

**SAN JUAN DECOMMISSIONING AND TRUST FUNDS AGREEMENT**

**AMONG**

**PUBLIC SERVICE COMPANY OF NEW MEXICO**

**TUCSON ELECTRIC POWER COMPANY**

**THE CITY OF FARMINGTON, NEW MEXICO**

**M-S-R PUBLIC POWER AGENCY**

**THE INCORPORATED COUNTY OF LOS ALAMOS, NEW MEXICO**

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY**

**CITY OF ANAHEIM**

**UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS**

**TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.**

**PNMR DEVELOPMENT AND MANAGEMENT CORPORATION**

**July 31, 2015**

**SAN JUAN DECOMMISSIONING  
AND TRUST FUNDS AGREEMENT**

**TABLE OF CONTENTS**

RECITALS ..... 1

1.0 Term and Termination ..... 2

    1.1 Effective Date ..... 2

    1.2 Termination..... 2

2.0 Definitions and Rules of Interpretation..... 2

    2.1 Definitions..... 2

    2.2 Rules of Interpretation ..... 8

3.0 Decommissioning Committee and Decommissioning Agent ..... 9

    3.1 Decommissioning Committee..... 9

    3.2 Decommissioning Agent..... 11

4.0 Activities During Interim Period ..... 16

    4.1 Initial Decommissioning Work..... 16

    4.2 Interim Decommissioning Work..... 16

    4.3 Items not Part of Decommissioning..... 18

    4.4 Use of Equipment Located at Units 2 and 3; Salvage Revenue ..... 18

5.0 Decommissioning Plan ..... 18

    5.1 Decommissioning Study ..... 18

    5.2 Selection of Decommissioning Plan ..... 19

    5.3 Payment for Decommissioning..... 19

    5.4 Payment Procedures..... 19

6.0 Decommissioning Trust Funds ..... 19

    6.1 Establishment of Decommissioning Trusts ..... 19

    6.2 Decommissioning Trust Funding Obligations..... 20

    6.3 Projected Decommissioning Costs Reviews and Adjustment of Decommissioning Trust Funding Obligations..... 20

    6.4 Investment of Decommissioning Trust Funds ..... 21

    6.5 Mandatory Provisions for Decommissioning Trust Agreements..... 21

    6.6 Only Purposes ..... 22

    6.7 Decommissioning Correcting Deposits..... 22

    6.8 Return of Funds in Decommissioning Trust..... 23

6.9	Status Reports .....	23
6.10	Compliance .....	23
7.0	Decommissioning Investment Committee .....	23
7.1	Establishment of Decommissioning Investment Committee .....	23
7.2	Decommissioning Investment Committee Membership .....	24
7.3	Functions and Responsibilities of the Decommissioning Investment Committee .....	24
7.4	Decisions of the Decommissioning Investment Committee .....	25
7.5	Meetings of the Decommissioning Investment Committee .....	25
8.0	Default .....	25
8.1	Definition of Default .....	25
8.2	Default Notice .....	26
8.3	Cure of Default .....	26
8.4	Protest of Default .....	26
8.5	Declaration of Default .....	26
8.6	Consequences of Default .....	27
8.7	No Stay for Arbitration .....	27
8.8	Termination of Default .....	27
8.9	Other Rights .....	27
8.10	No Waiver .....	27
9.0	Dispute Resolution .....	27
9.1	Amicable Resolution .....	27
9.2	Call for Arbitration .....	28
9.3	Selection of Arbitrators .....	28
9.4	Arbitration Procedures .....	29
9.5	Decision of Arbitrators .....	29
9.6	Enforcement of Arbitration Award .....	30
9.7	Fees and Expenses .....	30
9.8	Prompt Resolution .....	30
9.9	Legal Remedies .....	30
10.0	Power and Authority .....	30
10.1	Requisite Power and Authority .....	30
10.2	No Violation .....	30
11.0	Relationship of Parties .....	31
11.1	Several Obligations .....	31

11.2	No Joint Venture or Partnership .....	31
12.0	Assignments .....	31
12.1	Successors and Assigns.....	31
12.2	No Right to Mortgage .....	31
12.3	Prior Written Consent .....	31
12.4	Assignee’s Obligation to Establish and Fund Decommissioning Trust.....	32
12.5	Parties not Relieved of Obligations .....	32
12.6	Assigning Party’s Right of Refund.....	32
13.0	Audit Rights; Related Disputes.....	32
13.1	Right of Audit .....	32
13.2	Audit Dispute Resolution.....	32
13.3	Adjusted Billing Procedures .....	33
13.4	Audit of Decommissioning A&G Expenses .....	33
14.0	Uncontrollable Forces .....	33
15.0	Invalid Provisions .....	33
16.0	Applicable Law and Venue.....	34
16.1	Compliance with Law .....	34
16.2	Governing Law .....	34
16.3	Venue .....	34
17.0	Entire Agreement .....	34
17.1	Entire Agreement .....	34
17.2	Amendment and Modification .....	34
17.3	Prior Obligations Unaffected .....	34
18.0	No Interpretation Against Drafter .....	34
19.0	Independent Covenants.....	35
20.0	Other Documents .....	35
21.0	Notices .....	35
21.1	Manner of Giving of Notice.....	35
21.2	Changes in Designation .....	37
22.0	Captions and Headings .....	37
23.0	Effect of Municipal Law .....	37
23.1	Anaheim and M-S-R.....	37
23.2	Southern California Public Power Authority .....	38
23.3	Farmington and Los Alamos.....	38

23.4	Utah Associated Municipal Power Systems .....	38
24.0	Parties' Cost Responsibilities .....	38
25.0	No Third Party Beneficiaries .....	38
26.0	No Admission of Liability .....	39
27.0	Confidentiality .....	39
27.1	Confidentiality of Negotiations.....	39
27.2	Non-confidentiality of Decommissioning Agreement.....	39
28.0	Damages.....	39
29.0	Execution in Counterparts.....	39

**List of Exhibits**

Exhibit A	Decommissioning Shares
Exhibit B	Decommissioning Trust Agreement Mandatory Provisions
Exhibit C	SJGS Plant Site
Exhibit D	Initial Decommissioning Work
Exhibit E	Retirement in Place
Exhibit F	Equipment Required for On-going Operation of Units 1 and 4

**SAN JUAN DECOMMISSIONING  
AND TRUST FUNDS AGREEMENT**

This SAN JUAN DECOMMISSIONING AND TRUST FUNDS AGREEMENT (“Decommissioning Agreement”), dated as of July 31, 2015, is entered into by PUBLIC SERVICE COMPANY OF NEW MEXICO, a New Mexico corporation (“PNM”); TUCSON ELECTRIC POWER COMPANY, an Arizona corporation (“TEP”); THE CITY OF FARMINGTON, NEW MEXICO, an incorporated municipality and a body politic and corporate, existing as a political subdivision under the constitution and laws of the State of New Mexico (“Farmington”); M-S-R PUBLIC POWER AGENCY, a joint exercise of powers agency organized under the laws of the State of California (“M-S-R”); THE INCORPORATED COUNTY OF LOS ALAMOS, NEW MEXICO, a body politic and corporate, existing as a political subdivision under the constitution and laws of the State of New Mexico (“Los Alamos”); SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint exercise of powers agency organized under the laws of the State of California (“SCPPA”); CITY OF ANAHEIM, a municipal corporation organized under the laws of the State of California (“Anaheim”); UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS, a political subdivision of the State of Utah (“UAMPS”); TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC., a Colorado cooperative corporation (“Tri-State”); and PNMR DEVELOPMENT AND MANAGEMENT CORPORATION, a New Mexico corporation (“PNMR-D”). The parties to this Decommissioning Agreement are sometimes referred to individually as a “Party” and collectively as the “Parties.”

**RECITALS**

This Decommissioning Agreement is made with reference to the following facts, among others:

A. The San Juan Project is a four-unit, coal-fired electric generation plant located in San Juan County, near Farmington, New Mexico, also known as the San Juan Generating Station (“SJGS”, “San Juan Project” or “Project”). On the execution date, the owners of the Project are: PNM, TEP, Farmington, M-S-R, Los Alamos, SCPPA, Anaheim, UAMPS and Tri-State.

B. Concurrently herewith, the Parties are executing: (i) the San Juan Project Restructuring Agreement (“Restructuring Agreement”); (ii) the Amended and Restated Mine Reclamation and Trust Funds Agreement (“Mine Reclamation Agreement”); (iii) the SJPPA Restructuring Amendment; and (iv) the SJPPA Exit Date Amendment, all of which were agreed upon pursuant to a mediation among the Parties. The Restructuring Agreement, among other things, provides for the amendment of certain provisions of the Amended and Restated San Juan Project Participation Agreement dated March 23, 2006 (the “SJPPA”) regarding rights and obligations in respect of the ownership and operation of the San Juan Project.

C. One disagreement subject to negotiation and mediation concerned obligations under Section 40.0 of the SJPPA, which provides:

The Participants acknowledge the appropriateness of incorporating in a future amendment to this Agreement, or in another appropriate contractual instrument, provisions which address the decommissioning of the San Juan Project and/or of one or more Units. It is recognized, however, that the resolution of issues associated with San Juan Project decommissioning will require protracted study. The Participants therefore agree to establish a task force or other forum for the careful and deliberate consideration of decommissioning issues so that these issues may be addressed and resolved in a timely manner. The Operating Agent shall propose to the Participants a methodology and a schedule for addressing decommissioning issues.

