supplier to the Compact and/or the Member Municipalities pursuant to this Agreement, contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading; and

(vii) all information furnished by Supplier in response to the request for proposals for competitive electric supply services is true and accurate.

14.2 Representations and Warranties by the Compact - As a material inducement to entering into this Agreement, the Compact hereby represents and warrants to Supplier as of the effective date of this Agreement as follows:

(i) the Compact was formed by intergovernmental agreement in accordance with the laws of the Commonwealth of Massachusetts;

(ii) this Agreement will constitute the legal, valid and binding obligation of the Compact enforceable in accordance with its terms;

(iii) the execution, delivery and performance of this Agreement are within the Compact's powers, have been or will be duly authorized by all necessary action and the Compact is the duly authorized agent of the Member Municipalities with respect to the matters addressed in this Agreement;

(iv) the Compact has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this Agreement or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and

(v) no Bankruptcy is pending or threatened against it or any Member Municipality.

**ARTICLE 15 INSURANCE AND OTHER FINANCIAL SURETIES AND
GUARANTEES**

15.1 Insurance - In order to help support the indemnifications provided in Article 13 (Indemnification), and its other promises and covenants stated herein, Supplier shall secure and maintain, at its own expense, throughout the term of this Agreement, comprehensive commercial general liability insurance of at least \$5,000,000 combined single limit and excess liability coverage of at least \$5,000,000 with insurers and with the Compact and Member Municipalities named as additional insureds. Supplier shall provide the Compact with evidence, reasonably satisfactory to the Compact, of its insurance hereunder, upon request. The detailed terms of Supplier's insurance are set forth in Exhibit D attached hereto.

15.2 Additional Financial Sureties and Guarantees - In addition to the insurance set forth in Article 15.1, above, Supplier's Parent Guarantee dated January 26, 2006 provides financial security to the Compact for Supplier's obligations hereunder, including, without limitation, the indemnification set forth in Article 13 (Indemnification), in the form attached hereto as Exhibit E.

Supplier may change the type and amount of its financial security provided hereunder with the consent of the Compact, such consent not to be unreasonably withheld.

Upon reasonable request during the term of this Agreement and on a continuing basis, Supplier will provide the Compact with Commercially Reasonable proof of its ability to meet its indemnification obligations to the Compact and the Member Municipalities pursuant to this Agreement. Supplier will provide the Compact with a copy of its parent's annual report. Supplier also agrees to notify the Compact in the event that its parent's unsecured, senior long-term debt or current corporate credit rating (not supported by third-party credit enhancements) is less than BBB- by Standard & Poor's Rating Group or less than BBB- by Fitch Investor Services, Inc. (a "Downgrade Event"). Should a Downgrade Event occur, the Compact may request that Supplier provide a substitute form of security in an amount to be determined in accordance with the formula described in the preceding paragraph. Upon receipt of such notice, Supplier shall have three (3) business days in which to provide such substitute form of security to the Compact.

15.3 Reserve Fund - In order to ensure timely access to funds and: (a) provide the Compact with further financial security in the event Supplier declines to or otherwise fails to indemnify it pursuant to Article 13 (Indemnification) and that the insurance coverage pursuant to Article 15.1 (Insurance) and the other financial sureties provided pursuant to Article 15.2 (Additional Financial Sureties and Guarantees) are unavailable or insufficient, and (b) provide the Compact with a special reserve fund ("Reserve Fund") to give further assurances that the Compact will be able to respond appropriately to any risks associated with this Agreement, Supplier agrees to collect on behalf of the Compact, ½ mil (\$.0005), or such other amount as the Compact may determine, for every kWh sold to Consumers for the duration of service under this Agreement. The County may elect to release Supplier, in whole or in part, from this obligation. If the County elects to do so, it shall provide Supplier with sixty (60) days advance written notice of its decision. Supplier shall remit to the Compact or its designee within thirty (30) days of the end of the month, by electronic funds transfer or such other mutually acceptable method, the amounts due pursuant to this Article 15.3 and provide reasonable supporting documentation as to the total number of kWh sold in each preceding month upon which such payment is calculated.

Once paid to the Compact or its designee, Supplier shall have no further interest or claim in such Reserve Fund. The Compact may use the Reserve Fund to cover any costs, claims, liabilities, damages, expenses (including reasonable attorney's fees), causes of action, suits or judgments, incurred by or on behalf of the Compact or Member Municipalities. The Compact shall cause all funds collected for it by Supplier hereunder to be deposited in a dedicated, interest-bearing account. The Compact may expend such funds for any purpose as may be allowed by law and as determined in the reasonable discretion of the Compact's Governing Board.

ARTICLE 16 CONFIDENTIALITY

The Parties' confidentiality obligations are governed by a Confidentiality Agreement dated as of August 4, 2005 (the "Confidentiality Agreement").

ARTICLE 17 MISCELLANEOUS

17.1 No Assignment Without Permission - Supplier shall not assign its rights and privileges under this Agreement without the prior written approval of the Compact. Such approval may be denied in the reasonable discretion of the Compact if it determines that the proposed assignee does not have at least the same financial and technical ability as the assigning Supplier. Notwithstanding the foregoing, the Compact may not unreasonably withhold its consent to an assignment to an affiliated entity under common control or management with Supplier. Supplier's assignee shall agree in writing to be bound by the terms and conditions of this Agreement. The Compact may assign this Agreement without the prior consent of Supplier. The rights and obligations created by this Agreement shall inure to the benefit of, and be binding upon, the successors and permitted assigns of, the respective Parties hereto.

17.2 Direct Marketing - Prior to the introduction of any new product or service which Supplier may wish to make available to Member Municipalities or other Consumers located within a Member Municipality, Supplier agrees to (i) give the Compact written notice of such new product or service and (ii) subject to the entry into reasonable confidentiality terms to the extent permitted by law and mutually acceptable to the Parties, discuss with the Compact the possible inclusion of such new product or service in this or another aggregation program undertaken by the Compact and Member Municipalities in the geographic area encompassing the Member Municipalities. The Parties agree to negotiate in good faith the terms, conditions, and prices for such products and services which the Parties agree should be included in a Compact aggregation program.

Supplier also agrees not to engage in any direct marketing to any Consumer that relies upon Supplier's unique knowledge of, or access to, particular Consumer data gained as a result of this Agreement. For the purposes of this provision, "direct marketing" shall include any telephone call, mailing, electronic mail, or other contact between Supplier and the Consumer. Broad-based programs of Supplier that do not rely on unique knowledge or access gained through this Agreement will not constitute such "direct marketing."

17.3 **Notices** - All notices, demands, requests, consents or other communications required or permitted to be given or made under this Agreement shall be in writing and addressed to:

if to Supplier to:

Mr. Jorge Lopez
Vice President
Consolidated Edison Solutions, Inc.
701 Westchester Ave; Suite 301 East
White Plains, NY 10604
(914) 286-7779 (voice)
(914) 286-7736 (fax)
lopezj@conedsolutions.com

Mr. James J. Dixon
Vice President & General Counsel
Consolidated Edison Solutions, Inc.
701 Westchester Ave; Suite 301 East
White Plains, NY 10604
(914) 286-7085 (voice)
(914) 686-1413 (fax)
dixonj@conedsolutions.com

For Operational Issues Only:

Mr. Thomas Ringwald
Managing Director, Customer Operations
Consolidated Edison Solutions, Inc.
701 Westchester Ave; Suite 301 East
White Plains, NY 10604
(914) 286-7721 (voice)
(914) 948-8908 (fax)
ringwaldt@conedsolutions.com

if to the Compact to:

Ms. Margaret Downey
Administrator
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, Massachusetts 02630
(508) 375-6636 (voice)
(508) 362-4136 (fax)
mags@cape.com

Mr. Joseph Soares
Power Supply Planner
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, MA 02630
(508) 375-6623 (voice)
(508) 362-4136 (fax)
jas@cape.com

Notices hereunder shall be deemed properly served (i) by hand delivery, on the day and at the time on which delivered to the intended recipient at the address set forth in this Agreement; (ii) if sent by mail, on the third business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this Agreement; or (iii) if by Federal Express or other reputable express mail service, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this Agreement. Any party

may change its address and contact person for the purposes of this Article 17.3 by giving notice thereof in the manner required herein.

17.4 Changes in Emergency and Service Contact Persons - In the event that the name or telephone number of any emergency or service contact for Supplier changes, Supplier shall give prompt notice to the Compact in the manner set forth in Article 17.3 (Notices). In the event that the name or telephone number of any such contact person for the Compact changes, prompt notice shall be given to Supplier in the manner set forth in Article 17.3 (Notices).

17.5 Entire Agreement; Amendments - This Agreement, the Confidentiality Agreement and the Related Documents constitute the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. This Agreement may only be amended or modified by a written instrument signed by all Parties hereto.

17.6 Force Majeure - If by reason of *Force Majeure* any Party is unable to carry out, either in whole or in part, its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (i) the non-performing Party, within two (2) weeks after the occurrence of the *Force Majeure*, gives all other Parties hereto written notice describing the particulars of the occurrence; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the *Force Majeure*; (iii) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and (iv) the non-performing Party shall use Commercially Reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations. If an event of *Force Majeure* continues for a period of one hundred eighty (180) days or longer, either Party may treat such an event as an event of default and may terminate this Agreement by sending the other party a written notice to cure as set forth in Article 4.2 (Termination).

17.7 Expenses - Each Party hereto shall pay all expenses incurred by it in connection with its entering into this Agreement, including without limitation, all attorneys' fees and expenses.

17.8 No Joint Venture - Supplier will perform all services under this Agreement as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of any other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Compact and Supplier hereunder are individual and neither collective nor joint in nature.

17.9 Joint Workproduct - This Agreement shall be considered the workproduct of both Parties hereto, and, therefore, no rule of strict construction shall be applied against either Party.

17.10 Counterparts - This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement.

17.11 Waiver - No waiver by any Party hereto of any one or more defaults by any other Party in the performance of any provision of this Agreement shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of any Party hereto to complain of any action or non-action on the part of any other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party(ies) so failing. A waiver of any of the provisions of this Agreement shall only be effective if made in writing and signed by the Party who is making such waiver.

17.12 Related Documents - Supplier agrees that it has been provided with and had a reasonable opportunity to read the Related Documents and to ask questions about the terms and conditions of the Related Documents. The Parties agree that the Related Documents, in the forms as they exist on the Effective Date of this Agreement, are incorporated into this Agreement by reference, and that they shall be construed harmoniously to the greatest practicable extent; notwithstanding the foregoing, in the event of any conflict between this Agreement and the Related Documents, this Agreement shall govern. The Compact will provide Supplier with amendments to any of the foregoing documents as they are adopted; provided, however, that such amendments are not incorporated into this Agreement as a result of such adoption. Any amendments hereto must be made in accordance with Article 17.5 (Entire Agreement; Amendments) of this Agreement.

