

**CONFIRMATION AGREEMENT**  
**Between**  
**[Winning Bidder]**  
**and**  
**Ameren Illinois Company d/b/a Ameren Illinois**

This Confirmation Agreement is entered into this [\_\_\_\_] day of [\_\_\_\_], 20\_\_ (the “Date of Execution”) between **[Winning Bidder (“Winning Bidder” or “Party A”)]** and **Ameren Illinois Company d/b/a Ameren Illinois (“Ameren Illinois” or “Party B”)** (each individually a “Party” and collectively the “Parties”) (“Confirmation Agreement”). Unless otherwise defined, capitalized terms used herein have the meanings ascribed to such terms by the Midcontinent Independent System Operator, Inc. (“MISO”) under (i) its Open Access Transmission, Energy and Operating Reserve Markets Tariff (“MISO Tariff”) on file with the Federal Energy Regulatory Commission (“FERC”), as may be amended from time to time; and (ii) the MISO Business Practice Manuals, as the same may be amended (“MISO Manuals” or collectively with the MISO Tariff referred to as the “MISO Documents”). In the event of any inconsistency in the MISO Documents, the MISO Tariff shall prevail.

The Parties agree and acknowledge that this Confirmation Agreement is a Fixed Price Customer Supply Contract, as defined below.

Now, therefore, in consideration of and subject to the mutual covenants contained herein, it is agreed:

The “Commercial Terms” of this Confirmation Agreement are as follows:

- Term: As of the Date of Execution of this Confirmation Agreement and through May 31, 20\_\_.
- Buyer: Party B
- Seller: Party A
- Product: Zonal Resource Credits (“ZRC”) shall have the meaning given to it in the MISO Documents.

For clarification purposes, the Parties acknowledge and understand that, in accordance with the MISO Documents, one ZRC represents one megawatt (“MW”) of Unforced Capacity (as such term is defined in the MISO Documents) that qualify to satisfy the resource adequacy requirements in each Local Resource Zone (“LRZ”) (as such term is defined in the MISO Documents) of Module E of the MISO Tariff. Additionally, Seller must be able to transfer the ZRCs to Buyer using the Module E Capacity Tracking Tool (“MECT”), in accordance with Section 1 (Performance, Title & Delivery) below or any successor system.

Contract Quantity and Contract Price: The quantity of ZRCs for each Planning Year and the Contract Price(s) associated therewith shall be as follows:

**Table A**

<b>Planning Year</b>	<b>Contract Quantity (# of ZRCs)</b>	<b>Compliance Zone</b>	<b>Contract Price (\$ per MW-Day)</b>	<b>Planning Year Total (\$)¹</b>	<b>Source Zone² (If different than Compliance Zone)</b>
20__/20__	0.0	LRZ 4 or successor	\$0.00	\$XX,XXX	

Planning Year Total Adjustment:

In the event that the ZRCs are located in an LRZ other than LRZ 4 (or successor), the Planning Year Total shall be adjusted as follows (such revised amount being the “Adjusted Planning Year Total”):

If the Auction Clearing Price (“ACP”) of the Compliance Zone is greater than the ACP of the Source Zone (as designated in Table A), the Planning Year Total will be reduced by an amount equal to the Contract Quantity multiplied by the days in the Planning Year, with such product then multiplied by the positive difference between the ACP of the Compliance Zone and the Source Zone (such product being the “Planning Year Total Reduction”). The Planning Year Total so reduced shall be the Adjusted Planning Year Total for such Planning Year. In the event that the Planning Year Total Reduction is greater than the Planning Year Total, Seller shall be required to pay to Buyer in accordance with Section 3 an amount equal to the positive difference between the Planning Year Total Reduction and the Planning Year Total (such amount, where applicable, being the Adjusted Planning Year Total for such Planning Year).

If the ACP of the Source Zone (as designated in Table A) is greater than the ACP of the Compliance Zone, the Planning Year Total payable to Party A will be increased by an amount equal to the Contract Quantity multiplied by the days in the Planning Year, with such product then multiplied by the positive difference between the ACP of the Source Zone and the Compliance Zone (“Planning Year Total Increase”). The Planning Year Total so increased shall be the Adjusted Planning Year Total.

If the ACP of the Compliance Zone is equal to the ACP of the Source Zone (as designated in Table A), the Planning Year Total shall not be adjusted.

¹ For each Planning Year, the Planning Year Total shall be equal to the Contract Quantity multiplied by Contract Price multiplied by calendar days in the Planning Year.

² A second row can be added for winning bidders with resources from different Source Zones.

If applicable, throughout the Term of this Confirmation Agreement, Party A shall be responsible for scheduling, testing or updating the information associated with ZRCs which initiate from DRR or LMR.

**1. Performance, Title & Delivery:**

(a) Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, Product, subject to the provisions of this Confirmation Agreement. Seller shall be responsible for the proper registration in MISO of the Planning Resource(s) from which the Product originates (each a “Contract Planning Resource”). Seller shall also be obligated to (i) meet and perform, or cause a third party to meet and perform, all of the obligations of the MISO Documents associated with such Contract Planning Resource(s) and (ii) ensure that the Contract Planning Resource(s) remains available and qualified as a Capacity Resource and participates in the MISO market in accordance with the MISO Documents during the entirety of the applicable Planning Year and not have a status change to “retired” or “suspended” or similar designation. Seller shall be responsible for any costs or charges imposed on or liabilities associated with such obligations or Seller’s failure to meet and perform such obligations, including any costs or charges resulting from Buyer’s procurement of replacement capacity. Seller warrants good and marketable title to the Product delivered hereunder and agrees to indemnify and hold harmless Buyer from all claims, liabilities, taxes, and damages arising in relation or in respect to (x) the Product prior to delivery of the Product to Buyer and (y) any failure of Seller to perform an obligation imposed on Seller by this Confirmation Agreement, whether arising before or after delivery of the Product. Buyer agrees to indemnify and hold harmless Seller from all claims, liabilities, taxes, and damages arising in relation or respect to the Product after delivery of the Product to Buyer except with respect to any costs or charges imposed on or liabilities associated with Seller’s performance of all of Seller’s obligations under the MISO Documents associated with such Contract Planning Resource(s) or Seller’s failure to meet and perform such obligations.

(b) Seller shall accomplish delivery of the Contract Quantity for a particular Planning Year by submitting the appropriate transaction(s) in the MECT and ensuring that sufficient ZRCs are available in Seller’s MECT account to allow Buyer to confirm the ZRC transaction by the later of: (i) five (5) Business Days prior to the date by which Fixed Resource Adequacy Plans must be submitted to MISO for the applicable Planning Year, or (ii) the date on which the MECT becomes available for the submission and confirmation of transactions for the applicable Planning Year (the “Delivery Deadline”). Seller shall give prompt written notice to Buyer of such submittal. Buyer shall accomplish receipt of such Contract Quantity by confirming the appropriate transaction(s) in the MECT as soon as practicable, but no later than five (5) Business Days after the Delivery Deadline (the “Receipt Deadline”). The submitting and confirming of the appropriate transaction(s) in the MECT shall be conducted in good faith by the Parties in accordance with the requirements of the MISO Documents and other applicable rules adopted by the MISO regarding the MECT. Buyer shall have no obligation to accept delivery of any Product delivered after any applicable Delivery Deadline.

**2. Liability for Non-Performance**

(a) Seller’s Failure to Deliver. If Seller fails to deliver all or part of the Product specified for each Delivery Deadline by the relevant Delivery Deadline and such failure is not excused by

Buyer's failure to perform or by an event of Force Majeure, then Seller shall pay Buyer, within five (5) Business Days of invoice receipt, an amount equal to the positive difference, if any, obtained by subtracting the Contract Price from the Compliance Zone ACP multiplied by the days in Planning Year and multiplying such positive amount, if any, by the portion of the Contract Quantity which Seller failed to deliver.

In addition, the Seller shall pay to Buyer all Financial Settlement Charges (as such term is defined in the MISO Documents) and other penalties and/or charges assessed to Buyer (either directly or through contractual obligation) resulting directly from Seller's failure to deliver all or part of the Product; provided, however, that Seller shall not be liable for any Capacity Deficiency Charges or similar penalties assessed to Buyer resulting from Buyer's election to become deficient in the Planning Resource Auction.

The invoice from Buyer to Seller for any amount owed by Seller to Buyer pursuant to this provision shall include a written statement explaining in reasonable detail the calculation of such amount.

(b) Buyer's Failure to Receive. In the event that Buyer fails to receive all or part of the Product specified for each Receipt Deadline by the relevant Receipt Deadline and such failure is not excused by Seller's failure to perform or by an event of Force Majeure, then Buyer shall pay Seller, within five (5) Business Days of invoice receipt, an amount equal to the positive difference, if any, obtained by subtracting the Compliance Zone ACP from the Contract Price multiplied by the days in Planning Year and multiplying such positive difference, if any, by the portion of the Contract Quantity which Buyer failed to receive.

The invoice from Seller to Buyer for any amount owed by Buyer to Seller pursuant to this provision shall include a written statement explaining in reasonable detail the calculation of such amount.

(c) 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 Confirmation Agreement.

### **3. Billing and Payment.**

(a) In each Planning Year in which Seller is obligated to deliver ZRCs, Seller shall, beginning in July and continuing until June of the subsequent Planning Year, prepare and transmit to Buyer an invoice setting forth the Monthly Payment for the prior calendar month. "Monthly Payment" means an amount determined by multiplying the total number of days in such calendar month by the Contract Quantity and then multiplying the resulting product by the Contract Price for the particular Planning Year; provided, however, that such Monthly Payment shall be adjusted in proportion to any amount of the Contract Quantity Seller fails to deliver pursuant to Section 1. Buyer must receive the invoice on or before the tenth (10<sup>th</sup>) day of each month. In the event the ZRCs are located in an LRZ other than LRZ 4 (or successor) and the ACP of the Compliance Zone is greater than the ACP of the Source Zone, the Monthly Payment shall be reduced by an amount determined by dividing the total number of days in such calendar month by the total number of days in the Planning Year and then multiplying the resulting quotient by the Planning

Year Total Reduction. In the event the ZRCs are located in an LRZ other than LRZ 4 (or successor) and the ACP of the Compliance Zone is less than the ACP of the Source Zone, the Contract Price shall be increased by an amount determined by dividing the total number of days in such calendar month by the total number of days in the Planning Year and then multiplying the resulting quotient by the Planning Year Total Increase.

(b) On or before the twentieth (20<sup>th</sup>) day of each month, Buyer (or Seller, where applicable) shall pay, by wire transfer, in accordance with the Notices Section hereof, the undisputed amount set forth on such statement; provided, however, that if Buyer receives such invoice after the tenth (10<sup>th</sup>) day of the month, payment shall be due within ten (10) Business Days (as defined in this Section) of the day of receipt. Overdue payments shall accrue interest from, and including, the due date to, but excluding, the date of payment, at the Default Rate; provided, however, that the Default Rate shall never exceed the maximum rate permitted by applicable law. "Default Rate" means a rate per annum equal to one (1) percent over the per annum prime lending rate as may from time to time be published in the Wall Street Journal under "Money Rates."

(c) If Buyer, in good faith, disputes the accuracy of a statement, Buyer shall provide a written explanation of the basis for the dispute and pay the portion of such statement conceded to be correct, no later than the due date. If any amount withheld under dispute by Buyer is ultimately determined to be due to Seller, it shall be paid within ten (10) days of such determination, along with interest accrued at the Default Rate until the date paid. Inadvertent overpayments shall be returned by either Party upon request or deducted from amounts due on subsequent statements. "Business Day" means a day on which Federal Reserve member banks in New York City are open for business and a Business Day shall open at 8:00 a.m. and close at 5:00 p.m. Eastern Standard (or Daylight) time.

#### **4. Netting.**

If Buyer and Seller are each required to pay amounts hereunder on the same day, then such amounts with respect to each Party shall be aggregated and the Parties shall discharge their obligations to pay through netting, in which case the Party, if any, owing the greater aggregate amount shall pay to the other Party the difference between the amounts owed as provided in Section 3 above.

#### **5. Force Majeure.**

"Force Majeure" means an event or circumstance which prevents one Party (the "Claiming Party") from performing its obligations under this Confirmation Agreement, which event or circumstance was not anticipated as of the Date of Execution, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) the loss of Buyer's markets; (ii) Buyer's inability economically to use or resell the Product purchased hereunder, (iii) the loss or failure of Seller's supply that is not caused by an event of Force Majeure; or (iv) Seller's ability to sell the Product at a price greater than the Contract Price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the foregoing factors shall not be sufficient

to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred. "Transmission Provider" means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to, at or from the Delivery Point.

## **6. Default**

(a) An "Event of Default" means, with respect to a Party ("Defaulting Party"), the occurrence of any of the following, notwithstanding any other provision of this Confirmation Agreement: (i) the failure to make, when due, any payment due and payable under this Confirmation Agreement, if such failure is not remedied within three (3) Business Days after written notice thereof is given by the other Party; (ii) any representation or warranty made by the Defaulting Party herein shall prove to be false or misleading in any material respect; (iii) the failure of the Defaulting Party to perform any covenant set forth in this Confirmation Agreement (other than its obligations to deliver or receive Product, the remedy for which is provided in this Confirmation Agreement) and such failure is not cured within five (5) Business Days after written notice thereof to the Defaulting Party; (iv) the filing of a petition or other action or authorization by the Defaulting Party or the commencement of a proceeding under any bankruptcy or similar law for the protection of creditors or the filing of any such petition or commencement of any such proceeding against the Defaulting Party; (v) the Defaulting Party otherwise becomes bankrupt or insolvent, however evidenced; (vi) the Defaulting Party becomes unable to pay its debts as they fall due; or (vii) any "Event of Default" or default (however defined) occurs and is continuing under any other Fixed Price Customer Supply Contract with respect to the Defaulting Party. "Fixed Price Customer Supply Contract" means any supply contract entered into by the Parties designated as "Fixed Price Customer Supply Contract" between the Parties.