The Parties desire by this Decommissioning Agreement to settle and resolve such disagreements and to establish a methodology for planning and approving Decommissioning Work and funding and allocating the cost of Decommissioning Work.

D. The Parties desire, by this Decommissioning Agreement, the Mine Reclamation Agreement, the Restructuring Agreement, the SJPPA Restructuring Amendment and the SJPPA Exit Date Amendment to establish a comprehensive set of agreements with respect to the restructuring of San Juan Project ownership interests, rights and cost responsibilities.

E. The foregoing Recitals are included to provide background regarding this Decommissioning Agreement, and while certain Recitals may be referenced in this Decommissioning Agreement, they are neither part of nor incorporated into the terms, covenants and conditions of this Decommissioning Agreement.

## AGREEMENT

NOW, THEREFORE, for and in consideration of the promises and obligations reflected in the covenants, terms and conditions in this Decommissioning Agreement, all of which together provide the consideration for this Decommissioning Agreement, the Parties agree as follows:

### **1.0 Term and Termination**

1.1 Effective Date. As provided for in the Restructuring Agreement, this Decommissioning Agreement will become effective on the Exit Date.

1.2 Termination. This Decommissioning Agreement will continue in full force and effect until twenty-four (24) months after completion of Decommissioning Work.

### **2.0 Definitions and Rules of Interpretation**

2.1 Definitions. The following terms, when used herein with initial capitalization, have the meanings specified below:

2.1.1 Affiliate means, with respect to any person: (i) each person that, directly or indirectly, controls or is controlled by or is under common control with such designated person; (ii) any person that beneficially owns or holds 50% or more of any class of voting



securities of such designated person or 50% or more of the equity interest in such designated person; and (iii) any person of which such designated person beneficially owns or holds 50% or more of any class of voting securities or in which such designated person beneficially owns or holds 50% or more of the equity interest; provided, however, that members of a Party will not be deemed to be Affiliates of each such Party. For the purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities or by contract or otherwise; PNM and PNMR-D are Affiliates.

2.1.2 Arbitration Award means an award of the arbitrators as provided for in Section 9.5.

2.1.3 Arbitration Organization has the meaning provided for in Section 9.3.2.

2.1.4 Assigning Party means a Party making a transfer or assignment as described in Section 12.

2.1.5 Board means the governing body of a Party.

2.1.6 Business Day means any day other than a Saturday, Sunday or federal holiday.

2.1.7 Charter Documents means with respect to any Party, the certificate or articles of incorporation or organization and by-laws, the limited partnership agreement, the partnership agreement, the limited liability company agreement or trust agreement, or other organizational documents of such Party.

2.1.8 Credit Rating means the rating publicly assigned to a Party’s senior, unsecured long-term debt obligations (not supported by a third party credit enhancement), by a Rating Agency or, if a Party does not have a public rating for its senior, unsecured long-term debt, the rating publicly assigned to the Party by a Rating Agency as its corporate credit rating, or long-term issuer rating, as applicable.

2.1.9 Decommissioning Correcting Deposits means deposits to a Party’s Decommissioning Trust as required by Section 6.7.

2.1.10 Decommissioning Correction Period means the time in which Decommissioning Correcting Deposits must be completed as provided for in Section 6.7.2.1.

2.1.11 Decommission, Decommissioned or Decommissioning means, subject to the provisions set forth in Section 4.3, removal of the San Juan Project facilities from service in conjunction with retirement of facilities or closure of the Project in accordance with either the requirements of applicable Law, if any, or Prudent Cost Avoidance. Possible Decommissioning activities include the dismantlement, demolition, removal, retirement in place, salvage, remediation and/or reclamation of the San Juan Project or a

portion thereof (but not of the San Juan Mine), including any planning and administrative activities incident thereto and related reporting and monitoring requirements.

2.1.12 Decommissioning A&G Expenses means administrative and general expenses of the Decommissioning Agent incurred for Decommissioning as provided for in Section 3.2.4.

2.1.13 Decommissioning Agent means the agent of the Parties, selected in accordance with Section 3.2.1, who will perform the Decommissioning Work and other tasks assigned to the Decommissioning Agent under this Decommissioning Agreement under the oversight of the Decommissioning Committee.

2.1.14 Decommissioning Agreement means this San Juan Decommissioning and Trust Funds Agreement.

2.1.15 Decommissioning Committee means the committee established in Section 3.1.1.

2.1.16 Decommissioning Contractor means a non-Party who is hired to perform Decommissioning Work.

2.1.17 Decommissioning Costs means the costs for San Juan Project Decommissioning, including Decommissioning A&G Expenses.

2.1.18 Decommissioning Funding Target Amount means, the initial Decommissioning Funding Target Amount established in Sections 6.2 and 6.3, and thereafter, the respective dollar amounts as determined by the Decommissioning Investment Committee pursuant to Section 6.2.1.

2.1.19 Decommissioning Investment Committee means the committee established in Section 7.1.

2.1.20 Decommissioning Plan means the decommissioning plan as described in Section 5, which will include a provision that Salvage Revenues will be credited to all Parties based on each Party's Decommissioning Share.

2.1.21 Decommissioning Share means a Party's share of Decommissioning funding and cost responsibility, as specified for a given year in Section 5.3 and **Exhibit A**, as calculated by the Decommissioning Committee.

2.1.22 Decommissioning Study means an analysis of processes and associated costs for Decommissioning performed pursuant to Section 5.1.

2.1.23 Decommissioning Trust means a trust maintained by a Party with a Trustee pursuant to Section 6.1.

2.1.24 Decommissioning Trust Agreement means a trust agreement entered into between a Party and its Trustee for the purpose of satisfying the Party's responsibilities under this Decommissioning Agreement to fund and pay for Decommissioning Costs.

2.1.25 Decommissioning Work means all activities for planning and conducting Decommissioning.

2.1.26 Default means a default in performance of a Party's obligations under this Decommissioning Agreement, as defined more particularly in Section 8.1.

2.1.27 Default Declaration means a declaration of default as defined in Section 8.5.

2.1.28 Default Notice means a notice of default as defined in Section 8.2.

2.1.29 Dispute Protest has the meaning provided for in Section 9.1.2.

2.1.30 Effective Date means the date established in Section 1.1 for the effectiveness of this Decommissioning Agreement.

2.1.31 Exit Date means the date upon which the Exiting Participants transfer all of their respective rights, titles and interests in and to their ownership interests in SJGS to PNM and PNMR-D as provided in the Restructuring Agreement and terminate their active involvement in the operation of the SJGS, except as expressly provided for in the Restructuring Agreement, the Mine Reclamation Agreement and this Decommissioning Agreement; the Exit Date is anticipated to be on or about December 31, 2017.

2.1.32 Exiting Participants means those Parties that will transfer all of their respective rights, titles and interests in and to their ownership interests in SJGS to PNM and PNMR-D as provided in the Restructuring Agreement and terminate their active involvement in the operation of SJGS on the Exit Date, except as expressly provided for in the Restructuring Agreement, the Mine Reclamation Agreement and this Decommissioning Agreement; the Exiting Participants are M-S-R, Anaheim, SCPPA and Tri-State.

2.1.33 Final Decommissioning Report means a report prepared by the Decommissioning Contractor describing how Decommissioning was completed in accordance with requirements of Law and the Decommissioning Plan and provided by the Decommissioning Agent to the Decommissioning Committee pursuant to Section 3.2.2.8.

2.1.34 Governmental Authority means any federal, state, tribal, local, municipal or foreign governmental or regulatory authority, department, agency, commission, body, court or other governmental authority other than a Party.

2.1.35 Initiating Party means the Party initiating an audit as provided for in Section 13.1.

2.1.36 Interim Period has the meaning described in Section 4.2.

2.1.37 Law means statutes, rules, regulations, ordinances, orders and codes of federal, state and local Governmental Authorities.

2.1.38 Mandatory Provisions means those provisions which must be included in each Party's Decommissioning Trust Agreement, as described in **Exhibit B**.

2.1.39 Mine Reclamation Agreement means the Amended and Restated Mine Reclamation and Trust Funds Agreement, executed concurrently herewith.

2.1.40 Notice of Dispute has the meaning provided for in Section 9.1.1.

2.1.41 Notice means a notification given in accordance with Section 21.1.

2.1.42 Noticing Party has the meaning provided for in Section 9.1.1.

2.1.43 Notification of Intent means a notification of intent to declare a Party in default, as defined in Section 8.5.

2.1.44 Party means any one of the signatories to this Decommissioning Agreement.

2.1.45 Prime Rate means the interest rate per annum (sometimes referred to as the base rate) for large commercial loans to creditworthy entities announced from time-to-time by Wells Fargo Bank, N.A. (New York) or its successor bank or, if such rate is not announced, the rate published in The Wall Street Journal as the "prime rate" from time-to-time (or, if more than one rate is published, the arithmetic mean of such rates), in either case determined as of the date the obligation to pay arises.

2.1.46 Project has the meaning provided for in Recital A.

2.1.47 Project Assets means equipment or facilities of any kind at the San Juan Project that are not being used for current operations, including all components, spare equipment and inventory of any Unit which has ceased operations.

2.1.48 Projected Decommissioning Costs Review means a review of the projected costs of completing Decommissioning Work, as adjusted from time-to-time pursuant to Section 6.3.

2.1.49 Protest means a protest made under Section 8.4.

2.1.50 Protesting Party has the meaning provided for in Section 9.1.2.

2.1.51 Prudent Cost Avoidance means a discretionary action approved by the Decommissioning Committee in accordance with Section 4.2.3, even though not required by then-current Law.