17.13 Advertising Limitations - Supplier agrees not to use the name of the Cape Light Compact or any Member Municipality, or make any reference to the Cape Light Compact or any Member Municipality in any advertising or other information to be distributed publicly for marketing or educational purposes, unless the Compact expressly agrees to such usage. Any proposed use of the name of the Cape Light Compact or any Member Municipality must be submitted in writing for agreement and prior approval, which shall not be unreasonably withheld, consistent with Article 5.7 (General Communications) hereof. The Compact acknowledges that Supplier's corporate affiliates own the exclusive right to the trademarked logo and trade name used by Supplier. No right, license or interest in this trademark and/or trade name is granted to the Compact hereunder, and the Compact agrees that it shall not assert any right, license or interest with respect to such trademark and/or trade name.

17.14 Press Releases - The Parties shall not issue a press release or make any public statement with respect to this Agreement without the prior written agreement of the other Party with respect to the form, substance and timing thereof, except either Party may make any such press release or public statement when the releasing Party is advised by its legal counsel that such a press release or public statement is required by law, regulation or stock exchange rules, provided however, in such event, the Parties shall use their reasonably good faith efforts to agree as to the form, substance and timing of such release or statement.

17.15 Headings and Captions - The headings and captions appearing in this Agreement are intended for reference only, and are not to be considered in construing this Agreement.

17.16 Survival of Obligations - Termination of this Agreement for any reason shall not relieve the Company or Supplier of any obligation accrued or accruing prior to such termination.

17.17 Remedies -

A. **General** - Subject to the limitations set forth in Section 17.17(B) below, the Compact, each of the Member Municipalities, and the Supplier reserve and shall have all rights and remedies available to each of them at law or in equity with respect to the performance or non-performance of the other parties hereto under this Agreement.

B. **Limitations** - NO PARTY HERETO SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT. Notwithstanding the foregoing, Supplier acknowledges that the preceding sentence shall not limit the Compact's rights under Article 13.1 (Indemnification) to seek indemnification from Supplier or consequential, punitive, or incidental damages or other such losses claimed by third-parties, subject to any limitations set forth in the Payment Guarantee.

17.18 Cooperation – The Parties agree that they shall use Commercially Reasonable efforts in good faith and in full cooperation with the other Party to secure any approvals required to implement this Agreement and to otherwise carry out their obligations hereunder.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

CONSOLIDATED EDISON SOLUTIONS, INC.

By: JoAnn F. Ryan
JoAnn F. Ryan
President & Chief Operating Officer
701 Westchester Ave; Suite 300 E
White Plains, NY 10604

Dated: January 26, 2006

CAPE LIGHT COMPACT

By: _____
Ms. Margaret Downey
Administrator
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, MA 02630
(508) 375-6636 (voice)
(508) 362-4166 (fax)
mags@cape.com

Dated: _____

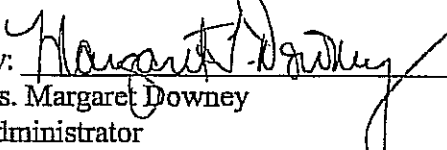
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

CONSOLIDATED EDISON *SOLUTIONS*, INC.

By: _____
JoAnn F. Ryan
President & Chief Operating Officer
701 Westchester Ave; Suite 300 E
White Plains, NY 10604

Dated: _____

CAPE LIGHT COMPACT

By:  _____
Ms. Margaret Downey
Administrator
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, MA 02630
(508) 375-6636 (voice)
(508) 362-4166 (fax)
mags@cape.com

Dated: 1/26/06

PRICES AND TERMS

- _____

EXHIBIT B

TEMPLATE KWH SALES AND CUSTOMER ACCOUNTS DATA SUMMARY

Rate Code	Rate Name	Accounts	Customers	kWh
R-1	Res. Non-Heat/Annual	[x]		
G-1	Mun. Gov./ General	[x]	[x]	[x]
G-1	Mun. Gov./ Water Pumping	[x]	[x]	[x]
G-2	Mun. Gov./ General-Medium TOU	[x]	[x]	[x]
G-2	Mun. Gov./ Water Pumping-Medium TOU	[x]	[x]	[x]
G-2	Mun. Gov./General-Medium TOU	[x]	[x]	[x]
G-3	Mun. Gov./ General-Large TOU	[x]	[x]	[x]
G-5	Mun. Gov./ General-Comm. Htg.	[x]	[x]	[x]
G-7	Mun. Gov./ General TOU	[x]	[x]	[x]
R-5	State Gov./ General-Wtr Heating	[x]	[x]	[x]
G-1	Fed. Gov./ General	[x]	[x]	[x]
S-1	Fed. Gov./ Street & Traffic Lights	[x]	[x]	[x]
S-1	Mun. Gov./ Street & Traffic Lights	[x]	[x]	[x]
S-1	State Gov./ Street & Traffic Lights	[x]	[x]	[x]
S-2	Mun. Gov. Owned Street Ltg.13	[x]	[x]	[x]
			[x]	[x]
Total:		[x]	[x]	[x]

EXHIBIT C

TERMS AND CONDITIONS FOR PROVISION OF CUSTOMER-RELATED DATA

The layout of the electronic files containing the customer data should adhere to the terms and conditions set forth below.

There are 6 files containing customer and meter information. The file labeled **capeTOU.zip** contains the time of use customer and meter usage data. Files labeled **capetown1.zip** to **capetown5.zip** contain customer and meter usage data for non-time of use customers. These files are delimited by a semicolon (;) and are broken down as follows:

File Name	# of records	# of customers
Capetown1.zip		
Capetown2.zip		
Capetown3.zip		
Capetown4.zip		
Capetown5.zip		
CapeTOU.zip		

The column headings for the **capetown1.zip** to **capetown5.zip** files are listed below.

Field name
Account
Customer
Service Street #
Service Street Name
Service Street Suffix
Service Town
Service Zip
Tax Id
Rev/Rate
Standard or Default
Phone #
January Use
January Demand
February Use
February Demand
March Use
March Demand
April Use
April Demand
May Use
May Demand
June Use
June Demand

July Use
 July Demand
 August Use
 August Demand
 September Use
 September Demand
 October Use
 October Demand
 November Use
 November Demand
 December Use
 December Demand
 Mail Street # Name
 Mail Town
 Mail State
 Mail Zip

The column headings for the **capeTOU.zip** file are listed below. This file is different than the non-TOU accounts. This file lists each customer 12 times with each month's usage listed on one line.

Field name
 Account
 Customer
 Service Street #
 Service Street Name
 Service Street Suffix
 Service Town
 Service Zip
 Tax Id
 Rate
 Revenue
 Standard or Default
 Phone #
 KWH
 From Date
 To Date
 Peak KVA
 Mail Street # Name
 Mail Town
 Mail State
 Mail Zip

EXHIBIT D

INSURANCE

1. Supplier shall maintain commercial general liability insurance throughout the term of the Agreement and for a period of at least two years following the contract term.
2. The insurance may be provided on a claims made basis. In the event such insurance is cancelled or non-renewed, Supplier agrees to provide a 36 month discovery period endorsement for obligations under this agreement.
3. The insurance shall include coverage for bodily injury liability, property damage liability, advertising injury liability and personal injury liability.
4. To the extent available at commercially reasonable terms and conditions, personal injury liability coverage shall include non-employment discrimination in accordance with AEGIS form 8100 (1/1/98).
5. To the extent available at commercially reasonable terms and conditions, the insurance shall include Failure to Supply coverage and such coverage shall be in accordance with AEGIS form 8100(1/1/98).
6. The insurance shall include blanket contractual liability coverage, including the Competitive Electric Supply Agreement between Supplier and the Cape Light Compact.
7. The limit of commercial general liability insurance shall be at least \$5 million each occurrence. Separate aggregate limits of \$5 million may be applicable to products and completed operations liability coverage and failure to supply liability coverage.
8. Supplier shall maintain umbrella or excess liability insurance subject to a limit of at least \$5 million in addition to commercial general liability insurance policy limits.
9. Such liability insurance shall include Cape Light Compact and Member Municipalities as additional insureds, but only for obligations arising out of this agreement.
10. The policies shall be endorsed to require that such additional insureds receive at least 30 days notice of cancellation or non-renewal.
11. Such insurance shall contain a standard separation of insureds clause, whereby the actions of one insured will not negate coverage for another insured.
12. Supplier shall provide Cape Light Compact with a certificate of insurance to evidence compliance with the requirements. Renewal certificates shall be provided automatically within 30 days of policy renewal throughout the term of the contract and two years following the contract term.

EXHIBIT E
FORM OF SECURITY

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

BCK

BERNSTEIN, CUSHNER & KIMMELL, P.C.

ATTORNEYS AT LAW

Jeffrey M. Bernstein
Kenneth L. Kimmell
Erin M. O'Toole
Barbara Kessner Landau
Jonathan S. Klavens

585 Boylston Street, Suite 400
Boston, Massachusetts 02116
(617) 236-4090

Facsimile: (617) 236-4339
E-Mail: bckboston@bck.com
URL: www.bck.com

The firm has attorneys who
are also admitted to practice in
California, District of Columbia,
Idaho, and Vermont

August 21, 2006

VIA FIRST CLASS MAIL

Mary Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: Cape Light Compact 2006 Competitive Electric Supply Agreement

Dear Secretary Cottrell:

On behalf of the Cape Light Compact ("Compact") I am writing to inform you that the Compact and Consolidated Edison *Solutions*, Inc. ("ConEdison *Solutions*") have extended the term and amended the pricing exhibit of their Competitive Electric Supply Agreement ("Agreement"), which was effective as of December 1, 2005, to provide competitive retail power supply to the Compact's customers on an opt-out basis. The Agreement, which is similar in form to the initial electric supply agreement approved by the Department in D.T.E. 04-32, allows for the parties to extend the term and amend the pricing terms. The Compact's Aggregation Plan, approved by the Department in D.T.E. 00-47, remains unchanged.

A copy of a letter from ConEdison *Solutions* to the Compact confirming the amendments to the Agreement regarding the term and pricing is enclosed. The initial term under the Agreement is set to expire in January 2007. The extended term with the new pricing exhibit will now begin in January 2007 and expire in January 2010.

The new pricing terms, entitled Exhibit A-2, are being provided to the Department of Telecommunications and Energy ("Department") subject to a request that such pricing terms be treated confidential, pursuant to G.L. c. 25, § 5D, which allows the Department to protect trade secrets and competitively sensitive information from public disclosure. The Department has determined that competitively sensitive information such as price terms are subject to protective status. See Standard of Review for Electric Contracts, D.P.U. 96-39, at 2, Letter Order (August 30, 1996).

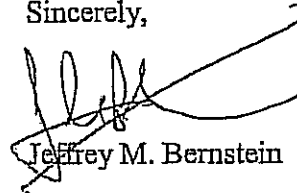
Vermont Office:
P.O. Box 205
Woodstock, VT 05091
Telephone: (802) 356-2560
Facsimile: (802) 910-1003
E-Mail: bckvt@bck.com

Mountain States Office:
P.O. Box 1527
Ketchum, ID 83340
Telephone: (208) 727-9734
Facsimile: (208) 727-9735
E-Mail: cotoole@bck.com

Mary Cottrell, Secretary
August 21, 2006
Page 2

Please note that I will be on vacation for the next two weeks. If you have any questions regarding the enclosed materials, please feel free to contact my Law Clerk, Audrey Eidelman, at 617-236-4090.

