

DRAFT
VERMONT PUBLIC SERVICE BOARD RULE 4.100
POWER PURCHASE AGREEMENT

This Agreement is made between Ampersand Gilman Hydro, LP (“Producer”) and VEPP Inc. (“Purchasing Agent”), a Vermont nonprofit corporation.

RECITALS

WHEREAS, Producer desires to produce and sell Electricity in accordance with the Vermont Public Service Board (“Board”) Rule 4.100 Program, pursuant to 30 V.S.A. § 209(a)(8) and 16 U.S.C. § 824a-3 (collectively, “Statute”) and

WHEREAS, Purchasing Agent is the duly appointed Purchasing Agent under Board Rule 4.102(C); and

WHEREAS, Producer and Purchasing Agent (collectively, “Parties”) desire to enter into this Agreement to provide for the purchase and sale of Electricity and Other Products Related to Electric Generation provided by Producer’s electric generating facility described in Attachment A hereto (“Project”) pursuant to and subject to the Statute.

NOW, THEREFORE, the Parties agree as follows:

1. DEFINED TERMS

Capitalized terms used in this Agreement shall have the following meanings.

- a. Board means the Vermont Public Service Board.
- b. Commercially Reasonable Efforts means efforts that are designed to enable a Party, directly or indirectly, to satisfy a condition to, or otherwise assist in the consummation of, a transaction, activity or undertaking contemplated by this Agreement and that do not require the performing Party to expend any funds or assume liabilities other than expenditures and liabilities that are reasonable in nature and amount in the context of the transaction, activity or undertaking contemplated by this Agreement.
- c. Delivered, in the context of Electricity, means delivered to the interconnection point and successfully injected into the Distribution or Transmission System, and Deliver has the corresponding meaning.
- d. Distribution System means the system connected to the ISO-NE-Controlled Grid for distributing Electricity at voltages of 50 kV or less, which is owned and operated by

- k. Interconnecting Utility means the electric utility with which Producer enters into the Interconnection Agreement.
- l. Interconnection Agreement means the agreement or agreements entered into between the Interconnecting Utility and Producer with respect to the connection of the Project to the Distribution or Transmission System.
- m. Interconnection Costs mean all costs which are payable by Producer with respect to the interconnection of the Facility to the Distribution or Transmission System.
- n. Meter means a meter owned by or under the control of the Interconnecting Utility that measures and records the quantity of Electricity which passes through it.
- o. Net Electric Output means the capacity and energy which the Project generates, less normal and reasonable Station Service and all losses incurred before delivery to the Interconnecting Utility.
- p. Other Products Related to Electric Generation means capacity only and excludes all other transferable commodities that are directly attributable to the generation of electricity from the Project, including, but not limited to (1) tradeable renewable energy credits, as defined in 30 V.S.A. § 8002(22); (2) ancillary heat associated with engine exhaust, combined heat and power systems, or biomass systems; or (3) tax credits associated with power production.
- q. Qualified Investments means (a) obligations issued by the United States of America or any agency or instrumentality thereof; (b) re-purchase agreements with respect to obligations described in clause (a), above; (c) certificates of deposit of a bank or trust company; (d) daily interest savings accounts in a bank or trust company to the extent of any deposit insurance applicable to such accounts; (e) short-term money market funds in which a trustee customarily invests moneys entrusted to it in a fiduciary capacity; (f) securities commonly known as “commercial paper” issued by any company organized and existing under the laws of the United States of America which at the time of purchase have been rated and the ratings for which are not less than “P-1,” if rated by Moody's Investors Service, Inc. and not less than “A-1,” if rated by Standard and Poor's Corporation; or (g) bankers acceptances drawn on or accepted by a bank or trust company described in clause (c) above.
- r. Regulatory Approval means the receipt of any federal, state or local permit, license or other assent of any governmental body, where such assent is required for lawful construction and/or operation of the Project.
- s. Reserve Fund means a trust fund established by the Producer to be used solely for the purposes specified in Board Rule 4.104(E)6. Any investment by the Producer of reserve fund assets shall be limited to Qualified Investments with maturities at or before the time when such assets are required to be available. Interest or profit

4. REGISTRATION OF OTHER PRODUCTS RELATED TO ELECTRIC GENERATION

Producer shall use Commercially Reasonable Efforts to obtain, register, certify, or deliver the Other Products Related to Electric Generation or any evidence of the Purchasing Agent's right, title and interest thereto to Purchasing Agent, to the ISO-NE Administered Markets or other markets, or as Purchasing Agent reasonably may direct otherwise.