2.1.52 Rating Agency means Moody's Investors, Inc. or Standard & Poor's Financial Services, LLC (a subsidiary of McGraw-Hill Companies).

2.1.53 Remaining Participants means those Parties that will continue participation, or acquire an ownership interest, in the Project on or after the Exit Date; the Remaining Participants are PNM, TEP, Farmington, Los Alamos, UAMPS and PNMR-D.

2.1.54 Required Plan has the meaning provided for in Section 5.1.1.

2.1.55 Restructuring Agreement means the San Juan Project Restructuring Agreement among the Parties, executed concurrently herewith.

2.1.56 Retirement Order means a proposal for the expenditure of certain funds as described in Section 4.2.3.

2.1.57 Salvage Revenue means proceeds, net of cost of removal, received from the sale or disposition of any Project Assets, as provided for in this Decommissioning Agreement.

2.1.58 SJGS has the meaning provided for in Recital A.

2.1.59 SJGS Plant Site means the parcels identified as Parcels A, B, D, E and F in **Exhibit C**.

2.1.60 SJPPA means the Amended and Restated San Juan Project Participation Agreement among the Participants dated March 23, 2006.

2.1.61 SJPPA Exit Date Amendment has the meaning provided for in Section 1.2.2 of the Restructuring Agreement.

2.1.62 SJPPA Restructuring Amendment has the meaning provided for in Section 1.2.1 of the Restructuring Agreement.

2.1.63 Status Report means a status report prepared and provided to Parties in accordance with Section 6.9.

2.1.64 Threshold Amount means five hundred thousand dollars (\$500,000).

2.1.65 Trustee means a financial institution selected by a Party at which the Party's Decommissioning Trust is or will be held.

2.1.66 Uncontrollable Forces has the meaning provided for in Section 14.

2.1.67 Unit means Unit 1, Unit 2, Unit 3 or Unit 4 of the San Juan Project.

2.1.68 Willful Action means (i) action taken or not taken by a Party (or the Decommissioning Agent), at the direction of its directors, members of its Board, officers or employees having management or administrative responsibility affecting its performance under this Decommissioning Agreement, which action is knowingly or intentionally taken or not taken with conscious indifference to the consequences thereof or with intent that injury or damage would probably result therefrom; or (ii) action taken or

not taken by a Party (or the Decommissioning Agent) at the direction of its directors, members of its Board, officers or employees having management or administrative responsibility affecting its performance hereunder, which action has been determined by final arbitration award or final judgment or judicial decree to be a material default hereunder and which action occurs or continues beyond the time specified in such arbitration award or judgment or judicial decree for curing such default, or if no time to cure is specified therein, occurs or continues beyond a reasonable time to cure such default; or (iii) action taken or not taken by a Party (or the Decommissioning Agent), at the direction of its directors, members of its Board, officers or employees having management or administrative responsibility affecting its performance hereunder, which action is knowingly or intentionally taken or not taken with the knowledge that such action taken or not taken is a material default hereunder. The phrase “employees having management or administrative responsibility,” as used in this Section 2.1.68, means employees of a Party who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling and supervising such Party’s performance under this Decommissioning Agreement; provided, however, that, with respect to employees of the Decommissioning Agent acting in its capacity as such and not in its capacity as a Party, but only during such time as any one of Unit 1, 2, 3 or 4 is commercially producing electrical power, such phrase refers only to: (x) the senior employee of the Decommissioning Agent on duty at the Project who is responsible for the operation of the Units, and (y) anyone in the organizational structure of the Decommissioning Agent between such senior employee and an officer. After such time as none of Unit 1, 2, 3 or 4 is commercially producing electrical power, the phrase “employees having management or administrative responsibility” as used in this Section 2.1.68 will mean employees of any Party (including the Decommissioning Agent), who are responsible for one or more of the executive functions of planning, organizing, coordinating, directing, controlling and supervising such Party’s performance under this Decommissioning Agreement. Willful Action does not include any act or failure to act which is merely involuntary, accidental or negligent.

2.2 Rules of Interpretation. Unless a clear contrary intention appears, this Decommissioning Agreement will be construed and interpreted as follows:

2.2.1 Any reference to a person includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organization, governmental entity or other entity;

2.2.2 Any reference to a day, week, month or year is to a calendar day, week, month or year, unless otherwise specified as a Business Day;

2.2.3 Any act required to occur by or on a certain day is required to occur before or on that day unless the day falls on a Saturday, Sunday or federal holiday, in which case the act must occur before or on the next Business Day;

2.2.4 The singular includes the plural and *vice versa*;

2.2.5 Reference to the feminine, masculine or neutral gender includes reference to all other genders;

2.2.6 Reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this Decommissioning Agreement;

2.2.7 Unless expressly stated otherwise, reference to any agreement (including this Decommissioning Agreement), document, instrument or tariff means such agreement, document, instrument or tariff as amended, supplemented, replaced or modified and in effect from time-to-time;

2.2.8 Reference to any Law means such Law as amended, modified, codified, supplemented or reenacted, in whole or in part, and in effect from time-to-time, including, if applicable, rules and regulations promulgated thereunder;

2.2.9 Unless expressly stated otherwise, reference to any article, section, exhibit or appendix means such article, section, exhibit or appendix of this Decommissioning Agreement, as the case may be;

2.2.10 "Hereunder," "hereof," "herein," "hereto" and words of similar import are deemed references to this Decommissioning Agreement as a whole and not to any particular provision hereof;

2.2.11 "Including," "include" and "includes" are deemed to be followed by the phrase "without limitation" and will not be construed to mean the examples given constitute an exclusive list of the matters covered;

2.2.12 Relating to the determination of any period of time, "from" means "from and including," "to" means "to but excluding" and "through" means "through and including"; and

2.2.13 Whenever an act is required to be performed by a particular time of day, prevailing Mountain Time will be the standard by which performance is measured.

### **3.0 Decommissioning Committee and Decommissioning Agent**

#### **3.1 Decommissioning Committee.**

3.1.1 Establishment of the Decommissioning Committee. The Parties hereby establish a Decommissioning Committee. The Decommissioning Committee will remain in existence during the term of this Decommissioning Agreement. The Decommissioning Committee will have no authority to modify any of the provisions of this Decommissioning Agreement.

3.1.2 Decommissioning Committee Membership. The Decommissioning Committee will consist of one representative from each Party who must be an officer or other designated representative of a Party. Any of the Parties may designate an alternate

or substitute to act as its representative on the Decommissioning Committee in the absence of the regular representative on the Decommissioning Committee or to act on specified occasions or with respect to specified matters. Each Party must notify the other Parties promptly, in writing, of the designation of its representative and alternate representative on the Decommissioning Committee and of any subsequent changes in such designations. The chairperson of the Decommissioning Committee will be the representative of the Decommissioning Agent if the Decommissioning Agent is a Party. If the Decommissioning Agent is not a Party, the chairperson will be elected by a majority of the individual representatives on the Decommissioning Committee. Each Party will be responsible for the costs of its Decommissioning Committee representative, including fees and travel reimbursement.

3.1.3 Functions and Responsibilities of the Decommissioning Committee. The responsibilities of the Decommissioning Committee include the following:

3.1.3.1 Oversee the performance of the Decommissioning Agent, including the Decommissioning Work;

3.1.3.2 Review and oversee ongoing Decommissioning A&G Expenses including Decommissioning A&G loadings and the methodology for determining Decommissioning A&G as described in Section 3.2.4;

3.1.3.3 Vote as to matters assigned to the Decommissioning Committee;

3.1.3.4 Establish goals, timelines and procedures with respect to Projected Decommissioning Costs Reviews and perform related functions, as provided for in Section 6.3;

3.1.3.5 Identify activities that constitute Decommissioning Work;

3.1.3.6 Determine when the Decommissioning Work and Decommissioning have been completed;

3.1.3.7 Establish budgets and schedules for Decommissioning Work and approve all proposed changes to the budgets or schedules for Decommissioning Work;

3.1.3.8 Determine contracting procedures for entry into third party agreements for Decommissioning Work;

3.1.3.9 Recalculate the Decommissioning Shares as set forth in footnote 1 of **Exhibit A**; and

3.1.3.10 Perform other tasks delegated to the Decommissioning Committee by this Decommissioning Agreement.

3.1.4 Decisions of the Decommissioning Committee. Except as provided for in the third sentence of this Section 3.1.4, any actions or determinations brought before the



Decommissioning Committee require the following vote: (i) more than a sixty-six and two thirds percent (66 2/3%) majority of the Decommissioning Shares of the Parties then in effect as set out in Section 5.3 and as defined in **Exhibit A**; and (ii) more than a sixty-six and two thirds percent (66 2/3%) majority of the number of individual Parties. Matters approved by the requisite majority of the Decommissioning Committee will be binding on all Parties. If a Party's right to vote has been suspended because of a Default, such Party will not have a right to vote under either subsection (i) or subsection (ii) of this Section 3.1.4, and the requisite majorities for actions or determinations of the Decommissioning Committee will be sixty-six and two thirds percent (66 2/3%) of the members eligible to vote under either subsection (i) or (ii) of this Section 3.1.4. The outcome of any vote of the Decommissioning Committee properly conducted in accordance with this Decommissioning Agreement will not be subject to the dispute resolution provisions of Section 9.