(b) If an Event of Default has occurred and is then continuing, the other Party (the "Non-Defaulting Party") may, by not more than twenty (20) days written notice to the Defaulting Party specifying the relevant Event of Default, designate a day ("Early Termination Date") not earlier than the day such notice is effective such that on that date this Confirmation Agreement shall be liquidated and terminated by closing out this Confirmation Agreement. The Defaulting Party shall pay the Non-Defaulting Party an amount to be determined based on calculations as defined in the Liability for Non-Performance section of this Confirmation Agreement performed for the remaining Term of this Confirmation Agreement and by netting or setting off any damages or other amounts owed under this Confirmation Agreement so as to derive a single liquidated amount (the "Settlement Amount").

(c) In addition to the Settlement Amount calculated for purposes of this Confirmation Agreement, the Non-Defaulting Party shall calculate a "Termination Payment" by aggregating all Settlement Amounts (however calculated) due under this Confirmation Agreement and any other Fixed Price Customer Supply Contracts into a single amount by: netting out (a) all Settlement Amounts that are due or will become due to the Defaulting Party, plus, at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party and actually received, liquidated and retained by the Non-Defaulting Party, plus any or all other amounts due to the Defaulting Party under this Confirmation Agreement or any

other Fixed Price Customer Supply Contracts against (b) all Settlement Amounts that are due or will become due to the Non-Defaulting Party, plus any or all other amounts due to the Non-Defaulting Party under this Confirmation Agreement or any other Fixed Price Customer Supply Contracts, so that all such amounts shall be netted out to a single liquidated amount owed by one Party to the other Party. Subject to Section 6(d), such single Termination Payment will be payable by the Party owing such amount to the other Party within five (5) Business Days after receipt by the Defaulting Party of the Non-Defaulting Party's Termination Payment calculations in writing ("Termination Payment Notice").

(d) If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall (i) within two (2) Business Days of receipt of the Termination Payment Notice, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute and (ii) within five (5) Business Days after receipt of the Termination Payment Notice, pay any undisputed portion of the Termination Payment and if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall transfer Performance Assurance to the Non-Defaulting Party in an amount equal to the disputed portion of the Termination Payment. If the Defaulting Party fails to provide written notice of its dispute of the Non-Defaulting Party's calculation of the Termination Payment within two (2) Business Days of receipt of the Termination Payment Notice, the Defaulting Party shall be deemed to have waived any right to dispute such calculation.

(e) The Defaulting Party shall indemnify and hold the Non-Defaulting Party harmless from all reasonable costs and expenses, including reasonable attorney fees, incurred in the exercise of its remedies pursuant to this Section 6.

(f) It is the intention of each of the Parties that the decision by the Non-Defaulting Party to terminate its obligations to the Defaulting Party hereunder shall result in the automatic termination of its obligations under all other Fixed Price Customer Supply Contracts between the Parties. The Non-Defaulting Party will calculate a single Termination Payment applicable to all such Fixed Price Customer Supply Contracts as set forth above, and only one Termination Payment will be paid by the Party owing such amount to the other Party.

(g) Upon the occurrence of an Event of Default with respect to a Party ("X"), the other Party ("Y") will have the right (but not be obliged) without prior notice to X or any other person to set-off or apply any obligation of X owed to Y (whether or not matured or contingent and whether or not arising under this Confirmation Agreement, and regardless of the currency, place of payment or booking office of the obligation) against any obligation of Y owed to X (whether or not matured or contingent and whether or not arising under this Confirmation Agreement, and regardless of the currency, place of payment or booking office of the obligation). Y will give notice to the other Party of any set-off effected hereunder. If any obligation is unascertained, Y may in good faith estimate that obligation and set-off in respect of the estimate, subject to the relevant Party accounting to the other when the obligation is ascertained. Nothing herein shall be deemed to create a charge or other security interest. This provision shall be without prejudice and in addition to any right of set-off, combination of accounts, lien or other right to which any party is at any time otherwise entitled (whether by operation of law, contract or otherwise). Notwithstanding any provision to the contrary contained in this Confirmation Agreement, the

Non-Defaulting Party shall not be required to pay to the Defaulting Party any Termination Payment until the Non-Defaulting Party receives confirmation satisfactory to it in its reasonable discretion (which may include an opinion of its counsel) that all other obligations of any kind whatsoever of the Defaulting Party to make any payments to the Non-Defaulting Party under this Confirmation Agreement or otherwise (including, without limitation, any other Fixed Price Customer Supply Contracts) which are due and payable as of the Early Termination Date have been fully and finally performed.

(h) The Parties are making credit, default, collateral and other decisions and changes based upon and in reliance on the effectiveness of the default, early termination, setoff and netting provisions of this Confirmation Agreement and any other Fixed Price Customer Supply Contracts, including calculation of a single Termination Payment across the Confirmation Agreement and all other Fixed Price Customer Supply Contracts. The Parties would not enter into this Confirmation Agreement except for their reliance on and with the understanding that such terms shall be effective.

(i) The Parties agree and acknowledge that this Confirmation Agreement is a “master netting agreement” and/or “forward contract” and that each of the Parties is a “forward contract merchant” and “master netting agreement participant” for purposes of 11 U.S.C. 101 et seq. or any successor provisions. To the extent that Section 365 of the Bankruptcy Code applies to this Confirmation Agreement and all other Fixed Price Customer Supply Contract(s), the Parties agree that all transactions with each of the Parties under this Confirmation Agreement and all other Fixed Price Customer Supply Contracts constitute one integrated transaction that can only be assumed or rejected in its entirety.

#### **7. Limitation of Remedies, Liability and Damages.**

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS CONFIRMATION AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY HEREIN PROVIDED, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY

DAMAGES REQUIRED TO BE PAID HEREUNDER ARE DEEMED TO CONSTITUTE LIQUIDATED DAMAGES, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ESTIMATED HARM OR LOSS. THE LIMITATION ON DAMAGES PROVIDED BY THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS CONFIRMATION AGREEMENT.

#### **8. Waiver of Jury Trial**

EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING RELATING TO THIS CONFIRMATION AGREEMENT OR ANY CREDIT SUPPORT DOCUMENT. EACH PARTY (I) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY OR GUARANTOR, IF APPLICABLE, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF SUCH A SUIT, ACTION OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (II) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HAVE BEEN INDUCED TO ENTER INTO THIS CONFIRMATION AGREEMENT AND PROVIDE FOR ANY CREDIT SUPPORT DOCUMENT, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

#### **9. Audit.**

Each Party has the right, upon reasonable prior notice, at its sole expense and during normal working hours, to examine the books and records of the other Party which relate to, and are reasonably necessary to verify the accuracy of, any statement, charge or computation made pursuant to this Confirmation Agreement. This Section will survive any termination of the Confirmation Agreement for a period of two (2) years from the date of such termination for the purpose of such statement and payment objections.

#### **10. Representations and Warranties.**

Each Party represents and warrants to the other Party that: (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Confirmation Agreement and any other documentation relating to this Confirmation Agreement to which it is a party; (iii) the execution, delivery and performance of this Confirmation Agreement and any other documentation relating to this Confirmation Agreement to which it is a party are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it; (iv) this Confirmation Agreement and each other document executed and delivered in accordance with this Confirmation Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; (v) there are no bankruptcy proceedings pending or being contemplated by it or, to its knowledge, threatened against it; (vi) there is not pending or, to its knowledge, threatened against it or any of its affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Confirmation

Agreement or any other document relating to this Confirmation Agreement to which it is a party; (vii) it is acting for its own account, has made its own independent decision to enter into this Confirmation Agreement and as to whether this Confirmation Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Confirmation Agreement; and (viii) it is an “eligible contract participant” as that term is defined in Section 1a(18) of the Commodity Exchange Act. The Parties agree that this Confirmation Agreement constitutes a “qualified financial contract” as that term is defined in N.Y.G.O.L. § 5-701(b).

**11. Governing Law.**

This Confirmation Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of New York. With respect to any action, suit or proceedings relating to this Confirmation Agreement (“Proceedings”), each party irrevocably: (i) submits to the exclusive jurisdiction of the courts of the State of Illinois and the United States District Court located in the Northern District of Illinois, and (ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have jurisdiction over such party. Nothing in this Confirmation Agreement precludes either party from bringing Proceedings in any other jurisdiction in order to enforce any judgment obtained in any Proceedings referred to in the preceding sentence, nor will the bringing of such enforcement Proceedings in any one or more jurisdictions preclude the bringing of enforcement Proceedings in any other jurisdiction.

**12. Notices.**

All notices, requests, statements or payments shall be made as specified below. Notices required to be in writing shall be delivered by letter, facsimile or other documentary form. Notice shall be deemed to have been received by the close of the Business Day on which it was transmitted or hand delivered (unless transmitted or hand delivered after close in which case it shall be deemed received at the close of the next Business Day). Notice by overnight mail or overnight courier shall be deemed to have been received one (1) Business Day after it was sent. A Party may change its addresses by providing notice of same in accordance herewith:

**SELLER**

[Winning Bidder]  
 (“Party A”)  
All Notices:  
Street:  
City:  
  
Attn:  
Phone:  
Facsimile:  
Duns:  
Federal Tax ID Number:

**BUYER**

Ameren Illinois Company d/b/a Ameren Illinois  
 (“Party B”)  
All Notices:  
Street: 1901 Chouteau Ave., MC- 1301  
City: St. Louis, MO 63103  
Attn: Power Supply Acquisition  
Richard McCartney  
Phone: (314) 613-9181  
Facsimile: (314) 206-0210  
Duns: 00-693-6017  
Federal Tax ID Number: 37-0211380

Posted: July 6, 2017

**Invoices:**

Attn:  
Phone:  
Facsimile:  
Email:

With a copy to:

Attn:  
Phone:  
Facsimile:  
Email:

**Payments:**

Attn:  
Phone:  
Facsimile:

**Wire Transfer:**

BNK:  
ABA:  
ACCT:

**ACH Transfer:**

BNK:  
ABA:  
ACCT:

**Credit and Collections:**

Attn:  
Phone:  
Facsimile:  
Email:

With additional Notices of an Event of Default or Potential Event of Default to:

Attn:  
Phone:  
Facsimile:

**Invoices:**

Attn: Dillon Polansky  
Phone: (314) 554-3456  
Facsimile: n/a  
Email: dpolansky@ameren.com

With a copy to:

Attn: Dave Brueggeman  
Phone: (314) 554-4622  
Facsimile: (314) 206-0210  
Email: dbrueggeman@ameren.com

**Payments:**

Attn: Sam Cassmeyer  
Phone: (314) 554-4287  
Facsimile: (314) 554-6328

**Wire Transfer:**

BNK: [\_\_\_\_\_] ]  
ABA: [\_\_\_\_\_] ]  
ACCT: [\_\_\_\_\_] ]

**ACH Transfer:**

BNK: [\_\_\_\_\_] ]  
ABA: [\_\_\_\_\_] ]  
ACCT: [\_\_\_\_\_] ]

**Credit and Collections:**

Attn: Daniel Deschler  
Phone: (314) 554-3540  
Facsimile: (314) 206-0210  
Email: DLAICCCreditRiskManagement@ameren.com

With additional Notices of an Event of Default or Potential Event of Default to:

Attn: President & CEO  
Phone: [\_\_\_\_\_] ]  
Facsimile: [\_\_\_\_\_] ]

**13. Performance Assurance**

(a) Seller will be required to post Performance Assurance with respect to this Confirmation Agreement and any other Fixed Price Customer Supply Contracts, whether under this Confirmation Agreement or under any other Fixed Price Customer Supply Contracts, in an aggregate amount equal to the Total Exposure Amount less the applicable Collateral Threshold Amount (as defined below). The requirements for posting, transferring, holding and using Performance Assurance are set forth in Attachment A. The Seller will be granted a single Collateral Threshold Amount to be applied across this Confirmation Agreement and all other Fixed Price Customer Supply Contracts as provided below.

“Collateral Threshold Amount” means, with respect to Party A or its Guarantor, if applicable, the amount determined in accordance with Table B below; provided that (i) for the applicable Credit

Rating within Table B, Collateral Threshold Amount for such Party shall be the lesser of that Party's applicable percentage of Tangible Net Worth or the amount shown as the Credit Limit; and provided further, that in the event Party A or its Guarantor is (a) only rated by one credit rating agency, such Credit Rating will apply; (b) rated by two credit rating agencies, the lower of the two Credit Ratings will apply; (c) rated by all three credit rating agencies, then the lower of the two highest Credit Ratings will apply and (d) in the event that the two highest Credit Ratings are common, such common Credit Rating will apply; (ii) if Party A's Guarantor has provided a corporate guaranty, the Collateral Threshold Amount shall be the lesser of the Collateral Threshold Amount as determined by (i) above or the amount of such corporate guaranty; provided, that Party A's Guarantor will be granted a single Collateral Threshold Amount to be applied to all Fixed Price Customer Supply Contracts for which it guarantees payment obligations on behalf of one or more parties to such Fixed Price Customer Supply Contracts; (iii) upon the occurrence and during the continuance of an Event of Default or Potential Event of Default with respect to Party A, Party A's Collateral Threshold Amount shall be zero; and (iv) if none of Moody's, S&P nor Fitch assign a Credit Rating to Party A or its Guarantor, as applicable, Party A's Collateral Threshold Amount shall be zero.

