

M-RETS OPERATING SYSTEM

TERMS OF USE LAST MODIFIED ON JUNE 08, 2008

The following are the Terms of Use for using the M-RETS Operating System (the “M-RETS System”), developed, owned and operated by APX, Inc. (“APX”).

1. Acceptance of Terms. Your use of the M-RETS System and the M-RETS website located online at www.m-rets.com (“M-RETS Site”) is subject to the following Terms of Use, which constitute a binding contract between you (also referred to herein as “Subscriber”) and APX (Subscriber and APX are individually referred to herein as a “Party”, and collectively referred to herein as “the Parties”). BY USING OR ACCESSING THE M-RETS SYSTEM, YOU ACCEPT AND AGREE TO BE BOUND BY THESE TERMS OF USE AS MODIFIED FROM TIME TO TIME IN ACCORDANCE WITH THE TERMS HEREOF. You can review the current version of the Terms of Use at any time at www.m-rets.com. YOUR CONTINUED USE AND ACCESS OF THE M-RETS SYSTEM AFTER MODIFICATION OF THE TERMS OF USE SIGNIFIES YOUR AGREEMENT TO BE BOUND BY THE MODIFIED TERMS OF USE. In addition, when using the M-RETS System, you shall be subject to any guidelines and/or operating procedures, including but not limited to the M-RETS Operating Procedures, applicable to such use which may be posted at www.m-rets.com from time to time, but only to the extent that such guidelines and operating procedures do not conflict with these Terms of Use. All such guidelines and operating procedures are incorporated by reference into these Terms of Use. Neither these Terms of Use nor the M-RETS Operating Procedures nor any other guidelines or procedures are intended to supercede any law, statute, or administrative code of any state or province to the extent such law, statute or code is applicable to the M-RETS System. If you do not agree to these Terms of Use, you may not access or otherwise use the M-RETS System.

2. Description of Service.

(a) In consideration of the payment of the Fees specified herein, APX hereby grants to Subscriber, upon acceptance of these Terms of Use, a non-exclusive license to use the M-RETS System, subject to the terms and conditions contained herein.

(b) The M-RETS System provides an electronic certificates-based tracking system that reports certain operating Attributes of Renewable electricity generators that (i) are located within the M-RETS Region; (ii) are owned by a utility located within the M-RETS Region; or (iii) have a contract with a utility located within the M-RETS Region to deliver electricity into the M-RETS Region. In addition, the M-RETS System tracks Renewable Resource Credits for the State of Wisconsin. The M-RETS System will compile information regarding the Attributes. The Attributes are unbundled from each megawatt-hour (“MWh”) of Energy produced and recorded onto a Certificate. One Certificate shall be created for each MWh of Energy produced, and each Certificate will be assigned a unique serial number. The data comprising the M-RETS System include (i) generation information from control area settlement data polled from a revenue quality meter or provided to the M-RETS Administrator by Control Area Operators, Qualified Independent Parties and Self-Reporting Generators as described in Section 8 of the M-

RETS Operating Procedures; and (ii) static information provided by the Subscriber such as fuel source and location.

(c) Any issues that may arise regarding whether an ownership or security interest is created in the transferred Certificates or whether the transferred Certificate is considered a “forward contract” under the United States Bankruptcy Code, or any other issues related thereto, shall be addressed between the transferor and transferee of the Certificate. The M-RETS System will not address any such substantive issues and APX shall have no liability with respect to any such substantive issues.

(d) Subject to the terms of the M-RETS Services Contract, APX reserves the right to modify, augment, segment, reformat, reconfigure or otherwise alter at any time the content or methods of transmission of the M-RETS System or these Terms of Use and create new types or versions of the M-RETS System or these Terms of Use. APX shall not be required to comply with any M-RETS Operating Procedure that APX determines in its reasonable discretion would have a material adverse effect on the M-RETS System; provided, however, that APX will report to M-RETS any such non-compliance, along with an explanation of the reasons for such non-compliance, within 30 days after such non-compliance first occurs. APX shall provide Subscriber with at least seven days’ prior notice of material changes to the M-RETS System or these Terms of Use. Such changes, modifications, additions, or deletions shall be effective upon the date set forth in the notice, which may be given by any means including, without limitation, posting on the M-RETS Site, or by electronic or conventional mail. Any use of the M-RETS System by Subscriber after the effective date set forth in the notice shall be deemed to constitute acceptance of such changes, modifications, additions, or deletions. Notwithstanding the foregoing, prior to implementing any material changes to the M-RETS System or these Terms of Use, APX will give all users of the M-RETS System an opportunity to provide input to APX with respect to the proposed change(s), and APX will give reasonable consideration to such input.

3. Authorized User.

(a) The rights granted herein are granted only to Subscriber. The rights and obligations of these Terms of Use shall run to the named Parties and their successors in interest and authorized assigns. Subscriber shall ensure that any of its employees, Subscriber Agents and/or any other agents to whom it has provided access to the M-RETS System agree to be bound by the Terms of Use.

(b) Subscriber shall execute and return to APX the applicable Declaration of Agency (“Declaration”) substantially in the form attached hereto as Schedule C-1 or Schedule C-2, as the case may be, for any third-party agent it desires to hire and/or contract with to access the M-RETS System on its behalf. The applicable form shall depend on the level of access Subscriber desires to grant to such Agent (Level 1, Level 2, Level 3, or Level 4). Subscriber understands and agrees that only one entity may be granted Level 1 access to an Account, and that accordingly if Subscriber grants Level 1 Account access to an Agent, Subscriber shall not have Level 1 access to that Account unless and until Subscriber revokes the applicable Declaration of Agency.

4. Ownership and Use of Data and the M-RETS System.

(a) Subscriber acknowledges that APX is and shall remain owner of the M-RETS System, any components, modifications, adaptations and copies thereof. Without limiting any of the foregoing, Subscriber further acknowledges and agrees that any and all software used in providing, accessing (other than commercially available third party internet browsers) or using the M-RETS System (“Software”) is proprietary software of APX and/or its third-party suppliers. Except as provided herein, Subscriber shall not obtain, have or retain any right, title or interest in or to the M-RETS System or the Software or any part thereof. Subscriber acknowledges and agrees that APX is and shall remain the sole owner of any registration required to access or use the M-RETS System, including without limitation any and all intellectual property rights therein. The rights granted to Subscriber are solely defined by these Terms of Use and the M-RETS Operating Procedures in effect from time to time and include, but are not limited to, permission to use the M-RETS System. Subscriber’s rights under these Terms of Use do not include a transfer of title or any other ownership interest in the M-RETS System, its content or any part thereof to Subscriber. Subscriber agrees not to contest or challenge APX’s or its third-party suppliers’ ownership of the M-RETS System and associated intellectual property rights and not to take any action that would infringe, misappropriate, constitute unfair competition under applicable Federal or state law with respect to, or otherwise violate APX’s or its third-party suppliers’ ownership of or rights in the M-RETS System.

(b) Except as otherwise provided in the M-RETS Operating Procedures, Subscriber acknowledges that once Subscriber transmits data to the M-RETS System, such data cannot and will not be deleted, removed, or otherwise expunged or segregated, including in the event Subscriber terminates its subscription to use the M-RETS System, except in accordance with APX’s normal operating procedures.

(c) Subscriber acknowledges that the data transmitted by the M-RETS System is derived from proprietary and public third-party sources, including but not limited to data from control area operators. Subscriber will not use the M-RETS System for any unlawful purpose or in an unlawful manner. Subscriber shall prevent the use or copying of the M-RETS System and any other supporting materials by Subscriber’s employees and agents except as permitted by the terms of these Terms of Use.

(d) Subscriber represents that all information it provides to APX shall be true, is complete, and correct to the best of its knowledge, information and belief.