5. SITE CONTROL

Producer warrants that it has the Site Control required for the Project, pursuant to the documentation set forth in Attachment B hereto.

6. QUALIFYING FACILITY

Producer warrants that the Project is a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292, pursuant to the documentation set forth in Attachment C hereto and that the Project does not use fossil fuels for generation.

7. RATES AND TERM

Upon approval by the Board, Purchasing Agent shall pay Producer in accordance with the Rate Schedule and for the Term set forth in Attachment E hereto.

8. PROJECT OPERATION

Producer shall utilize Commercially Reasonable Efforts in the operation of the Project in accordance with Good Engineering and Operating Practices, the terms and conditions of any certificate of public good and any other Regulatory Approvals issued relative to the Project, and shall be solely responsible for all costs, expenses, liabilities, and other obligations associated with the Project. All operations and deliveries shall be subject to the rules and regulations of the ISO-NE bulk power system in effect during the Term of this Agreement, and Producer shall be responsible for payment of any costs, sanctions, or charges assessed by ISO-NE arising from actions or inactions of Producer.

9. INTERCONNECTION

Producer shall deliver to Purchasing Agent a copy of the executed Interconnection Agreement. At such time as the Interconnection Agreement is executed, it shall be deemed part of this Agreement and a copy shall be appended as Attachment D to this Agreement. Purchasing Agent shall be named as a named insured under any policies of insurance required under the Interconnection Agreement.

15. SETTLEMENT REQUIREMENTS

Producer shall cooperate with Purchasing Agent as necessary to meet rules related to settlement of Project generation. This may include, among other actions, registering generation assets with ISO-NE.

16. EVENTS OF DEFAULT AND TERMINATION EVENT

Under this agreement, an event of default includes, but is not limited to of any of the following:

- a. Any breach of the terms of this Agreement.
- b. Producer fails to deliver any Electricity from the Project for a period of twelve consecutive months at any time after Commissioning.
- c. Producer ceases to hold any Regulatory Approval after Commissioning, the failure or cessation of which results in a lack of legal right on the part of Producer to continue to operate the Project.
- d. Any information provided by Producer relative to this Agreement or any information, representations or warranties set out in this Agreement is not true or correct in any material respect when given, or Producer commits any act of fraud in relation to this Agreement or any regulatory proceeding relating to the Project.
- e. By agreement, decree, judgment, or order of a court, Producer agrees to be treated as and/or is adjudicated bankrupt or insolvent, or real or personal property of the Project is sequestered or subject to the appointment of any third party and such agreement, decree, judgment, order of appointment continues in effect unrevoked, undischarged, and unstayed for a period of thirty (30) days after the entry or implementation thereof.
- f. Producer utilizes electricity, or any source of fuel other than the fuel type specified in Attachment A, for the generation of Electricity.
- g. Producer fails or ceases to comply with Good Engineering and Operating Practices.
- h. Producer fails to comply with applicable statutory requirements or Board Rules or Board Orders.

17. CURE PERIOD AND TERMINATION OF AGREEMENT

- a. Remedies of Purchasing Agent. Within five (5) business days after learning of an event of default, Purchasing Agent shall send a written notice to Producer and the Board specifying the default and allowing a cure period of thirty (30) days from the date of notice to Producer and the Board, unless a shorter period is ordered by the Board. If the

- (iii) all rights acquired by a Secured Lender under any Security Agreement shall be subject to all of the provisions of this Agreement, including the restrictions on assignment contained herein.
- b. While a Security Agreement remains outstanding, and provided that Purchasing Agent has received from Producer prior written notice of the name and address of the Secured Lender, Purchasing Agent shall provide a copy of any written notice of default or termination to the Secured Lender at such time that such notice is sent to Producer. Subject to the provisions of this Agreement, a Secured Lender may enforce any Security Agreement and acquire Producer's interest in the Project in any lawful way, subject to (1) receipt of any required Regulatory Approvals, (2) the honoring of all obligations of Producer under this Agreement, and (3) payment of all of Purchasing Agent's costs and expenses (including attorney fees) incurred with respect to the acquisition and any related events.
- c. Purchasing Agent, upon request of Producer, shall enter into a reasonable acknowledgement and agreement, in such form as Purchasing Agent may determine, with Producer and any Secured Lender for the purpose of implementing the Security Agreement protection provisions contained in this Agreement.