3.1.5 Meetings of the Decommissioning Committee. The Decommissioning Committee must meet no less frequently than annually. Special meetings will be held promptly at the written request of any Party, such request to be delivered in writing to the chairperson of the Decommissioning Committee. The Decommissioning Committee must keep written minutes and records of all meetings, the draft of which minutes will be distributed for review within forty-five (45) days. Any action or determination made by the Decommissioning Committee must be reduced to writing and will become effective when signed by the representatives of the Parties entitled to vote thereon, representing a voting majority of the members of the Decommissioning Committee as specified in Section 3.1.4(i) and (ii). Decommissioning Committee representatives will be permitted, by prior notification to the chairperson of the Decommissioning Committee, to attend a meeting of the Decommissioning Committee by conference call or video conferencing. A Decommissioning Committee representative who is unable to attend a meeting of the Decommissioning Committee will be permitted to vote in absentia by delivering to the chairperson of the Decommissioning Committee, at least twenty-four (24) hours prior to the scheduled commencement of the meeting, a written statement, including by e-mail or facsimile, identifying the matter to be voted on and how the representative desires to vote.

### 3.2 Decommissioning Agent.

#### 3.2.1 Selection of the Decommissioning Agent.

3.2.1.1 Subject to Sections 3.2.7 and 3.2.8, the Parties will appoint a Decommissioning Agent to carry out the responsibilities assigned to the Decommissioning Agent hereunder. The Decommissioning Agent will be the agent of the Parties and may exercise only such authority as is conferred upon it by this Decommissioning Agreement.

3.2.1.2 The Parties hereby appoint PNM as the initial Decommissioning Agent, and PNM agrees to undertake, as the agent of the Parties, and as principal on its own behalf, the performance of the responsibilities assigned herein to the Decommissioning Agent.

3.2.2 Responsibilities of the Decommissioning Agent. The Decommissioning Agent will have the following responsibilities:

3.2.2.1 Serve as liaison and focal point for the coordination of interchanges and discussions among the Parties in connection with matters arising under this Decommissioning Agreement;

3.2.2.2 Propose to the Decommissioning Committee plans, budgets and schedules for Decommissioning Work;

3.2.2.3 As and when it considers necessary, propose modifications to plans, budgets or schedules for Decommissioning Work to the Decommissioning Committee;

3.2.2.4 Pursuant to Section 6.3, perform (or cause to be performed) a Projected Decommissioning Costs Review and prepare a report on such review for submission to the Decommissioning Committee;

3.2.2.5 Furnish from its own resources or contract for the procurement of goods or services necessary for the implementation of this Decommissioning Agreement, pursuant to the procedures established by the Decommissioning Committee;

3.2.2.6 Issue requests for proposals from qualified vendors for performance of Decommissioning Work;

3.2.2.7 Monitor and supervise the performance of Decommissioning Work;

3.2.2.8 Prepare, or provide for preparation of, reports for the Decommissioning Committee at such intervals as the Decommissioning Committee may direct on the progress of the Decommissioning Work, including a Final Decommissioning Report;

3.2.2.9 Review the form and content of all invoices received from vendors for performance of Decommissioning Work, approve invoices for payment as appropriate and issue payments to vendors for approved invoices;

3.2.2.10 Issue invoices to the Parties for their Decommissioning Shares of expenses incurred by the Decommissioning Agent in the performance of any Decommissioning Work and for Decommissioning A&G Expenses;

3.2.2.11 Upon commencement of Decommissioning Work, issue periodic invoices to each Party, at such intervals as directed by the Decommissioning Committee, for payment of such Party's Decommissioning Share of Decommissioning Work;

3.2.2.12 Prepare recommendations for the Decommissioning Committee for the procurement of goods or services necessary for the performance of Decommissioning Work;

3.2.2.13 Administer, perform and enforce all contracts entered into by the Decommissioning Agent subject to the direction of the Decommissioning Committee;

3.2.2.14 Comply with all Laws applicable to its performance, monitoring and supervision of the Decommissioning Work;

3.2.2.15 Maintain in the name of the Parties and for the purposes of this Decommissioning Agreement an operating account for monies collected in connection with the implementation of this Decommissioning Agreement; such operating account must be maintained separately from any and all other accounts related to the San Juan Project;

3.2.2.16 Keep and maintain records of monies expended and received, obligations incurred, credits accrued, Project Assets disposed of, and contracts entered into in the implementation of this Decommissioning Agreement and provide reports of such records to the Parties at such intervals as the Decommissioning Committee directs, but no less frequently than thirty (30) calendar days before each annual meeting of the Decommissioning Committee;

3.2.2.17 Cooperate with the Decommissioning Investment Committee in the conduct of any review or audit of a Party's compliance with its funding of its Decommissioning Share of Decommissioning Costs and to otherwise carry into effect policies established by the Decommissioning Investment Committee;

3.2.2.18 Prepare recommendations covering the matters that may be reviewed and acted upon by the Parties and the Decommissioning Committee and the Decommissioning Investment Committee;

3.2.2.19 Keep the Parties fully and promptly advised of material changes in conditions or other material developments affecting the implementation of this Decommissioning Agreement and of any Defaults under this Decommissioning Agreement;

3.2.2.20 Provide the Decommissioning Committee and the Decommissioning Investment Committee with all records, information and reports that may be relevant to such committees in the performance of their responsibilities under this Decommissioning Agreement;

3.2.2.21 As provided in Section 8, provide copies of any Default Notice, Notification of Intent, or Default Declaration to the representatives on the Decommissioning Committee, the Decommissioning Investment Committee, the persons identified in Section 21.1, and the Trustee of a defaulting Party's Decommissioning Trust;

3.2.2.22 Enforce the obligations of each Party to fund its Decommissioning Share of the Decommissioning Costs and to pay invoices submitted hereunder to the Parties or to their Trustees;

3.2.2.23 Procure appropriate insurance covering Decommissioning Work to provide coverage for risks for which the Parties have or may have responsibility under this Decommissioning Agreement;

3.2.2.24 Perform all other obligations and duties that the Parties, the Decommissioning Committee, or the Decommissioning Investment Committee may from time-to-time delegate to the Decommissioning Agent; and

3.2.2.25 Perform all other obligations and duties that are assigned herein to the Decommissioning Agent or that are reasonably necessary in connection with the performance of its obligations and duties hereunder.

3.2.3 Reimbursement of Costs and Expenses. Subject to Section 11.1, each Party will reimburse the Decommissioning Agent, based on the Party's Decommissioning Share then in effect, for all of the reasonable costs and expenses incurred by the Decommissioning Agent in its performance of its responsibilities pursuant to this Decommissioning Agreement.

3.2.4 Decommissioning Administrative and General Expenses. Beginning January 1, 2018, Decommissioning A&G Expenses will include administrative and general expenses directly chargeable to FERC Accounts 920, 921, 923, 926, 930.2, 931 and 935, will include payroll loads for administrative and general expenses, payroll taxes, injuries and damages and pension and benefits, and will be added to the periodic billings in proportion to the dollars of direct labor billed. The Decommissioning Agent will prepare, for the approval of the Decommissioning Committee, operating procedures for the accounting of Decommissioning A&G Expenses in its performance of the Decommissioning Work and will recommend updates thereof no fewer than every three (3) years. An annual true-up of Decommissioning A&G Expenses will be made each year once such expenses have been recorded.

3.2.5 No Fee. The Decommissioning Agent will receive no fee or profit hereunder, unless otherwise agreed unanimously by the Parties.

3.2.6 Liability of the Decommissioning Agent.

3.2.6.1 The provisions of this Section 3.2.6 are intended to address limitations on the liability of the Decommissioning Agent acting solely in the capacity of Decommissioning Agent; to the extent the actions of the Decommissioning Agent are carried out in its capacity as a Party or in any other capacity, the limitation of liability provisions in this Section 3.2.6 are not applicable.

3.2.6.2 Except for any judgment debt for damage resulting from Willful Action or as necessary to enforce an Arbitration Award, each Party hereby

extends to the Decommissioning Agent, its employees, officers, directors and agents, its covenant not to execute, levy or otherwise enforce a judgment obtained against the Decommissioning Agent, including recording or effecting a judgment lien, for any direct, indirect or consequential, damage, claim, cost, charge or expense, whether or not resulting from the negligence of the Decommissioning Agent, its employees, officers, directors or agents, or any person or entity whose negligence would be imputed to the Decommissioning Agent arising out of its performance or non-performance hereunder. With respect to the Decommissioning Agent's liability for Willful Action, such liability will in no event exceed a total of fourteen million dollars (\$14,000,000) per occurrence. The Parties extend to the Decommissioning Agent, its employees, officers, directors and agents, their covenant not to execute, levy or otherwise enforce a judgment against any of them for any such liability for Willful Action in excess of the amounts set forth in the previous sentence. In the event that Parties' claims made or judgments obtained against the Decommissioning Agent or its employees, officers, directors and agents exceed fourteen million dollars (\$14,000,000) per occurrence, such claims or judgments will be prorated among the successful Parties consistent with the limitation on Willful Action liability established herein.

3.2.7 Resignation of the Decommissioning Agent. Subject to Section 3.2.8, the Decommissioning Agent will serve during the term of this Decommissioning Agreement unless it resigns as Decommissioning Agent by giving notice to the Parties at least one (1) year in advance of the effective date of the resignation. Following such a notice, the Decommissioning Committee must convene promptly to address the selection of a replacement Decommissioning Agent which may, but need not, be a Party.