(e) **Access.** APX grants Subscriber non-exclusive permission to access, retrieve and download data from the M-RETS System subject to these Terms of Use and the Operating Procedures, which grant shall not be effective until Subscriber has: (1) completed and submitted to APX the Consent of Subscriber attached hereto as Schedule B-1, (2) completed and submitted to APX the M-RETS Subscriber Billing Information Form attached hereto as Schedule D, (3) paid all applicable fees due under the Terms of Use, and (4) completed and submitted to APX the online registration available on the M-RETS Site, all for APX’s review and prior approval. Subscriber will take all appropriate steps and precautions to safeguard and protect the access, use and security of the M-RETS System and Subscriber’s user access information from unauthorized users.

(f) **Prohibited Uses.** Subscriber shall be subject to the following limitations:

(i) Subscriber shall not loan, share, publish, republish, copy, reproduce, disclose, transmit, display, sell, license, lease or distribute any portion of the M-RETS System or any data thereon to any third-party, or use the M-RETS System as a basis for a directory or database prepared for commercial sale or distribution; provided, however, nothing shall prohibit internal business use or reporting to state agencies or Subscriber's end use customers;

(ii) Subscriber shall not remove any copyright, trademark, or other proprietary notices contained in the M-RETS System;

(iii) Subscriber shall not disassemble, decode, decompile or otherwise reverse engineer any interfaces or software programs comprising the M-RETS System;

(iv) Subscriber shall not access, download, transfer or manipulate data and databases comprising the M-RETS System using protocols or interfaces other than those provided by APX as part of the M-RETS System;

(v) Subscriber shall not have access to or make any use of the source code for the M-RETS System; and

(vi) Subscriber shall not infringe or misappropriate the M-RETS System or take any action inconsistent with APX's ownership of and rights in the M-RETS System.

(g) APX reserves all rights in the M-RETS System not expressly granted to Subscriber in the Terms of Use.

(h) APX is not responsible for any material posted in any bulletin board, chat room or in any other forum on the M-RETS System or the M-RETS Site (together the "Boards") or the accuracy of any information on any Certificate provided by any Subscriber or any third party. APX is merely providing access to such material in the Boards as a service to Subscriber and the Boards shall be used only in a noncommercial manner. In using the Boards, Subscriber agrees not to upload, transmit, distribute or otherwise publish on the Boards any material that is, to the best of your reasonably obtained knowledge: libelous, defamatory, obscene, abusive, pornographic, threatening, inaccurate, or an invasion of privacy; an infringement of the intellectual property rights, including, but not limited to, copyrights and trademarks, of any person or entity; material that is illegal in any way or advocates illegal activity; an advertisement or solicitation of funds, goods, or services; a message posted by a user impersonating another; personal information such as messages which identify personal phone numbers, social security numbers, Account numbers, personal addresses, or employer references; or chain letters of any kind. Subscriber also agrees to indemnify APX for any claims or suits arising from your posting of such material on the Boards. APX reserves the right to monitor and delete any postings deemed inconsistent with its policies or these Terms of Use. Although APX will do its best to monitor materials in the Boards, in no event does it assume any particular obligation to do so or liability for failing to either monitor the Boards or remove specific material.

(i) In using the M-RETS Site, Subscriber agrees:

- not to disrupt or interfere with the security of, or otherwise abuse, the M-RETS Site, or any services, system resources, Accounts, servers, or networks connected to or accessible through the M-RETS Site or affiliated or linked sites;
- not to disrupt or interfere with any other user's permitted enjoyment of the M-RETS Site or affiliated or linked websites in accordance with the Terms of Use and Operating Procedures;
- not to upload, post, or otherwise transmit through or on the M-RETS Site any viruses or other harmful, disruptive, or destructive files;
- not to use, frame, or utilize framing techniques to enclose any APX trademark, logo, or other proprietary information (including the images found at the M-RETS Site, the content of any text, or the layout/design of any page or form contained on a page) without APX's express written consent;
- not to use meta tags or any other "hidden text" utilizing an APX name, trademark, or product name without APX's express written consent;
- not to "deeplink" to the M-RETS Site without APX's express written consent;
- not to create or use a false identity on the M-RETS Site;
- not to collect or store personal data about others obtained through the M-RETS System;
- not to attempt to obtain unauthorized access to the M-RETS Site or portions of the M-RETS Site that are restricted from general access;
- not to post any material that is false and/or defamatory, inaccurate, abusive, vulgar, hateful, harassing, obscene, profane, sexually oriented, threatening, invasive of a person's privacy, or otherwise in violation of any law; and
- not to post any copyrighted material unless the copyright is owned by Subscriber, which such posting shall be deemed consent by Subscriber of the publication of such copyrighted material on the M-RETS Site.

In addition, Subscriber agrees that it will comply with all applicable local, state, national, and international laws and regulations, including but not limited to United States export restrictions, that relate to its use of or activities on the M-RETS Site.

5. Fees. Subscriber agrees to pay the Registration Fee, Subscription Fee and Volumetric Fee, together referred to herein as the "Fees", that APX may charge for use of the M-RETS System from time to time. APX may, upon ninety (90) days' notice to Subscriber and in its sole

discretion, increase or decrease any or all of the Fees at any time, subject to any provisions of the M-RETS Services Contract providing for approval of the Fees thereunder by the Wisconsin Public Service Commission, provided that these Terms of Use are not intended to create any rights of Subscriber or any other party with respect to such provisions. APX shall give Subscriber advance notice of any proposed Fees changes and will schedule a meeting for all Subscribers to discuss the change in Fees prior to effectuating the change in Fees. In no event shall any portion of the Fees paid to APX be prorated or refunded to Subscriber upon termination of the Terms of Use. The Fees to be charged to Subscriber can found in Appendix A of this document.

6. Payments and Taxes. Invoices for Fees will be sent electronically and will be posted on a secure page on the M-RETS Site. Subscriber shall pay any Fees charged hereunder by wire transfer of immediately available funds to the account identified by APX from time to time no later than thirty (30) days from the date of APX's invoice (the "Due Date"), without offset or reduction of any kind. The Fees shall be non-refundable. Subscriber will pay all sales, use, value added taxes, and other consumption taxes, personal property taxes and other taxes (other than those based on APX's net income) related to the use of the M-RETS System unless Subscriber furnishes satisfactory proof of exemption. Taxes, if any, are not included in the Fees and will be added to Subscriber's invoices. If not so added, such taxes are the exclusive responsibility of Subscriber.

7. Late Fees. If Subscriber fails to pay when due any amounts or charges which Subscriber is obligated to pay under the terms of the Terms of Use by the Due Date, then Subscriber shall be responsible to pay to APX a late fee equal to five (5) percent of the amount then due as compensation for the administrative and legal costs and expenses incurred by APX related to such failure. Subscriber reserves the right to dispute the amount of Volumetric Fee charges for a period of sixty (60) days following payment by Subscriber; such dispute, however, shall not relieve Subscriber of its obligation to pay the full amount of the Volumetric Fee when due. Acceptance of any late charge shall not constitute a waiver of Subscriber's default with respect to such late payment by, nor prevent APX from exercising any other rights or remedies available to APX under the Terms of Use or applicable law.

8. Term and Termination.

(a) **Term.** The Terms of Use become operative on the date on which Subscriber indicates on the M-RETS Site that Subscriber agrees with and accepts the Terms of Use and shall continue in effect until APX or Subscriber terminates access to the M-RETS System pursuant to Section 8(b), (c) or (d) hereof.

(b) **Termination by APX.**

(i) APX may terminate Subscriber's access to the M-RETS System upon giving five (5) business days notice to Subscriber (except as set forth in Sections 8(b)(ii) and (b)(iii)) if Subscriber Defaults in the performance of any of its obligations under the Terms of Use as set forth in Section 9(a)(i) hereof.

(ii) APX may terminate Subscriber's access to the M-RETS System immediately in the event of any Default or breach of the Terms of Use as set forth in Sections 9(a)(ii), (a)(iii), (a)(v), (a)(vii), (a)(viii) and (a)(ix).

(iii) APX may terminate Subscriber's access to the M-RETS System immediately upon giving written notice to Subscriber of any Default or breach of the Terms of Use as set forth in Sections 9 (a)(iv) and (a)(vi).