21. INDEMNIFICATION OF PURCHASING AGENT

Purchasing Agent shall not be liable under this Agreement or under any cause of action relating to the subject matter of this Agreement for any special, indirect, incidental, punitive, exemplary or consequential damages, including loss of profits, loss of use of any property or claims of customers or contractors of the Producer for any such damages. Producer may seek review by the Board of any decision made by Purchasing Agent that materially impacts Producer. Producer shall indemnify, defend and hold Purchasing Agent, the State of Vermont, the Vermont Distribution Utilities, any transmission service providers and their respective directors, officers, employees, shareholders, advisors, and agents (including contractors and their employees) (collectively, the "Indemnitees") harmless from and against any and all claims, demands, suits, losses, damages, liabilities, penalties, obligations, payments, costs and expenses, interest accrued thereon (including the costs and expense of, and interest accrued on, any and all actions, suits, proceedings for personal injury (including death) or property damage, assessments, judgments, settlements and compromises relating thereto and reasonable attorney fees and reasonable disbursements in connection therewith), asserted against or suffered by the Indemnitees relating to, in connection with, resulting from, or arising out of the design, construction or operation of the Project or the generation and delivery of Electricity and Other Products Related to Electric Generation therefrom or any occurrence or event relating thereto, or any occurrence or event on Producer's side of the interconnection point, or a breach by Producer of any of its representations, warranties, obligations, or covenants contained in this Agreement.

receipt. If a notice is transmitted or delivered after 5:00 p.m. local time or such day is not a business day, then such notice shall be deemed to have been given and received on the next business day. Either Party, by written notice to the other, may change its contact person, electronic mail address, facsimile number or postal address to which notices are to be sent.

26. PUBLIC RECORD REQUESTS

Producer acknowledges that Purchasing Agent's records are subject to Vermont's Access to Public Records law, 1 V.S.A. § 315 et seq. (Public Records Law). To the extent that Purchasing Agent may receive requests under the Public Records Law for information provided by Producer to Purchasing Agent, Purchasing Agent shall notify Producer of the request not later than the next business day after the request is received.

27. OTHER AMENDMENTS TO THE CONTRACT

When authorized by the Public Service Board, the Purchasing Agent may amend Attachment A of this Agreement. Otherwise, the Purchasing Agent may not amend the Agreement.

28. BUSINESS RELATIONSHIP

The relationship between the Purchasing Agent and Producer is that between independent contractors, and nothing in this Agreement shall create or be deemed to create a relationship of partnership, joint venture, fiduciary, principal and agent, or any other relationship between the Parties.

29. BINDING AGREEMENT

Except as set out otherwise in this Agreement, this Agreement shall not confer upon any person or entity, except the Parties and permitted assigns, any rights, interests, obligations or remedies under this Agreement.

30. ASSIGNMENT

Producer may assign its rights and duties under this Agreement by giving Purchasing Agent written notice of the assignment within thirty (30) days of the date of the assignment. Nothing in this provision shall be deemed to alter Producer's responsibility or obligations to obtain any and all Regulatory Approvals that may be required in conjunction with a transfer of all or part of any legal interest in the Project. Purchasing Agent may not assign its rights and duties under this Agreement, absent consent of the Board.

operate as a waiver of, or estoppel with respect to, any subsequent failure to comply, unless otherwise expressly provided.

d. Board Jurisdiction

The Board shall have jurisdiction to resolve disputes arising under or in connection with this Agreement, to the fullest extent allowed by law.

IN WITNESS WHEREOF, Producer and Purchasing Agent have executed this instrument on the respective dates set forth below.

Ampersand Gilman Hydro, LP (PRODUCER)

By: _____
Duly authorized agent
Dated:

Witness: _____

VEPP Inc., acting as Purchasing Agent

By: _____
Carolyn M.X. Alderman
Dated:

Witness: _____

Attachment B
Documentation of Site Control

The existing Gilman Hydro Project is a 4.9 MW hydroelectric facility located at Riverside Avenue on the Connecticut River in Gilman, Essex County, Vermont. Documentation of Site Control is established by FERC License No. 2392 and Warranty Deed dated December 16, 2008 by and between Dalton Hydro, LLC as Grantor and Ampersand Gilman Hydro, LP a Delaware limited partnership as Grantee and recorded in Book 79 at Page 207 of the Lunenburg Land Records.