3.2.8 Removal of the Decommissioning Agent. The Decommissioning Agent may be removed by the Parties, if, in the judgment of the Parties, their best interests require such removal. Any Party seeking the removal of the Decommissioning Agent must serve a notice on the Decommissioning Agent and on each of the Parties, detailing the reasons why, in the judgment of the initiating Party, the Decommissioning Agent should be removed. Within thirty (30) days after receipt by the Decommissioning Agent of this written statement, the Decommissioning Agent will prepare and serve upon the Parties its response, which will contain a detailed rebuttal of the allegations made in the initiating statement. Within the same thirty (30) day period, any other Party may also serve upon the Decommissioning Agent and the Parties a statement responding to the allegations in the initiating statement. Within twenty (20) days after service of all such response statements, the Parties must meet to consider what actions, if any, to take in regard to the removal of the Decommissioning Agent. The Decommissioning Agent may be removed by the vote of more than a sixty-six and two thirds percent (66 2/3%) majority of the Decommissioning Shares of the Parties and more than a sixty-six and two thirds percent (66 2/3%) majority of the number of individual Parties; provided, however, that a Party that is the Decommissioning Agent will not be entitled to vote on the issue of its own removal and the requisite voting percentages will be based upon the number of eligible voting Parties, other than the Party that is the Decommissioning Agent, and their respective Decommissioning Shares. If the Decommissioning Agent is removed by vote of the

Parties, the Decommissioning Committee must convene promptly to address the selection of a replacement Decommissioning Agent which may, but need not, be a Party.

#### **4.0 Activities During Interim Period**

##### **4.1 Initial Decommissioning Work.**

4.1.1 Three specific one-time tasks constituting initial Decommissioning Work for Units 2 and 3, and the estimated costs of such tasks, are set forth in **Exhibit D** hereto. The cost of the initial Decommissioning Work set forth in **Exhibit D** will be paid by all Parties based on the following percentages:

4.1.1.1	PNM:	46.297%
4.1.1.2	TEP:	19.8%
4.1.1.3	M-S-R:	8.7%
4.1.1.4	Farmington:	2.559%
4.1.1.5	Tri-State:	2.49%
4.1.1.6	Los Alamos:	2.175%
4.1.1.7	SCPPA:	12.71%
4.1.1.8	Anaheim:	3.10%
4.1.1.9	UAMPS:	2.169%
4.1.1.10	PNMR-D:	0.000 %

4.1.2 Other tasks related to requirements for the retirement-in-place of Units 2 and 3, and their estimated cost, are set forth in **Exhibit E** hereto. The costs of such tasks will be paid for as operating and maintenance costs by the Remaining Participants based on the following percentages:

4.1.2.1	PNM:	58.671%
4.1.2.2	TEP:	20.068%
4.1.2.3	Farmington:	5.076%
4.1.2.4	Los Alamos:	4.309%
4.1.2.5	UAMPS:	4.203%
4.1.2.6	PNMR-D:	7.673%
4.1.2.7	Exiting Participants:	0.000%

4.2 Interim Decommissioning Work. Other Decommissioning Work undertaken during the period between the Exit Date and the complete cessation of commercial production of electrical power at all four Units (“Interim Period”) will be addressed as set forth in this Section 4.2.

4.2.1 The Decommissioning Agent will report each year during the Interim Period addressing Decommissioning Work, if any, to take place in the following calendar year and provide that report to the Decommissioning Committee no later than ninety (90) days prior to the beginning of the next calendar year. The Decommissioning Committee

will review the Decommissioning Agent's report as to whether a particular project exceeds or is less than the Threshold Amount.

4.2.2 The Decommissioning Committee will refer projects for Decommissioning Work which it determines will have a cost below the Threshold Amount to the Engineering and Operating Committee established in the SJPPA. Such projects will be paid for as if they were operations and maintenance activities in accordance with the SJPPA, not Decommissioning Work. The Parties having an ownership interest in the Project at the time such Decommissioning Work below the Threshold Amount is performed will be responsible for the costs of such projects in accordance with the SJPPA.

4.2.3 If the report identifies any project for Decommissioning Work with an estimated cost above the Threshold Amount, the Decommissioning Agent will prepare a Retirement Order that will include a description of the project, a determination as to whether the project is required by Law or is being proposed for purposes of Prudent Cost Avoidance, a schedule of the estimated timing for performance of the project and a budget based on the estimated cost of the project, including the Decommissioning Agent's reasonable Decommissioning A&G Expenses. The Decommissioning Agent will not aggregate unrelated projects or separate related projects for the purpose of avoiding or exceeding the Threshold Amount. If a project for Decommissioning Work is proposed for the purposes of Prudent Cost Avoidance, the Retirement Order will also include a cost-benefit analysis which explains why the Decommissioning Agent recommends performance of the project.

4.2.3.1 For projects for Decommissioning Work above the Threshold Amount determined by the Decommissioning Agent to be required by Law to be commenced within the next year, the Decommissioning Committee will vote pursuant to the provisions of Section 3.1.4 whether to adopt the Retirement Order and proceed with the project. If such a project required by Law is not approved, the Decommissioning Agent will perform or procure performance of the Decommissioning Work for such project in an efficient and economical manner until a budget has been approved by the Decommissioning Committee and the cost for such project will be paid pursuant to Sections 5.3 and 5.4.

4.2.3.2 For projects for Decommissioning Work above the Threshold Amount recommended by the Decommissioning Agent on the basis of Prudent Cost Avoidance, the Decommissioning Committee will vote pursuant to the provisions of Section 3.1.4 whether to adopt the Retirement Order and proceed with the project. Such a project not approved by the Decommissioning Committee will not be performed.

4.2.4 Each Party will be responsible to pay for the costs of approved projects above the Threshold Amount performed under this Section 4.2 based on its then-current Decommissioning Share for the year in which the majority of project expenditures are expected to be spent.

4.3 Items not Part of Decommissioning. During the Interim Period, expenditures related to use, operation or maintenance of any Unit or common facility of the SJGS are not part of Decommissioning. Attached as **Exhibit F** is an illustrative list of equipment, facilities and systems potentially required or that may be used for the ongoing operation of Units 1 and/or 4 during the Interim Period, and expenditures on such equipment, facilities and systems are not part of Decommissioning. Decommissioning does not include (i) any activities primarily to protect the health and welfare of the SJGS plant workers during continued operation of Unit 1 and/or 4 until all Units cease operations; (ii) any activities required because equipment and/or facilities from Unit 2 or 3 or common facilities, such as equipment identified in **Exhibit F**, are being used for ongoing operations; or (iii) any activities resulting from equipment and/or facilities from Unit 2 or 3 or common facilities being removed for reuse by Unit 1 and/or 4. In case of doubt, the Decommissioning Committee will determine expenditures above the Threshold Amount that are for the ongoing operation of Units 1 and 4 and are not Decommissioning. The following facilities owned by either or both of PNM or TEP located at or adjacent to the SJGS Plant Site are not facilities or equipment that will be Decommissioned pursuant to this Section 4.3:

4.3.1 The San Juan switchyard;

4.3.2 Any gas plant or any other generating or fuel facility added to the SJGS Plant Site that is not part of the San Juan Project, or any new facility constructed on the SJGS Plant Site; and

4.3.3 Any other property or facilities that PNM and/or TEP notifies the other Parties, within fifteen (15) days after the decision is made to retire the last Unit, either or both wish to retain and not Decommission under this Decommissioning Agreement.

4.4 Use of Equipment Located at Units 2 and 3; Salvage Revenue. During the Interim Period, the Remaining Participants will be entitled to use equipment from Units 2 and 3 in the operation of either or both of Units 1 and 4 without compensation to the Exiting Participants. However, any Salvage Revenue obtained during the Interim Period will be distributed to all Parties based on each Party's Decommissioning Share in effect in the year in which the right to obtain the Salvage Revenue arises.

## **5.0 Decommissioning Plan**

5.1 Decommissioning Study. Within thirty (30) days after the decision is made to retire the last Unit, the Decommissioning Agent will commence a Decommissioning Study which will compare alternative Decommissioning Plan scenarios.

5.1.1 The Decommissioning Study will: (i) determine the current federal and state requirements under Law, if any, for Decommissioning a coal-fired electric generation plant in the state of New Mexico; (ii) estimate the cost of Decommissioning Work to the level required by Law, which may include ongoing monitoring of the SJGS Plant Site ("Required Plan"); and (iii) estimate the cost of other approaches proposed by either the Decommissioning Committee or the Decommissioning Agent.



5.1.2 All Decommissioning Plans included in the Decommissioning Study will: (i) include provisions to dispose of any remaining fly ash; (ii) subject to the provisions of Section 19 of the Restructuring Agreement, provide for the identification and remediation of any environmental concerns existing at the time Decommissioning begins; (iii) include provisions addressing security, risk management and insurance; and (iv) describe the Decommissioning Work proposed to be performed.

5.1.3 The facilities identified in Section 4.3.1, 4.3.2 and 4.3.3 are not facilities or equipment that will be Decommissioned pursuant to this Section 5 and will not be considered in the Decommissioning Study or Decommissioning Plans. The costs of Decommissioning any new facility constructed, or equipment installed, on the SJGS Plant Site or on the Project after the Exit Date, unless such facility or equipment is a replacement or betterment of existing facilities or equipment, will be the sole responsibility of the Parties that own such new facility or equipment.

5.1.4 The Decommissioning Study will be completed within six (6) months unless the Decommissioning Committee has extended the completion date.

5.2 Selection of Decommissioning Plan. The Decommissioning Committee will review the Decommissioning Study and vote to select a Decommissioning Plan. Unless the Decommissioning Committee unanimously votes to select any plan other than the Required Plan, the Required Plan will become the selected Decommissioning Plan. The selected Decommissioning Plan will be implemented, and the Decommissioning Costs paid pursuant to Sections 5.3 and 5.4 based on the Decommissioning Shares in effect during the year in which commercial production of electrical power has ceased at all four Units.