(c) **Termination by Subscriber and/or APX.** APX may terminate access to, or Subscriber may terminate use of, the M-RETS System, for any reason, by providing at least sixty (60) days written notice to the other Party. Subscriber's obligation to pay any and all Fees due to APX at the time of termination of use or access shall survive such termination of use or access.

(d) **Termination Required by Law.** APX shall terminate access to, or Subscriber shall cease use of, the M-RETS System if required to do so by any statute, regulation or ordinance enacted by a governmental authority having jurisdiction over Subscriber or APX, or by any order or other decision of a court of law or governmental agency, as required by said statute, regulation, ordinance, order or decision. At least sixty (60) days notice of said termination of access or cessation of use of the M-RETS System shall be given by the Party terminating the access to, or ceasing the use of, the M-RETS System under this subsection, unless a shorter notice period is required by the applicable statute, regulation, ordinance, order or decision.

(e) **Effect of Termination.** Upon termination of these Terms of Use, APX will provide Subscriber with a final Account-level transaction report in electronic form under Section 17.2.1 of the M-RETS Operating Procedures within fifteen (15) days after such termination. The terms of Sections 5 (Fees), 8 (Term and Termination), 9 (Default; Remedies), 11 (Confidentiality), 13 (Limitation of Liability), 16 (Indemnification), 17-26 and any other provisions meant to survive termination or expiration of these Terms of Use, shall survive termination of the Terms of Use.

(f) **Reinstatement.**

(i) APX, in its sole discretion, may reinstate a Subscriber's access to the M-RETS System after termination by APX for Subscriber's Default, upon APX' receipt of Subscriber's full payment of all Fees due prior to the termination. Subscriber agrees to pay APX a reinstatement fee equal to the Fees which would have been due to APX during the period in which the Subscriber's Account was terminated ("Reinstatement Fee"). The Reinstatement Fee shall be due prior to APX's reinstatement of Subscribers' access to the M-RETS System.

(ii) APX shall reinstate a Subscriber's access to the M-RETS System after termination by APX for Subscriber's Default if directed to do so as a result of the outcome of a dispute resolution proceeding under these Terms of Use. Whether payment of a Reinstatement Fee is required in such an instance shall be determined as part of such dispute resolution proceeding.

9. Default; Remedies.

(a) **Default.** The occurrence of any of the following shall be considered a “Default”:

(i) Subscriber fails to abide by the M-RETS Operating Procedures or fails to perform any of its material duties or obligations under these Terms of Use or other APX Agreements, other than those set forth below in Sections 9(a)(ii), (a)(iii), (a)(iv), (a)(v), (a)(vi), (a)(vii) and (a)(viii), which default is not substantially cured within ten (10) business days after notice is given to Subscriber specifying such default.

(ii) Subscriber fails to pay any of the Fees or other charges due to APX in accordance with the procedures set forth in Section 6 above within ten (10) business days of their due date.

(iii) Subscriber, its employees, agents or contractors alter, tamper with, damage or destroy (1) the M-RETS System or any portion thereof, or (2) the data of other users of the M-RETS System.

(iv) Subscriber uses the M-RETS System in any manner that, directly or indirectly, violates any law, rule, code or regulation or aids any unlawful act or undertaking.

(v) All or substantially all of Subscriber’s assets are attached or levied under execution (and Subscriber does not discharge the same within sixty (60) days thereafter); a petition in bankruptcy, insolvency or for reorganization or arrangement is filed by or against Subscriber (and Subscriber fails to secure a stay or discharge thereof within sixty (60) days thereafter); Subscriber is insolvent and unable to pay its debts as they become due; Subscriber makes a general assignment for the benefit of creditors; Subscriber takes the benefit of any insolvency action or law; the appointment of a receiver or trustee in bankruptcy for Subscriber or its assets if such receivership has not been vacated or set aside within thirty (30) days thereafter; or, dissolution or other failure to exist of Subscriber if Subscriber is an entity.

(vi) Subscriber falsifies or misrepresents any data or other information input into the M-RETS System by Subscriber in contravention of Section 4(d).

(vii) Subscriber makes any false or inaccurate representations in the Consent attached hereto.

(viii) Subscriber violates its confidentiality obligations set forth in Section 11.

(ix) In addition to the defaults described above, the Parties agree that if Subscriber receives written notice of a violation of the performance of any particular material term or condition of these Terms of Use three (3) or more times during any twelve (12) month period, regardless of whether such violations are ultimately cured, then such conduct shall represent a separate Default.

(b) **Remedies.** Upon the occurrence of any Default, APX shall have the following rights and remedies, in addition to those stated elsewhere in these Terms of Use and those allowed by law or in equity, any one or more of which may be exercised without further notice to Subscriber:

(i) Subscriber acknowledges that money damages would not adequately compensate APX in the event of a breach by Subscriber of its obligations hereunder and that injunctive relief may be essential for APX to adequately protect itself hereunder. Accordingly, Subscriber agrees that, in addition to any other remedies available to APX at law or in equity, including but not limited to any monetary damages, APX shall be entitled to seek injunctive relief in the event Subscriber is in breach of any covenant or agreement contained herein.

(ii) Upon termination of the use of the M-RETS System, Subscriber shall be obligated to pay to APX all monies due to APX, which in the case of a termination as a result of a Default shall include attorneys' fees incurred to enforce APX's rights under the Terms of Use, and which in any event shall include any interest and late fees due hereunder.

(c) **Nonwaiver of Defaults.** The failure or delay of either Party in exercising any of its rights or remedies or other provisions of the Terms of Use shall not constitute a waiver thereof or affect its right thereafter to exercise or enforce such right or remedy or other provision. No waiver of any Default shall be deemed to be a waiver of any other Default. APX's receipt of less than the full amount of Fees due shall not be construed to be other than a payment on account then due, nor shall any statement on Subscriber's check or any letter accompanying Subscriber's check be deemed an accord and satisfaction.

10. Intellectual Property. The M-RETS System, and any and all content of the M-RETS System, are protected by copyright and/or other intellectual property laws and any unauthorized use of the information or the M-RETS System may violate such laws related to their protection. Except as expressly provided herein, APX does not grant any express or implied right or license of any kind to Subscriber under any patents, copyrights, trademarks, or trade secret information with respect to the information and/or the M-RETS System. Except as expressly provided by copyright law or the Terms of Use, Subscriber may not copy, distribute, modify, publish, sell, transfer, license, transmit, display, participate in the transfer or sale of, or create derivative works of, any of the information or the M-RETS System, either in whole or in part, other than (a) reports created for use by or dissemination to Subscriber (including authorized employees and agents of Subscriber) and to regulatory agencies under the M-RETS Operating Procedures, (b) as may be required or compelled by order of a court of competent jurisdiction or (c) as APX may agree in its sole discretion. Subscriber acknowledges that Subscriber does not acquire any ownership rights by downloading copyrighted material.

11. Confidentiality.

(a) The M-RETS System, including the selection, arrangement and compilation of data, may be comprised of confidential, market sensitive and trade secret information of the Subscriber and other users of the M-RETS System. APX agrees that, except where permission has been explicitly granted, all Account Holder information will be held strictly confidential and will only be released through the reporting process. Subscriber agrees not to use or disclose the information other than the information provided or owned by Subscriber contained in the M-RETS System except as authorized by the Terms of Use. As used in these Terms of Use, "Confidential Information" means any information provided to the M-RETS System by any subscriber and any information that has been designated in writing by any subscriber to the M-RETS System to be confidential or proprietary; provided, however, that Confidential Information

does not include information which the receiving Party can establish by written documentation (i) to have been publicly known prior to disclosure of such information by the disclosing Party to the receiving Party; (ii) to have become publicly known, without fault on the part of the receiving Party, subsequent to disclosure of such information by the disclosing Party to the receiving Party; (iii) to have been received by the receiving Party at any time from a source, other than the disclosing Party, rightfully having possession of and the right to publicly disclose such information; (iv) to have been independently developed by employees or agents of the receiving Party without access to or use of such information disclosed by the disclosing Party to the receiving Party; (v) to be common technical information or know-how readily available in literature; (vi) to be required to be disclosed by force of law, including but not limited to information that must be provided to any governmental entity to confirm compliance with any statute or regulation, administrative proceeding, administrative or court order or discovery, provided that both Parties take such reasonable actions as necessary to ensure that such information is disclosed in as limited a manner possible; (vii) to be already within the knowledge of the receiving Party at the time of disclosure, which information is not subject to a confidentiality agreement; and (viii) to be information APX is otherwise permitted to disclose under the M-RETS Operating Procedures or these Terms of Use. During the term of these Terms of Use and for five (5) years thereafter each Party shall maintain the Confidential Information as confidential with the same degree of care that it uses in maintaining its own confidential information, but in no event less than a reasonable degree of care, subject to the terms of these Terms of Use and the M-RETS Operating Procedures.