Party A will be granted a single Collateral Threshold Amount to be applied across this Confirmation Agreement and all other Fixed Price Customer Supply Contracts. The maximum level of the Collateral Threshold Amount to be provided to the Guarantor will be determined in accordance with Table B below.

If Party A has one or more Affiliates that are parties to a Fixed Price Customer Supply Contract ("FPCSC Affiliates"), Party A and its FPCSC Affiliate(s) will each be granted a separate, stand-alone Collateral Threshold Amount. In this case, Party A's Collateral Threshold Amount will be the lower of (a) the appropriate Credit Limit as shown in Table B; and (b) an amount determined by dividing the appropriate Credit Limit as shown in Table B for Party A by the sum of the appropriate Credit Limits applicable for Party A and each FPCSC Affiliate and multiplying such amount by \$80,000,000.

**Table B**

Credit Rating			Collateral Threshold Amount (the lesser of the following)	
S&P	Moody's	Fitch	Percent of Tangible Net Worth	Credit Limit
A- and above	A3 and above	A- and above	16%	\$80,000,000
BBB+	Baa1	BBB+	10%	\$60,000,000
BBB	Baa2	BBB	8%	\$40,000,000
BBB-	Baa3	BBB-	6%	\$20,000,000
Below BBB-	Below Baa3	Below BBB-	0%	\$0

"Affiliate" means, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

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“Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (excluding, however, any debt obligations that are supported by specific third party credit enhancement that would not apply to payment obligations under this Confirmation Agreement) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer default rating by Fitch, or the issuer rating by Moody’s, or the corporate issuer rating or corporate credit rating by S&P if such entity is a U.S. utility operating company with an investment grade rating, or the corporate issuer rating or corporate credit rating, discounted one notch, by S&P if such entity is not a U.S. utility operating company with an investment grade rating.

“Fitch” means Fitch Ratings Ltd., or its successor.

“Guaranty” means a guaranty from Seller’s Guarantor (“Guarantor”) in the form attached hereto as Attachment B with such options as elected therefrom.

“Letter of Credit” means the Irrevocable Standby Letter of Credit issued by a Qualified Institution, utilizing either of the forms attached hereto as Attachment C. Any Letter of Credit issued at the request of and for the account of Party A on or after the Date of Execution for this Confirmation Agreement, under all of Party A’s Fixed Price Customer Supply Contracts, will be subject to the Credit Rating requirements for banks issuing Letters of Credit as set forth in this Confirmation Agreement.”

“Letter of Credit Default” means with respect to an outstanding Letter of Credit, the occurrence of any of the following events: (i) the issuer of such Letter of Credit shall fail to maintain during the Term the credit rating required under the Letter of Credit as of the Date of Issuance (as that term is used in the Letter of Credit), (ii) the issuer of the Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit if such failure shall be continuing after the lapse of any applicable grace period; (iii) the issuer of such Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; (iv) such Letter of Credit shall expire or terminate, or shall fail or cease to be in full force and effect at any time during the Term of this Confirmation Agreement; or (v) any event analogous to an event specified in Section 6(a)(v), (vi) or (vii) of this Confirmation Agreement shall occur with respect to the issuer of such Letter of Credit; *provided, however*, that no Letter of Credit Default shall occur in any event with respect to a Letter of Credit after the time such Letter of Credit is required to be canceled or returned to the Seller in accordance with the terms of this Confirmation Agreement.

“Moody’s” means Moody’s Investor Service, Inc., or its successor.

“Performance Assurance” means either cash (US\$) or a Letter of Credit.

“Potential Event of Default” means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

“Remaining Contract Value” means the summation of the undelivered Contract Quantity(ies) hereunder multiplied by the applicable Contract Price for such Contract Quantity(ies) multiplied

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by the days in the applicable Planning Year, as estimated by Buyer. For the avoidance of doubt, if Seller delivers Product for any applicable Planning Year, then the Contract Quantity(ies) applicable to such Product will not be included in the calculation of the Remaining Contract Value.

“S&P” means S&P Global Market Intelligence (a division of S&P Global) or its successor.

“Tangible Net Worth” means the total assets of a party (or its Guarantor, if applicable) less intangible assets and total liabilities of such entity. For purpose of this definition, “intangible assets” includes benefits such as goodwill, patents, copyrights and trademarks.

“Total Exposure Amount” means an amount calculated each Business Day reflecting the total credit exposure of the Buyer, on an aggregate basis, consisting of the sum of: (i) the Exposure amount (however so calculated under this Confirmation Agreement and any other Fixed Price Customer Supply Contracts) calculated by the Buyer in a commercially reasonable manner; provided, that if a Fixed Price Customer Supply Contract does not include provisions for margining mark-to-market exposure, then such Fixed Price Customer Supply Contract will not be included for purposes of this calculation; and (ii) any amount required as security from the Seller pursuant to any other Fixed Price Customer Supply Contract that is not collateral posted as margin and treated as part of any Exposure amount; provided, however, that in the event the Total Exposure Amount for any day is a negative number, the Total Exposure Amount shall be deemed to be zero for such day. Any collateral or security previously posted by Seller under this Confirmation Agreement or any other Fixed Price Customer Supply Contract will be netted against the Total Exposure Amount when determining collateral requirements. Under this Confirmation Agreement, “Exposure” means the sum of: (i) 10% of the Remaining Contract Value under this Confirmation Agreement as determined by Buyer in a commercially reasonable manner and (ii) in the event that the Planning Year Total Reduction is greater than the Planning Year Total, 100% of the positive difference between the Planning Year Total Reduction and the Planning Year Total net of any payment made to Buyer in connection with the Adjusted Planning Year Total.

(b) Seller hereby pledges to Buyer as security for the Seller’s obligations under this Confirmation Agreement, and grants to the Buyer a first priority continuing security interest in, lien on and right of setoff against all Performance Assurance posted to or received by the Buyer hereunder. Upon the transfer by the Buyer to the Seller of any such Performance Assurance, the security interest and lien granted hereunder on such Performance Assurance will be released immediately and, to the extent possible, without any further action by either Party.

#### **14. Assignment.**

Neither Party shall assign this Confirmation Agreement or its rights hereunder without the prior written consent of the other Party; which shall not be unreasonably withheld or delayed; provided, however, either Party may without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Confirmation Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Confirmation Agreement to an affiliate of such Party which affiliate's creditworthiness is comparable to or higher than that of

such Party, or (iii) transfer or assign (by operation of law or otherwise) this Confirmation Agreement to any person or entity pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, another entity (but without prejudice to any other right or remedy under this Confirmation Agreement). In each such case, any assignee shall agree in writing to be bound by the terms and conditions hereof. Creditworthiness under this Section is to be determined by the non-transferring Party.

#### **15. FERC Standard of Review: Mobile-Sierra.**

It is the intent of the Parties that the rates and all other terms and conditions of the services provided hereunder shall not be subject to change under Sections 205 or 206 of the Federal Power Act without the consent of both Parties. Each of the Parties hereto agrees not to unilaterally file with the FERC a change in the rates, terms or conditions of this Confirmation Agreement. Moreover, absent agreement of all Parties to a proposed change, the standard of review for changes to any rate, term or condition of this Confirmation Agreement proposed by a non-Party or the FERC or any other governing authority acting *sua sponte* shall be solely the most strict standard set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956)) and clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish, 554 U.S. 527, 128 S. Ct. 2733 (2008) and further refined by NRG Power Marketing v. Maine Public Utilities Commission, 558 U.S. 165 (2010) (the “Mobile-Sierra” doctrine). The Parties acknowledge that this agreement constitutes a contract rate, and all future proposed changes or challenges will be reviewed pursuant to the public interest application of the just and reasonable standard of review.

#### **16. Execution in Counterpart and Imaged Agreement.**

This Confirmation Agreement may be executed by the Parties in multiple counterparts and shall be effective as of the date set forth above when each Party shall have executed and delivered a counterpart hereof, whether or not the same counterpart is executed and delivered by each Party. When so executed and delivered, each such counterpart shall be deemed an original and all such counterparts shall be deemed one and the same document. Transmission of images of signed signature pages by facsimile, e-mail or other electronic means shall have the same effect as the delivery of manually signed documents in person. Any original executed Confirmation Agreement, or other related document may be photocopied and stored on computer tapes and disks (the “Imaged Agreement”). The Imaged Agreement, if introduced as evidence on paper, the Confirmation Agreement, if introduced as evidence in automated facsimile form, the recording, if introduced as evidence in its original form and as transcribed onto paper, and all computer records of the foregoing, if introduced as evidence in printed format, in any judicial, arbitration, mediation or administrative proceedings, will be admissible as between the Parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Party shall object to the admissibility of the recording, this Confirmation Agreement or the Imaged Agreement (or photocopies of the transcription of the recording, the Confirmation Agreement or the Imaged Agreement) on the basis that such were not originated or maintained in documentary form under the hearsay rule, the best evidence rule or other rule of evidence.

**17. Confidentiality.**

Neither Party shall disclose the terms or conditions of this Confirmation Agreement to a third party (other than the Party's or Party's affiliates' employees, officers, directors, lenders, counsel, accountants or advisors, or a prospective purchaser or investor of a Party, who have a need to know such information and have agreed to keep such terms confidential) except with written consent from the other Party or in order to comply with any applicable law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding applicable to such Party or any of its affiliates or as may be required by the Illinois Power Agency; provided, however, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure; provided, however, that Buyer shall have the ability to disclose the Commercial Terms of this Confirmation Agreement in order to demonstrate compliance with all applicable laws, rules, regulations and requirements regarding resource adequacy. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. Either Party may disclose any one or more of the commercial terms of this Confirmation Agreement (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy and/or capacity price index. The Parties shall maintain the confidentiality of the terms of all transactions hereunder in compliance with Section 16-111.5(h) of the Illinois Public Utilities Act (220 ILCS 5/16-111.5(h)). This confidentiality obligation shall survive following the expiration or termination of this Confirmation Agreement; provided, however, that with respect to any confidential information that constitutes a "trade secret" under applicable law, these covenants shall apply for the life of the trade secret.

**18. Operation; Cooperation.**

In performing its obligations under this Confirmation Agreement, Seller agrees to conduct its power supply operations consistent with Prudent Utility Practice. "Prudent Utility Practice" means the applicable practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry in the United States of America, during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment by a prudent utility operator, in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result consistent with good business practices, reliability, safety, expedition and the requirements of any governmental authority having jurisdiction.

The Parties agree to provide such reasonable cooperation to each other as necessary to give effect to the terms of this Confirmation Agreement.

**19. General.**

No amendment, modification, or waiver of this Confirmation Agreement shall be enforceable unless reduced to writing and executed by both Parties. This Confirmation Agreement shall not impart any rights enforceable by any third-party (other than a permitted successor or assignee bound to this Confirmation Agreement). No waiver by a Party of any default by the other Party shall be construed as a waiver of any other default. The Attachments of this Confirmation Agreement are incorporated herein by this reference. Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a

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statutory change will not otherwise affect the remaining lawful obligations that arise under this Confirmation Agreement.

**20. Miscellaneous.**

(a) Seller agrees to provide an executed United States Internal Revenue Service Form W-9 (or any successor thereto) or, if applicable, Internal Revenue Service Form W-8ECI and Form W-8BEN (or any successor thereto) with respect to a foreign entity within ten (10) days of execution of this Confirmation agreement. Buyer agrees to provide an executed United States Internal Revenue Service Form W-9 (or any successor thereto) promptly after request from Seller.

(b) **[If applicable]** The Product provided under this Confirmation Agreement is provided pursuant to Seller's Market Based Rate Authority under [\_\_\_\_\_].

[SIGNATURES ON FOLLOWING PAGE]

Posted: July 6, 2017

**[Winning Bidder]**

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

Name:

Title:

**Ameren Illinois Company d/b/a Ameren Illinois**

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

Name:

Title:

[SIGNATURE PAGE TO 20\_\_ CONFIRMATION AGREEMENT]

Posted: July 6, 2017

**[Winning Bidder]**

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

Name:

Title:

**Ameren Illinois Company d/b/a Ameren Illinois**

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

Name:

Title:

[SIGNATURE PAGE TO 20\_\_ CONFIRMATION AGREEMENT]

## ATTACHMENT A

### PERFORMANCE ASSURANCE

#### **Transfer of Performance Assurance**

If the Total Exposure Amount exceeds the Collateral Threshold Amount by an amount equal to or greater than the Minimum Transfer Amount (as defined below), then the Buyer may require that the Seller post Performance Assurance in an amount equal to such excess (subject to rounding as provided below). If the Seller has only entered into this Confirmation Agreement and other capacity only or ZRC only Fixed Price Customer Supply Contracts, then the Total Exposure Amount shall be rounded up to the nearest \$10,000 and the “Minimum Transfer Amount” shall equal \$10,000. If the Seller has entered into one or more energy or swap Fixed Price Customer Supply Contracts in addition to this Confirmation Agreement, the Total Exposure Amount shall be rounded up to the nearest \$100,000 and the “Minimum Transfer Amount” shall equal \$100,000.

If Buyer sends notification in writing requesting such posting prior to 1 p.m. New York time on any Business Day, Seller shall post such Performance Assurance within one (1) Business Day. If Buyer sends notification in writing requesting such posting after 1 p.m. New York time on a Business Day, Seller shall post Performance Assurance within two (2) Business Days. If the amount of Performance Assurance posted by Seller is greater than the Total Exposure Amount by an amount equal to or greater than the Minimum Transfer Amount, then if Seller sends notification in writing requesting a return of such Performance Assurance prior to 1 p.m. New York time on any Business Day, Buyer shall return such Performance Assurance within one (1) Business Day. If Seller sends notification in writing requesting a return of such Performance Assurance after 1 p.m. New York time on a Business Day, Buyer shall return such Performance Assurance within two (2) Business Days. For purposes of this Attachment A, an email shall constitute notification in writing.