5.3 Payment for Decommissioning. The Parties will pay for Decommissioning Costs based on the Decommissioning Shares set forth in **Exhibit A**. All Parties will start with eighteen (18) years of ownership at their current capacity as of December 31, 2017, and then their percentages will increase or decrease in the years after 2017, based on the total of each individual Party's megawatt-years in SJGS divided by the total of all Parties' megawatt-years, as shown in **Exhibit A**.

5.4 Payment Procedures. Prior to paying an invoice for Decommissioning Work, including costs for Projected Decommissioning Costs Reviews, the Decommissioning Agent will invoice the Parties for such costs, and the Parties will pay the invoice within ten (10) Business Days of receipt. Payments of an invoice issued to a Party will be paid as determined by each Party from such Party's Decommissioning Trust or by payment made directly by such Party. Appropriate supporting information must accompany each invoice, and the Decommissioning Agent will provide any additional supporting information that a Party may reasonably request.

## **6.0 Decommissioning Trust Funds**

6.1 Establishment of Decommissioning Trusts. Within ninety (90) days after the Effective Date of this Decommissioning Agreement, each Party must execute a separate trust fund agreement ("Decommissioning Trust Agreement") between that Party and a financial institution in good standing selected by that Party ("Trustee") for the establishment of an irrevocable trust

(“Decommissioning Trust”) to carry out the purposes of this Decommissioning Agreement. The Trustee may not be an Affiliate of a Party. A copy of each Decommissioning Trust Agreement must upon execution be provided to each other Party. Each Decommissioning Trust must be funded as provided for in this Section 6. Each Party will notify each other Party of the name and contact information of its Trustee.

## 6.2 Decommissioning Trust Funding Obligations.

6.2.1 Each Party must maintain a balance in its Decommissioning Trust sufficient to fund its Decommissioning Share, as established pursuant to Section 5, of the Decommissioning Funding Target Amount as specified by the Decommissioning Investment Committee during the term hereof. The initial Decommissioning Funding Target Amount is thirty million dollars (\$30 million), and each Party must fund its Decommissioning Share of the initial Decommissioning Funding Target Amount by December 31, 2022. Any adjustment to a Decommissioning Funding Target Amount pursuant to Section 6.3 or the dates by which Parties must fund their respective Decommissioning Shares of the Decommissioning Funding Target Amount will not be deemed an amendment to this Decommissioning Agreement but rather will be considered an element of the administration and implementation of this Decommissioning Agreement; upon approval of a Decommissioning Funding Target Amount adjustment, as provided for herein, such adjusted Decommissioning Funding Target Amount will replace the Decommissioning Funding Target Amount previously in effect. Except as provided in Section 6.2.2, no additional funding of a Decommissioning Trust will be required of a Party if the funds in its Decommissioning Trust are sufficient, by December 31, 2022 and by December 31 of each subsequent year during the term hereof, to satisfy the Party’s Decommissioning Share of the Decommissioning Funding Target Amount for that year.

6.2.2 If a Party’s Credit Rating drops below investment grade, the Decommissioning Investment Committee may increase the funding obligation for that Party up to one hundred ten percent (110%) of the otherwise applicable funding obligation of that Party. The percentage increase in that Party’s funding obligation will remain in effect until that Party’s Credit Rating is restored to investment grade. If a Party whose Credit Rating is determined to be below investment grade has its Credit Rating restored to investment grade, the additional amounts paid into the Decommissioning Trust will be a credit toward future funding obligations to the Decommissioning Trust. This Section 6.2.2 will not apply to a Party that does not have a current Credit Rating if the Party’s most recent Credit Rating was investment grade.

## 6.3 Projected Decommissioning Costs Reviews and Adjustment of Decommissioning Trust Funding Obligations.

6.3.1 The Parties acknowledge the appropriateness of adjusting, from time-to-time, the Decommissioning Funding Target Amounts for all Parties based on updated estimates for Decommissioning Work pursuant to a Projected Decommissioning Costs Review as provided for in this Section 6.3.

6.3.2 The Decommissioning Agent will perform (or cause to be performed) a technical reassessment of estimated costs for Decommissioning Work at a level of Decommissioning determined by the Decommissioning Committee to be appropriate (a “Projected Decommissioning Costs Review”) during the year 2022 and every five (5) years thereafter. A Party desiring to request a Projected Decommissioning Costs Review more frequently than every five (5) years must do so by serving a written request upon the Decommissioning Agent and the members of the Decommissioning Committee. A request for a Projected Decommissioning Costs Review must set out in detail the facts relied on by the Party making the request. The Decommissioning Committee may approve such a request, and may vote to conduct a Projected Decommissioning Costs Review at any time.

6.3.3 The Decommissioning Committee will establish reasonable goals, timelines and procedures with respect to the manner in which the required Projected Decommissioning Costs Review is to be conducted. The costs of a Projected Decommissioning Costs Review will be Decommissioning Costs and will be invoiced and paid pursuant to Section 5, whether or not the cost of a Projected Decommissioning Costs Review is below the Threshold Amount.

6.3.4 The Decommissioning Agent will present a report resulting from a Projected Decommissioning Costs Review to the Decommissioning Committee.

6.3.5 The Decommissioning Committee will promptly either approve the report of the Projected Decommissioning Costs Review provided by the Decommissioning Agent or direct that further study or revisions be made to the Projected Decommissioning Costs Review report. In the event the Decommissioning Committee directs further study or revisions, the Decommissioning Agent must submit a new Projected Decommissioning Costs Review report to the Decommissioning Committee upon completion of such further study or revisions.

6.3.6 Except for funding of the initial Decommissioning Funding Target Amount of thirty million dollars (\$30 million) by the end of 2022, the Decommissioning Investment Committee will thereafter adjust the Decommissioning Funding Target Amounts for the Decommissioning Trusts based on the approved Projected Decommissioning Costs Review report.

6.4 Investment of Decommissioning Trust Funds. Each Party may implement its own policies in relation to the investment of funds in its Decommissioning Trust. Each Party may, at its discretion, appoint one or more investment managers to direct the investment of all or parts of funds held in its Decommissioning Trust.

6.5 Mandatory Provisions for Decommissioning Trust Agreements.

6.5.1 Each Decommissioning Trust Agreement must contain and maintain certain mandatory provisions (“Mandatory Provisions”). The Mandatory Provisions are contained in **Exhibit B**. The Decommissioning Investment Committee will review the initial Decommissioning Trust Agreement for each Party for compliance with **Exhibit B**.

6.5.2 Proposed amendments to any Mandatory Provision in a Party's Decommissioning Trust Agreement are subject to review and approval by the Decommissioning Investment Committee. A Party desiring to amend a Mandatory Provision must submit such proposed amendment to the Decommissioning Investment Committee for prior review in accordance with procedures established by the Decommissioning Investment Committee.

6.5.3 If the Decommissioning Investment Committee representatives (other than the representative representing any Party whose compliance is under review) conclude that a Party's initial Decommissioning Trust Agreement is inconsistent with **Exhibit B**, or that a proposed amendment to a Mandatory Provision is inconsistent with the purposes of this Decommissioning Agreement, the Decommissioning Investment Committee must inform the Party of the reasons why, in the judgment of the Decommissioning Investment Committee, the Mandatory Provisions of its initial Decommissioning Trust Agreement are inconsistent with **Exhibit B** or why the proposed amendment to the Mandatory Provision is inconsistent with this Decommissioning Agreement. No Party may amend a Mandatory Provision in its Decommissioning Trust Agreement in a manner contrary to a determination of the Decommissioning Investment Committee.

6.6 Only Purposes. Prior to termination, funds held in a Decommissioning Trust may be utilized for the following and no other purposes: (i) to pay the costs and fees associated with the maintenance of the Decommissioning Trust, including the fees and expenses of the Trustee; and (ii) to pay the Party's Decommissioning Share (as defined in Section 5 and **Exhibit A**) of Decommissioning Costs, as provided for in this Decommissioning Agreement. During the term hereof, no Party will be permitted to withdraw funds from its Decommissioning Trust, including net earnings on accumulations in the Trust, except as provided in this Decommissioning Agreement.

6.7 Decommissioning Correcting Deposits.

6.7.1 In the event that, as of December 31 of any year after 2022 during the term hereof, the value of funds in a Party's Decommissioning Trust is less than its Decommissioning Share of the Decommissioning Funding Target Amount for such year, then the Party must make one or more Decommissioning Correcting Deposits. The amount and timing of such Decommissioning Correcting Deposits must comply with policies established by the Decommissioning Investment Committee consistent with Section 6.7.2.

6.7.2 Decommissioning Correcting Deposits in the aggregate must be sufficient to ensure that the value of funds in a Party's Decommissioning Trust is equal to or greater than such Party's Decommissioning Share of the Decommissioning Funding Target Amount at the end of the applicable Decommissioning Correction Period determined as provided in Section 6.7.2.1.

6.7.2.1 The applicable Decommissioning Correction Period during which one or more Decommissioning Correcting Deposits must be made pursuant to Section 6.7.1 is two (2) years.

Example:

If the value of funds in Party A's Decommissioning Trust is less than the Decommissioning Funding Target Amount for Party A at the end of 2025, the Decommissioning Correction Period expires December 31, 2027.