(b) Confidential Information is the sole and exclusive property of the subscriber who provided the information to the M-RETS System and shall not be used by either Party for any purpose other than the purposes set forth in the M-RETS Operating Procedures and these Terms of Use.

(c) If Subscriber obtains access to data in the M-RETS System that (i) is not data provided or owned by such Subscriber; (ii) is not part of a publicly available M-RETS System report; and (iii) Subscriber is not otherwise authorized to use, then, regardless of whether such data is otherwise considered Confidential Information under these Terms of Use, Subscriber shall:

- (i) immediately notify APX that Subscriber has obtained such access; and
- (ii) not disclose, disseminate, copy, or use any such information.

APX shall notify the subscriber providing such accessed information to APX of any such unauthorized access promptly after it receives notice from the accessing subscriber.

12. Limited Warranty; Disclaimer of Warranty.

(a) The data contained in the M-RETS System (i) has been gathered by APX from sources believed by APX to be reliable, including but not limited to control area operators and Registered Generators. However, APX does not warrant that the information in the M-RETS System is correct, complete, current or accurate, and it does not warrant that the software programs in the M-RETS System will be error free or bug free. Except as, and solely to the

extent, specifically set forth in the M-RETS Operating Procedures, APX has no obligation to audit or otherwise verify any information contained in the M-RETS System.

(b) THE M-RETS SYSTEM IS PROVIDED “AS IS,” “WHERE-IS” AND APX MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THESE TERMS OF USE OR THE ADEQUACY OR PERFORMANCE OF THE M-RETS SYSTEM, AND APX HEREBY DISCLAIMS ANY SUCH WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTIES ARISING FROM ANY COURSE OF DEALING, USAGE OR TRADE PRACTICE. SUBSCRIBER ACKNOWLEDGES THAT SERVICE DISRUPTIONS MAY OCCUR FROM TIME TO TIME.

(c) APX is not responsible for the acts or omissions of parties who input data into the M-RETS System or from whom data is obtained for inclusion into the M-RETS System.

(d) Subscriber is solely responsible for the protection, security and management of usage and security of its computer network. APX will not compensate Subscriber for damages incurred due to security violations of the security of Subscriber’s computer network, nor shall Subscriber make deductions or set offs of any kind for Fees due to APX resulting therefrom.

13. Limitation of Liability.

(a) SUBSCRIBER ASSUMES FULL RESPONSIBILITY AND RISK OF LOSS RESULTING FROM ITS USE OF THE M-RETS SYSTEM AND THE M-RETS SITE. APX’S SOLE LIABILITY FOR THE M-RETS SYSTEM, SERVICE DISRUPTION, PERFORMANCE OR NONPERFORMANCE BY APX OR IN ANY WAY RELATED TO THESE TERMS OF USE, WHETHER CAUSED BY THE NEGLIGENCE, GROSS NEGLIGENCE OR INTENTIONAL ACTIONS OF APX OR OTHERWISE, AND REGARDLESS OF WHETHER THE CLAIM FOR DAMAGES IS BASED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, IS LIMITED TO AN AGGREGATE AMOUNT EQUAL TO THE GREATER OF (X) THE FEES PAID BY SUBSCRIBER TO APX DURING THE CALENDAR YEAR IMMEDIATELY PRECEDING THE DATE ANY SUCH CLAIM IS OR CLAIMS ARE MADE BY SUBSCRIBER AND (Y) THE FEES PAID BY SUBSCRIBER TO APX DURING THE CALENDAR YEAR IN WHICH ANY SUCH CLAIM IS OR CLAIMS ARE MADE BY SUBSCRIBER. IN NO EVENT SHALL APX BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY OR OTHER INDIRECT DAMAGES REGARDLESS OF CAUSE, NOR FOR ECONOMIC LOSS, LOSS OF USE, LOSS OF DATA, LOSS OF BUSINESS, PERSONAL INJURIES OR PROPERTY DAMAGES SUSTAINED BY SUBSCRIBER OR ANY THIRD PARTIES, EVEN IF APX HAS BEEN ADVISED BY SUBSCRIBER OR ANY THIRD PARTY OF SUCH DAMAGES. APX DISCLAIMS ANY LIABILITY FOR ERRORS, OMISSIONS OR OTHER INACCURACIES IN ANY PART OF THE M-RETS SYSTEM, OR THE REPORTS, CERTIFICATES OR OTHER INFORMATION COMPILED OR PRODUCED BY AND FROM OR INPUT INTO THE M-RETS SYSTEM. SUBSCRIBER HEREBY RELEASES AND PROTECTS APX, ANY WHOLLY OWNED SUBSIDIARIES OF APX, ANY OTHER CORPORATE AFFILIATES OF APX, THEIR SUCCESSORS AND ASSIGNS, AGENTS, CONTRACTORS, SERVICE PROVIDERS AND

VENDORS FROM ANY AND ALL LIABILITY WITH RESPECT TO ANY DAMAGES OR INJURIES INCURRED BY SUBSCRIBER AS RELATES TO THE M-RETS SYSTEM.

(b) Subscriber understands and acknowledges that it shall look solely to the insurance and assets of APX for the payment of any damages or costs and that if the insurance and assets of APX are insufficient to pay all or any part of those amounts, that Subscriber shall have no recourse against any director, officer, shareholder, any member of a shareholder, employee or agent for that purpose.

14. Passwords. Subscriber agrees to assume sole responsibility for the security of any passwords issued by APX to Subscriber for accessing the M-RETS System. Subscriber agrees to immediately notify APX of any suspected unauthorized use of Subscriber's password(s) or Account or any other suspected breach of security.

15. Viruses. APX assumes no responsibility, and shall not be liable for, any damages to, or viruses that may infect Subscriber's equipment or other property on account of Subscriber's access to or use of any information or the use of the M-RETS System.

16. Indemnification. Except in the case of any state agency or governmental entity for which the indemnification of contracting Parties is not permitted by law, Subscriber agrees to defend, indemnify and hold harmless APX and its affiliates and their respective directors, officers, employees and agents from and against any Subscriber violations of any statutes, regulations, ordinances or laws of any local, state or federal public authority and against any and all claims (including third-party claims), causes of action, whether in contract, tort or any other legal theory (including strict liability), demands, damages, costs, liabilities, losses and expenses (including reasonable attorney's fees and court costs) of any nature whatsoever (hereinafter "Losses") arising out of, resulting from, attributable to or related to Subscriber's use of the M-RETS System, or Subscriber's violation of these Terms of Use, including, but not limited to any Losses arising out of or related to: (a) any inaccuracy, error, or delay in or omission of (i) any data, information, or service, or (ii) the transmission or delivery of any data, information, or service; (b) any interruption of any such data, information, or service (whether or not caused by APX); or (c) any financial, business, commercial or other judgment, decision, act or omission based upon or related to the information or the M-RETS System. For state agencies or other governmental entities that have agreed to the Terms of Use, indemnification or reimbursement of APX shall be to the maximum extent permitted pursuant to the law of the state which governs the agency or governmental entity. Notwithstanding the foregoing, Subscriber shall not defend, indemnify or hold harmless APX or its directors, officers, employees and agents from and against any Losses to the extent that the Losses are caused by the conduct of APX which a court of law has determined amounted to gross negligence or willful misconduct. Similarly, Subscriber shall not defend, indemnify or hold harmless APX's corporate affiliates or their respective directors, officers, employees and agents from and against any Losses to the extent that the Losses are caused by the conduct of the corporate affiliates of APX which a court of law has determined amounted to gross negligence or willful misconduct.