Sincerely,



Jeffrey M. Bernstein

JMB/aac
Enclosure

cc: Robert Sydney, General Counsel, Division of Energy Resources (w/partial encl.)
(via first class mail)
Joseph Rogers, Assistant Attorney General (w/partial encl.) (via first class mail)
Robert Werlin, Esq., Keegan Werlin, LLP (w/partial encl.) (via first class mail)
Jorge Lopez, ConEdison *Solutions* (w/encl.) (via first class mail)
Margaret T. Downey, Cape Light Compact (w/encl.) (via first class mail)

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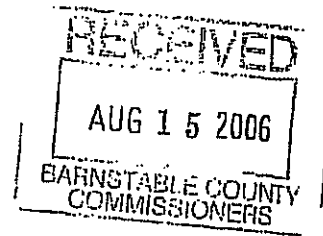


Jorge J. Lopez
President & Chief Executive Officer

August 14, 2006

VIA FIRST CLASS MAIL

Ms. Margaret Downey, Administrator
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, Massachusetts 02630



Re: Extension of Competitive Electric Supply Agreement (the "Agreement")

Dear Ms. Downey:

The purpose of this letter is to document that the Cape Light Compact (the "Compact") and Consolidated Edison *Solutions*, Inc. ("Con Edison Solutions") have agreed to extend the term of the Agreement pursuant to Section 4.4 of the Agreement which states as follows:

4.4 Extension - This Agreement may be extended beyond January 31, 2007, by mutual, written agreement of the Parties. Any new pricing terms shall be added to and replace Exhibit A as Exhibit A-2. Upon any such extension, this Agreement shall continue to be in effect, and all provisions of the Agreement shall retain the same force and effect as before the extension, unless it is terminated by either Party pursuant to the provisions of Article 4.2 or until the date stated in such extension.

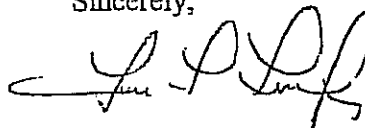
New pricing terms have been agreed to in accordance with the above-stated clause. The final version of Exhibit A-2 is enclosed.

I understand that a copy of this letter and the enclosed exhibit will be made part of an appropriate informational filing with the Massachusetts Department of Telecommunications and Energy ("DTE"). As set forth in Exhibit A-2, the parties intend to give the exhibit confidential treatment, but Con Edison Solutions understands that the Compact cannot guarantee that DTE will treat the exhibit and the information contained therein as confidential.

Ms. Margaret Downey
August xx, 2006
Page 2 of 2

Please countersign this letter in duplicate and return one-fully executed original to me to affirm the Compact's assent to extension of the term of the Agreement and the new pricing terms set forth in the enclosed Exhibit A-2. Thank you.

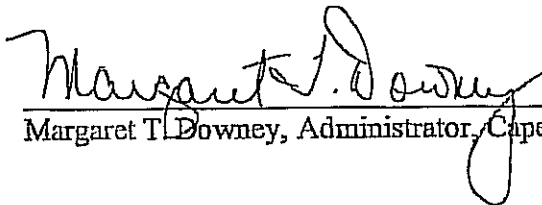
Sincerely,



Jorge J. Lopez
President & Chief Executive Officer

:jjd
Enclosure

ACCEPTED AND AGREED:



Margaret T. Downey, Administrator, Cape Light Compact

EXHIBIT A-2
PRICES AND TERMS

RECEIVED

AUG 15 2006

BARNSTABLE COUNTY
COMMISSIONERS

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[REDACTED]

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[REDACTED]

Exempt from public records disclosure pursuant to G.L. c. 4, §7, cl. 26(d) (development of agency policy) and 26(g) (trade secrets or proprietary commercial or financial information)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Exempt from public records disclosure pursuant to G.L. c. 4, §7, cl. 26(d) (development of agency policy) and 26(g) (trade secrets or proprietary commercial or financial information)

[REDACTED]

Exempt from public records disclosure pursuant to G.L. c. 4, §7, cl. 26(d) (development of agency policy) and 26(g) (trade secrets or proprietary commercial or financial information)

March 31, 2009

Ms. Margaret T. Downey
Administrator
Cape Light Compact.
P.O. Box 427
Superior Court House
Barnstable, Massachusetts 02630

Re: Amendment and Extension of Competitive Electric Supply Agreement

Dear Ms. Downey:

This letter is an amendment and extension of the Competitive Electric Supply Agreement effective as of December 1, 2005, as amended as of August 14, 2006, between the Cape Light Compact (the "Compact") and Consolidated Edison Solutions, Inc. ("ConEdison Solutions" or "Supplier") (the "Agreement").

Pursuant to Section 4.4 of the Agreement, new pricing terms have been agreed to and are set forth in Exhibit A-3 which is attached to this letter and forms a part hereof.

In addition, in accordance with Section 17.5 of the Agreement, the Agreement is further amended as follows:

1. Introduction

After the paragraph:

WHEREAS, all twenty-one Barnstable County and Dukes County towns and the two counties presently belong to the Compact (the "Member Municipalities");

Add the following:

"WHEREAS, the Compact is an initial member of its sister organization the Cape & Vineyard Electric Cooperative, Inc. (the "Cooperative"), a Massachusetts cooperative corporation; and".

2. *Article 5.6 is replaced in its entirety with the following:*

“5.6 Energy Efficiency and Green Power Programs - The Parties have a mutual interest in advancing the utilization of demand-side management, energy efficiency programs and technology, and Green Power programs. Supplier, upon reasonable request of the Compact or its affiliated entity, the Cooperative, shall cooperate with the Compact or the Cooperative, as the case may be, in the implementation of such programs. At no time will Supplier take any actions with the intention of materially adversely affecting the direct operations of any of these programs implemented by the Compact, the Cooperative or Supplier. Supplier will use Commercially Reasonable efforts to identify any actions which might have a material adverse effect on the implementation of any programs by the Compact, the Cooperative or Supplier involving demand-side management, energy efficiency and Green Power and will use Commercially Reasonable efforts to consult with the Compact or the Cooperative, as the case may be, prior to taking such actions. Supplier shall also comply with the obligations set forth in Article 8 (Development or Offering of Green Power) of this Agreement.”

3. *Articles 8.1(B) and 8.2 are replaced in their entirety with the following:*

“B. 8.1(B) Green Power

Supplier hereby agrees that it will comply with the applicable provisions of G.L. c. 25A, §11F and any regulations, orders or policies adopted pursuant thereto. The Parties agree that in view of opportunities to reduce the environmental cost of electric power generation, the Parties have a mutual interest in advancing the use of Green Power. The Parties agree that subsequent to execution of this Agreement, the Parties, if directed by the Compact, will: (i) incorporate into Supplier’s provision of All Requirements Power Supply under this Agreement Green Power purchases beyond those required by any Governmental Authority, including laws, regulations or policies adopted pursuant to the provisions of G.L. c. 25A, section 11 F, and beyond the Cape Light Compact Greensm offer, and/or (ii) create an additional Green Power offer for those Consumers who affirmatively choose to participate in such offer. In the event that pursuant to the preceding sentence, the Compact directs the incorporation of additional Green Power purchases or creation of an additional Green Power offer, the Parties will amend Exhibit A-3. The Parties agree that all of Supplier’s reasonable costs for implementation of any such additional Green Power options hereunder, other than those costs normally incurred in marketing and similar activities, will be reimbursed by the Compact.

Exempt from public records disclosure pursuant to G.L. c. 4, §7, cl. 26(d) (development of agency policy) and 26(s) (energy-related trade secrets or confidential information)

8.2 Nothing in this Agreement shall prohibit a Consumer from net metering any or all of its supply. Supplier shall reasonably cooperate with Consumers and the Compact during the term of this Agreement to allow Consumers to net meter.

On July 2, 2008 St. 2008, c. 169 (the "Green Communities Act") was signed into law in the Commonwealth of Massachusetts. Under the Green Communities Act, the DPU and the Department of Energy Resources (the "DOER") must promulgate certain rules and regulations that may affect provisions of this Agreement. Upon implementation by the Department or DOER of any rule or regulation affecting any provision of this Agreement, in particular any rule or regulation regarding net metering (St. 2008, c. 169 §78), the Parties shall amend this Agreement to conform to such rule(s) and/or regulation(s) to the greatest extent possible. Such amendment shall be written, signed by the Parties and attached to this Agreement. The Parties shall use their best efforts to conform such amendment(s) to the original intent of this Agreement, in particular this Article 8. The costs of conforming to such rules or regulations, other than those costs that are expressly assigned directly to individual customers by the net metering rules or regulations, shall be borne equally by the Parties. If the Parties cannot agree on the terms of such amendment, the Parties agree to resolve their differences through the dispute resolution procedures set forth in Article 12 (Resolution of Disputes; Choice of Law)."

4. *Article 8.3 is added to read:*

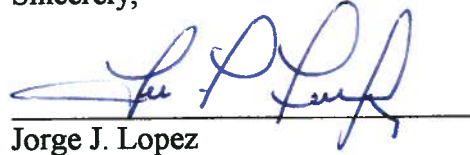
"8.3 Renewable Energy Projects - Supplier hereby agrees that it will incorporate as part of its All Requirements Power Supply, any and all Green Power supply that the Compact purchases or receives from renewable energy projects in the Member Municipalities; provided however, that all Green Power supply that is incorporated into the All Requirements Power Supply pursuant to paragraphs 8.1(B) and 8.3 is subject to the following: without the prior written consent of Supplier, the aggregate MWH shall not exceed 44,000 MWH, nor the price paid by the Compact for such Green Power supply exceed the market rate by more than ten percent (10%).

A copy of this letter and the enclosed exhibit will be made part of an appropriate informational filing with the Massachusetts Department of Public Utilities (the "DPU"). As set forth in Exhibit A-3, the parties intend to give the exhibit confidential treatment, but ConEdison Solutions understands that the Compact cannot guarantee that the DPU will treat the exhibit and the information contained therein as confidential.

Please countersign this letter in duplicate and return one fully-executed original to me to affirm the Compact's assent to this amendment and extension of the Agreement and the new pricing terms set forth in the enclosed Exhibit A-3. Thank you.

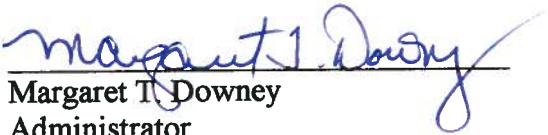
Exempt from public records disclosure pursuant to G.L. c. 4, §7, cl. 26(d) (development of agency policy) and 26(s) (energy-related trade secrets or confidential information)

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Lopez", written over a horizontal line.

Jorge J. Lopez
President and Chief Executive Officer
Consolidated Edison Solutions, Inc.

ACCEPTED AND AGREED:

A handwritten signature in blue ink, appearing to read "Margaret T. Downey", written over a horizontal line.