#### **Holding and Using Performance Assurance**

(a) ***Care of Performance Assurance.*** Without limiting Buyer’s rights under paragraph (c) below, Buyer will exercise reasonable care to assure the safe custody of all Performance Assurance to the extent required by applicable law, and in any event Buyer will be deemed to have exercised reasonable care if it exercises at least the same degree of care as it would exercise with respect to its own property. Except as specified in the preceding sentence, Buyer will have no duty with respect to Performance Assurance.

(b) ***Eligibility to Hold Performance Assurance; Custodians.***

(i) ***General.*** Buyer will be entitled to hold Performance Assurance; *provided* that the following conditions applicable to it are satisfied:

(1) Buyer is not a Defaulting Party and no Material Adverse Change has occurred with respect to Buyer;

(2) Performance Assurance may be held only in the United States of America; and

(3) If Buyer utilizes an agent (“Custodian”) to hold Performance Assurance, such Custodian is a Qualified Institution (as defined herein). The Custodian shall hold the Performance Assurance in a segregated, safekeeping or custody account with the Custodian with the title of such account indicating that the property contained therein is being held as Performance Assurance for the ownership of Seller, subject to the security interest of Buyer.

Upon notice by Buyer to Seller of the appointment of a Custodian, Seller’s obligations to make any transfer will be discharged by making the transfer to that Custodian. The holding of Performance Assurance by a Custodian will be deemed to be the holding of that Performance Assurance by Buyer for which the Custodian is acting.

“Material Adverse Change” means with respect to Buyer, for the purposes of eligibility to hold Performance Assurance, the applicable Credit Rating of it, if any, is below “BBB-” by S&P, is below “Baa3” by Moody’s or is below “BBB-” by Fitch, provided, that Buyer is rated by only one or two of such credit rating agencies. In the event that Buyer is rated by all three credit rating agencies, then the lower of the two highest ratings will apply for purposes of determining a “Material Adverse Change” and (b) in the event that the two highest ratings are common, such common rating will apply for purposes of determining a “Material Adverse Change”. Additionally, a “Material Adverse Change” will occur if all of such applicable Credit Ratings are withdrawn subsequent to the date of this Confirmation Agreement. This definition of Material Adverse Change supersedes the definition of Material Adverse Change in all prior Fixed Price Customer Supply Contracts entered into between the Parties.

“Qualified Institution” means a major U.S. commercial bank or a foreign bank with a U.S. branch office or a U.S. agency office with a Credit Rating of at least “A” by S&P and “A2” by Moody’s and, if rated by Fitch, at least “A” by Fitch.

(ii) ***Failure to Satisfy Conditions.*** If Buyer or its Custodian fails to satisfy any conditions for holding Performance Assurance, then upon a demand made by Seller, Buyer will, not later than five (5) Business Days after the demand, transfer or cause its Custodian to transfer all Performance Assurance held by it to a Custodian that satisfies those conditions or to Buyer if it satisfies those conditions.

(c) ***Use of Performance Assurance.*** If Buyer is permitted to hold Performance Assurance pursuant to (b) above, then Buyer will have the right to sell, pledge, rehypothecate, assign, invest, use, commingle or otherwise dispose of, or otherwise use in its business any Performance Assurance it holds, free from any claim or right of any nature whatsoever of Seller. Buyer will be deemed to continue to hold all Performance Assurance regardless of whether Buyer has exercised any rights with respect to any Performance Assurance pursuant to the previous sentence.

In the event that Buyer is not entitled to hold Performance Assurance (“Default Event”), Buyer shall be required to deliver, not later than the close of business on the second (2<sup>nd</sup>) Business Day following such Default Event, all Performance Assurance in its possession or held on its behalf to a Qualified Institution in a segregated, safekeeping or custody account (“Collateral Account”) within such Qualified Institution with the title of the Collateral Account indicating that the property contained therein is being held as Performance Assurance for Buyer; *provided*, that, if the selected Qualified Institution no longer meets the definition of a Qualified Institution, such Qualified Institution shall in turn deliver all Performance Assurance in its possession to another Qualified Institution as provided above. A Qualified Institution shall serve as a Custodian with respect to the Performance Assurance in the Collateral Account, and shall hold such Performance Assurance in accordance with the terms of this Attachment A of the Confirmation Agreement and for the ownership of Seller, subject to the security interest of Buyer.

### **Interest Amount.**

***Interest Amount.*** In lieu of any interest, dividends or other amounts paid or deemed to have been paid with respect to Performance Assurance, Buyer will transfer to Seller on the third (3<sup>rd</sup>) Business Day of each calendar month interest (at the Collateral Interest Rate as defined below) on the Performance Assurance held in the prior month.

“***Collateral Interest Rate***” means the Federal Funds overnight rate as specified in the Federal Reserve Statistical Report (H.15) “Selected Interest Rates” report.

### **Rights and Remedies**

(a) ***Buyer’s Rights and Remedies.*** If at any time an Early Termination Date has been designated with respect to Seller, then, unless Seller has paid in full all of its obligations that are then due under this Confirmation Agreement, Buyer may exercise one or more of the following rights and remedies:

- (i) all rights and remedies available to a secured party under applicable law with respect to Performance Assurance held by Buyer;
- (ii) the right to set-off any amounts payable by Seller with respect to any obligations under this Confirmation Agreement against any Performance Assurance held by Buyer (or any obligation of Buyer to Transfer that Performance Assurance);
- (iii) any other rights and remedies available to Buyer under the terms of any Performance Assurance.

(b) ***Seller’s Rights and Remedies.*** If at any time an Early Termination Date has been designated with respect to Buyer, then unless Buyer has paid in full all of its obligations that are then due under Section 6(c) of this Confirmation Agreement:

- (i) Seller may exercise all rights and remedies available to Seller under applicable law with respect to Performance Assurance held by Buyer;

- (ii) Buyer will be obligated immediately to transfer all Performance Assurance and any interest to Seller; and
- (iii) to the extent that Performance Assurance is not so transferred pursuant to (ii) above, Seller may:
  - (A) Set-off any amounts payable by Seller with respect to any obligations against any Performance Assurance held by Buyer (or any obligation of Buyer to transfer that Performance Assurance); and
  - (B) to the extent that Seller does not set-off under (iv)(A) above, withhold payment of any remaining amounts payable by Seller with respect to any obligations, up to the value of any remaining Performance Assurance held by Buyer, until that Performance Assurance is transferred to Seller.

### **Representations**

Seller represents to the other party that:

- (i) it has the power to grant a security interest in and lien on any Performance Assurance it transfers as Seller and has taken all necessary actions to authorize the granting of that security interest and lien;
- (ii) it is the sole owner of or otherwise has the right to transfer all Performance Assurance it transfers to Buyer hereunder, free and clear of any security interest, lien, encumbrance or other restrictions other than the security interest and lien granted hereunder;
- (iii) upon the transfer of any Performance Assurance to Buyer, Buyer will have a valid and perfected first priority security interest therein (assuming that any central clearing corporation or any third-party financial intermediary or other entity not within the control of Seller involved in the transfer of that Performance Assurance gives the notices and takes the action required of it under applicable law for perfection of that interest); and
- (iv) the performance by it of its obligations hereunder will not result in the creation of any security interest, lien or other encumbrance on any Performance Assurance other than the security interest and lien granted hereunder.

### **Letter of Credit Provisions**

Performance Assurance provided in the form of a Letter of Credit shall be subject to the following provisions:

- (1) Unless otherwise agreed in writing by the parties, each Letter of Credit shall be provided in accordance with the provisions of this Attachment A and Section 13 of the Confirmation Agreement, and each Letter of Credit shall be maintained for the benefit of the Buyer. The Seller shall (i) renew or replace or cause the renewal or replacement of each outstanding Letter of Credit prior to the expiration date of the relevant Letter of

Credit being renewed or replaced in order to maintain the then-applicable Credit Support Amount requirements, (ii) if the Qualified Institution that issued an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, provide a substitute Letter of Credit at least twenty (20) Business Days prior to the expiration of the outstanding Letter of Credit, and (iii) if a Qualified Institution issuing a Letter of Credit shall fail to honor the Buyer's properly documented request to draw on an outstanding Letter of Credit, provide for the benefit of the Buyer either (x) a substitute Letter of Credit, that is issued by a Qualified Institution acceptable to the Buyer, other than the Qualified Institution failing to honor the outstanding Letter of Credit, or (y) Performance Assurance, in each case within two (2) Business Day after the Seller receives notice of such failure.

- (2) As one method of providing Performance Assurance, the Seller may increase the amount of an outstanding Letter of Credit or establish one or more additional Letters of Credit.
- (3)
  - (i) A Letter of Credit shall provide that the Buyer may draw upon the Letter of Credit in an amount (up to the face amount for which the Letter of Credit has been issued) that is equal to all amounts that are due and owing from the Seller but have not been paid to the Buyer within the time allowed for such payments under this Confirmation Agreement (including any related notice or grace period or both). A Letter of Credit shall provide that a drawing be made on the Letter of Credit upon submission to the Qualified Institution issuing the Letter of Credit of one or more certificates specifying the amounts due and owing to the Buyer in accordance with the specific requirements of the Letter of Credit.
  - (ii) If the Seller shall fail to renew, substitute, or sufficiently increase the amount of an outstanding Letter of Credit (as the case may be), or establish one or more additional Letters of Credit, or otherwise provide sufficient Performance Assurance, then the Buyer may draw up to the entire, undrawn portion of any outstanding Letter of Credit upon submission to the Qualified Institution issuing such Letter of Credit of one or more certificates specifying the amounts due and owing to the Buyer in accordance with the specific requirements of the Letter of Credit. The Seller shall remain liable for any amounts due and owing to the Buyer and remaining unpaid after the application of the amounts so drawn by the Buyer.
- (4) If Seller's Guarantor shall furnish a Letter of Credit hereunder, the amount otherwise required under such Letter of Credit may at the option of such Guarantor be reduced by the amount of any Letter of Credit established by such party (but only for such time as such party's Letter of Credit shall be in effect). If a party shall be required to furnish a Letter of Credit hereunder, the amount otherwise required under such Letter of Credit may at the option of such party be reduced by the amount of any Letter of Credit established by such party's Guarantor (but only for such time as such Guarantor's Letter of Credit shall be in effect).
- (5) Upon the occurrence of a Letter of Credit Default, the Seller agrees to deliver a substitute Letter of Credit or other Performance Assurance to the Buyer in an amount at least equal to that of the Letter of Credit to be replaced on or before the second (2<sup>nd</sup>) Business Day

after written demand by the Buyer (or the third (3<sup>rd</sup>) Business Day if only clause (i) under the definition of Letter of Credit Default applies).

- (6) Notwithstanding the Expenses Section below, in all cases, the costs and expenses (including but not limited to the reasonable costs, expenses, and external attorneys' fees of the Buyer) of establishing, renewing, substituting, canceling, increasing, and reducing the amount of (as the case may be) one or more Letters of Credit shall be borne by the Seller.
- (7) Any Letter of Credit executed by Party A on or after the Date of Execution for this Confirmation Agreement, under all of Party A's Fixed Price Customer Supply Contracts, will be subject to the Credit Rating requirements for banks issuing Letters of Credit as set forth in this Confirmation Agreement.

### **Expenses**

- (a) **General.** Each Party will pay its own costs and expenses in connection with performing its obligations with respect to Performance Assurance and neither Party will be liable for any costs and expenses incurred by the other Party in connection herewith; provided that if there is a Defaulting Party, then all reasonable costs and expenses incurred by or on behalf of Buyer or Seller, as applicable in connection with the liquidation and/or application of any Performance Assurance will be payable, on demand by the Defaulting Party.

### **Miscellaneous**

- (a) **Further Assurances.** Promptly following a demand made by a Party, the other Party will execute, deliver, file and record any financing statement, specific assignment or other document and take any other action that may be necessary or desirable and reasonably requested by that Party to create, preserve, perfect or validate any security interest or lien granted hereunder, to enable that Party to exercise or enforce its rights hereunder with respect to Performance Assurance or to effect or document a release of a security interest on Performance Assurance.
- (b) **Further Protection.** Seller will promptly give notice to Buyer of, and defend against, any suit, action, proceeding or lien that involves Performance Assurance transferred by Seller or that could adversely affect the security interest and lien granted by it hereunder, unless that suit, action, proceeding or lien results from the exercise of Buyer's rights.
- (c) **Good Faith and Commercially Reasonable Manner.** Performance of all obligations under this Attachment A, including, but not limited to, all calculations, valuations and determinations made by either Party, will be made in good faith and in a commercially reasonable manner.

## ATTACHMENT B

### Form of Guaranty

THIS GUARANTY (this “Guaranty”), dated as of \_\_\_\_\_, 20\_\_, is made by \_\_\_\_\_ (the “Guarantor”), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_, in favor of Ameren Illinois Company d/b/a Ameren Illinois (the “Guaranteed Party”), a corporation organized and existing under the laws of the State of Illinois.