17. No Assignment, Transfer or Encumbrance by Subscriber. Neither these Terms of Use nor any rights under these Terms of Use may be assigned, sublicensed, encumbered, pledged, mortgaged or otherwise transferred by Subscriber, in whole or in part, whether

voluntary or by operation of law without the express prior written consent of APX, which consent shall not be unreasonably withheld, conditioned or delayed.

18. Relationship of Parties. APX is an independent contractor under this Agreement. Neither Party has the authority to execute documents that purport to bind the other, and nothing in this Agreement will be construed to constitute a joint venture, fiduciary relationship, partnership or other joint undertaking.

19. No Third Party Beneficiaries. This Agreement is for the sole and exclusive benefit of the Parties hereto, and no third party will have any rights under this Agreement whatsoever.

20. Force Majeure. Neither Party shall be deemed to have breached any provision of these Terms of Use as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, terrorism, energy crises, fires, floods, strikes or other labor disturbances, riots, embargoes, transportation contingencies, fuel shortages, interruptions in third-party telecommunications or Internet equipment or service, other catastrophes, or any other occurrences which are beyond the claiming Party's reasonable control and which, by the exercise of due diligence, the claiming Party is unable to overcome or avoid or cause to be avoided; provided, however, that no such occurrences shall excuse Subscriber's obligation to pay amounts due hereunder by the applicable Due Date.

21. Severability. If any part of these Terms of Use is held to be unenforceable or illegal by a court or governmental administrative agency, such holding shall not affect the validity of the other parts of the Terms of Use, which will at all times remain in full force and effect.

22. Waiver. The waiver of a breach or the failure to require at any time performance of any provision of these Terms of Use will not operate or be interpreted as a waiver of any other or subsequent breach nor in any way affect the ability of either Party to enforce each and every such provision thereafter. The express waiver by either Party of any provision, condition or requirement of these Terms of Use shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement.

23. Notices. All notices permitted or required under these Terms of Use shall be in writing and shall be delivered in person, by email, facsimile, or first class, registered or certified mail, postage prepaid, or by overnight courier service to the following addresses or such other address as either Party may specify in writing:

If to APX:

APX, Inc.
5201 Great America Parkway #522
Santa Clara, CA 95054
Attn: M-RETS Administrator
Facsimile: 408.517.2985
Email: mrets_admin@apx.com

If to Subscriber:

To the address provided at the time of registration

Service shall be effective on the earlier of actual receipt or the second business day after the day of mailing via first class mail. For service of notice via email or facsimile, it shall be deemed received on the day said notice was sent to the other Party.

24. Governing Law and Dispute Resolution. These Terms of Use shall be governed by the laws of the State of Wisconsin without regard to its rules on conflicts of laws and the Parties expressly agree that the Uniform Computer Information Transactions Act shall not apply to these Terms of Use.

(a) The Parties shall first attempt in good faith to settle any controversy or claim arising out of or relating to these Terms of Use, or the breach thereof, or any other claim or controversy between the Parties (any such claim, a “Dispute”), by mediation administered by the American Arbitration Association (“AAA”) under its Commercial Mediation Procedures then in effect. At least thirty (30) days prior to initiating such mediation, the Party seeking to mediate (“Demanding Party”) shall give the other Party written notice describing the claim and the amount as to which it intends to initiate the action, as well as providing all supporting documentation available to the Demanding Party.

(b) Any Dispute that has not been resolved by mediation as provided herein within forty-five (45) days after initiation of the mediation procedure shall be finally resolved by arbitration administered by the AAA under its Commercial Arbitration Rules and Supplementary Procedures for Online Arbitration then in effect. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The Parties shall mutually choose one arbitrator experienced in intellectual property and/or database licensing agreements within thirty (30) days of instituting the arbitration; otherwise the AAA shall choose the arbitrator. Any hearings will be held in Milwaukee, Wisconsin. Any request for emergency or injunctive relief may be submitted under the AAA’s Optional Rules for Emergency Measures of Protection. The arbitrators will have no authority to award punitive damages nor any other damages not measured by the prevailing Party’s actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of these Terms of Use. Neither Party nor the arbitrators may disclose the existence or results of any arbitration hereunder without the prior written consent of both Parties.

(c) Each Party shall be responsible for the payment of all of its costs associated with the resolution of said dispute whether in arbitration or before a court of law, including but not limited to any filing fees, arbitrator fees, its reasonable attorneys fees and other costs incurred in such proceeding, provided that if a dispute is initiated in bad faith, as determined by the arbitrator, the Party initiating the dispute shall be responsible for all of the other Party’s defense costs.

(d) The Parties agree that neither may bring a claim nor assert a cause of action against the other, in any forum or manner, more than one (1) year after the cause of action

accrued, except where the Party could not have reasonably discovered the wrong giving rise to the claim within one (1) year.

25. Capitalized Terms. Any capitalized terms contained herein that are not otherwise defined herein shall have the meanings as such terms are defined in the M-RETS Operating Procedures.

26. Entire Agreement. These Terms of Use (as amended from time to time), including any and all exhibits attached hereto, is the entire agreement of the Parties and supersedes any preprinted or conflicting terms in any other prior or contemporaneous oral or written agreements and any and all other communication.

27. Links. APX makes no claim or representation regarding, and accepts no responsibility for, the quality, content, nature, or reliability of sites accessible by hyperlink from the M-RETS Site, or sites linking to the M-RETS Site. The linked sites are not under the control of APX and APX is not responsible for the content of any linked site or any link contained in a linked site, or any review, changes, or updates to such sites. The inclusion of any link does not imply affiliation, endorsement, or adoption by APX of the M-RETS Site or any information contained therein. When leaving the M-RETS Site, you should be aware that APX's Terms and policies no longer govern, and therefore you should review the applicable terms and policies, including privacy and data-gathering practices, of that site.

28. Definitions.

Capitalized terms used herein shall have the meanings ascribed to such terms in the M-RETS Operating Procedures or as follows:

(a) **Account:** Any and all accounts maintained in the M-RETS System in accordance with the M-RETS Operating Procedures.

(b) **APX:** APX, Inc., the entity that developed, owns and operates the M-RETS System.

(c) **APX Agreements:** The Terms of Use for the M-RETS System, the M-RETS Operating Procedures and such other consents, agreements, manuals, and practices of APX to which Subscriber is a party or which pertain to Subscriber, as applicable.

(d) **Attribute/Generation Attribute:** A non-Energy characteristic of a generator, such as location, vintage, fuel, state RPS program eligibility, etc.

(e) **Energy:** The physical electricity commodity of the electrons transmitted through the power grid.

(f) **Generator Owner:** The person or entity holding legal title to a particular generating unit.

(g) **M-RETS:** The Midwestern Renewable Energy Tracking System, an unincorporated organization consisting of representatives from stakeholders and regulators located in the M-RETS Region.

(h) **M-RETS Administrator:** The M-RETS Administrator is the entity with the authority to administer or oversee the administration and implementation of the M-RETS Operating Procedures.

(i) **M-RETS Operating Procedures:** The Midwestern Renewable Energy Tracking System Operating Procedures, dated December 6, 2006, as amended from time to time.

(j) **M-RETS Region:** The region located within the state and provincial boundaries of those states and provinces that are included within M-RETS from time to time, as set forth in the M-RETS Operating Procedures.

(k) **M-RETS Services Contract:** The Contract for Professional Services between APX and the State of Wisconsin/Public Service Commission, dated March 26, 2007, as amended from time to time.