Margaret T. Downey
Administrator
Cape Light Compact

EXHIBIT A-3

PRICES AND TERMS

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Exempt from public records disclosure pursuant to G.L. c. 4, §7, cl. 26(d) (development of agency policy) and 26(s) (energy-related trade secrets or confidential information)

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Exempt from public records disclosure pursuant to G.L. c. 4, §7, cl. 26(d) (development of agency policy) and 26(s) (energy-related trade secrets or confidential information)

[REDACTED]

Redacted

EXECUTION VERSION

5-12-10

COMPETITIVE ELECTRIC SUPPLY AGREEMENT

WHEREAS, the Massachusetts Legislature has adopted Chapter 164 of the Acts of 1997, (the "Restructuring Act"), which, *inter alia*, (1) allows for competition in the generation and supply of electricity to customers, (2) authorizes municipalities to aggregate the electrical load of electricity consumers within their boundaries, and (3) allows municipal aggregators to formulate an aggregation plan and conduct aggregation programs;

WHEREAS, all of the municipalities in Barnstable County and Dukes County have formed the Cape Light Compact ("Compact") and entered into an "Inter-Governmental Agreement of the Cape Light Compact" ("Compact Agreement"), for the purposes, *inter alia*, of acting as a municipal aggregator and negotiating the best rates for the supply of electricity to consumers located on Cape Cod and Martha's Vineyard;

WHEREAS, all twenty-one Barnstable County and Dukes County towns and the two counties presently belong to the Compact (the "Member Municipalities");

WHEREAS, by means of a Request for Proposals issued March 1, 2010 ("RFP"), the Compact sought proposals from bidders wishing to provide All-Requirements Power Supply to Consumers residing within the Member Municipalities under the Aggregation Plan, pursuant to the terms and conditions of this Agreement, which Agreement shall be effective as of the date specified herein;

WHEREAS, as a result of its response to the RFP, Consolidated Edison Solutions, Inc., a New York corporation duly authorized to conduct business in the Commonwealth of Massachusetts ("Supplier"), has been chosen by the Compact from among several competitive suppliers to be the Compact's Supplier for the Term set forth in this Agreement; and

WHEREAS, the Compact desires that Supplier provide competitive retail power supply to the Consumers.

NOW THEREFORE, IT IS AGREED THAT, the Compact and Supplier hereby enter into this Competitive Electric Supply Agreement ("Agreement") subject to the terms and conditions below.

ARTICLE 1 DEFINITIONS

When used in this Agreement, the following terms shall have the meanings given, unless a different meaning is expressed or clearly indicated by the context. Words defined in this Article 1 which are capitalized shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined herein shall be given their common and ordinary meanings.

1.1 **Aggregation Plan** - The "Cape Light Compact Aggregation Plan" as adopted or amended by the Compact, from time to time.

1.2 Aggregation Program - The Community Choice Power Supply Program, implemented under the Aggregation Plan.

1.3 Agreement - This Competitive Electric Supply Agreement.

1.4 All-Requirements Power Supply - Service under which Supplier provides all of the electrical energy, capacity, reserves, ancillary services, transmission service, transmission and distribution losses, congestion management, and such other services or products necessary for firm power supply to Consumers at the Point of Sale.

1.5 Bankruptcy - Bankruptcy means with respect to a Party that such Party (i) ceases doing business as a going concern, generally does not pay its debts as they become due or admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent, or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other Governmental Rule, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties, or makes an assignment for the benefit of creditors, or said Party takes any action to authorize or that is in contemplation of the actions set forth in this clause (i); or (ii) a proceeding is initiated against the Party seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other Governmental Rule and, such proceeding is not dismissed within ninety (90) days after the commencement, or any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties is appointed without the consent or acquiescence of said Party, and such appointment is not vacated or stayed on appeal or otherwise within ninety (90) days after the appointment, or, within ninety (90) days after the expiration of any such stay, has not been vacated, *provided that*, notwithstanding the foregoing, the exercise of rights to take over operation of a Party's assets, or to foreclose on any of a Party's assets, by a secured creditor of such Party (including the appointment of a receiver or other representative in connection with the exercise of such rights) shall not constitute a Bankruptcy.

1.6 Basic Service - Service provided by a distribution company to a customer who is not receiving generation service from a competitive supplier or any successor service as determined by the DPU.

1.7 Cape Light Compact Greensm - a Compact program whereby Consumers will have the option to pay a premium, in excess of their standard electricity charges, for certificates representing attributes of energy derived from new renewable energy resources.

1.8 Commercially Reasonable - Any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known, or which in the exercise of due diligence, should have been known, at the time the decision was made, would have been

expected in the industry to accomplish the desired result consistent with reliability, safety, expedition, project economics and applicable law and regulations.

1.9 Compact - The Cape Light Compact, formed in October 1997, by an intergovernmental agreement under the Massachusetts General Laws and presently consisting of twenty-one (21) towns in Barnstable and Duke Counties and the two counties themselves for which the Compact acts as agent.

1.10 Compact Agreement - The Inter-Governmental Agreement of the Cape Light Compact, as in effect on July 31, 1998 and as may be amended from time to time.

1.11 Consumers - A residential, small commercial/industrial, medium and large commercial/industrial, or other consumer of electricity who receives electric supply service through the Distribution Company's distribution or transmission service from any supplier, at one or more locations within the geographic boundaries of a Member Municipality.

1.12 Counties - Barnstable County and the County of Dukes County. In the singular, "County" shall refer to either of the two Counties.

1.13 Distribution Company - The Commonwealth Electric Company (d/b/a NSTAR Electric), or any successor company(ies) or entity(ies) providing electricity distribution services in each Member Municipality.

1.14 DPU - The Massachusetts Department of Public Utilities, or any successor state agency.

1.15 Effective Date - The effective date of this Agreement, pursuant to Article 4 (Term of Contract and Termination) below.

1.16 Force Majeure - Any cause not within the reasonable control of the affected Party which precludes that Party from carrying out, in whole or in part, its obligations under this Agreement, including, but not limited to, Acts of God; winds; hurricanes; tornadoes; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes; lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any Governmental Authority acting in its regulatory or judicial capacity, provided, however, that any such discretionary acts, failures to act or orders of any kind by the Compact or a Member Municipality may not be asserted as an event of *Force Majeure* by the Compact or a Member Municipality as the case may be; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil disturbances or explosions. Nothing in this provision is intended to excuse any Party from performing due to any governmental act, failure to act, or order, where it was reasonably within such Party's power to prevent such act, failure to act, or order. Economic hardship of either Party shall not constitute an event of *Force Majeure*.

1.17 General Communications - The type of communications described and defined in Article 5.7 (General Communications) herein.

1.18 Governmental Authority - Any national, state or local government, independent system operator, regional transmission owner or operator, any political subdivision thereof or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity, excluding the Compact and all Member Municipalities.

1.19 Governmental Rule - Any law, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, or similar form of decision of any Governmental Authority having the effect and force of law.

1.20 Green Power - Electric energy generated by equipment or facilities including solar power, biomass, landfill gas, wind turbine, hydro power or other renewable energy generating resource or technology, as may defined by G.L. c. 25A, §11F or G.L. c. 164, §1, or, that may be otherwise added by mutual agreement of the Parties.

1.21 ISO - The New England Independent System Operator, or such successor or other entity which oversees the integrated dispatch of power plants in New England and the bulk transmission of electricity throughout the New England power grid.

1.22 kWh, kW - Kilowatt-hour and kilowatt, respectively.

1.23 Member Municipalities - The twenty-one (21) towns and two (2) Counties which are presently members of the Cape Light Compact as of the Effective Date of this Agreement. The Member Municipalities include the following towns in Barnstable County: Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich, Truro, Wellfleet and Yarmouth, and the following towns in Dukes County: Aquinnah, Chilmark, Edgartown, Oak Bluffs, Tisbury and West Tisbury. The Compact acts as agent for the Member Municipalities as set forth in Article 2.2 (Agency Relationship) below.

1.24 NEPOOL - The New England Power Pool.

1.25 Parties - The Compact and Supplier, as the context requires. In the singular, "Party" shall refer to either of the preceding.

1.26 Point of Delivery - The point of interconnection between NEPOOL Pool Transmission Facilities and the transmission facilities of the Distribution Company.

1.27 Point of Sale - The electric meter(s) for each Consumer's account, as designated by the Distribution Company.

1.28 Related Documents - The Compact Agreement, the Aggregation Plan, and the Administrative Services Agreement between Barnstable County and the Compact.

1.29 Reserve Fund - The fund described in Article 15.3 (Reserve Fund) of this Agreement.

1.30 Restructuring Act - Chapter 164 of the Massachusetts Acts of 1997.

1.31 **Supplier** – Consolidated Edison Solutions, Inc., a New York corporation duly authorized to conduct business in the Commonwealth of Massachusetts.

ARTICLE 2 RIGHTS GRANTED

2.1 **General Description and Limitations** - Supplier is hereby granted the exclusive right to provide All-Requirements Power Supply to Consumers pursuant to the terms and conditions set forth in this Agreement. Supplier is hereby granted the right to provide All-Requirements Power Supply to Consumers pursuant to the terms of the Compact's Aggregation Plan and Aggregation Program, and expressly conditioned on the terms and conditions set forth in this Agreement. In accepting this grant, the Parties recognize that Supplier is only authorized to supply All-Requirements Power Supply to Consumers, and that the Distribution Company presently has the right and obligation to distribute and deliver electricity to individual customers, until changes in law, regulation or policy may allow otherwise. Supplier further recognizes i) that it is only authorized by this Agreement to supply All-Requirements Power Supply to Consumers in the Member Municipalities; and ii) that this Agreement does not guarantee that any individual Consumer will be served by Supplier. As between the Parties, Supplier has the sole obligation of making appropriate arrangements with the Distribution Company, and any arrangements which may be necessary with the ISO so that Consumers receive the electricity supplies to be delivered pursuant to this Agreement. The Compact agrees to use reasonable efforts, at Supplier's cost, to assist Supplier, if so requested by it, in obtaining historical energy consumption and billing data information for Consumers, including, without limitation, assisting Supplier, at Supplier's cost, in obtaining permission from such Consumers and/or the DPU, where necessary as a prerequisite to the provision of such information.

2.2 **Agency Relationship** - The Compact is authorized to act on behalf of the Member Municipalities in contracting for electric supply for such Member Municipalities. In any litigation arising under this Agreement, both the Compact and one or more Member Municipalities (acting individually or jointly) have the right to bring claims against Supplier.

2.3 **Compliance with Laws** - By entering into this Agreement, Supplier specifically represents that it has exercised due diligence to review and has fully complied with all relevant regulations and orders of the Federal Energy Regulatory Commission, the DPU, the Attorney General of the Commonwealth, and the Massachusetts Department of Energy Resources and any other Governmental Authority having jurisdiction over any element of the transactions contemplated by this Agreement.

2.4 **Further Conditions and Limitations** - The Compact and the Member Municipalities expressly reserve the right to adopt such local bylaws, ordinances, rules, regulations and policies as they may deem necessary in the exercise of their governmental powers, and nothing in this Agreement shall be interpreted as limiting the governmental powers of the Compact or of the Member Municipalities as may be granted by law.

2.5 Conditions Precedent -

The obligations of the Compact under this Agreement shall be conditioned upon Supplier fulfilling the following requirements:

- (i) maintaining its Competitive Supplier license from the DPU (as such term is defined in the Distribution's Company's Terms and Conditions - Competitive Suppliers);
- (ii) executing a Competitive Electric Supplier Service Agreement with the Distribution Company in a form reasonably satisfactory to Supplier;
- (iii) executing all appropriate ISO applications and agreements;
- (iv) obtaining authorization from the FERC to sell power at market-based rates.