Attachment D
Interconnection Agreement

The amended and restated Generation Interconnection Agreement between Central Vermont Public Service Corporation and Dalton Hydro, LLC as assigned to Ampersand Gilman Energy, LLC, Ampersand Gilman Hydro, LLC, Ampersand Gilman Biomass, LLC, and Ampersand Gilman Site Optimization on December 12, 2008 for the Gilman Hydro Project is effective as of June 2008.

| Year | Payment Type | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|---------------|-------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| YR 6 2023 | Peak (\$/kWh) | \$0.0801 | \$0.0761 | \$0.0639 | \$0.0594 | \$0.0633 | \$0.0710 | \$0.0874 | \$0.0709 | \$0.0600 | \$0.0577 | \$0.0601 | \$0.0691 |
| | Off-Peak (\$/kWh) | \$0.0585 | \$0.0571 | \$0.0482 | \$0.0453 | \$0.0449 | \$0.0506 | \$0.0550 | \$0.0499 | \$0.0448 | \$0.0432 | \$0.0467 | \$0.0517 |
| | Capacity (\$/kW) | \$12.79 | \$12.79 | \$12.79 | \$12.79 | \$12.79 | \$13.06 | \$13.06 | \$13.06 | \$13.06 | \$13.06 | \$13.06 | \$13.06 |
| YR 7 2024 | Peak (\$/kWh) | \$0.0865 | \$0.0833 | \$0.0681 | \$0.0607 | \$0.0645 | \$0.0726 | \$0.0912 | \$0.0766 | \$0.0640 | \$0.0623 | \$0.0637 | \$0.0750 |
| | Off-Peak (\$/kWh) | \$0.0635 | \$0.0618 | \$0.0526 | \$0.0460 | \$0.0452 | \$0.0529 | \$0.0562 | \$0.0530 | \$0.0473 | \$0.0465 | \$0.0497 | \$0.0559 |
| | Capacity (\$/kW) | \$13.06 | \$13.06 | \$13.06 | \$13.06 | \$13.06 | \$13.33 | \$13.33 | \$13.33 | \$13.33 | \$13.33 | \$13.33 | \$13.33 |
| YR 8 2025 | Peak (\$/kWh) | \$0.0983 | \$0.0930 | \$0.0743 | \$0.0626 | \$0.0632 | \$0.0754 | \$0.0977 | \$0.0785 | \$0.0655 | \$0.0625 | \$0.0670 | \$0.0828 |
| | Off-Peak (\$/kWh) | \$0.0727 | \$0.0707 | \$0.0559 | \$0.0454 | \$0.0436 | \$0.0538 | \$0.0587 | \$0.0550 | \$0.0482 | \$0.0467 | \$0.0523 | \$0.0600 |
| | Capacity (\$/kW) | \$13.33 | \$13.33 | \$13.33 | \$13.33 | \$13.33 | \$13.61 | \$13.61 | \$13.61 | \$13.61 | \$13.61 | \$13.61 | \$13.61 |
| YR 9 2026 | Peak (\$/kWh) | \$0.1057 | \$0.1021 | \$0.0783 | \$0.0669 | \$0.0682 | \$0.0789 | \$0.1014 | \$0.0806 | \$0.0673 | \$0.0634 | \$0.0706 | \$0.0894 |
| | Off-Peak (\$/kWh) | \$0.0797 | \$0.0765 | \$0.0589 | \$0.0512 | \$0.0507 | \$0.0567 | \$0.0608 | \$0.0571 | \$0.0498 | \$0.0477 | \$0.0547 | \$0.0656 |
| | Capacity (\$/kW) | \$13.61 | \$13.61 | \$13.61 | \$13.61 | \$13.61 | \$13.89 | \$13.89 | \$13.89 | \$13.89 | \$13.89 | \$13.89 | \$13.89 |
| YR 10 2027 | Peak (\$/kWh) | \$0.1124 | \$0.1066 | \$0.0819 | \$0.0685 | \$0.0706 | \$0.0819 | \$0.1062 | \$0.0828 | \$0.0700 | \$0.0677 | \$0.0739 | \$0.0934 |
| | Off-Peak (\$/kWh) | \$0.0849 | \$0.0802 | \$0.0608 | \$0.0513 | \$0.0520 | \$0.0593 | \$0.0638 | \$0.0582 | \$0.0517 | \$0.0512 | \$0.0573 | \$0.0686 |
| | Capacity (\$/kW) | \$13.89 | \$13.89 | \$13.89 | \$13.89 | \$13.89 | \$14.19 | \$14.19 | \$14.19 | \$14.19 | \$14.19 | \$14.19 | \$14.19 |