(l) **M-RETS System:** The software application program that (i) creates Certificates to uniquely define Attributes; and (ii) tracks said Certificates.

(m) **Regulator:** A person or agency executing and delivering to APX a Consent of Non-Transacting State Regulator in the form of Schedule B-2 and thereafter using the M-RETS System with limited level 4 access to generate compliance or informational reports.

(n) **Renewable:** Meeting the definition of “renewable” in any of the states or provinces comprising the M-RETS Region.

(o) **Subscriber Agent:** An agent of Subscriber who shall be designated either on a Schedule C-1 - Declaration of Agency, Level 1 Access, or on a Schedule C-2 – Declaration of Agency, Level 2, Level 3 or Level 4 Access.

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APPENDIX A

M-RETS Fees

(a) **Registration Fee.** Subscriber shall pay a one-time Registration Fee at the time that it registers and/or opens an Account in the M-RETS System, which Registration Fee will be based upon the size of Subscriber and the type of Account(s) opened by Subscriber. If Subscriber is registering more than one Generating Unit, Subscriber will pay a separate Registration Fee for each Generating Unit registered, and if Subscriber registers one or more Generating Unit(s) and serves load, Subscriber will pay the cumulative Registration Fee applicable to all such Generating Units and load. The Registration Fee is determined as follows:

Type of Account	Size of Subscriber	Registration Fee
Generating Unit	Greater than 10 MW nameplate capacity	\$750
Generating Unit	Greater than or equal to 1 MW and less than or equal to 10 MW nameplate capacity	\$350
Generating Unit	Greater than or equal to 40 kw and less than 1 MW nameplate capacity	\$100
Generating Unit	Less than 40 kw nameplate capacity	\$50
Load Serving Entity	Greater than 1,000,000 MWh of load in the most recent calendar year	\$750
Load Serving Entity	Greater than or equal to 100,000 MWh and less than or equal to 1,000,000 MWh of load in the most recent calendar year	\$350
Load Serving Entity	Less than 100,000 MWh of load in the most recent calendar year	\$50
Marketer (i.e., neither Generating Unit nor Load Serving Entity)	Any size	\$750

(b) **Subscription Fee.** Subscriber shall pay an annual Subscription Fee, payable at the time that it registers in the M-RETS System and in January of each subsequent calendar year, which Subscription Fee will be based upon the size of Subscriber and the type of Account maintained by Subscriber. If Subscriber registers more than one Generating Unit, Subscriber will pay a separate Subscription Fee for each Generating Unit registered, and if Subscriber registers one or more Generating Unit(s) and serves load, Subscriber will pay the cumulative

Subscription Fee applicable to all such Generating Units and load. The annual Subscription Fee is determined as follows:

Type of Account	Size of Subscriber	Subscription Fee
Generating Unit	Greater than 10 MW nameplate capacity	\$1,500
Generating Unit	Greater than or equal to 1 MW and less than or equal to 10 MW nameplate capacity	\$750
Generating Unit	Greater than 40 kw and less than 1 MW nameplate capacity	\$250
Generating Unit	Equal to 40 kw nameplate capacity	\$100
Generating Unit	Less than 40 kw and greater than 30 kw nameplate capacity	\$75
Generating Unit	Less than 30 kw and greater than 20 kw nameplate capacity	\$50
Generating Unit	Less than 20 kw and greater than 10 kw nameplate capacity	\$25
Generating Unit	Less than 10 kw and greater than 5 kw nameplate capacity	\$13
Generating Unit	Less than 5 kw and greater than 3 kw nameplate capacity	\$8
Generating Unit	Less than 3 kw and greater than 1 kw nameplate capacity	\$2.50
Generating Unit	Less than 1 kw nameplate capacity	\$0.00
Load Serving Entity	Greater than 1,000,000 MWh of load in the most recent calendar year	\$1,500
Load Serving Entity	Greater than or equal to 100,000 MWh and less than or equal to 1,000,000 MWh of load in the most recent calendar year	\$750
Load Serving Entity	Less than 100,000 MWh of load in the most recent calendar year	\$50
Marketer (i.e., neither Generating Unit nor Load Serving Entity)	Any size	\$3,000

Subscription Fees will not be pro-rated, and the entire annual Subscription Fee will be due, regardless of when Subscriber first registers in the M-RETS System.

(c) **Volumetric Fee.** Subscriber shall pay a quarterly Volumetric Fee, which will be determined as follows:

(i) If Subscriber is a Load Serving Entity, Subscriber will pay \$0.0035/MWh of total load served, to retail customers located within the M-RETS Region, by Subscriber in the same quarter in the immediately preceding calendar year as recorded in the M-RETS System or, for the first year Subscriber uses the M-RETS System, as reported by Subscriber to APX at the time of registration; and

(ii) Subscriber will pay \$0.005 for each secondary transfer of a Certificate (including each secondary transfer of a RRC) in the immediately preceding calendar quarter.

Volumetric Fees will not be pro-rated, and if Subscriber opens its Account in the middle of a calendar year, Subscriber will pay the Volumetric Fee that would have been due if it had opened its Account on January 1 of that calendar year. In such a situation, the first quarterly invoice provided to Subscriber will include the Volumetric Fee due on a year-to-date basis through the end of that invoice period.

SCHEDULE A
Generator Owner's Designation of Responsible Party

The undersigned on behalf of the Generator Owner, _____,¹ represents to APX, Inc. ("APX") that:

1. I/we am/are the Generator Owner who holds legal title to the Generating Unit(s) designated below.
2. I/we the Generator Owner hereby designate _____² as the Responsible Party with respect to the Generating Unit(s) listed below. The designation made hereunder expires on _____.
3. I/we the Generator Owner further represents that I/we have not granted similar authority or permission to any other Subscriber or Account Holder for use in the M-RETS System or any similar system.

Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the M-RETS Operating System Terms of Use and M-RETS Operating Procedures.

Generating Unit Name and Address [Generating Unit Size/System Size]	ID or EIA Plant Code and Generator Identifier (as applicable)	Meter ID

RESPONSIBLE PARTY

GENERATOR OWNER³

Name: _____

Name: _____

Title: _____

Title: _____

Company Name: _____

Company Name: _____

Address: _____

Address: _____

Address 2: _____

Address 2: _____

Date: _____

Date: _____

Signature _____

Signature _____

Directions for Generator Owner's Consent

All information on this Generator Owner's Consent must be typed or neatly printed in blue or black ink as follows:

1. Fill in the Generator Owner's full legal name, i.e. ABC Domestic Energy Company, Inc.
2. Fill in the Account Holder's full legal name, i.e. ABC Domestic Energy Company, Inc.
3. If Generator Owner is a corporation, partnership or other legal entity, this Consent must be executed by a company officer of the Generator Owner. If Generator Owner is an individual, this Consent must be executed by the individual.
4. Return the original, completed Consent to:

**M-RETS Administrator
APX, Inc.
224 Airport Parkway, Suite 600
San Jose, CA 95110**

SCHEDULE B – 1
Consent of Subscriber

1. I am the _____¹ of _____²
 (“Subscriber”), a _____³ with its principal offices located at _____⁴ and a Party to the attached
_____ Terms of Use.

2. I acknowledge that I have read the Terms of Use and that I understand that APX may modify the Terms of Use from time to time pursuant to Section 1 of said Terms of Use.

3. I affirm that I have authority to execute this Consent on behalf of Subscriber and that Subscriber shall not be given access to the M-RETS System until this Consent has been signed by me and been received by the M-RETS Administrator.

4. Subscriber will only use the M-RETS System for creating its generator attributes tracking Certificates and specifically acknowledges that it shall not use any other database for the same purpose.

5. Subscriber represents that it meets all of the requirements for participation in the M-RETS System, as set forth in the M-RETS Operating Procedures.

6. Subscriber agrees that the Attributes for which a particular Certificate has been created in the M-RETS System for said Subscriber have not previously been, nor will it be, used by or claimed by another entity or transferred to another Compatible Certificate Tracking System except as authorized under the Terms of Use or M-RETS Operating Procedures.