If Supplier has not fulfilled all such requirements by the date of this Agreement, any Party may terminate this Agreement without any liability to the other Parties.

2.6 Ownership and Use of Consumer Data - Supplier acknowledges that Supplier shall have no ownership of, right, title and interest in and to all Consumer data (including addresses, telephone numbers or other identifying information) made available to Supplier as a result of execution of this Agreement. Supplier shall use Consumer data solely to provide All-Requirements Power Supply to Consumers and to render other services expressly required or permitted under this Agreement. Any other use of Consumer data without the prior written consent of the Compact is strictly prohibited. Except as expressly provided in this Agreement, Supplier shall not disclose any Consumer data to any third-party and Supplier shall take all reasonable measures to protect Consumer data from access by, or beneficial use, for any third-party. To the extent that the provision of All-Requirements Power Supply or other services under this Agreement requires that Supplier have access to or make use of any Consumer data, Supplier shall treat such Consumer data as confidential information. Supplier may use Consumer data to engage in direct marketing only during the term of this Agreement and subject to the terms forth in Article 17.2 (Direct Marketing). A violation of this Article 2.6 shall be grounds for termination under Article 4.2(1). Supplier agrees violation of this Article 2.6 shall constitute irreparable harm.

ARTICLE 3 CUSTOMER CHOICE NOTIFICATION OF RIGHTS; ENROLLMENT

3.1 Customer Choice - The Parties acknowledge and agree that, subject to existing Agreements, all Consumers have the right, pursuant to the Restructuring Act, to change their source of electricity supply, as set forth in Article 2.1 (General Description and Limitations) of this Agreement. The Compact, or Consumers, as the case may be, shall give reasonable notice of any such changes in accordance with any terms formulated by the DPU or as included in Exhibit A and the Aggregation Plan. The Parties represent and warrant to each other that they shall not unreasonably interfere with the right of Consumers to opt out, and shall comply with any rules,

regulations or policies of the DPU or other lawful authority regarding the process of opting out or of switching from one source of electric supply to another.

3.2 Notification of Rights - Consistent with the requirements of law, the Compact, with the assistance of Supplier shall notify all Consumers in the Member Municipalities of the date upon which they will be automatically enrolled in the Aggregation Program, and that Supplier will be providing electrical supply to Consumers subject to the opt-out provisions of the Restructuring Act, the Aggregation Plan and Aggregation Program, and Exhibit A. The Compact, in its discretion as to form and content shall: (1) prominently state all charges to be made by Supplier; (2) provide a summary of the prices and terms included in Exhibit A as well as fully disclose the prices and terms then being offered for Basic Service or any equivalent service by the Distribution Company; and (3) state how the Consumer may gain access to Basic Service and that any ratepayer choosing to opt-out after automatic enrollment may do so without penalty and be entitled to return to Basic Service. All such notices must be approved in advance by Supplier, such approval not to be unreasonably withheld.

3.3 Enrollment - All Consumers residing within the Member Municipalities that are receiving All-Requirements Power Supply under the Compact's Aggregation Program as of January, 2011 will be enrolled in the Aggregation Program under the terms of Exhibit A unless and until such Consumers opt-out.

Any Consumer which is new to the Member Municipalities' respective territories will be automatically enrolled by Supplier in the Aggregation Program. This enrollment shall be administratively arranged by Supplier and the Distribution Company with the cooperation and reasonable support from the Compact by identifying all new Basic Service Consumers within the Member Municipalities and verifying any required meter and customer codes. The Parties shall work together with the Distribution Company to develop procedures with the objective of automatically enrolling Consumers at the close of the monthly billing cycle in the month of introduction of their respective customer group(s), according to the schedule in Exhibit A, and whereby new Consumers will be added to and Consumers who opt out dropped from the Aggregation Program.

At any time during the term of this Agreement, Consumers who have previously opted out may return to supply by the Supplier at the Supplier's discretion at a price determined by the then prevailing market conditions. Consumers who relocate to or within the Member Municipalities shall have the right to receive electrical supply from Supplier, subject to the prices and terms in Exhibit A. Besides accurately and promptly transmitting information provided by such Consumers to the Distribution Company and following any procedural or other such steps which may be mutually agreed to, Supplier shall have no obligation to effect adds and drops at Consumer's request, such processing being the responsibility of the Distribution Company.

Consumers enrolled in competitive supply programs offered by third-parties will not be automatically enrolled as Consumers under this Agreement when such program terminates or is otherwise completed. Supplier agrees that Consumers under such third-parties competitive supply programs may affirmatively opt-in and receive All-Requirements Power Supply at the

Supplier's discretion at a price determined by the then prevailing market conditions. Supplier agrees that when such third-party competitive supply programs terminate, Supplier will negotiate with the Compact in good faith to include consumers that had been enrolled in other programs as Consumers under this Agreement.

ARTICLE 4 TERM OF CONTRACT AND TERMINATION

4.1 Term - This Agreement and the rights granted under it to Supplier shall commence on January 1, 2011 (the "Effective Date") and terminate on January 31, 2014, unless the Agreement is terminated before such date under the provisions of Article 4.2 (Termination). The term of this Agreement may be extended in accordance with the provisions of Article 4.4 (Extension).

4.2 Termination - This Agreement may be terminated at any time upon written notice:

(1) by the Compact (acting on behalf of all Member Municipalities or acting on behalf of one or more Member Municipalities), or Supplier, if either Party fails to remedy or cure any breach or default of any material provision or condition of this Agreement (including, but not limited to, Article 9 and Article 2.6) within sixty (60) days following written notice to do so by the nonbreaching Party;

(2) by the Compact (acting on behalf of all Member Municipalities or acting on behalf of one or more Member Municipalities), or Supplier, if any material provision or condition of this Agreement be finally adjudged invalid by any court of competent jurisdiction, or if the DPU exercises any lawful jurisdiction so as to invalidate or disapprove this Agreement in whole or in significant part; or

(3) notwithstanding the foregoing, the failure of Supplier to provide or arrange for All-Requirements Power Supply to Consumers, in the absence of *Force Majeure* or the Compact failure to perform, shall constitute an act of default, and the Compact may terminate this Agreement upon the giving of written notice but without providing any cure period. In the event Supplier has performed its obligations hereunder and its failure to provide or arrange All-Requirements Power Supply is a direct result of actions or non-actions by any transmission service provider, the Distribution Company, or the ISO, Supplier's failure shall not be deemed an act of immediate default; or

(4) by the Compact, in the event that the financial sureties and guaranties provided by Supplier in connection with this Agreement are revoked, terminated or otherwise fail.

(5) by the Compact, in the event that Supplier violates the pricing obligations set forth in Exhibit A, such termination to be effective at the end of the six-month pricing period following the Compact's notice of termination, as set forth in Exhibit A.

4.3 Obligations upon Termination - Following termination of this Agreement, the Parties shall each discharge by performance all obligations due to any other Party that arose up to the date of termination of the Agreement. Upon the effective date of termination of the Agreement,

all rights and privileges granted to Supplier shall cease, with the exception of the right to collect all monies due for services rendered to that date.

4.4 Extension - This Agreement may be extended beyond January 31, 2014, by mutual, written agreement of the Parties, for up to two years. Any new pricing terms shall be added to and replace Exhibit A as Exhibit A-2. Upon any such extension, this Agreement shall continue to be in effect, and all provisions of the Agreement shall retain the same force and effect as before the extension, unless it is terminated by either Party pursuant to the provisions of Article 4.2 or until the date stated in such extension.

ARTICLE 5 CONTINUING COVENANTS

Supplier agrees and covenants to perform each of the following obligations during the term of this Agreement.

5.1 Standards of Management and Operations - In performing its obligations hereunder, during the term of this Agreement, Supplier shall exercise reasonable care to assure that its facilities are prudently and efficiently managed; that it employs an adequate number of competently trained and experienced personnel to carry out its responsibilities; that it delivers a safe and reliable supply of such amounts of electricity to the Point of Delivery as are required under this Agreement; that it complies with all relevant industry standards and practices for the generation and supply of electricity to Consumers; and that, at all times with respect to Consumers, it exercises the highest commercial standards and employs Commercially Reasonable skills, systems and methods available to it.

5.2 Local Customer Service Access - Supplier agrees to provide, or cause to be provided, certain customer services to Consumers. Such services shall be reasonably accessible to all Consumers, shall be available during normal working hours, shall allow Consumers to transact business they may have with Supplier, and shall serve as a communications liaison among Supplier, the Compact, Consumers and the Distribution Company. A toll-free telephone number will be established by and available for Consumers to contact Supplier to resolve concerns, answer questions and transact business with respect to the service received from Supplier. Such toll-free phone line shall be attended by service personnel during regular business hours (9:00 AM – 5:00 PM) and routed to a voice message after hours. Supplier and the Compact agree to develop an augmented schedule for staffing the customer service center during periods when All-Requirements Power Supply commences to a major Consumer class under the Aggregation Program. Supplier will also provide a link on its parent's website to a website which will be available to Consumers for general information, product and service information, and other purposes.

5.3 Responding to Requests for Information - To the extent authorized by the Consumers and to the extent such individual permission is required by law, Supplier shall, during normal business hours, respond promptly and without charge therefore to reasonable requests of the Compact for information or explanation regarding the matters covered by this Agreement and the supply of electricity to Consumers. Supplier agrees to designate a service representative or

representatives (the "Service Contacts") who shall be available for these purposes, and shall identify the office address and telephone number of such representative(s). Whenever necessary to comply with this Article 5.3, the Service Contact Person shall call upon other employees or agents of Supplier to obtain such information or explanation as may be reasonably requested. Nothing in this Article 5.3 shall be interpreted as limiting the obligation of Supplier to respond to complaints or inquiries from Consumers, or to comply with any regulation of the DPU or the Attorney General of the Commonwealth regarding customer service.

5.4 Arranging for Firm All-Requirements Power Supply - Supplier shall participate in or make appropriate arrangements with the ISO, any relevant regional transmission organization, wholesale suppliers or any other entity to ensure an uninterrupted flow of reliable, safe, firm, All-Requirements Power Supply to the Distribution Company for delivery to Consumers, and take Commercially Reasonable steps to cooperate with the NEPOOL, the ISO or any other entity to ensure a source of back-up power in the event that the facilities owned or controlled by Supplier's affiliates or other sources of power supply are unable to generate and/or deliver All-Requirements Power Supply to the Point of Delivery. In the event Supplier is unable to deliver sufficient electricity to the grid to serve Consumers, Supplier shall utilize such arrangements as may be necessary to continue to serve Consumers under the terms of this Agreement, and shall bear any costs it may incur in carrying out these obligations. Supplier shall not be responsible to the Compact in the event the Distribution Company disconnects, curtails or reduces service to Consumers (notwithstanding whether such disconnection is directed by the ISO) in order to facilitate construction, installation, maintenance, repair, replacement or inspection of any of the Distribution Company's facilities, to maintain the safety and reliability of the Distribution Company's electrical system, or due to any other reason, including emergencies, forced outages, potential overloading of the Distribution Company's transmission and/or distribution circuits, *Force Majeure* or the non-payment of any distribution service costs or other such costs due for services provided by the Distribution Company to a Consumer.