Terms not defined herein shall have the meanings given to them in the [\_\_\_\_\_] dated \_\_\_\_\_, 20\_\_ (as amended, modified or extended from time to time, the “Agreement”), between the Guaranteed Party and \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ (the “Counterparty”). This Guaranty is made by Guarantor in consideration for, and as an inducement for the Guaranteed Party to enter into, the Agreement with the Counterparty. Guarantor, subject to the terms and conditions hereof, hereby unconditionally, irrevocably and absolutely guarantees to the Guaranteed Party the full and prompt payment and performance when due, subject to any applicable grace period, of all payment obligations of the Counterparty to the Guaranteed Party arising out of the Agreement. Without limiting the generality of the foregoing, Guarantor further agrees as follows:

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Counterparty as a result of an Event of Default under the Agreement (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement). Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \_\_\_\_\_; provided, that Guarantor will be responsible for all reasonable legal fees, costs, and expenses incurred by the Guaranteed Party in enforcing the obligations under this Guaranty apart from such liability cap. All such principal, interest, obligations and liabilities, collectively, are the “Guaranteed Obligations”. This Guaranty is a guarantee of payment and not of collection.

2. The Guarantor hereby waives diligence, acceleration, notice of acceptance of this Guaranty and notice of any liability to which it may apply, and waives presentment and all demands whatsoever except as noted herein, notice of protest, notice of dishonor or nonpayment of any such liability, suit or taking of other action by any Guaranteed Party against, and any other notice to, any party liable thereon (including the Guarantor or any other guarantor), filing of claims with a court in the event of the insolvency or bankruptcy of the Counterparty, and any right to require a proceeding first against the Counterparty.

3. The Guaranteed Party may, at any time and from time to time, without notice to or consent of the Guarantor, without incurring responsibility to the Guarantor and without impairing or releasing the obligations of the Guarantor hereunder, upon or without any terms or conditions: (a) take or refrain from taking any and all actions with respect to the Guaranteed Obligations, any document or any person (including the Counterparty) that the Guaranteed Party determine in their sole discretion to be necessary or appropriate; (b) take or refrain from taking any action of any kind in respect of any security for any Guaranteed Obligation(s) or liability of the Counterparty to the Guaranteed Party; or (c) compromise or subordinate any Guaranteed Obligation(s) or liability of the Counterparty to the Guaranteed Party including any security therefor.

4. Subject to the terms and conditions hereof, the obligations of the Guarantor under this Guaranty are absolute, irrevocable and unconditional and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by: (a) any extension, renewal, settlement, compromise, waiver, consent, discharge or release by the Counterparty concerning any provision of the Agreement in respect of any Guaranteed Obligations of the Counterparty; (b) the rendering of any judgment against the Counterparty or any action to enforce the same; (c) the existence, or extent of, any release, exchange, surrender, nonperfection or invalidity of any direct or indirect security for any of the Guaranteed Obligations; (d) any modification, amendment, waiver, extension of or supplement to any of the Agreement or the Guaranteed Obligations agreed to from time to time by the Counterparty and the Guaranteed Party; (e) any change in the corporate existence (including its constitution, laws, rules, regulations or powers), structure or ownership of the Counterparty or the Guarantor, or any insolvency, bankruptcy,

reorganization or other similar proceedings affecting the Counterparty or its assets, the Guarantor or any other guarantor of any of the Guaranteed Obligations; (f) the existence of any claim, set-off or other rights which the Guarantor may have at any time against the Counterparty, the Guaranteed Party or any other corporation or person, whether in connection herewith or in connection with any unrelated transaction; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim; (g) the invalidity, irregularity or unenforceability in whole or in part of the Agreement or any Guaranteed Obligations or any instrument evidencing any Guaranteed Obligations or the absence of any action to enforce the same, or any provision of applicable law or regulation purporting to prohibit payment by the Counterparty of amounts to be paid by it under the Agreement or any of the Guaranteed Obligations; and (h) except for a failure to comply with any applicable statute of limitations, any other act or omission to act or delay of any kind of the Counterparty, any other guarantor, the Guaranteed Party or any other corporation, entity or person or any other event, occurrence or circumstance whatsoever which might, but for the provisions of this paragraph, constitute a legal or equitable discharge of the Guarantor's obligations hereunder.

5. The Guarantor hereby irrevocably waives (a) any right of reimbursement or contribution, and (b) any right of salvage against the Counterparty or any collateral security or guaranty or right of offset held by the Guaranteed Party therefor until all Guaranteed Obligations to the Guaranteed Party pursuant to the Agreement have been irrevocably paid in full.

6. The Guarantor will not exercise any rights which it may acquire by way of subrogation or any other right to payment until all Guaranteed Obligations to the Guaranteed Party pursuant to the Agreement have been irrevocably paid in full.

7. Subject to the terms and conditions hereof, this Guaranty is a continuing one and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. Except for a failure to comply with any applicable statute of limitations, no failure or delay on the part of the Guaranteed Party in exercising any right, power or privilege hereunder, and no course of dealing between the Guarantor and a Guaranteed Party, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights, powers and remedies herein expressly provided are cumulative and not exclusive of any rights, powers or remedies, which a Guaranteed Party would otherwise have. No notice to or demand on the Guarantor in any case shall entitle the Guarantor to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of a Guaranteed Party to any other or further action in any circumstances without notice or demand.

8. This Guaranty shall be binding upon the Guarantor and upon its successors and assigns and shall inure to the benefit of and be enforceable by the Guaranteed Party and their successors and assigns; provided, however, that the Guarantor may not assign or transfer any of its rights or obligations hereunder without the prior written consent of the Guaranteed Party. The assignment rights of the Guaranteed Party will be in accordance with any applicable terms of the Agreement.

9. Neither this Guaranty nor any provision hereof may be changed, waived, discharged or terminated except upon written agreement of the Guaranteed Party and the Guarantor.

10. The Guarantor's liability as guarantor shall continue and remain in full force and effect in the event that all or any part of any payment made hereunder or any obligation or liability guaranteed hereunder is recovered (as a fraudulent conveyance, preference or otherwise) rescinded or must otherwise be reinstated or returned due to bankruptcy or insolvency laws or otherwise. If claim is ever made upon the Guaranteed Party for repayment or recovery of any amount or amounts received from the Guarantor or the Counterparty in payment or on account of any of the Guaranteed Obligations and the Guaranteed Party repay all or part of such amount by reason of (a) any judgment, decree or order of any court or administrative body having jurisdiction over such payee or any of its property, or (b) any settlement or compromise of any such claim effected by such payee with any such claimant (including the Guarantor), then and in such event the Guarantor agrees that any such judgment, decree, order, settlement or compromise shall be binding upon it, notwithstanding any revocation hereof or the cancellation of the Agreement or other instrument evidencing any liability of the Guarantor, and the Guarantor shall be and remain

Posted: July 6, 2017

liable to the Guaranteed Party hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by the Guaranteed Party.

11. Subject to Paragraph 10, this Guaranty shall remain in full force and effect until all Guaranteed Obligations have been fully and finally performed, at which point it will expire. The Guarantor may terminate this Guaranty upon thirty (30) days prior written notice to the Guaranteed Party which termination shall be effective only upon receipt by the Guaranteed Party of alternative means of security or credit support, as specified in the Agreement and in a form reasonably acceptable to the Guaranteed Party. Upon the effectiveness of any such expiration or termination, the Guarantor shall have no further liability under this Guaranty, except with respect to the Guaranteed Obligations arising or created prior to the time the expiration or termination is effective, which Guaranteed Obligations shall remain guaranteed pursuant to the terms of this Guaranty until finally and fully performed.

12. All notices and other communications hereunder shall be made at the addresses by hand delivery, by the next day delivery service effective upon receipt, or by certified mail return receipt requested (effective upon scheduled weekday delivery day) or telefacsimile (effective upon receipt of evidence, including telefacsimile evidence, that telefacsimile was received)

If to the Guarantor:

[To be completed]

If to the Guaranteed Party:

[To be completed]

13. The Guarantor represents and warrants that: (a) it is duly organized and validly existing under the laws of the jurisdiction in which it was organized and has the power and authority to execute, deliver, and perform this Guaranty; (b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over the Guarantor is required on the part of the Guarantor for the execution, delivery and performance of this Guaranty except for those already made or obtained; (c) this Guaranty constitutes a valid and legally binding agreement of the Guarantor, and is enforceable against the Guarantor in accordance with its terms; and (d) the execution, delivery and performance of this Guaranty by the Guarantor have been and remain duly authorized by all necessary corporate or comparable action and do not contravene any provision of its constituent documents or any law, regulation or contractual restriction binding on it or its assets.

14. This Guaranty and the rights and obligations of the Counterparty and the Guarantor hereunder shall be construed in accordance with and governed by the laws of the State of New York. The Guarantor and Guaranteed Party agree and irrevocably submit to the exclusive jurisdiction of state and federal courts located in the Northern District of the State of Illinois over any disputes arising or relating to this Guaranty and waive and agree not to assert as a defense any objections to venue or inconvenient forum. The Guarantor and the Guaranteed Party consent to and grant any such court jurisdiction over the person of such party and over the subject matter of such dispute and agree that summons or other legal process in connection with any such action or proceeding shall be deemed properly and effectively served when sent by certified U.S. mail, return receipt requested, to the address of the other party set forth in Paragraph 12 hereof, or in such other manner as may be permitted by law. The Guarantor and the Guaranteed Party each hereby irrevocably waives any and all rights to trial by jury with respect to any legal proceeding arising out of or relating to this Guaranty.

15. This writing is the complete and exclusive statement of the terms of this Guaranty and supersedes all prior oral or written representations, understandings, and agreements between the Guaranteed Party and the Guarantor with respect to subject matter hereof. The Guaranteed Party and the Guarantor agree that there are no conditions to the full effectiveness of this Guaranty.

16. Every provision of this Guaranty is intended to be severable. If any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court of competent jurisdiction, such illegality or invalidity shall

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not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

17. If the Guarantor is a trust: no trustee of the Guarantor shall be held to any liability whatsoever for any obligation under this Guaranty, and this Guaranty shall not be enforceable against any such trustee in their or its, his or her individual capacities or capacity; and this Guaranty shall be enforceable against the trustees of the Guarantor only as such, and every person, firm, association, trust or corporation having any claim or demand arising under this Guaranty and relating to the Guarantor or any trustee of the Guarantor shall look solely to the trust estate of the Guarantor for the payment or satisfaction thereof.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be executed and delivered as of the date first written above to be effective as of the earliest effective date of any of the Agreement.

[GUARANTOR]

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

Title:

## **Schedule 1 to the Form of Guaranty**

This Schedule 1 to the Form of Guaranty contains modifications to the Form of Guaranty that are acceptable to Ameren Illinois.

### **Modification #1**

#### **Introductory Paragraph—Original**

THIS GUARANTY (this “Guaranty”), dated as of \_\_\_\_\_, 20\_\_, is made by \_\_\_\_\_ (the “Guarantor”), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_, in favor of Ameren Illinois Company d/b/a Ameren Illinois (the “Guaranteed Party”), a corporation organized and existing under the laws of the State of Illinois.

Terms not defined herein shall have the meanings given to them in the [\_\_\_\_\_] dated \_\_\_\_\_, 20\_\_ (as amended, modified or extended from time to time, the “Agreement”), between the Guaranteed Party and \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ (the “Counterparty”). This Guaranty is made by Guarantor in consideration for, and as an inducement for the Guaranteed Party to enter into, the Agreement with the Counterparty. Guarantor, subject to the terms and conditions hereof, hereby unconditionally, irrevocably and absolutely guarantees to the Guaranteed Party the full and prompt payment and performance when due, subject to any applicable grace period, of all payment obligations of the Counterparty to the Guaranteed Party arising out of the Agreement. Without limiting the generality of the foregoing, Guarantor further agrees as follows:

### **Acceptable Modifications:**

THIS GUARANTY (this “Guaranty”), dated as of \_\_\_\_\_, 20\_\_, is made by \_\_\_\_\_ (the “Guarantor”), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_, in favor of Ameren Illinois Company d/b/a Ameren Illinois (the “Guaranteed Party”), a corporation organized and existing under the laws of the State of Illinois.

Terms not defined herein shall have the meanings given to them in the [\_\_\_\_\_] dated \_\_\_\_\_, 20\_\_ (as amended, modified or extended from time to time, the “Agreement”), between the Guaranteed Party and \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ (the “Counterparty”). This Guaranty is made by Guarantor in consideration for, and as an inducement for the Guaranteed Party to enter into, the Agreement with the Counterparty. Guarantor, subject to the terms and conditions hereof, hereby unconditionally, irrevocably and absolutely guarantees to the Guaranteed Party the full and prompt payment and performance when due, subject to any applicable grace period, of all payment obligations of the Counterparty to the Guaranteed Party arising out of the Agreement. If Counterparty fails to pay any Guaranteed Obligations when due, Guarantor shall, as an independent obligation, promptly upon receiving written notice of such failure from Guaranteed Party, pay such Guaranteed Obligation to Guaranteed Party in accordance with the terms and provisions of the Agreement. Without limiting the generality of the foregoing, Guarantor further agrees as follows:

**Modification #2**

**Introductory Paragraph—Original**

THIS GUARANTY (this “Guaranty”), dated as of \_\_\_\_\_, 20\_\_, is made by \_\_\_\_\_ (the “Guarantor”), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_, in favor of Ameren Illinois Company d/b/a Ameren Illinois (the “Guaranteed Party”), a corporation organized and existing under the laws of the State of Illinois.