7. Subscriber has not retired, sold, claimed, represented elsewhere or used, nor will it retire, sell, claim or represent elsewhere or use to satisfy obligations in any jurisdiction outside of the M-RETS System any of the Attributes associated with Subscriber’s Certificates without designating the disposition of the Certificates as such within the M-RETS System.

8. Subscriber may transfer Certificates created in the M-RETS System to a Compatible Certificate Tracking System to satisfy obligations in another jurisdiction that is not in the M-RETS Region.

9. No other entity can claim the right to the Attributes for which Subscriber is seeking credit.

10. All data and other information being provided to APX and to the M-RETS System by Subscriber and/or its agents and employees are true and correct to the best of Subscriber’s knowledge, information and belief.

11. Subscriber agrees to pay the Fees that APX may charge for use of the M-RETS System.

12. Subscriber agrees to be bound by the M-RETS Operating Procedures, the Terms of Use and all other APX Agreements.

13. If Subscriber is an Account Holder associated with a Registered Generator, Subscriber represents and warrants that Subscriber is either (i) the Generator Owner or (ii) the Responsible Party that the Generator Owner designated by executing and returning to the M-RETS Administrator a Designation of Responsible Party substantially in the form as set forth in Schedule A to the Terms of Use.

14. All notices or communication from APX to Subscriber other than invoices should be directed to the following:

[PROVIDE NAME, ADDRESS, PHONE NUMBER AND E-MAIL ADDRESS OF PRINCIPAL CONTACT FOR SUCH ISSUES]

15. I declare that all statements contained herein are true and correct, to the best of my knowledge, information and belief and are made with full knowledge that APX and all users of the M-RETS System that is the subject of these Terms of Use rely upon the truth of the statements contained in this consent.

Signature of Officers^s

Directions for Completing Consent of Subscriber

All information on this Consent of Subscriber must be typed or neatly printed in blue or black ink as follows:

1. Fill in the Officer's title/position with the Subscriber, i.e. President, Vice President, General Counsel.
2. Fill in the Subscriber's full legal name, i.e. ABC Domestic Energy Company, Inc.
3. Indicate whether Subscriber is a corporation, LLC or partnership.
4. Insert Subscriber's address.
5. Officer must sign the Consent on the second page.
6. Return the original, completed Consent to:
**M-RETS Administrator
APX, Inc.
224 Airport Parkway, Suite 600
San Jose, CA 95110**

SCHEDULE B - 2
Consent of Non-Transacting State Regulator

1. I am the _____¹ of _____²
("Regulator"), a public utility commission/state regulator with its principal offices located at _____.

2. I affirm that I have authority to execute this Consent on behalf of Regulator and that Regulator shall not be given access to the M-RETS System until this Consent has been signed by me and been received by the M-RETS Administrator.

3. Regulator will only use the M-RETS System for retrieving the regulator reports pursuant to Level 4 access as described in the M-RETS Operating Procedures.

4. All data and other information being provided to APX and to the M-RETS System by Regulator and/or its agents and employees are true and correct.

5. Although not a party to the M-RETS System Terms of Use, Regulator agrees to the Limitations of Liability set forth in Section 13 of such Terms of Use (as amended from time to time).

6. I declare that all statements contained herein are true and correct, to the best of my knowledge, information and belief and are made with full knowledge that APX and all users of the M-RETS System that are the subject of these Terms of Use rely upon the truth of the statements contained in this consent.

Signature of Commissioner or Staff Person⁴

Directions for Completing Consent of Regulator

All information on this Consent of Subscriber must be typed or neatly printed in blue or black ink as follows:

1. Fill in the Commissioner or Staff Person's title/position with the Subscriber, i.e. Chair of the Commission, Chief of Staff.
2. Fill in the Regulator's full legal name, i.e. XYZ Public Utility Commission.
3. Insert Regulator's address.
4. Commissioner or Staff Person must sign the Consent.
5. Return the original, completed Consent to:
M-RETS Administrator
APX, Inc.
224 Airport Parkway, Suite 600
San Jose, CA 95110

**Schedule C-1
Declaration of Agency – Level 1 Access**

DECLARATION OF AGENCY

This Declaration of Agency (“Declaration”) is made this _____ day _____ of _____, 20__ by the following:

PRINCIPAL: _____ (“Principal”)

AGENT: _____ (“Subscriber Agent”).

RECITALS

WHEREAS, APX, Inc. (“APX”) is the entity that developed, owns and operates the M-RETS Operating System (the “M-RETS System”), a software application program that creates an electronic record of generation data representing all of the Attributes (as that term is defined in the Terms of Use) from one MWh of electricity generation from a Generating Unit registered with the M-RETS System (“Certificate”) or a Certificate imported from a compatible certificate tracking system to uniquely define generation attributes;

WHEREAS, Principal is a subscriber to the M-RETS System and has entered into an agreement with APX by accepting the Terms of Use located at www.m-rets.com or is an entity whose Attributes data are contained in the M-RETS System;

WHEREAS, Principal desires to hire and/or contract with Subscriber Agent to access the M-RETS System on its behalf;

WHEREAS, Subscriber Agent and/or Principal may have access to certain confidential information and materials contained in the M-RETS System (the “Confidential Information”); and

WHEREAS, such access to the M-RETS System by Principal and/or Subscriber Agent is governed by rights and obligations established by or under the Terms of Use for the M-RETS System, the M-RETS Operating Procedures and such other agreements manuals, and practices of APX, as applicable (the “APX Agreements”).

DECLARATION

NOW, THEREFORE, acknowledging that APX will rely on the truth, accuracy and completeness of the declarations made below, Principal and Subscriber Agent declare:

1. Exclusivity of Subscriber Agent’s Authority.

Pursuant to a binding, legally enforceable agreement entered into by and between Principal and Subscriber Agent, Subscriber Agent is authorized to act for Principal with respect to all activities with APX regarding Principal’s Attribute data contained in the M-RETS System, including but

not limited to creation of Certificates, transferring of Certificates, reviewing reports, making trades of Certificates, receiving bills from APX and paying the Fees due to APX (the “Authorized Rights and Responsibilities”). With respect to the Authorized Rights and Responsibilities, Subscriber Agent is authorized to communicate and transact with APX as Principal’s sole and exclusive agent, and APX is authorized to communicate and transact directly and exclusively with Subscriber Agent as Principal’s agent. With respect to Authorized Rights and Responsibilities, Principal will abide by any direction issued by APX to Subscriber Agent.

2. Specification of Authorized Rights and Responsibilities.

Subscriber Agent shall have all of the rights and responsibilities described as “Level 1 Access” in the M-RETS Operating Procedures. Subscriber Agent agrees to be bound by the M-RETS Operating Procedures and Terms of Use, including but not limited to the limitations of liability and indemnification provisions contained therein.

3. Continuing Responsibilities and Liabilities of Principal.

- 3.1 The Authorized Rights and Responsibilities are the only rights, responsibilities and liabilities under the APX Agreements for which Subscriber Agent is authorized to act for Principal, and Principal retains all rights and responsibilities under the APX Agreements or otherwise that are not specified by Principal and Subscriber Agent in Section 2.
- 3.2 For a Principal that has entered into an APX Agreement, with respect to the Authorized Rights and Responsibilities, and notwithstanding any other provision of this Declaration, Principal is not released from and shall remain liable to APX for compliance with all of the terms and conditions of the APX Agreements, including without limitation indemnification of APX, defaults of the APX Agreements committed by Subscriber Agent, and payment of all amounts due or to become due to APX under the APX Agreements. Subscriber Agent’s authorization to make payment of any such amounts hereunder shall not release Principal from liability for any obligations to APX not satisfied by Subscriber Agent, financial or otherwise.

