**Contract for Capacity**

**Between**

**(Name of Capacity Source Provider)**

**and**

**Electric Reliability Council of Texas, Inc.**

This contract for the provision of capacity (“Contract for Capacity”), effective as of [START DATE], is entered into by and between [CAPACITY SOURCE PROVIDER’s NAME], (“Provider”) and Electric Reliability Council of Texas, Inc., a Texas non-profit corporation (“ERCOT”).

Recitals

WHEREAS:

1. ERCOT has identified an elevated reliability risk associated with the possibility of extreme weather in the 2023-24 winter Peak Load Season;
2. Paragraph (4) of ERCOT Protocols Section 6.5.1.1, *ERCOT Control Area Authority*, provides that ERCOT may exercise its authority to procure additional capacity to prevent an anticipated Emergency Condition relating to serving Load in the current or next Season;
3. On October 2, 2023, ERCOT issued a Request for Proposals for Contracts for Capacity (“RFP”) seeking proposals for entities to provide Generation Resource, Energy Storage Resource, or Demand response capacity in the 2023-24 winter Peak Load Season, and on October 23, 2023, ERCOT issued a revised version of the RFP;
4. Provider submitted a proposal in response to ERCOT’s RFP;
5. Provider owns or otherwise represents the Resource or Customer Load that was offered in Provider’s proposal and is the subject of this Contract for Capacity (“the Capacity Source”); and
6. Provider and ERCOT wish to establish the terms and conditions by which ERCOT and Provider will discharge their respective duties and responsibilities with respect to the Capacity Source.

Agreements

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, ERCOT and Provider (the “Parties”) hereby agree as follows:

1. Capitalized terms used in this Contract for Capacity have the meanings assigned to them in the ERCOT Protocols and in this Contract for Capacity.
2. Any notice required to be provided by Provider to ERCOT under this Contract for Capacity shall be provided via email to ERCOT’s General Counsel at [MPRegistration@ercot.com](mailto:MPRegistration@ercot.com). Any notice required to be provided by ERCOT to Provider under this Contract for Capacity shall be provided via email to any representative of Provider identified in Provider’s response to the RFP or to any other person designated by Provider by way of email notice to ERCOT’s General Counsel.
3. Provider agrees to make available for ERCOT’s use the Capacity Source described in Attachments 1 and 2 to this Contract for Capacity in accordance with the ERCOT Protocols, the October 23, 2023 Contract for Capacity Governing Document (“Governing Document”), and the October 23, 2023 Revised RFP, which are hereby incorporated by reference into this Contract for Capacity. Provider further agrees that the Capacity Source will be made available for the period beginning on the start date identified in Attachment 1 and ending on the end date identified in Attachment 1 (such period referred to hereinafter as the “Contract Period”), unless ERCOT approves any extension to the start date in writing. For an Energy Storage Resource Capacity Source or Demand response Capacity Source, the hours of each day in which the Capacity Source must be made available are determined by the category identified in Attachment 1, as defined in the RFP.
4. Provider and ERCOT will abide by and comply with the requirements set out in the Governing Document and the RFP.
5. This Contract for Capacity commences on the start date identified in Attachment 1, subject to any delay to the start date that may be subsequently approved in writing by ERCOT.
6. Except as provided in paragraph G, below, this Contract for Capacity terminates upon the completion of all obligations under the terms of this Contract for Capacity.
7. In the event ERCOT determines that Provider has materially failed to comply with its obligations under this Contract for Capacity, including without limitation requirements set out in the ERCOT Protocols, the Governing Document, and the RFP, ERCOT may, in its sole discretion, terminate the Contract for Capacity upon seven days’ written notice. This remedy is independent of any other remedy ERCOT may have under the ERCOT Protocols, the Governing Document, and the RFP.
8. Any dispute by Provider concerning payments or charges to Provider relating to the participation of a Generation Resource or Energy Storage Resource under the terms of this Contract for Capacity shall be submitted by Provider to ERCOT through the Settlement and billing dispute process described in ERCOT Protocols Section 9.14, Settlement and Billing Dispute Process. Any dispute by Provider concerning payments or charges to Provider relating to the participation of a Demand response Capacity Source under the terms of this Contract for Capacity shall be submitted by Provider to ERCOT’s General Counsel via email to at [MPRegistration@ercot.com](mailto:MPRegistration@ercot.com) within 10 Business Days of the payment or charge and shall be resolved by ERCOT within 10 Business Days. Any further dispute concerning the outcome of this dispute process shall be subject to the Alternative Dispute Resolution (ADR) process described in ERCOT Protocols Section 20, Alternative Dispute Resolution Procedure, except that the ADR process may be waived upon agreement of the Parties. If Provider is not a Market Participant, the ADR process, if not waived by mutual agreement, will apply as if Provider were a Market Participant.
9. Any dispute by Provider unrelated to payments or charges arising under the terms of this Contract for Capacity shall be submitted to the Alternative Dispute Resolution process described in ERCOT Protocols Section 20. If Provider is not a Market Participant, the ADR process will be followed as if Provider were a Market Participant.
10. NEITHER PARTY IS LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR INJURY THAT MAY OCCUR, IN WHOLE OR IN PART, AS A RESULT OF A DEFAULT UNDER THIS CONTRACT FOR CAPACITY, A TORT, OR ANY OTHER CAUSE, WHETHER OR NOT A PARTY HAD KNOWLEDGE OF THE CIRCUMSTANCES THAT RESULTED IN THE SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR INJURY, OR COULD HAVE FORESEEN THAT SUCH DAMAGES OR INJURY WOULD OCCUR.
11. Nothing in this Contract for Capacity limits the authority of the Public Utility Commission of Texas to assess penalties against Provider or to take any other action permitted by law due to any failure by Provider under this Contract for Capacity.
12. All provisions in Section 11 of the ERCOT Standard Form Market Participant Agreement (ERCOT Protocols, Section 22, Attachment A) are hereby incorporated into this Contract for Capacity by reference. Where those provisions refer to “Agreement,” they should be understood to also apply to this Contract for Capacity; where those provisions refer to a “Party,” they should be understood to refer to the parties to this Contract for Capacity; where those provisions refer to “Participant,” they should be understood to refer to Provider.
13. This Contract for Capacity may be executed in two or more counterparts, each of which is deemed an original, but all constitute one and the same instrument.

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

Electric Reliability Council of Texas, Inc.:

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

Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

Provider:

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

Printed Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

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

**ATTACHMENT 1**

Section 1. Capacity Source Identification

1. Capacity Source type:

* Generation Resource
* Energy Storage Resource
* Demand response

1. Capacity Source name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. Net capacity to be provided to ERCOT: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. Service start date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
4. Service end date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
5. Awarded ESR or DR Category: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Section 2. Payment Calculation

1. Standby Payment
2. Hourly standby payment ($/MW/hour): \_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. Total hours of obligation (hours): \_\_\_\_\_\_\_\_\_\_\_\_\_\_
4. Total standby payment for Contract Period (subject to adjustment as described in the Governing Document) ($): \_\_\_\_\_\_\_\_\_\_\_\_\_\_
5. Total cost of capital expenditures included in standby payment ($): \_\_\_\_\_\_\_\_\_\_\_\_\_\_
6. Incentive Factor: \_\_\_ %