Terms not defined herein shall have the meanings given to them in the [\_\_\_\_\_] dated \_\_\_\_\_, 20\_\_ (as amended, modified or extended from time to time, the “Agreement”), between the Guaranteed Party and \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ (the “Counterparty”). This Guaranty is made by Guarantor in consideration for, and as an inducement for the Guaranteed Party to enter into, the Agreement with the Counterparty. Guarantor, subject to the terms and conditions hereof, hereby unconditionally, irrevocably and absolutely guarantees to the Guaranteed Party the full and prompt payment and performance when due, subject to any applicable grace period, of all payment obligations of the Counterparty to the Guaranteed Party arising out of the Agreement. Without limiting the generality of the foregoing, Guarantor further agrees as follows:

**Acceptable Modifications:**

THIS GUARANTY (this “Guaranty”), dated as of \_\_\_\_\_, 20\_\_, is made by \_\_\_\_\_ (the “Guarantor”), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_, in favor of Ameren Illinois Company d/b/a Ameren Illinois (the “Guaranteed Party”), a corporation organized and existing under the laws of the State of Illinois.

Terms not defined herein shall have the meanings given to them in the [\_\_\_\_\_] dated \_\_\_\_\_, 20\_\_ (as amended, modified or extended from time to time, the “Agreement”), between the Guaranteed Party and \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ (the “Counterparty”). This Guaranty is made by Guarantor in consideration for, and as an inducement for the Guaranteed Party to enter into, the Agreement with the Counterparty. Guarantor, subject to the terms and conditions hereof, hereby unconditionally, irrevocably and absolutely guarantees to the Guaranteed Party the full and prompt payment ~~and performance~~ when due, subject to any applicable grace period, of all payment obligations of the Counterparty to the Guaranteed Party arising out of the Agreement. Without limiting the generality of the foregoing, Guarantor further agrees as follows:

**Modification #3**

**Section 1—Original**

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Counterparty as a result of an Event of Default under the Agreement (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement). Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \_\_\_\_\_; provided, that Guarantor will be responsible for all reasonable legal fees, costs, and expenses incurred by the Guaranteed Party in enforcing the obligations under this Guaranty apart from such liability cap. All such principal, interest, obligations and liabilities, collectively, are the “Guaranteed Obligations”. This Guaranty is a guarantee of payment and not of collection.

**Acceptable Modifications:**

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Counterparty as a result of an Event of Default under the Agreement (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of the Agreement). Guarantor shall be entitled to exercise any right and assert any defense that the Counterparty has the right to exercise or assert under the Agreement or to setoff, counterclaim or withhold payment in respect of any Event of Default of a Guaranteed Party, but only to the extent such right is provided to Counterparty under the Agreement, and except for defenses arising out of the bankruptcy, insolvency, dissolution or liquidation of Counterparty and any defenses expressly waived hereunder. Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \_\_\_\_\_; provided, that Guarantor will be responsible for all reasonable legal fees, costs, and expenses incurred by the Guaranteed Party in enforcing the obligations under this Guaranty apart from such liability cap. All such principal, interest, obligations and liabilities, collectively, are the “Guaranteed Obligations”. This Guaranty is a guarantee of payment and not of collection.

**Modification #4**

**Section 6—Original**

6. The Guarantor will not exercise any rights which it may acquire by way of subrogation or any other right to payment until all Guaranteed Obligations to the Guaranteed Party pursuant to the Agreement have been irrevocably paid in full.

**Acceptable Modifications:**

6. The Guarantor will not exercise any rights in respect of any amount paid by Guarantor hereunder which it may acquire by way of subrogation or any other right to payment until all Guaranteed Obligations to the Guaranteed Party pursuant to the Agreement have been irrevocably paid in full.

**Modification #5**

**Section 7—Original**

7. Subject to the terms and conditions hereof, this Guaranty is a continuing one and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. Except for a failure to comply with any applicable statute of limitations, no failure or delay on the part of the Guaranteed Party in exercising any right, power or privilege hereunder, and no course of dealing between the Guarantor and a Guaranteed Party, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights, powers and remedies herein expressly provided are cumulative and not exclusive of any rights, powers or remedies, which a Guaranteed Party would otherwise have. No notice to or demand on the Guarantor in any case shall entitle the Guarantor to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of a Guaranteed Party to any other or further action in any circumstances without notice or demand.

**Acceptable Modifications:**

7. Subject to the terms and conditions hereof, this Guaranty is a continuing one and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. Except for a failure to comply with any applicable statute of limitations, no failure or delay on the part of the Guaranteed Party in exercising any right, power or privilege hereunder, and no course of dealing between the Guarantor and a Guaranteed Party, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights, powers and remedies herein expressly provided are cumulative and not exclusive of any rights, powers or remedies, which a Guaranteed Party would otherwise have. Except as set forth in this Guaranty, no notice to or demand on the Guarantor in any case shall entitle the Guarantor to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of a Guaranteed Party to any other or further action in any circumstances without notice or demand.

**Modification #6**

**Section 8—Original**

8. This Guaranty shall be binding upon the Guarantor and upon its successors and assigns and shall inure to the benefit of and be enforceable by the Guaranteed Party and their successors and assigns; provided, however, that the Guarantor may not assign or transfer any of its rights or obligations hereunder without the prior written consent of the Guaranteed Party. The assignment rights of the Guaranteed Party will be in accordance with any applicable terms of the Agreement.

**Acceptable Modifications:**

8. This Guaranty shall be binding upon the Guarantor and upon its successors and assigns and shall inure to the benefit of and be enforceable by the Guaranteed Party and their successors and assigns; provided, however, that the Guarantor may not assign or transfer any of its rights or obligations hereunder without the prior written consent of the Guaranteed Party, which consent may not be unreasonably withheld or delayed. The assignment rights of the Guaranteed Party will be in accordance with any applicable terms of the Agreement.

**Modification #7**

**Section 8—Original**

8. This Guaranty shall be binding upon the Guarantor and upon its successors and assigns and shall inure to the benefit of and be enforceable by the Guaranteed Party and their successors and assigns; provided, however, that the Guarantor may not assign or transfer any of its rights or obligations hereunder without the prior written consent of the Guaranteed Party. The assignment rights of the Guaranteed Party will be in accordance with any applicable terms of the Agreement.

**Acceptable Modifications:**

8. This Guaranty shall be binding upon the Guarantor and upon its successors and assigns and shall inure to the benefit of and be enforceable by the Guaranteed Party and their successors and assigns; provided, however, that the Guarantor may not assign or transfer any of its rights or obligations hereunder without the prior written consent of the Guaranteed Party. The assignment rights of the Guaranteed Party will be in accordance with any applicable terms of the Agreement. Any assignment in violation of this Section 8 shall be void and of no effect.

**Modification #8**

**Section 13—Original**

13. The Guarantor represents and warrants that: (a) it is duly organized and validly existing under the laws of the jurisdiction in which it was organized and has the power and authority to execute, deliver, and perform this Guaranty; (b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over the Guarantor is required on the part of the Guarantor for the execution, delivery and performance of this Guaranty except for those already made or obtained; (c) this Guaranty constitutes a valid and legally binding agreement of the Guarantor, and is enforceable against the Guarantor in accordance with its terms; and (d) the execution, delivery and performance of this Guaranty by the Guarantor have been and remain duly authorized by all necessary corporate or comparable action and do not contravene any provision of its constituent documents or any law, regulation or contractual restriction binding on it or its assets.

**Acceptable Modifications:**

13. The Guarantor represents and warrants as of the date of this Guaranty that: (a) it is duly organized and validly existing under the laws of the jurisdiction in which it was organized and has the power and authority to execute, deliver, and perform this Guaranty; (b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over the Guarantor is required on the part of the Guarantor for the execution, delivery and performance of this Guaranty except for those already made or obtained; (c) this Guaranty constitutes a valid and legally binding agreement of the Guarantor, and is enforceable against the Guarantor in accordance with its terms; and (d) the execution, delivery and performance of this Guaranty by the Guarantor have been and remain duly authorized by all necessary corporate or comparable action and do not contravene any provision of its constituent documents or any law, regulation or contractual restriction binding on it or its assets.

**Modification #9**

**Section 13—Original**

13. The Guarantor represents and warrants that: (a) it is duly organized and validly existing under the laws of the jurisdiction in which it was organized and has the power and authority to execute, deliver, and perform this Guaranty; (b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over the Guarantor is required on the part of the Guarantor for the execution, delivery and performance of this Guaranty except for those already made or obtained; (c) this Guaranty constitutes a valid and legally binding agreement of the Guarantor, and is enforceable against the Guarantor in accordance with its terms; and (d) the execution, delivery and performance of this Guaranty by the Guarantor have been and remain duly authorized by all necessary corporate or comparable action and do not contravene any provision of its constituent documents or any law, regulation or contractual restriction binding on it or its assets.

**Acceptable Modifications:**

13. The Guarantor represents and warrants that: (a) it is duly organized and validly existing under the laws of the jurisdiction in which it was organized and has the power and authority to execute, deliver, and perform this Guaranty; (b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over the Guarantor is required on the part of the Guarantor for the execution, delivery and ~~performance of payment under~~ this Guaranty except for those already made or obtained; (c) this Guaranty constitutes a valid and legally binding agreement of the Guarantor, and is enforceable against the Guarantor in accordance with its terms; and (d) the execution, delivery and ~~performance of payment under~~ this Guaranty by the Guarantor have been and remain duly authorized by all necessary corporate or comparable action and do not contravene any provision of its constituent documents or any law, regulation or contractual restriction binding on it or its assets.

**Modification #10**

**Section 13—Original**

13. The Guarantor represents and warrants that: (a) it is duly organized and validly existing under the laws of the jurisdiction in which it was organized and has the power and authority to execute, deliver, and perform this Guaranty; (b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over the Guarantor is required on the part of the Guarantor for the execution, delivery and performance of this Guaranty except for those already made or obtained; (c) this Guaranty constitutes a valid and legally binding agreement of the Guarantor, and is enforceable against the Guarantor in accordance with its terms; and (d) the execution, delivery and performance of this Guaranty by the Guarantor have been and remain duly authorized by all necessary corporate or comparable action and do not contravene any provision of its constituent documents or any law, regulation or contractual restriction binding on it or its assets.

**Acceptable Modifications:**

13. The Guarantor represents and warrants that: (a) it is duly organized and validly existing under the laws of the jurisdiction in which it was organized and has the power and authority to execute, deliver, and perform this Guaranty; (b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over the Guarantor is required on the part of the Guarantor for the execution, delivery and performance of this Guaranty except for those already made or obtained; (c) this Guaranty constitutes a valid and legally binding agreement of the Guarantor, and is enforceable against the Guarantor in accordance with its terms except as enforcement hereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights or by general equity principles; and (d) the execution, delivery and performance of this Guaranty by the Guarantor have been and remain duly authorized by all necessary corporate or comparable action and do not contravene any provision of its constituent documents or any law, regulation or contractual restriction binding on it or its assets.

Posted: July 6, 2017

**Modification #11**

**Acceptable Modification:**

**Insert an additional signature line at the end of signature block:**

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

Title:

## **Schedule 2 to the Form of Guaranty**

Schedule 2 to the Form of Guaranty contains modifications to be used in the event that a party chooses to execute a single guaranty for Ameren Illinois Company with respect to all outstanding Fixed Price Customer Supply Contract obligations.

### **FORM OF GUARANTY**

THIS GUARANTY (this "Guaranty"), dated as of \_\_\_\_\_, 20\_\_, is made by \_\_\_\_\_ (the "Guarantor"), a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_, in favor of Ameren Illinois Company d/b/a Ameren Illinois (the "Guaranteed Party"), a corporation organized and existing under the laws of the State of Illinois.

Terms not defined herein shall have the meanings given to them in each of the Confirmation Agreements dated \_\_\_\_\_, 20\_\_ (as amended, modified or extended from time to time, each an the "Agreement" and collectively, the "Agreements"), between the Guaranteed Party and \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of \_\_\_\_\_ (the "Counterparty"). This Guaranty is made by Guarantor in consideration for, and as an inducement for the Guaranteed Party to enter into, the applicable Agreements with the Counterparty. Guarantor, subject to the terms and conditions hereof, hereby unconditionally, irrevocably and absolutely guarantees to the Guaranteed Party the full and prompt payment and performance when due, subject to any applicable grace period, of all payment obligations of the Counterparty to the Guaranteed Party arising out of the Agreements. Without limiting the generality of the foregoing, Guarantor further agrees as follows:

1. The Guarantor, as primary obligor and not merely as surety, hereby irrevocably and unconditionally guarantees the full and prompt payment when due (whether by acceleration or otherwise) of any sums due and payable by the Counterparty as a result of an Event of Default under ~~the any~~ Agreement (including, without limitation, indemnities, damages, fees and interest thereon, pursuant to the terms of such Agreements). Notwithstanding anything to the contrary herein, the maximum aggregate liability of the Guarantor under this Guaranty shall in no event exceed \_\_\_\_\_; provided, that Guarantor will be responsible for all reasonable legal fees, costs, and expenses incurred by the Guaranteed Party in enforcing the obligations under this Guaranty apart from such liability cap. All such principal, interest, obligations and liabilities, collectively, are the "Guaranteed Obligations". This Guaranty is a guarantee of payment and not of collection.
2. The Guarantor hereby waives diligence, acceleration, notice of acceptance of this Guaranty and notice of any liability to which it may apply, and waives presentment and all demands whatsoever except as noted herein, notice of protest, notice of dishonor or nonpayment of any such liability, suit or taking of other action by any Guaranteed Party against, and any other notice to, any party liable thereon (including the Guarantor or any other guarantor), filing of claims with a court in the event of the insolvency or bankruptcy of the Counterparty, and any right to require a proceeding first against the Counterparty.
3. The Guaranteed Party may, at any time and from time to time, without notice to or consent of the Guarantor, without incurring responsibility to the Guarantor and without impairing or releasing the obligations of the Guarantor hereunder, upon or without any terms or conditions: (a) take or refrain from taking any and all actions with respect to the Guaranteed Obligations, any document or any person (including the Counterparty) that the Guaranteed Party determine in their sole discretion to be necessary or appropriate; (b) take or refrain from taking any action of any kind in respect of any security for any Guaranteed Obligation(s) or liability of the Counterparty to the Guaranteed Party; or (c) compromise or subordinate any Guaranteed Obligation(s) or liability of the Counterparty to the Guaranteed Party including any security therefor.
4. Subject to the terms and conditions hereof, the obligations of the Guarantor under this Guaranty are absolute, irrevocable and unconditional and, without limiting the generality of the foregoing, shall not be released, discharged or otherwise affected by: (a) any extension, renewal, settlement, compromise, waiver, consent, discharge