4. Reliance and Indemnity, Duty to Inform, Liability Waiver, and Rules of Construction.

- 4.1 Principal and Subscriber Agent each recognizes, accepts and intends that APX will rely, upon the truth, accuracy and completeness of the declarations herein in matters including but not limited to assuring compliance with the APX Agreements. Principal and Subscriber Agent each recognizes and accepts that APX may suffer losses and damages if any declaration is or becomes untrue, inaccurate or incomplete, and each agrees to indemnify APX for any such losses and damages.
- 4.2 Principal and Subscriber Agent each has a continuing duty to notify APX if and when any declaration herein ceases to be truthful, accurate or complete. Until such time as APX receives written notification of any change to any

declaration, signed by both Principal and Subscriber Agent, APX shall be entitled to rely perpetually on this Declaration as governing its relationship with Principal and Subscriber Agent as to the subject matter of this Declaration. Any written notice of changes to the declarations herein must be provided to APX at least thirty days in advance of their effectiveness.

4.3 Nothing in this Declaration shall be construed to create or give rise to any liability on the part of APX and Principal and Subscriber Agent expressly waive any claims that may arise against APX under this Declaration. This Declaration shall not be construed to modify any of the APX Agreements and in the event of conflict between this Declaration and an APX Agreement, the applicable APX Agreement shall control.

4.4 Capitalized terms used herein that are not defined herein have the meanings given in the APX Agreements, as applicable.

4.5 The Recitals are hereby incorporated into the body of this Declaration.

5. Confidentiality.

In the context of Subscriber Agent's access to the M-RETS System on Principal's behalf, Subscriber Agent may also have access to certain Confidential Information contained therein. Use of the Confidential Information by Subscriber Agent is solely for the purpose of creating and trading Certificates, providing data to APX, reviewing reports created for Principal in the M-RETS System and the payment of Fees due to APX under the Terms of Use. Subscriber Agent shall not access any Confidential Information contained in the M-RETS System for any other purpose, including but not limited to the use, sale or other disposition of said information to any third parties for any reason.

IN WITNESS WHEREOF, Principal and Subscriber Agent execute this Declaration to be effective as of the date written above or upon receipt of a fully executed original by APX, whichever date is later.

PRINCIPAL

SUBSCRIBER AGENT

Name:
Title:

Name:
Title:

Schedule C-2
Declaration of Agency – Level 2, Level 3 or Level 4 Access

DECLARATION OF AGENCY

This Declaration of Agency (“Declaration”) is made this _____ day _____ of _____, 20__ by the following:

PRINCIPAL: _____ (“Principal”)

AGENT: _____ (“Subscriber Agent”).

RECITALS

WHEREAS, APX, Inc. (“APX”) is the entity that owns and operates the M-RETS Operating System (the “M-RETS System”), a software application program that creates an electronic record of generation data representing all of the Attributes (as that term is defined in the Terms of Use) from one MWh of electricity generation from a Generating Unit registered with the M-RETS System (“Certificate”) or a Certificate imported from a compatible certificate tracking system to uniquely define generation attributes;

WHEREAS, Principal is a subscriber to the M-RETS System and has entered into an agreement with APX by accepting the Terms of Use located at www.m-rets.com or is an entity whose Attributes data are contained in the M-RETS System;

WHEREAS, Principal desires to hire and/or contract with Subscriber Agent to access certain portions the M-RETS System on its behalf;

WHEREAS, Subscriber Agent and/or Principal may have access to certain confidential information and materials contained in the M-RETS System (the “Confidential Information”); and,

WHEREAS, such access to the M-RETS System by Principal and/or Subscriber Agent is governed by rights and obligations established by or under the Terms of Use for the M-RETS System, the M-RETS Operating Procedures and such other agreements manuals, and practices of APX, as applicable (the “APX Agreements”).

DECLARATION

NOW, THEREFORE, acknowledging that APX will rely on the truth, accuracy and completeness of the declarations made below, Principal and Subscriber Agent declare:

1. Subscriber Agent’s Authority.

Pursuant to a binding, legally enforceable agreement entered into by and between Principal and Subscriber Agent, Subscriber Agent is authorized to act for Principal with respect to certain

activities with APX regarding Principal’s Attribute data contained in the M-RETS System, as specified in Section 2 below (the “Authorized Rights and Responsibilities”).

2. Specification of Authorized Rights and Responsibilities.

Subscriber Agent shall have the following levels of access, in each case as defined in the M-RETS Operating Procedures, for the following of Principal’s Subaccounts:

Subaccount of Principal	Level of Access Granted to Agent (Level 2, Level 3, Level 4)

3. Continuing Responsibilities and Liabilities of Principal.

3.1 The Authorized Rights and Responsibilities are the only rights, responsibilities and liabilities under the APX Agreements for which Subscriber Agent is authorized to act for Principal, and Principal retains all rights and responsibilities under the APX Agreements or otherwise that are not specified by Principal and Subscriber Agent in Section 2 and the M-RETS Operating Procedures.

3.2 For a Principal that has entered into an APX Agreement, with respect to the Authorized Rights and Responsibilities, and notwithstanding any other provision of this Declaration, Principal is not released from and shall remain liable to APX for compliance with all of the terms and conditions of the APX Agreements, indemnification of APX, defaults of the APX Agreements committed by Subscriber Agent, and payment of all amounts due or to become due to APX under the APX Agreements.

4. Reliance and Indemnity, Duty to Inform, Liability Waiver, and Rules of Construction.

4.1 Principal and Subscriber Agent each recognizes, accepts and intends that APX will rely, upon the truth, accuracy and completeness of the declarations herein in matters including but not limited to assuring compliance with the APX Agreements. Principal and Subscriber Agent each recognizes and accepts that APX may suffer losses and damages if any declaration is or becomes untrue, inaccurate or incomplete, and each agrees to indemnify APX for any such losses and damages.

4.2 Principal and Subscriber Agent each has a continuing duty to notify APX if and when any declaration herein ceases to be truthful, accurate or complete. Until such time as APX receives written notification of any change to any declaration, signed by both Principal and Subscriber Agent, APX shall be entitled to rely perpetually on this Declaration as governing its relationship with Principal and Subscriber Agent as to the subject matter of this

Declaration. Any written notice of changes to the declarations herein must be provided to APX at least thirty days in advance of their effectiveness.

4.3 Nothing in this Declaration shall be construed to create or give rise to any liability on the part of APX and Principal and Subscriber Agent expressly waive any claims that may arise against APX under this Declaration. This Declaration shall not be construed to modify any of the APX Agreements and in the event of conflict between this Declaration and an APX Agreement, the applicable APX Agreement shall control.

4.4 Capitalized terms used herein that are not defined herein have the meanings given in the APX Agreements, as applicable.

4.5 The Recitals are hereby incorporated into the body of this Declaration.

5. Confidentiality.

In the context of Subscriber Agent's access to the M-RETS System on Principal's behalf, Subscriber Agent may also have access to certain Confidential Information contained therein. Use of the Confidential Information by Subscriber Agent is solely for the purpose of creating and trading Certificates, providing data to APX, reviewing reports created for Principal in the M-RETS System and the payment of Fees due to APX under the Terms of Use. Subscriber Agent shall not access any Confidential Information contained in the M-RETS System for any other purpose, including but not limited to the use, sale or other disposition of said information to any third parties for any reason.

IN WITNESS WHEREOF, Principal and Subscriber Agent execute this Declaration to be effective as of the date written above or upon receipt of a fully executed original by APX, whichever date is later.

PRINCIPAL

SUBSCRIBER AGENT

Name:

Title:

Name:

Title:

SCHEDULE D
M-RETS Subscriber Billing Information Form

Subscriber must complete this form before access to the M-RETS System can be given to Subscriber. The information contained on this form will be used by APX to bill Subscriber for its use of the M-RETS System. Bills for use of the M-RETS System will be emailed to Subscribers.

Please type or print neatly in black or blue ink all sections of this form.

Subscriber Name: _____

Subscriber's Billing Contact Person: _____

Telephone Number: _____

Fax Number: _____

Email Address: _____

Department/Location: _____

Mailing Address: _____

Completed Form Must be Returned to:

M-RETS Administrator
APX, Inc.
224 Airport Parkway, Suite 600
San Jose, CA 95110