6.7.3 If any Party fails to make any Decommissioning Correcting Deposit when due, then, within ten (10) days after the applicable due date, the chairperson of the Decommissioning Investment Committee will report such failure by the Party to each representative on the Decommissioning Investment Committee.

6.8 Return of Funds in Decommissioning Trust. Any funds remaining in a Party's Decommissioning Trust after the completion of the Decommissioning Work as determined by the Decommissioning Committee and full payment of the Party's Decommissioning Share of the Decommissioning Work will be returned to the Party pursuant to the Party's Decommissioning Trust Agreement.

6.9 Status Reports. Each Party will prepare on an annual basis a funding Status Report regarding the funds in its Decommissioning Trust as of December 31 of each year during the term hereof and provide such annual funding Status Report to each of the other Parties. The funding Status Report will include a detailed summary of the investments made by the Party in its Decommissioning Trust during the period covered by the Status Report. The funding Status Report will be prepared and provided to the other Parties no later than thirty (30) days following the end of a calendar year unless otherwise directed by the Decommissioning Investment Committee. In addition to such annual funding Status Reports, on the written request of any other Party for reasonable cause (*e.g.*, changes in market conditions that could significantly affect the value of funds in a Decommissioning Trust), each Party will provide special funding Status Reports, in the same format and content as annual funding Status Reports, to the other Parties; provided, that such special reports will not be required of any Party more frequently than once in any calendar quarter.

6.10 Compliance. A Party whose funding of its Decommissioning Trust has been determined by the Decommissioning Investment Committee not to be in compliance with the requirements of this Decommissioning Agreement must act promptly to bring itself into compliance therewith. A Party, the Mandatory Provisions of whose Decommissioning Trust Agreement have been determined by the Decommissioning Investment Committee not to be in compliance with the requirements of this Decommissioning Agreement, must act promptly to bring itself into compliance therewith and must promptly inform the Decommissioning Investment Committee of actions taken to bring itself into compliance.

## **7.0 Decommissioning Investment Committee**

7.1 Establishment of Decommissioning Investment Committee. The Parties hereby establish a Decommissioning Investment Committee. The Decommissioning Investment Committee will remain in existence during the term of this Decommissioning Agreement. The Decommissioning Investment Committee will have no authority to modify any of the provisions of this Decommissioning Agreement.

7.2 Decommissioning Investment Committee Membership. The Decommissioning Investment Committee will consist of one representative from each Party who must be an officer or other authorized representative of the Party. Any of the Parties may designate an alternate or substitute to act as its representative on the Decommissioning Investment Committee in the absence of the regular representative on the Decommissioning Investment Committee or to act on specified occasions or with respect to specified matters. Each Party must notify the other Parties promptly, in writing, of the designation of its representative and alternate representative on the Decommissioning Investment Committee and of any subsequent changes in such designations. The chairperson of the Decommissioning Investment Committee will be a representative of the Decommissioning Agent if the Decommissioning Agent is a Party. If the Decommissioning Agent is not a Party, the chairperson will be elected by a majority of the individual representatives on the Decommissioning Investment Committee. Each Party will be responsible for the costs of its Decommissioning Investment Committee representative, including fees and travel reimbursement.

7.3 Functions and Responsibilities of the Decommissioning Investment Committee. The Decommissioning Investment Committee will have the following functions and responsibilities:

7.3.1 Within six (6) months of the Effective Date, establish the format and content to be used for each Party's annual funding Status Report;

7.3.2 Review each Party's annual and special funding Status Report(s) and determine and, as to each Party, report to the Decommissioning Committee and the Decommissioning Agent whether the amount of funds in a Party's Decommissioning Trust is in compliance with Sections 5, 6 and **Exhibit A**;

7.3.3 Upon receipt from the Decommissioning Committee of a copy of a Projected Decommissioning Costs Review, as provided for in Section 6.3, establish and provide to each of the Parties new Decommissioning Funding Target Amounts for the Decommissioning Trusts;

7.3.4 Establish, consistent with Section 6.7, policies regarding the number and timing of Decommissioning Correcting Deposits;

7.3.5 Audit, or cause to be audited, compliance of Parties in meeting their obligations under Section 6;

7.3.6 Under procedures to be established in a timely fashion by the Decommissioning Investment Committee, (i) promptly upon execution of each Party's Decommissioning Trust Agreement, review the Mandatory Provisions of each such Decommissioning Trust Agreement to assure that the Mandatory Provisions of each such Decommissioning Trust Agreement conform to the requirements of Section 6.5 and of **Exhibit B**; and (ii) review any proposed amendment to a Mandatory Provision in a Party's Decommissioning Trust Agreement;

7.3.7 Perform such other tasks as the Decommissioning Committee from time-to-time assigns to the Decommissioning Investment Committee; and

7.3.8 Perform such other tasks as may be delegated under this Decommissioning Agreement to the Decommissioning Investment Committee.

7.4 Decisions of the Decommissioning Investment Committee. Except as provided for in the third sentence of this Section 7.4, any actions or determinations brought before the Decommissioning Investment Committee will require the following vote: (i) more than a sixty-six and two thirds percent (66 2/3%) majority of the Decommissioning Shares of the Parties as set out in Section 5.3 and as defined in **Exhibit A**; and (ii) more than a sixty-six and two thirds percent (66 2/3%) majority of the number of individual Parties. Matters approved by the requisite majority of the Decommissioning Investment Committee will be binding on all Parties. If a Party's right to vote has been suspended because of a Default, such Party will not have a right to vote under either subsection (i) or subsection (ii) of this Section 7.4, and the requisite majorities for actions or determinations of the Decommissioning Investment Committee will be sixty-six and two thirds percent (66 2/3%) of the members eligible to vote under either subsection (i) or (ii) of this Section 7.4. The outcome of any vote of the Decommissioning Investment Committee properly conducted in accordance with this Decommissioning Agreement will not be subject to the dispute resolution provisions of Section 9.

7.5 Meetings of the Decommissioning Investment Committee. The Decommissioning Investment Committee will meet no less frequently than annually. Special meetings will be held promptly at the written request of any Party, such request to be delivered to the chairperson of the Decommissioning Investment Committee. The Decommissioning Investment Committee will keep written minutes and records of all meetings, the draft of which minutes will be distributed for review within forty-five (45) days. Any action or determination made by the Decommissioning Investment Committee will be reduced to writing and will become effective when signed by the representatives of the Parties entitled to vote thereon, representing a voting majority of the members of the Decommissioning Investment Committee. Decommissioning Investment Committee representatives will be permitted, by prior notification to the chairperson of the Decommissioning Investment Committee, to attend a meeting of the Decommissioning Investment Committee by conference call or video conferencing. A Decommissioning Investment Committee representative who is unable to attend a meeting of the Decommissioning Investment Committee will be permitted to vote in absentia by delivering to the chairperson of the Decommissioning Investment Committee, at least twenty-four (24) hours prior to the scheduled commencement of the meeting, a written statement, including by e-mail or facsimile, identifying the matter to be voted on and how the representative desires to vote.

## **8.0 Default**

8.1 Definition of Default. Each Party must: (i) fund its Decommissioning Trust under the terms of this Decommissioning Agreement and consistent with its Decommissioning Trust Agreement; (ii) make any required Decommissioning Correcting Deposits; (iii) cause the timely payment of its Decommissioning Share of Decommissioning Work pursuant to invoices for Decommissioning Costs rendered to the Party; and (iv) carry out all other performances, duties and obligations agreed to be paid or performed by it pursuant to this Decommissioning

Agreement. A failure to perform any of items (i) through (iv) above is a Default under this Decommissioning Agreement.

8.2 Default Notice. If the Decommissioning Agent (either on its own motion or at the suggestion of a Party) deems a Party to be in Default, the Decommissioning Agent must serve upon the defaulting Party a written notice of default (the “Default Notice”). The Decommissioning Agent must also serve a copy of the Default Notice on: (i) the representatives on the Decommissioning Committee; (ii) the representatives on the Decommissioning Investment Committee; (iii) all persons entitled to receive notices under Section 21.1; and (iv) the Trustee of the defaulting Party’s Decommissioning Trust. The Default Notice must specify the existence, nature and extent of the Default.

8.3 Cure of Default. Upon receipt of the Default Notice, the defaulting Party must: (i) pay any monies due under this Decommissioning Agreement (including funding of its Decommissioning Trust and making any required Decommissioning Correcting Deposits) within fifteen (15) days; or (ii) commence within fifteen (15) days the performance of any non-monetary obligation and continue thereafter the diligent completion of such non-monetary obligation.

8.4 Protest of Default. If the defaulting Party disputes a Default Notice, such Party must nonetheless pay the disputed payment or commence performance of the disputed obligation, but may do so under protest (the “Protest”). The Protest must be in writing, must accompany the disputed payment or precede the commencement of performance of the disputed obligation, and must specify the reason upon which the Protest is based. Copies of the Protest must be served by the defaulting Party on the Decommissioning Agent and also on: (i) the representatives on the Decommissioning Committee; (ii) the representatives on the Decommissioning Investment Committee; (iii) all persons entitled to receive notices under Section 21.1; and (iv) the Trustee of the defaulting Party’s Decommissioning Trust. Within seven (7) days after the service of the Protest, authorized representatives of the Parties must meet, in person or by conference call or video conference, to address the Protest and to determine what actions, if any, to take as a result of the Protest.