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or release by the Counterparty concerning any provision of the Agreements in respect of any Guaranteed Obligations of the Counterparty; (b) the rendering of any judgment against the Counterparty or any action to enforce the same; (c) the existence, or extent of, any release, exchange, surrender, nonperfection or invalidity of any direct or indirect security for any of the Guaranteed Obligations; (d) any modification, amendment, waiver, extension of or supplement to any of the Agreements or the Guaranteed Obligations agreed to from time to time by the Counterparty and the Guaranteed Party; (e) any change in the corporate existence (including its constitution, laws, rules, regulations or powers), structure or ownership of the Counterparty or the Guarantor, or any insolvency, bankruptcy, reorganization or other similar proceedings affecting the Counterparty or its assets, the Guarantor or any other guarantor of any of the Guaranteed Obligations; (f) the existence of any claim, set-off or other rights which the Guarantor may have at any time against the Counterparty, the Guaranteed Party or any other corporation or person, whether in connection herewith or in connection with any unrelated transaction; provided that nothing herein shall prevent the assertion of any such claim by separate suit or compulsory counterclaim; (g) the invalidity, irregularity or unenforceability in whole or in part of the Agreements or any Guaranteed Obligations or any instrument evidencing any Guaranteed Obligations or the absence of any action to enforce the same, or any provision of applicable law or regulation purporting to prohibit payment by the Counterparty of amounts to be paid by it under the Agreements or any of the Guaranteed Obligations; and (h) except for a failure to comply with any applicable statute of limitations, any other act or omission to act or delay of any kind of the Counterparty, any other guarantor, the Guaranteed Party or any other corporation, entity or person or any other event, occurrence or circumstance whatsoever which might, but for the provisions of this paragraph, constitute a legal or equitable discharge of the Guarantor's obligations hereunder.

5. The Guarantor hereby irrevocably waives (a) any right of reimbursement or contribution, and (b) any right of salvage against the Counterparty or any collateral security or guaranty or right of offset held by the Guaranteed Party therefor until all Guaranteed Obligations to the Guaranteed Party pursuant to the Agreements have been irrevocably paid in full.

6. The Guarantor will not exercise any rights which it may acquire by way of subrogation or any other right to payment until all Guaranteed Obligations to the Guaranteed Party pursuant to the Agreements have been irrevocably paid in full.

7. Subject to the terms and conditions hereof, this Guaranty is a continuing one and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. Except for a failure to comply with any applicable statute of limitations, no failure or delay on the part of the Guaranteed Party in exercising any right, power or privilege hereunder, and no course of dealing between the Guarantor and a Guaranteed Party, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights, powers and remedies herein expressly provided are cumulative and not exclusive of any rights, powers or remedies, which a Guaranteed Party would otherwise have. No notice to or demand on the Guarantor in any case shall entitle the Guarantor to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of a Guaranteed Party to any other or further action in any circumstances without notice or demand.

8. This Guaranty shall be binding upon the Guarantor and upon its successors and assigns and shall inure to the benefit of and be enforceable by the Guaranteed Party and their successors and assigns; provided, however, that the Guarantor may not assign or transfer any of its rights or obligations hereunder without the prior written consent of the Guaranteed Party. The assignment rights of the Guaranteed Party will be in accordance with any applicable terms of the applicable Agreements.

9. Neither this Guaranty nor any provision hereof may be changed, waived, discharged or terminated except upon written agreement of the Guaranteed Party and the Guarantor.

10. The Guarantor's liability as guarantor shall continue and remain in full force and effect in the event that all or any part of any payment made hereunder or any obligation or liability guaranteed hereunder is recovered (as a fraudulent conveyance, preference or otherwise) rescinded or must otherwise be reinstated or returned due to bankruptcy or insolvency laws or otherwise. If claim is ever made upon the Guaranteed Party for repayment or recovery of any amount or amounts received from the Guarantor or the Counterparty in payment or on account of

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any of the Guaranteed Obligations and the Guaranteed Party repay all or part of such amount by reason of (a) any judgment, decree or order of any court or administrative body having jurisdiction over such payee or any of its property, or (b) any settlement or compromise of any such claim effected by such payee with any such claimant (including the Guarantor), then and in such event the Guarantor agrees that any such judgment, decree, order, settlement or compromise shall be binding upon it, notwithstanding any revocation hereof or the cancellation of the Agreement<sup>s</sup> or other instrument evidencing any liability of the Guarantor, and the Guarantor shall be and remain liable to the Guaranteed Party hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by the Guaranteed Party.

11. Subject to Paragraph 10, this Guaranty shall remain in full force and effect until all Guaranteed Obligations have been fully and finally performed, at which point it will expire. The Guarantor may terminate this Guaranty upon thirty (30) days prior written notice to the Guaranteed Party which termination shall be effective only upon receipt by the Guaranteed Party of alternative means of security or credit support, as specified in the Agreement<sup>s</sup> and in a form reasonably acceptable to the Guaranteed Party. Upon the effectiveness of any such expiration or termination, the Guarantor shall have no further liability under this Guaranty, except with respect to the Guaranteed Obligations arising or created prior to the time the expiration or termination is effective, which Guaranteed Obligations shall remain guaranteed pursuant to the terms of this Guaranty until finally and fully performed.

12. All notices and other communications hereunder shall be made at the addresses by hand delivery, by the next day delivery service effective upon receipt, or by certified mail return receipt requested (effective upon scheduled weekday delivery day) or telefacsimile (effective upon receipt of evidence, including telefacsimile evidence, that telefacsimile was received)

If to the Guarantor:

[To be completed]

If to the Guaranteed Party:

[To be completed]

13. The Guarantor represents and warrants that: (a) it is duly organized and validly existing under the laws of the jurisdiction in which it was organized and has the power and authority to execute, deliver, and perform this Guaranty; (b) no authorization, approval, consent or order of, or registration or filing with, any court or other governmental body having jurisdiction over the Guarantor is required on the part of the Guarantor for the execution, delivery and performance of this Guaranty except for those already made or obtained; (c) this Guaranty constitutes a valid and legally binding agreement of the Guarantor, and is enforceable against the Guarantor in accordance with its terms; and (d) the execution, delivery and performance of this Guaranty by the Guarantor have been and remain duly authorized by all necessary corporate or comparable action and do not contravene any provision of its constituent documents or any law, regulation or contractual restriction binding on it or its assets.

14. This Guaranty and the rights and obligations of the Counterparty and the Guarantor hereunder shall be construed in accordance with and governed by the laws of the State of New York. The Guarantor and Guaranteed Party jointly and severally agree and irrevocably submit to the exclusive jurisdiction of state and federal courts located in the Northern District of the State of Illinois over any disputes arising or relating to this Guaranty and waive and agree not to assert as a defense any objections to venue or inconvenient forum. The Guarantor and the Guaranteed Party consent to and grant any such court jurisdiction over the person of such party and over the subject matter of such dispute and agree that summons or other legal process in connection with any such action or proceeding shall be deemed properly and effectively served when sent by certified U.S. mail, return receipt requested, to the address of the other party set forth in Paragraph 12 hereof, or in such other manner as may be permitted by law. The Guarantor and the Guaranteed Party each hereby irrevocably waives any and all rights to trial by jury with respect to any legal proceeding arising out of or relating to this Guaranty.

15. This writing is the complete and exclusive statement of the terms of this Guaranty and supersedes all prior oral or written representations, understandings, and agreements between the Guaranteed Party and the Guarantor

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with respect to subject matter hereof. The Guaranteed Party and the Guarantor agree that there are no conditions to the full effectiveness of this Guaranty.

16. Every provision of this Guaranty is intended to be severable. If any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

17. If the Guarantor is a trust: no trustee of the Guarantor shall be held to any liability whatsoever for any obligation under this Guaranty, and this Guaranty shall not be enforceable against any such trustee in their or its, his or her individual capacities or capacity; and this Guaranty shall be enforceable against the trustees of the Guarantor only as such, and every person, firm, association, trust or corporation having any claim or demand arising under this Guaranty and relating to the Guarantor or any trustee of the Guarantor shall look solely to the trust estate of the Guarantor for the payment or satisfaction thereof.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be executed and delivered as of the date first written above to be effective as of the earliest effective date of any of the Agreements.

[GUARANTOR]

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

Title:

## ATTACHMENT C

### OPTION 1

IRREVOCABLE STANDBY LETTER OF CREDIT FORM  
DATE OF ISSUANCE: \_\_\_\_\_

[Address]

Re: Credit No. \_\_\_\_\_

We, \_\_\_\_\_ (the "Issuing Bank"), hereby establish our Irrevocable Transferable Standby Letter of Credit (the "Letter of Credit") in favor of \_\_\_\_\_ (you, the "Beneficiary") for the account of \_\_\_\_\_ (the "Account Party"), for the aggregate amount not exceeding \_\_\_\_\_ United States Dollars (\$ \_\_\_\_\_), available to you at sight upon demand at our counters at \_\_\_\_\_ [designate Issuing Bank's location for presentments] on or before the expiration hereof against presentation to us of one or more of the following statements, dated and signed by an Authorized Officer of the Beneficiary:

1. "An Event of Default (as defined in the Confirmation Agreement dated as of \_\_\_\_\_ between [Beneficiary Name] ("Beneficiary") and [Account Party's Name] ("Account Party"), as the same may be amended (the "Agreement")) has occurred and is continuing with respect to Account Party under the Agreement and no Event of Default has occurred and is continuing with respect to the Beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of \_\_\_\_\_ United States Dollars (\$ \_\_\_\_\_) [or the entire undrawn amount of the Letter of Credit]"; or
2. "An Early Termination Date (as defined in the Confirmation Agreement dated as of \_\_\_\_\_ between [Beneficiary Name] ("Beneficiary") and [Account Party's Name] ("Account Party"), as the same may be amended (the "Agreement")) has occurred and is continuing with respect to Account Party under the Agreement and no Event of Default has occurred and is continuing with respect to the Beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of \_\_\_\_\_ United States Dollars (\$ \_\_\_\_\_) [or the entire undrawn amount of the Letter of Credit]".

This Letter of Credit shall expire on \_\_\_\_\_.

The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid by the Issuing Bank. Partial drawings and multiple presentations are permitted hereunder.

We hereby agree with you that documents drawn under and in compliance with the terms and conditions of this Letter of Credit shall be duly honored upon presentation as specified. Drafts, document(s) and other communications hereunder may be presented or delivered to us by facsimile transmission. Presentation of documents to effect a draw by facsimile must be made to the following facsimile number: \_\_\_\_\_, and confirmed by telephone to us at the following number: \_\_\_\_\_. In the event of a presentation via facsimile transmission, no mail confirmation is necessary and the facsimile transmission will constitute the operative drawing documents.

This Letter of Credit shall be governed by the Uniform Customs and Practice for Documentary Credits, 2007 Revision, International Chamber of Commerce Publication No. 600, or any successor publication thereto (the "UCP"), except to the extent that the terms hereof are inconsistent with the provisions of the UCP, including

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but not limited to Articles 14(b), 16(d) and 36 of the UCP, in which case the terms of this Letter of Credit shall govern. Matters not covered by the UCP shall be governed and construed in accordance with the laws of the State of New York.

With respect to Article 14(b) of the UCP, the Issuing Bank shall have a reasonable amount of time, not to exceed three (3) Business Days, following the date of its receipt of documents from the Beneficiary, to examine the documents and determine whether to take up or refuse the documents and shall inform the Beneficiary accordingly. With respect to Article 16(d) of the UCP, the notice required in sub-article 16C must be given no later than the banks' close of business on the third Business Day following the date of presentation.

Article 36 of the UCP as it applies to this Irrevocable Standby Letter of Credit is hereby modified to provide that in the event of an Act of God, riot, civil commotion, insurrection, war or any other cause beyond our control that interrupts our business (collectively, an "Interruption Event") and causes the place for presentation of this Letter of Credit to be closed for business on the last day for presentation, the expiry date of this Letter of Credit will be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business. Article 36 of the UCP as it applies to this Irrevocable Standby Letter of Credit is hereby further modified to provide that any alternate place for presentation that we designate must be located in the United States.

We, the Issuing Bank, hereby certify that as of the Date of Issuance of this Irrevocable Standby Letter of Credit our senior unsecured debt is rated "A" or better by Standard and Poor's ("S&P") if rated by S&P, "A2" or better from Moody's Investors Service ("Moody's") if rated by Moody's, and "A" or better by Fitch Ratings ("Fitch") if rated by Fitch. We hereby certify that our senior unsecured debt is rated by at least two of S&P, Moody's, and Fitch. If affiliated with a foreign bank, we further certify we are a U.S. branch office of such foreign bank and that as of the Date of Issuance of this Letter of Credit, our senior unsecured debt meets the ratings requirement of this paragraph.

As used herein, the term "Business Day" means any day on which Federal Reserve Banks and Branches are open for business, such that payments can be effected on the Fedwire system and the term "Authorized Officer" means President, Treasurer, any Vice President or any Assistant Treasurer.