5.5 Non-Discriminatory Provision of Service - Supplier shall supply electric energy to the Point of Delivery for all Consumers who receive local distribution and transmission service from the Distribution Company in the Member Municipalities and who do not opt out, or having opted out, request service, except as provided below in this Article 5.5. Subject to the prices and terms contained in Exhibit A, electricity shall be provided on a non-discriminatory basis; provided, however, that prices and other terms may vary in accordance with reasonably-established classes of customers (e.g., residential, commercial, municipal, industrial) or by such other categories as appear in Exhibit A. To the extent applicable, Supplier's prices, terms and conditions shall be in accordance with the Massachusetts General Laws, the regulations of the DPU, and other applicable provisions of law. To the extent required by law, Supplier may not deny service to a prospective customer for failure to pay the bills of any other electric company (whether engaged in the distribution, transmission, or generation of electricity) or of any other aggregator, marketer or broker of electricity, but may reasonably deny or condition new service, or terminate existing service, based upon the Consumer's failure to pay bills from Supplier, subject to applicable provisions of law. Provision of electric energy supply shall be subject to Supplier's standard credit policies, to the extent permitted by law, as described in Exhibit A.

5.6 Energy Efficiency and Green Power Programs - The Parties have a mutual interest in advancing the utilization of demand-side management, energy efficiency programs and technology, and Green Power programs. Supplier, upon reasonable request of the Compact or its affiliated entity, the Cape & Vineyard Electric Cooperative, Inc. ("Cooperative"), shall cooperate with the Compact or the Cooperative, as the case may be, in the implementation of such programs. At no time will Supplier take any actions with the intention of materially adversely affecting the operations of any of these programs implemented by the Compact, the Cooperative or Supplier. Supplier will use Commercially Reasonable efforts to identify any actions which might have a material adverse effect on the implementation of any programs by the Compact, the Cooperative or Supplier involving demand-side management, energy efficiency and Green Power and will use Commercially Reasonable efforts to consult with the Compact or the Cooperative, as the case may be, prior to taking such actions. Supplier shall also comply with the obligations set forth in Article 8 (Development or Offering of Green Power) of this Agreement.

5.7 Approval of General Communications - Supplier shall cooperate with the Compact in the drafting and sending of messages and information to Consumers concerning the Compact or any matter arising under or related to this Agreement. Supplier shall, prior to sending any direct mail, advertising, solicitation, bill insert, electronic mail, or other similar written or electronic communication (collectively, "General Communications") to Consumers (but excluding individually drafted or tailored communications responding to the specific complaint or circumstance of an individual consumer), provide a copy of such General Communication to the Compact for its review to determine whether it is consistent with the purposes and goals of the Compact. The Compact shall have the right to disapprove such General Communications and suggest revisions if it finds the General Communication inconsistent with the purposes and goals of the Compact, factually inaccurate or likely to mislead; provided, however: (i) that the General Communication shall be deemed approved if the Compact fails to respond within seven (7) calendar days (not including weekends and holidays); and (ii) that no approval shall be necessary for any General Communication (a) regarding any emergency situation involving any risk to the public health, safety or welfare; (b) which has been approved by the DPU, the Department of Energy Resources, or any other Governmental Authority; or (c) in the nature of routine monthly or periodic bills, or collection notices, except that any bill insert or message included at the bottom of such bill not within the scope of (a) or (b) above shall require approval. If the Compact, acting on behalf of one or more Member Municipalities, objects to a mailing or other communication on the grounds it is inconsistent with the goals of the Compact, Supplier, after consultation as provided in this Article 5.7, may nevertheless elect to send such mailing or communication provided that it: i) clearly indicates on such mailing that it has not been endorsed by the Member Municipality and/or the Compact, ii) has previously provided all Consumers a meaningful chance to opt not to receive such General Communications, and iii) has stated in connection with such chance to opt not to receive such communications that "the Compact and the Member Municipalities want to protect Consumers from receiving marketing materials if you do not wish to do so," and iv) has otherwise sought input from the Compact as to the means by which Consumers are given a chance to remove their names from any list which may receive General Communications.

5.8 Bill Inserts and Messages – Supplier agrees that if it bills or communicates with Consumers directly, and unless prevented for regulatory or other such reasons from doing so, it shall allow the Compact to include no less than three bill inserts per year into such billings, provided that the Compact pays the cost of printing and reproducing such insert and any incremental postage or handling costs Supplier may incur as a result of including such insert. Supplier shall provide a copy of such communications to the Compact. Supplier further agrees that it shall, at its direct cost, if any, and to the extent that it does not conflict with planned use of any message space by Supplier, provide the Compact access to any message space on any bills Supplier sends to Consumers, to the extent any bills it sends directly or indirectly through the Distribution Company or other entity contain a bill message space under the control of Supplier.

5.9 Consumer Lists - To the extent not prohibited by any Governmental Rule or expressly by any Consumer, Supplier shall, upon request of the Compact, provide a list of the Consumers being served by Supplier, including such reasonable identifying and aggregate consumption information as the Compact may also request to the extent such information is available to Supplier. Supplier shall provide such consumer lists in an electronic format reasonably acceptable to both Parties and with no more frequency than once a month.

5.10 Compliance with Laws - The Parties shall promptly and fully comply with all existing and future Governmental Rules of all Governmental Authorities having jurisdiction over the activities covered by this Agreement.

5.11 Consent - Whenever performance of an obligation of any Party hereto requires the consent or approval of any Governmental Authority, such Party shall make Commercially Reasonable efforts to obtain such consent or approval. In the event Supplier requests the Compact's assistance in obtaining such consent or approval and the Compact anticipates that it will incur costs in fulfilling Supplier's request, it shall give Supplier an estimate of such costs. Upon receiving the cost estimate, Supplier shall determine if it continues to request the Compact's assistance, and if so, Supplier shall reimburse the Compact for all costs, up to the estimated dollar amount, reasonably incurred by the Compact in connection with such efforts.

ARTICLE 6 ROLES OF THE COMPACT AND THE MEMBER MUNICIPALITIES

Under this Agreement, the Compact and the Member Municipalities (except as they or entities under their control are direct customers) shall not actually receive, take title to, or be liable for the supply or delivery of All-Requirements Power Supply in any manner whatsoever. The Parties specifically agree that the role of the Compact is to a) set the terms and conditions under which All-Requirements Power Supply will be provided by Supplier under this Agreement and to ensure that Supplier complies with those terms and conditions, and b) act as agent for the Member Municipalities with respect to the matters addressed in this Agreement. It is the sole obligation of Supplier to arrange for delivery of All-Requirements Power Supply to Consumers. The Parties agree that neither the Compact nor the Member Municipalities are "aggregators," "distribution companies," "electric companies," "generation companies" or "transmission companies" within the meaning of G.L. c. 164, §1 as a result of this Agreement, unless a court, the DPU, or other lawful authority shall adjudicate to the contrary. Supplier hereby agrees that it

will take no action that would make the Compact or its agents liable to any Consumer due to any act or failure to act on the part of Supplier relating to the delivery or supply of All-Requirements Power Supply.

ARTICLE 7

PRICES AND SERVICES; BILLING

7.1 Schedule of Prices and Terms - Supplier agrees to provide All-Requirements Power Supply and other related services as expressly set forth herein in accordance with the prices and terms included in Exhibit A to this Agreement, which Exhibit is hereby incorporated by reference into this Agreement.

7.2 Obligation to Serve - As between the Parties, Supplier has the sole obligation to obtain sources of supply, whether from generating facilities owned or controlled by its affiliates, through bilateral transactions, or the market, as may be necessary to provide All-Requirements Power Supply for all of the Consumers who do not opt out of the Compact's Aggregation Program. Supplier shall make appropriate arrangements to obtain such capacity, electrical energy, and ancillary services for load-following purposes, including, but not limited to, spinning reserves, supplemental reserves, backup supplies and services as may be needed in the event of outages or emergencies, and all other ancillary services as necessary to provide a firm, reliable, and safe All-Requirements Power Supply for Consumers to the Point of Delivery. Supplier, except as explicitly limited in the terms included in Exhibit A, shall be obligated to accept all Consumers who are or become participants in the Compact's Aggregation Program, regardless of their location and energy needs, subject to the credit requirements enumerated in Exhibit A, Article 5.5 (Non-Discriminatory Provision of Service) hereof and applicable law.

7.3 Metering and Billing - As between the Parties, Supplier bears sole responsibility for any metering which may be required to bill Consumers, and for rendering of any bills to Consumers. Supplier may discharge this obligation by making appropriate arrangements with the Distribution Company or any other entity. Any metering and billing functions carried out by Supplier shall be conducted in compliance with relevant rules and regulations of the DPU and the Attorney General of the Commonwealth.

7.4 Terms and Conditions Pertaining to Individual Account Service -

A. Title

Title to All-Requirements Power Supply will transfer from Supplier to Consumers at the Point of Sale. Possession of, and risk of loss related to, All-Requirements Power Supply will transfer from Supplier to the Distribution Company at the Point of Delivery.

B. Term

Delivery of All-Requirements Power Supply will begin on the first Consumer meter read dates in January, 2011 as specified in Exhibit A, or as soon as necessary arrangements can be made with the Distribution Company thereafter and will end on the last Consumer meter read

dates in January 2014, unless extended or modified in accordance with Article 4.4. Supplier has the right to request a "special" meter reading by the Distribution Company to initiate energy delivery and agrees to accept all costs (if any) for such meter reading.

C. Billing and Payment

Unless otherwise specified in an Exhibit to this Agreement, all billing under this Agreement shall be based on the meter readings of each Consumer's meter(s) performed by the Distribution Company. Supplier shall, or shall cause the Distribution Company or any other entity to, prepare and mail bills to Consumers monthly. If Supplier arranges for the Distribution Company to perform billing services, Supplier shall adopt the billing and payment terms offered by the Distribution Company. Payment shall be net thirty (30) days from the date of billing. The Consumer will pay a late charge of 1.5% per month, or the maximum rate allowed by state law if that rate is less, for payments received after the due date. Billing may take place through the Distribution Company at Supplier's option. In the event that necessary billing data is not received from the Distribution Company in time to prepare monthly bills, Supplier reserves the right to issue a bill based on an estimate of the Consumer's total kWh usage for that billing period. Any over-charge or under-charge will be accounted for in the next billing period for which actual meter data is available.

D. Regional and Local Transmission

The prices quoted in Exhibit A do not include current and future charges for distribution service costs collected by the Distribution Company under its distribution service tariff or local transmission costs as may be imposed by the regional power pool or individual electric utilities that have FERC transmission tariffs. It is Supplier's understanding that these costs will be collected by the Distribution Company under its transmission tariff charge. If in the future Supplier becomes responsible for distribution costs, Supplier shall be entitled to collect such costs from Consumers to the extent permitted by any Governmental Rules. These costs are "pass through" costs as determined by the appropriate regulatory agencies.

E. Taxes

All sales, gross receipts, excise or similar taxes imposed with respect to the sale or consumption of All-Requirements Power Supply shall be included on each Consumer's bill and shall be remitted to the appropriate taxing authority by Supplier. Consumers shall be responsible for all taxes (except for taxes on Supplier's income) associated with sales under the Agreement. Consumers shall be responsible for identifying and requesting any exemption from the collection of any tax by providing appropriate documentation to Supplier.