| YR 11 2028 | Peak (\$/kWh) | \$0.1231 | \$0.1178 | \$0.0865 | \$0.0696 | \$0.0713 | \$0.0850 | \$0.1059 | \$0.0830 | \$0.0705 | \$0.0686 | \$0.0780 | \$0.1011 |
| | Off-Peak (\$/kWh) | \$0.0941 | \$0.0880 | \$0.0640 | \$0.0514 | \$0.0501 | \$0.0612 | \$0.0663 | \$0.0594 | \$0.0529 | \$0.0518 | \$0.0609 | \$0.0757 |
| | Capacity (\$/kW) | \$14.19 | \$14.19 | \$14.19 | \$14.19 | \$14.19 | \$14.49 | \$14.49 | \$14.49 | \$14.49 | \$14.49 | \$14.49 | \$14.49 |
| YR 12 2029 | Peak (\$/kWh) | \$0.1307 | \$0.1269 | \$0.0932 | \$0.0741 | \$0.0757 | \$0.0877 | \$0.1066 | \$0.0921 | \$0.0745 | \$0.0706 | \$0.0795 | \$0.1076 |
| | Off-Peak (\$/kWh) | \$0.0996 | \$0.0950 | \$0.0711 | \$0.0580 | \$0.0551 | \$0.0637 | \$0.0686 | \$0.0638 | \$0.0560 | \$0.0528 | \$0.0625 | \$0.0805 |
| | Capacity (\$/kW) | \$14.49 | \$14.49 | \$14.49 | \$14.49 | \$14.49 | \$14.75 | \$14.75 | \$14.75 | \$14.75 | \$14.75 | \$14.75 | \$14.75 |
| YR 13 2030 | Peak (\$/kWh) | \$0.1382 | \$0.1323 | \$0.0982 | \$0.0774 | \$0.0784 | \$0.0923 | \$0.1122 | \$0.0942 | \$0.0781 | \$0.0761 | \$0.0853 | \$0.1129 |
| | Off-Peak (\$/kWh) | \$0.1053 | \$0.0997 | \$0.0743 | \$0.0592 | \$0.0579 | \$0.0680 | \$0.0719 | \$0.0670 | \$0.0588 | \$0.0574 | \$0.0668 | \$0.0847 |
| | Capacity (\$/kW) | \$14.75 | \$14.75 | \$14.75 | \$14.75 | \$14.75 | \$15.02 | \$15.02 | \$15.02 | \$15.02 | \$15.02 | \$15.02 | \$15.02 |
| YR 14 2031 | Peak (\$/kWh) | \$0.1326 | \$0.1294 | \$0.0971 | \$0.0787 | \$0.0795 | \$0.0952 | \$0.1174 | \$0.0954 | \$0.0797 | \$0.0768 | \$0.0871 | \$0.1117 |
| | Off-Peak (\$/kWh) | \$0.1001 | \$0.0966 | \$0.0739 | \$0.0583 | \$0.0568 | \$0.0687 | \$0.0743 | \$0.0692 | \$0.0598 | \$0.0584 | \$0.0687 | \$0.0822 |
| | Capacity (\$/kW) | \$15.02 | \$15.02 | \$15.02 | \$15.02 | \$15.02 | \$15.29 | \$15.29 | \$15.29 | \$15.29 | \$15.29 | \$15.29 | \$15.29 |
| YR 15 2032 | Peak (\$/kWh) | \$0.1144 | \$0.1109 | \$0.0931 | \$0.0822 | \$0.0864 | \$0.0991 | \$0.1219 | \$0.0983 | \$0.0831 | \$0.0796 | \$0.0846 | \$0.1008 |
| | Off-Peak (\$/kWh) | \$0.0865 | \$0.0828 | \$0.0705 | \$0.0634 | \$0.0641 | \$0.0726 | \$0.0778 | \$0.0714 | \$0.0629 | \$0.0609 | \$0.0676 | \$0.0753 |
| | Capacity (\$/kW) | \$15.29 | \$15.29 | \$15.29 | \$15.29 | \$15.29 | \$15.56 | \$15.56 | \$15.56 | \$15.56 | \$15.56 | \$15.56 | \$15.56 |
| YR 16 2033 | Peak (\$/kWh) | \$0.1142 | \$0.1104 | \$0.0956 | \$0.0845 | \$0.0898 | \$0.1042 | \$0.1275 | \$0.1024 | \$0.0871 | \$0.0859 | \$0.0889 | \$0.1003 |
| | Off-Peak (\$/kWh) | \$0.0864 | \$0.0837 | \$0.0719 | \$0.0643 | \$0.0676 | \$0.0760 | \$0.0820 | \$0.0736 | \$0.0667 | \$0.0661 | \$0.0715 | \$0.0769 |
| | Capacity (\$/kW) | \$15.56 | \$15.56 | \$15.56 | \$15.56 | \$15.56 | \$15.84 | \$15.84 | \$15.84 | \$15.84 | \$15.84 | \$15.84 | \$15.84 |