This Letter of Credit is transferable in whole but not in part, in accordance with the procedures in UCP 600 through the submission of a Letter of Full Transfer utilizing one of the attached forms of Letter of Full Transfer (Schedules 1-3), accompanied by the original Letter of Credit and original amendments, if any, but otherwise may not be amended, changed or modified without the express written consent of the Beneficiary, the Issuing Bank and the Account Party.

This Letter of Credit may not be transferred to any person with which U.S. persons are prohibited from doing business under U.S. Foreign Assets Control Regulations or other applicable U.S. Laws and Regulations.

We will not make any payment under this Letter of Credit (1) to any entity or person who is subject to the sanctions issued by the United States Department of Commerce, or to whom payment is prohibited by the foreign asset control regulations of the United States Department of the Treasury, or (2) which otherwise is in contravention of United States laws and regulations.

[The Issuing Bank may add specific contact or additional information or administrative- only comments at this point. However, such comments shall not create or alter any rights that vary from the above language].

[BANK SIGNATURE]

**OPTION 2**

IRREVOCABLE STANDBY LETTER OF CREDIT FORM  
DATE OF ISSUANCE:

[Address]

Re: Credit No. \_\_\_\_\_

We, \_\_\_\_\_ (the "Issuing Bank"), hereby establish our Irrevocable Transferable Standby Letter of Credit (the "Letter of Credit") in favor of \_\_\_\_\_ (you, the "Beneficiary") for the account of \_\_\_\_\_ (the "Account Party"), for the aggregate amount not exceeding \_\_\_\_\_ United States Dollars (\$\_\_\_\_), available to you at sight upon demand at our counters at \_\_\_\_\_ [designate Issuing Bank's location for presentments] on or before the expiration hereof against presentation to us of one or more of the following statements, dated and signed by an Authorized Officer of the Beneficiary:

1. "An Event of Default (as defined in the Confirmation Agreement dated as of \_\_\_\_\_ between [Beneficiary Name] ("Beneficiary") and [Account Party's Name] ("Account Party"), as the same may be amended (the "Agreement")) has occurred and is continuing with respect to Account Party under the Agreement and no Event of Default has occurred and is continuing with respect to the Beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of \_\_\_\_\_ United States Dollars (\$\_\_\_\_\_) [or the entire undrawn amount of the Letter of Credit]"; or
2. "An Early Termination Date (as defined in the Confirmation Agreement dated as of \_\_\_\_\_ between [Beneficiary Name] ("Beneficiary") and [Account Party's Name] ("Account Party"), as the same may be amended (the "Agreement")) has occurred and is continuing with respect to Account Party under the Agreement and no Event of Default has occurred and is continuing with respect to the Beneficiary of this Letter of Credit. Wherefore, the undersigned does hereby demand payment of \_\_\_\_\_ United States Dollars (\$\_\_\_\_\_) [or the entire undrawn amount of the Letter of Credit]".

This Letter of Credit shall expire on \_\_\_\_\_.

The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any drawings paid by the Issuing Bank. Partial drawings and multiple presentations are permitted hereunder.

We hereby agree with you that documents drawn under and in compliance with the terms and conditions of this Letter of Credit shall be duly honored upon presentation as specified. Drafts, document(s) and other communications hereunder may be presented or delivered to us by facsimile transmission. Presentation of documents to effect a draw by facsimile must be made to the following facsimile number: \_\_\_\_\_, and confirmed by telephone to us at the following number: \_\_\_\_\_. In the event of a presentation via facsimile transmission, no mail confirmation is necessary and the facsimile transmission will constitute the operative drawing documents.

This Letter of Credit is subject to International Standby Practices (ISP98), International Chamber of Commerce ("ICC") Publication No. 590, or any successor publication thereto. This Standby Letter of Credit shall be deemed to be made under the laws of the State of New York, including Article 5 of the Uniform Commercial Code, and shall, as to matters not governed by the International Standby Practices (ISP98), be governed by and construed in accordance with the laws of the State of New York, excluding any choice of law provisions or conflict of law principles which would require reference to the laws of any other jurisdiction.

Rule 3.14(a) of the ISP as it applies to this Irrevocable Standby Letter of Credit is hereby modified to provide as follows:

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If on the last Business Day for presentation the place for presentation stated in this Letter of Credit is for any reason closed, then the last day for presentation is automatically extended to the day occurring thirty calendar days after the place for presentation reopens for business.

Rule 3.14(b) of the ISP as it applies to this Irrevocable Standby Letter of Credit is hereby further modified to provide that any alternate place for presentation that we designate must be located in the United States.

We, the Issuing Bank, hereby certify that as of the Date of Issuance of this Irrevocable Standby Letter of Credit our senior unsecured debt is rated “A” or better by Standard and Poor’s (“S&P”) if rated by S&P, “A2” or better from Moody’s Investors Service (“Moody’s”) if rated by Moody’s, and “A” or better by Fitch Ratings (“Fitch”), if rated by Fitch. We hereby certify that our senior unsecured debt is rated by at least two of S&P, Moody’s, and Fitch. If affiliated with a foreign bank, we further certify we are a U.S. branch office of such foreign bank and that as of the Date of Issuance of this Letter of Credit, our senior unsecured debt meets the ratings requirement of this paragraph.

As used herein, the term “Business Day” means any day on which Federal Reserve Banks and Branches are open for business, such that payments can be effected on the Fedwire system and the term “Authorized Officer” means President, Treasurer, any Vice President or any Assistant Treasurer.

This Letter of Credit, except as expressly stated herein, is transferable in whole but not in part in accordance with the ICC Publication No. 590. Any transfer request must be presented to us utilizing one of the attached forms of Letter of Full Transfer (Schedules 1-3) together with the original Letter of Credit and original amendments, if any. Transfers to designated foreign nationals and/or specially designated nationals are not permitted as being contrary to the U.S. Treasury Department or foreign assets control regulations.

Except for the transfer, this letter of credit otherwise may not be amended, changed or modified without the express written consent of the Beneficiary, the Issuing Bank, and the Account Party.

We will not make any payment under this Letter of Credit (1) to any entity or person who is subject to the sanctions issued by the United States Department of Commerce, or to whom payment is prohibited by the foreign asset control regulations of the United States Department of the Treasury, or (2) which otherwise is in contravention of United States laws and regulations.

[The Issuing Bank may add specific contact or additional information or administrative-only comments at this point. However, such comments shall not create or alter any rights that vary from the above language].

[BANK SIGNATURE]

Posted: July 6, 2017

**Schedule 1 to Attachment C**

**LETTER OF FULL TRANSFER**

\_\_\_\_\_, 20\_\_\_\_

To:  
Bank Address

Ladies/Gentlemen:

RE: Credit \_\_Issued By\_\_\_\_\_

For value received, the undersigned beneficiary hereby irrevocably transfers to:

\_\_\_\_\_  
(Name of Transferee)

\_\_\_\_\_  
(Address)

all rights of the undersigned beneficiary to draw under the above Letter of Credit in its entirety.

By this transfer, all rights of the undersigned beneficiary in such Letter of Credit are transferred to the transferee and the transferee shall have the sole rights as beneficiary thereof, including sole rights relating to any amendments whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised direct to the transferee without necessity of any consent of or notice to the undersigned beneficiary.

The original of such Letter of Credit and original amendments, if any, are returned herewith, and we ask you to endorse the Letter of Credit and amendments on the reverse thereof, and forward these direct to the transferee with your customary notice of transfer.

Enclosed is remittance of \$\_\_\_\_\_ in payment of your transfer commission and in addition thereto we agree to pay to you on demand any expenses which may be incurred by you in connection with this transfer.

Transfer Commission Charges

\_\_\_\_\_  
\_\_\_\_\_

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SIGNATURE AUTHENTICATED

Yours very truly,

The signatory/ies of this concern is/are authorized to withdraw corporate funds.

\_\_\_\_\_  
(BANK)

\_\_\_\_\_  
Signature of Beneficiary

\_\_\_\_\_  
(Authorized Signature)

SIGNATURE AUTHENTICATED

The signatory/ies of this concern is/are authorized to withdraw corporate funds.

\_\_\_\_\_  
(BANK)

\_\_\_\_\_  
Signature of Transferee

\_\_\_\_\_  
(Authorized Signature)

Posted: July 6, 2017

**Schedule 2 to Attachment C**

**LETTER OF FULL TRANSFER**

Request for a Full Transfer of the below  
referenced Standby Letter of Credit

[Name of the Issuing Bank]

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

Reference: \_\_\_\_\_

(Issuing Bank's Letter of Credit Number

To: \_\_\_\_\_

(Advising Bank's Reference Number, if applicable)

"Transferring Bank"

We, the undersigned "First Beneficiary", hereby irrevocably transfer all of our rights to draw under the above  
referenced Letter of Credit ("Credit") in its entirety to:

\_\_\_\_\_  
(Print Name and complete address of the Transferee) "Second Beneficiary"

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Advise through:

\_\_\_\_\_  
(Print Name/address of the Second Beneficiary's Bank, if known—  
if left blank, the Transferring Bank will select the advising bank)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In accordance with UCP 600 Article 38 or ISP 98, Rule 6 regarding transfer of drawing rights (whichever set of rules the Credit is subject to), all rights of the undersigned First Beneficiary in such Credit are transferred to the Second Beneficiary. The Second Beneficiary shall have the sole rights as beneficiary thereof, including sole rights relating to any amendments whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised directly to the Second Beneficiary without necessity of any consent of or notice to the undersigned First Beneficiary.

The original Credit, including amendments to this date, is attached and the undersigned First Beneficiary requests that you endorse an acknowledgment of this transfer on the reverse thereof. The undersigned First Beneficiary requests that you notify the Second Beneficiary of this Credit in such form and manner as you deem appropriate, and the terms and conditions of the Credit as transferred.

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Enclosed is remittance of \$[\_\_\_\_\_] in payment of your transfer commission and in addition thereto we agree to pay to you on demand any expenses which may be incurred by you in connection with this transfer.

Transfer Commission Charges

\_\_\_\_\_  
\_\_\_\_\_

First Beneficiary represents and warrants to Transferring Bank that (i) our execution, delivery, and performance of this request to Transfer (a) are within our powers and have been duly authorized (b) constitute our legal, valid, binding and enforceable obligation (c) do not contravene any charter provision, by-law, resolution, contract, or other undertaking binding on or affecting us or any of our properties and (d) do not require any notice, filing or other action to, with, or by any governmental authority (ii) we have not presented any demand or request for payment or transfer under the Credit affecting the rights to be transferred, and (iii) the Second Beneficiary's name and address are correct and complete and the transactions underlying the Credit and the requested Transfer do not violate applicable United States or other law, rule or regulation, including without limitation U.S. Foreign Asset Control regulations.

In the event that we fail to remit to you, following your written demand, any funds paid to us despite the Transfer, we agree to reimburse you for your reasonable costs of collecting those funds from us.

The Effective Date shall be the date hereafter on which Transferring Bank effects the requested transfer by acknowledging this request and giving notice thereof to Second Beneficiary.

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WE WAIVE ANY RIGHT TO TRIAL BY JURY THAT WE MAY HAVE IN ANY ACTION OR PROCEEDING RELATING TO OR ARISING OUT OF THIS TRANSFER.

Sincerely Yours

---

(Print Name of First Beneficiary)

---

(Print Authorized Signers Name and Title)

---

(Authorized Signature)

---

(Print Second Authorized Signers Name and Title, if required)

---

(Second Authorized Signature, if required)

---

(Telephone Number/Fax Number)

SIGNATURE GUARANTEED Signature(s) with title(s) conform(s) with that/those on file with us for this individual, entity or company and signer(s) is/are authorized to execute this agreement

---

(Print Name of Bank)

---

(Address of Bank)

---

(City, State, Zip Code)

---

(Print Name and Title of Authorized Signer)

---

(Authorized Signature)

---

(Telephone Number)

---

(Date)

Posted: July 6, 2017

**Schedule 3 to Attachment C**

**LETTER OF FULL TRANSFER**

\_\_\_\_\_, 201\_\_

[TRANSFEROR]

Re: Irrevocable Standby Letter of Credit No. \_\_\_\_\_

We request you to transfer all of our rights as beneficiary under the Letter of Credit referenced above to the Transferee, named below:

Name of Transferee

Address

By this transfer all our rights as the transferor, including all rights to make drawings under the Letter of Credit, go to the transferee. The transferee shall have sole rights as beneficiary, whether existing now or in the future, including sole rights to agree to any amendments, including increases or extensions or other changes. All amendments will be sent directly to the transferee without the necessity of consent by or notice to us.

We enclose the original letter of credit and any amendments. Please indicate your acceptance of our request for the transfer by endorsing the letter of credit and sending it to the transferee with your customary notice of transfer.

The signature and title at the right conform with those shown in our files as authorized to sign for the beneficiary. Policies governing signature authorization as required for withdrawals from customer accounts shall also be applied to the authorization of signatures on this form. The authorization of the Beneficiary's signature and title on this form also acts to certify that the authorizing financial institution (i) is regulated by a US. federal banking agency; (ii) has implemented anti-money laundering policies and procedures that comply with applicable requirements of law, including a Customer Identification Program (CIP) in accordance with Section 326 of the USA PATRIOT Act; (iii) has approved the Beneficiary under its anti-money laundering compliance program; and (iv) acknowledges that [the Transferor] is relying on the foregoing certifications pursuant to 31 CFR. Section 103.121 (b)(6)."

NAME OF BANK

AUTHORIZED SIGNATURE AND TITLE

PHONE NUMBER

NAME OF TRANSFEROR

NAME OF AUTHORIZED SIGNER AND TITLE

AUTHORIZED SIGNATURE