F. EDI/EFT

Supplier may provide Electronic Funds Transfer ("EFT") as a payment option to Consumers provided the Consumers and Supplier can mutually access a common Value Added Network ("VAN") and provided further that Supplier is allowed to pass through the costs imposed by VAN providers or the provider of other electronic transmission vehicle.

ARTICLE 8 DEVELOPMENT OR OFFERING OF GREEN POWER

8.1 Offering of Green Power -

A. Cape Light Compact Greensm

Supplier hereby agrees that it will incorporate the Cape Light Compact Greensm program into Supplier's provision of All Requirements Power Supply under this Agreement and offer such program to any Consumers who affirmatively choose to participate. The Supplier and the Compact agree that Supplier shall be reimbursed by the Compact (or participating Consumers, if the Compact so directs) for any reasonable costs Supplier incurs in the implementation of Cape Light Compact Greensm.

B. Green Power

Supplier hereby agrees that it will comply with the applicable provisions of G.L. c. 25A, §11F and any regulations, orders or policies adopted pursuant thereto. The Parties agree that in view of opportunities to reduce the environmental cost of electric power generation, the Parties have a mutual interest in advancing the use of Green Power. The Parties agree that subsequent to execution of this Agreement, the Parties, if directed by the Compact, will: (i) incorporate into Supplier's provision of All Requirements Power Supply under this Agreement Green Power purchases beyond those required by any Governmental Authority, including laws, regulations or policies adopted pursuant to the provisions of G.L. c. 25A, section 11F, and beyond the Cape Light Compact Green offer, and/or (ii) create an additional Green Power offer for those Consumers who affirmatively choose to participate in such offer. In the event that pursuant to the preceding sentence, the Compact directs the incorporation of additional Green Power purchases or creation of an additional Green Power offer, the Parties will amend Exhibit A. The Parties agree that all of Supplier's reasonable costs for implementation of any such additional Green Power options hereunder, other than those costs normally incurred in marketing and similar activities, will be reimbursed by the Compact.

8.2 Nothing in this Agreement shall prohibit a Consumer from net metering any or all of its supply. Supplier shall reasonably cooperate with Consumers and the Compact during the term of this Agreement to allow Consumers to net meter.

8.3 **Renewable Energy Projects-** Supplier hereby agrees that it will incorporate as part of its All Requirements Power Supply, any and all Green Power supply that the Compact purchases or receives from renewable energy projects in the Member Municipalities; provided however, that

all Green Power supply that is incorporated into the All Requirements Power Supply pursuant to paragraphs 8.1(B) and 8.3 is subject to the following: without prior written consent of Supplier, the aggregate MWH shall not exceed 44,000 MWH, nor the price paid by the Compact for such Green Power supply exceed the market rate by more than ten percent (10%).

ARTICLE 9 SERVICE PROTECTIONS FOR RESIDENTIAL CUSTOMERS

Supplier agrees that it shall comply with the provisions of 220 CMR Parts 25, 27, 28 and 29, any amendments thereto, and any code of conduct or policies the DPU may adopt in accordance with G.L. c. 164, §1F(7). Supplier shall, on or before January 1, 2011, provide a written, detailed description of its billing and termination procedures, customer services, confidentiality and related practices and procedures for approval by the Compact (which approval shall not be unreasonably withheld). Such written description shall also include Supplier's plans for maintaining "service quality standards," as that phrase is used in §1F(7); for complying with the "affirmative choice" requirements of §1F(7); and for handling customer complaints, including any arbitration procedures. If the Consumer(s) so permit(s) to the extent such permission is required by law, Supplier agrees to provide notice to the Compact of any customer complaints received from a Consumer, and to grant the Compact the right to participate in resolution of the dispute, to the extent permitted by DPU regulations and other applicable law. The failure to timely submit such written description, or the submission of practices and procedures which materially fail to comply with DPU regulations and policies, shall be deemed grounds for termination of this Agreement, at the discretion of the Compact after providing written notice of such failure to Supplier and allowing Supplier sixty (60) days to cure such failure.

ARTICLE 10 NON-DISCRIMINATION IN HIRING AND EMPLOYMENT

Supplier agrees to conduct its operations and activities under this Agreement in accordance with all applicable state and federal laws regarding non-discrimination in hiring and employment of employees.

ARTICLE 11 POWER SUPPLY INFORMATION AND ACCESS TO INFORMATION

11.1 Power Supply Information -

A. Quarterly Reports of Sales

The Supplier will provide the Compact with a quarterly report of sales which will contain: (i) the actual kWh sales for each calendar month of the reporting period; (ii) the number of customer accounts active in each calendar month of the report; and (iii) the hourly load data from the Supplier's ISO load asset(s) for all customers served by Supplier during the period of the report. The quarterly report will be due to the Compact within thirty (30) days following the close of each quarter (March 31, June 30, September 30, December 31). The kWh sales and

number of customer accounts shall be listed in the report both by rate code and rate name as shown on Exhibit B attached hereto. This information shall be provided in electronic format.

B. Customer-Related Data

During the term of All Requirements Power Supply to individual accounts (as defined in Article 7.4B), Supplier will maintain customer-related data in electronic form as specified in Exhibit C attached hereto, and will make such data available to the Compact upon request.

C. Additional Information

Upon request, Supplier shall provide to the Compact, within a reasonable time, information regarding efforts to comply with the Green Power provisions of this Agreement; and such other matters as may be mutually agreed upon by the Parties, acting in good faith.

D. Standard of Care

The Supplier shall use good industry practice in preparing and providing any information or data required under this Agreement. To the extent the Supplier determines that any information or data provided hereunder is in error, it shall provide such information or data to the Compact within a Commercially Reasonable time.

11.2 Power Supply Report - Within fifteen (15) days of the end of the quarter, Supplier shall present a copy of the current "Disclosure Label" required by the DPU of all Competitive Suppliers to be disclosed to their customers which includes information pertaining to their power supply and a reasonably detailed description of the sources of Supplier's power supply used to serve Consumers pursuant to this Agreement, except to the extent such disclosure would violate any confidentiality obligations of Supplier. Supplier shall post the "Disclosure Label" on their web site under Cape Light Compact power supply program.

11.3 Books and Records - Supplier shall keep its books and records in accordance with any applicable regulations or guidelines of the DPU, the Federal Energy Regulatory Commission, and any other Governmental Authority. The Compact will have access to all reports mandated by the Securities and Exchange Commission which are available on the Internet "EDGAR" system. Upon reasonable request by the Compact and at the Compact's expense, Supplier shall provide back-up for any charge under this Agreement questioned by the Compact.

11.4 Copies of Regulatory Reports and Filings - Upon reasonable request, Supplier shall provide to the Compact a copy of each public periodic or incident-related report or record relating to this Agreement which it files with any Massachusetts or federal agency regulating rates, service, compliance with environmental laws, or compliance with affirmative action and equal opportunity requirements, unless Supplier is required by law or regulation to keep such reports confidential from the other Parties. The Compact shall treat any reports and/or filings received from Supplier as confidential information subject to the terms of Article 16 (Confidentiality). Supplier shall be reimbursed its reasonable costs of providing such copies.

ARTICLE 12 RESOLUTION OF DISPUTES; CHOICE OF LAW

12.1 Choice of Law - This Agreement and the rights of the Parties shall be interpreted and determined in accordance with the laws of the Commonwealth of Massachusetts.

12.2 Dispute Resolution - Unless otherwise expressly provided for in this Agreement, the dispute resolution procedures of this Article 12.2 shall be the exclusive mechanism to resolve disputes arising under this Agreement. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this Agreement. Any dispute that arises under or with respect to this Agreement that cannot be resolved shall in the first instance be the subject of informal negotiations between the Parties involved in the dispute. The dispute shall be considered to have arisen when one Party sends the other Party involved in the dispute a written notice of dispute. The period for informal negotiations shall be fourteen (14) days from receipt of the written notice of dispute unless such time period is modified by written agreement of the Parties involved in the dispute. In the event that the parties involved in the dispute cannot resolve a dispute by informal negotiations, the Parties agree to submit the dispute to non-binding mediation. Within fourteen (14) days following the expiration of the time period for informal negotiations, the Parties shall propose and agree upon a neutral and otherwise qualified mediator. In the event that the Parties fail to agree upon a mediator, the Parties shall request that the American Arbitration Association, Boston, Massachusetts, appoint a mediator. The period for mediation shall commence upon the appointment of the mediator and shall not exceed sixty (60) days, unless such time period is modified by written agreement of the Parties. The decision to continue mediation shall be in the sole discretion of each Party involved in the dispute and either Party may terminate the mediation at any time following the third session. The Parties will bear their own costs of the mediation. The mediator's fees shall be shared equally by all Parties involved in the dispute. In the event that the Parties cannot resolve a dispute by informal negotiations or mediation, either Party may seek judicial enforcement. The venue for judicial enforcement shall be the United States Federal District Court in Boston, Massachusetts, provided, however, that in the event that federal jurisdiction does not apply, the venue shall be Barnstable County Superior Court, Massachusetts. Notwithstanding the foregoing, injunctive relief may be sought without resorting to alternative dispute resolution to prevent irreparable harm that would be caused by a breach of this Agreement. In any judicial proceeding, the "Prevailing Party" shall be entitled to payment from the opposing party of its reasonable costs and fees, including but not limited to attorneys' fees and travel expenses, arising from the civil action. As used herein, the phrase "Prevailing Party" shall mean the party who, in the reasonable discretion of the finder of fact, most substantially prevails in its claims or defenses in the civil action.

ARTICLE 13 INDEMNIFICATION

13.1 Indemnification by Supplier - Supplier shall indemnify, defend and hold harmless the Member Municipalities and the Compact (collectively "Indemnified Parties" and singularly "Indemnified Party") and each Indemnified Party's officers, employees, agents, representatives and independent contractors, from and against any and all costs, claims, liabilities, damages,

expenses (including reasonable attorneys' fees), causes of action, suits or judgments, incurred by, on behalf of or involving any one of the foregoing parties to the extent arising, directly or indirectly, from or in connection with (i) any material breach by Supplier of its obligations, covenants, representations or warranties contained in this Agreement and not resulting from the actions of the Distribution Company, the Compact or any Member Municipality or their employees or agents, or (ii) Supplier's actions or omissions taken or made in connection with Supplier's performance of this Agreement. Supplier further agrees, if requested by the Compact or any Member Municipality, to investigate, handle, respond to, and defend any such claim, demand, or suit at its own expense arising under this Article 13.1.

13.2 Notice of Indemnification Claims - If the Compact or any Member Municipality seeks indemnification pursuant to this Article 13, the Compact shall notify Supplier of the existence of a claim, or potential claim as soon as practicable after learning of such claim, or potential claim, describing with reasonable particularity the circumstances giving rise to such claim. Upon written acknowledgment by Supplier that it will assume the defense and indemnification of such claim, Supplier may assert any defenses which are or would otherwise be available to the Compact and/or a Member Municipality, as the case may be.

13.3 Survival - Notwithstanding any provision contained herein, the provisions of this Article 13 and the Financial Sureties and Guaranties provided by Supplier pursuant to Article 15.2 (Additional Financial Sureties and Guarantees) shall survive the termination of this Agreement for a period of three (3) years with respect to a) any claims which occurred or arose prior to such termination and b) any losses occurring as a result of the termination.

13.4 Duty to Mitigate - The Parties agree that they have a duty to mitigate damages and covenants that they will use Commercially Reasonable efforts to minimize any damages they may incur as a result of the other Party's performance or non-performance of this Agreement.

ARTICLE 14 REPRESENTATIONS AND WARRANTIES

14.1 Representations and Warranties by Supplier - As a material inducement to entering into this Agreement, Supplier hereby represents and warrants to the Compact as of the Effective Date of this Agreement as follows:

(i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary for it to perform its obligations under this Agreement;

(ii) it has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this Agreement or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due;

(iii) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or

conditions in its governing documents or any contract to which it is a party or any Governmental Rule applicable to it;

(iv) subject to the conditions set forth in Article 2.5 (Conditions Precedent), this Agreement constitutes a legal, valid and binding obligation of Supplier enforceable against it in accordance with its terms, and Supplier has all rights such that it can and will perform its obligations to Supplier in conformance with the terms and conditions of this Agreement, subject to bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally and general principles of equity;

(v) no Bankruptcy is pending against it or to its knowledge threatened against it;

(vi) none of the documents or other written information furnished by or on behalf of Supplier to the Compact and/or the Member Municipalities pursuant to this Agreement, contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading; and

(vii) all information furnished by Supplier in response to the request for proposals for competitive electric supply services is true and accurate.

14.2 Representations and Warranties by the Compact - As a material inducement to entering into this Agreement, the Compact hereby represents and warrants to Supplier as of the effective date of this Agreement as follows:

(i) the Compact was formed by intergovernmental agreement in accordance with the laws of the Commonwealth of Massachusetts;

(ii) this Agreement will constitute the legal, valid and binding obligation of the Compact enforceable in accordance with its terms;

(iii) the execution, delivery and performance of this Agreement are within the Compact's powers, have been or will be duly authorized by all necessary action and the Compact is the duly authorized agent of the Member Municipalities with respect to the matters addressed in this Agreement;

(iv) the Compact has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this Agreement or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and

(v) no Bankruptcy is pending or threatened against it or any Member Municipality.

ARTICLE 15 INSURANCE AND OTHER FINANCIAL SURETIES AND GUARANTEES

15.1 Insurance - In order to help support the indemnifications provided in Article 13 (Indemnification), and its other promises and covenants stated herein, Supplier shall secure and maintain, at its own expense, throughout the term of this Agreement, comprehensive commercial general liability insurance of at least \$2,000,000 aggregate/ \$1,000,000 single limit and excess liability coverage of at least \$10,000,000 combined single limit with insurers and with the Compact and Member Municipalities named as additional insureds. Supplier shall provide the Compact with evidence, reasonably satisfactory to the Compact, of its insurance hereunder, upon request. The detailed terms of Supplier's insurance are set forth in Exhibit D attached hereto.

15.2 Additional Financial Sureties and Guarantees - In addition to the insurance set forth in Article 15.1, above, Supplier's corporate parent provides financial security to the Compact for Supplier's obligations hereunder, including, without limitation, the indemnification set forth in Article 13 (Indemnification), in the form attached hereto as Exhibit E.

Supplier may change the type and amount of its financial security provided hereunder with the consent of the Compact, such consent not to be unreasonably withheld.

Upon reasonable request during the term of this Agreement and on a continuing basis, Supplier will provide the Compact with Commercially Reasonable proof of its ability to meet its indemnification obligations to the Compact and the Member Municipalities pursuant to this Agreement. Supplier will provide the Compact with a copy of its parent's annual report. Supplier also agrees to notify the Compact in the event that its parent's unsecured, senior long-term debt or current corporate credit rating (not supported by third-party credit enhancements) is less than BBB- by Standard & Poor's Rating Group or less than BBB- by Fitch Investor Services, Inc. (a "Downgrade Event"). Should a Downgrade Event occur, the Compact may request that Supplier provide a substitute form of security in an amount to be determined in accordance with the formula described in the preceding paragraph. Upon receipt of such notice, Supplier shall have three (3) business days in which to provide such substitute form of security to the Compact.

In the event that Supplier's corporate parent provides the Compact with a notice of termination of its payment guarantee, Supplier shall provide substitute security to the Compact prior to the termination of such payment guarantee, subject to the Compact's consent, such consent not to be unreasonably withheld or delayed.

15.3 Reserve Fund - In order to ensure timely access to funds and: (a) provide the Compact with further financial security in the event Supplier declines to or otherwise fails to indemnify it pursuant to Article 13 (Indemnification) and that the insurance coverage pursuant to Article 15.1 (Insurance) and the other financial sureties provided pursuant to Article 15.2 (Additional Financial Sureties and Guarantees) are unavailable or insufficient, and (b) provide the Compact with a special reserve fund ("Reserve Fund") to give further assurances that the Compact will be able to respond appropriately to any risks associated with this Agreement, Supplier agrees to collect on behalf of the Compact, up to 1 mil (\$.001), or such other amount as the Compact may

determine, for every kWh sold to Consumers for the duration of service under this Agreement. The County may elect to release Supplier, in whole or in part, from this obligation. If the County elects to do so, it shall provide Supplier with sixty (60) days advance written notice of its decision. Supplier shall remit to the Compact or its designee within thirty (30) days of the end of the month, by electronic funds transfer or such other mutually acceptable method, the amounts due pursuant to this Article 15.3 and provide reasonable supporting documentation as to the total number of kWh sold in each preceding month upon which such payment is calculated.

Once paid to the Compact or its designee, Supplier shall have no further interest or claim in such Reserve Fund. The Compact may use the Reserve Fund to cover any costs, claims, liabilities, damages, expenses (including reasonable attorney's fees), causes of action, suits or judgments, incurred by or on behalf of the Compact or Member Municipalities. The Compact shall cause all funds collected for it by Supplier hereunder to be deposited in a dedicated, interest-bearing account. The Compact may expend such funds for any purpose as may be allowed by law and as determined in the reasonable discretion of the Compact's Governing Board.

ARTICLE 16 CONFIDENTIALITY

The Parties' confidentiality obligations are governed by a Confidentiality Agreement dated as of March 15, 2010 (the "Confidentiality Agreement").

ARTICLE 17 MISCELLANEOUS

17.1 No Assignment Without Permission - Supplier shall not assign its rights and privileges under this Agreement without the prior written approval of the Compact. Such approval may be denied in the reasonable discretion of the Compact if it determines that the proposed assignee does not have at least the same financial and technical ability as the assigning Supplier. Notwithstanding the foregoing, the Compact may not unreasonably withhold its consent to an assignment to an affiliated entity under common control or management with Supplier. Supplier's assignee shall agree in writing to be bound by the terms and conditions of this Agreement. The Compact may assign this Agreement without the prior consent of Supplier. The rights and obligations created by this Agreement shall inure to the benefit of, and be binding upon, the successors and permitted assigns of, the respective Parties hereto.

17.2 Direct Marketing - Prior to the introduction of any new product or service which Supplier may wish to make available to Member Municipalities or other Consumers located within a Member Municipality, Supplier agrees to (i) give the Compact written notice of such new product or service and (ii) subject to the entry into reasonable confidentiality terms to the extent permitted by law and mutually acceptable to the Parties, discuss with the Compact the possible inclusion of such new product or service in this or another program undertaken by the Compact and Member Municipalities in the geographic area encompassing the Member Municipalities. The Parties agree to negotiate in good faith the terms, conditions, and prices for such products and services which the Parties agree should be included in a Compact aggregation program.

Supplier also agrees not to engage in any direct marketing to any Consumer that relies upon Supplier's unique knowledge of, or access to, particular Consumer data gained as a result of this Agreement. For the purposes of this provision, "direct marketing" shall include any telephone call, mailing, electronic mail, or other contact between Supplier and the Consumer. Broad-based programs of Supplier that do not rely on unique knowledge or access gained through this Agreement will not constitute such "direct marketing."

17.3 **Notices** - All notices, demands, requests, consents or other communications required or permitted to be given or made under this Agreement shall be in writing and addressed to:

if to Supplier to:

Consolidated Edison Solutions, Inc.
100 Summit Lake Drive, Suite 410
Valhalla, NY 10595
Attention: Paul F. Mapelli, General Counsel
(914) 286-7041 (voice)
(914) 686-1413 (fax)
mapellip@conedsolutions.com

For Operational Issues Only:

Consolidated Edison Solutions, Inc.
2 Burlington Woods
Burlington, MA 01803
Attention: Sam Morgan, Regional Sales Manager
(781) 203-2707 (voice)
(781) 273-2745 (fax)
morgansa@conedsolutions.com

if to the Compact to:

Ms. Margaret Downey
Administrator/Chief Procurement Officer
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, Massachusetts 02630
(508) 375-6636 (voice)
(508) 362-4136 (fax)
mdowney@barnstablecounty.org

Mr. Joseph Soares
Power Supply Planner
Cape Light Compact
P.O. Box 427
Superior Court House
Barnstable, MA 02630
(508) 375-6623 (voice)
(508) 362-4136 (fax)
jsoares@capelightcompact.org

Notices hereunder shall be deemed properly served (i) by hand delivery, on the day and at the time on which delivered to the intended recipient at the address set forth in this Agreement;

(ii) if sent by mail, on the third business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this Agreement; or (iii) if by Federal Express or other reputable express mail service, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this Agreement. Any party may change its address and contact person for the purposes of this Article 17.3 by giving notice thereof in the manner required herein.

17.4 Changes in Emergency and Service Contact Persons - In the event that the name or telephone number of any emergency or service contact for Supplier changes, Supplier shall give prompt notice to the Compact in the manner set forth in Article 17.3 (Notices). In the event that the name or telephone number of any such contact person for the Compact changes, prompt notice shall be given to Supplier in the manner set forth in Article 17.3 (Notices).

17.5 Entire Agreement; Amendments - This Agreement, the Confidentiality Agreement and the Related Documents constitute the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. This Agreement may only be amended or modified by a written instrument signed by all Parties hereto.

17.6 Force Majeure - If by reason of *Force Majeure* any Party is unable to carry out, either in whole or in part, its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (i) the non-performing Party, within two (2) weeks after the occurrence of the *Force Majeure*, gives all other Parties hereto written notice describing the particulars of the occurrence; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the *Force Majeure*; (iii) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and (iv) the non-performing Party shall use Commercially Reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations. If an event of *Force Majeure* continues for a period of one hundred eighty (180) days or longer, either Party may treat such an event as an event of default and may terminate this Agreement by sending the other party a written notice to cure as set forth in Article 4.2 (Termination).

17.7 Expenses - Each Party hereto shall pay all expenses incurred by it in connection with its entering into this Agreement, including without limitation, all attorneys' fees and expenses.

17.8 No Joint Venture - Supplier will perform all services under this Agreement as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of any other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Compact and Supplier hereunder are individual and neither collective nor joint in nature.

17.9 Joint Workproduct - This Agreement shall be considered the workproduct of both Parties hereto, and, therefore, no rule of strict construction shall be applied against either Party.