8.5 Declaration of Default. If the defaulting Party fails to cure the Default pursuant to Section 8.3, or protests the Default Notice pursuant to Section 8.4 but fails to timely pay the disputed payment or commence performance of the disputed obligation, the Decommissioning Agent must notify the defaulting Party in writing of the Decommissioning Agent’s intent to declare the defaulting Party in Default unless there is a prompt cure of the Default (“Notification of Intent”). The Notification of Intent must afford the defaulting Party a minimum of fifteen (15) additional days after the giving of the Notification of Intent to cure the Default. The pendency of a Protest will not prevent the Decommissioning Agent from issuing a Notification of Intent. If the Default has not been cured within the period of time identified in the Notification of Intent, the Decommissioning Agent may give written notice to the defaulting Party declaring that the defaulting Party is in Default (the “Default Declaration”). The Decommissioning Agent must serve a copy of the Notification of Intent and of the Default Declaration on: (i) the representatives on the Decommissioning Committee; (ii) the representatives on the Decommissioning Investment Committee; (iii) all persons entitled to receive notices under Section 21.1; and (iv) the Trustee of



the defaulting Party's Decommissioning Trust. The pendency of a Protest will not prevent the Decommissioning Agent from making a Default Declaration.

8.6 Consequences of Default. Upon delivery of the Default Declaration, the Party in Default under this Decommissioning Agreement will lose all its rights but retain its obligations under this Decommissioning Agreement, the Mine Reclamation Agreement and the Restructuring Agreement so long as the Default is in effect. This consequence of Default is in addition to and cumulative of any other remedy to which the Party in Default may be subject, including the loss of the right to vote on the Decommissioning Investment Committee and the Decommissioning Committee. If and when the Party in Default remedies the Default, its rights under such agreements will be restored.

8.7 No Stay for Arbitration. A demand for arbitration or other dispute resolution procedure will not stay: (i) the right of the Decommissioning Agent to issue a Default Notice, a Notification of Intent or a Default Declaration; or (ii) the suspension of the rights of a defaulting Party.

8.8 Termination of Default. The Default will be terminated, and the full rights of the defaulting Party restored when: (i) the Default has been cured and all costs incurred by the non-defaulting Parties resulting from the Default of the defaulting Party have been reimbursed in full by the defaulting Party, with interest thereon at the Prime Rate plus two percent (2%) per annum or the maximum legal rate of interest, whichever is less, from the date of payment to the date of reimbursement; (ii) other arrangements acceptable to the non-defaulting Parties have been made; or (iii) the defaulting Party prevails in an arbitration or other legal proceeding in which the default status of the defaulting Party is at issue.

8.9 Other Rights. Subject to the limitations set forth in Section 28, the rights and remedies provided in this Decommissioning Agreement will be in addition to any other rights and remedies the Decommissioning Agent and the non-defaulting Parties have in law or equity.

8.10 No Waiver. No waiver by the Decommissioning Agent or by a non-defaulting Party of its rights with respect to a Default under this Decommissioning Agreement or with respect to any other matter arising in connection with this Decommissioning Agreement, will be effective unless the Decommissioning Agent or the non-defaulting Party waives in writing its rights and no such waiver will be deemed a waiver with respect to any subsequent Default or matter. No delay short of the statutory period of limitations in asserting or enforcing any right hereunder will be deemed a waiver of such right. The Decommissioning Agent will not waive any of its rights with respect to a Default under this Decommissioning Agreement without the approval of the Decommissioning Committee.

## **9.0 Dispute Resolution**

9.1 Amicable Resolution. If a dispute between or among any of the Parties should arise under this Decommissioning Agreement, or in relation to the rights or obligations of the Parties under this Decommissioning Agreement, executive representatives of the Parties with authority to resolve the dispute will first seek to resolve the dispute as set forth in this Section 9.1.

9.1.1 The dispute process will be initiated by the delivery of a written notice by a Party (“Noticing Party”) of the dispute (“Notice of Dispute”) to the Party with which a dispute is claimed. The Notice of Dispute will specify the existence, nature and extent of the dispute. Copies of the Notice of Dispute will be served on all other Parties. The Notice of Dispute will specifically state the sums allegedly due, any non-monetary obligation allegedly not performed, or both if applicable.

9.1.2 Within fifteen (15) Business Days of receipt of the Notice of Dispute, the Party alleged not to be performing may protest in writing any or all of the matters set forth in the Notice of Dispute (“Dispute Protest”), specifying the basis of the Dispute Protest. Copies of the Dispute Protest will be served by the protesting Party (“Protesting Party”) on all other Parties.

9.1.3 Within fifteen (15) Business Days of the giving of a Notice of Dispute under Section 9.1.1 or within ten (10) Business Days after the service of a Dispute Protest under Section 9.1.2, the executive representatives of the Parties involved in the dispute will meet at a mutually agreeable time and place to attempt to negotiate a timely and amicable resolution of the dispute. If an executive of a Party intends to be accompanied by counsel, the other Parties will be given at least five (5) Business Days’ written notice of such intent and may also be accompanied by counsel. All negotiations will be confidential and will be treated as compromise and settlement negotiations under New Mexico Law. If the executive representatives of the Parties are unable to resolve the dispute within sixty (60) days of the Notice of Dispute (or such other period as they may agree to), any Party involved in the dispute may call for submission of the dispute to arbitration, which call will be binding upon all of the other affected Parties except as provided in Section 9.9.

9.2 Call for Arbitration. The Party calling for arbitration must give written notice to all other Parties (“Arbitration Notice”), setting forth in the Arbitration Notice in adequate detail the entity against whom relief is sought, the nature of the dispute, the amount, if any, involved in such dispute, and the remedy sought by such arbitration proceedings, which may include monetary, equitable and declaratory relief. Within twenty (20) Business Days after receipt of the Arbitration Notice, any other Party may submit its own statement of the matter at issue and set forth in adequate detail additional related matters or issues to be arbitrated, with copies of such notice provided to all other Parties. Thereafter, the Party calling for arbitration will have ten (10) Business Days in which to submit a written rebuttal statement, copies of which must be provided to all other Parties.

### 9.3 Selection of Arbitrators.

9.3.1 The Parties involved in the arbitration will seek to agree upon a panel of three (3) neutral arbitrators as follows. Within ten (10) days after service of the written rebuttal statement, the Parties representing each side of the dispute will provide to the Parties representing the other side of the dispute a list of up to five (5) suggested arbitrators having the qualifications required by Section 9.3.2 and a summary of each such suggested arbitrator’s experience and qualifications. Within five (5) Business Days thereafter, the Parties involved in the arbitration will meet and confer by telephone or in

person to seek to agree upon a panel of three (3) neutral arbitrators from the lists that have been exchanged. If such agreement is not reached as the result of such meeting, the Parties representing each side of the dispute will provide a second list of suggested arbitrators to one another and the Parties will meet and confer again within five (5) Business Days thereafter to attempt to reach agreement upon a panel of three (3) neutral arbitrators. If such agreement on arbitrators is reached, the Parties will proceed to arbitration as further set forth in this Section 9.

9.3.2 If the Parties involved in the arbitration are not able to agree upon a complete panel of three (3) neutral arbitrators, such Parties will select the arbitrators upon which agreement has not been reached as follows. The Parties will request from the American Arbitration Association (or similar organization as the arbitrating Parties agree upon) (“Arbitration Organization”) a list of seven (7) arbitrators with names and biographical sketches and specific qualifications relating to the case to be heard. The proposed arbitrators will be persons skilled and experienced in the field that gives rise to the dispute, and no person will be eligible for appointment as an arbitrator who is an officer or employee of any of the Parties to the dispute or is otherwise interested in the matter to be arbitrated. The Parties involved in the arbitration will each advise the Arbitration Organization of its order of preference of such arbitrators by numbering from one (1) to seven (7) each name on the list (with one (1) being the most preferred arbitrator) and submitting the numbered lists in writing to the Arbitration Organization. Depending upon the number of arbitrators to be selected, the name or names with the lowest combined numbers will be appointed as the remaining neutral arbitrator(s). In the event more than one name on the list has the same lowest combined score, the tie will be broken by lot. Should the Parties agree that one list of seven (7) is insufficient to obtain a total of three (3) neutral arbitrators with the required qualifications, an additional list of arbitrators may be requested from the Arbitration Organization.

9.4 Arbitration Procedures. Except as otherwise provided in this Section 9 or otherwise agreed by the Parties to the dispute, the Parties will utilize in the arbitration the American Arbitration Association’s Commercial Arbitration Rules and Mediation Procedures (including Procedures for Large, Complex Commercial Disputes) or similar rules and practices of another Arbitration Organization from time-to-time in force, except that if such rules and practices, as modified herein, conflict with New Mexico Rules of Civil Procedure or any other provisions of New Mexico law then in force that are specifically applicable to arbitration proceedings, such New Mexico laws will govern. The arbitration will be conducted at a location in Albuquerque, New Mexico, unless otherwise agreed by the affected Parties.

9.5 Decision of Arbitrators. The arbitrators will hear evidence submitted by the respective Parties or group or groups of Parties and may call for additional information, which additional information must be furnished by the Party having such information. The decision of a majority of the arbitrators (“Arbitration Award”) must be rendered no later than twenty (20) days after the conclusion of the arbitration hearing and will be binding upon all the Parties and must be based on the provisions of this Decommissioning Agreement and applicable New Mexico or federal Law. The Arbitration Award must be in writing and must explain in reasonable detail the basis of the award.

9.6 Enforcement of Arbitration Award. This agreement to arbitrate is specifically enforceable, and the Arbitration Award will be final and binding upon the Parties to the extent provided by the laws of the State of New Mexico. Any Arbitration Award may be filed with a court of competent jurisdiction in New Mexico and upon motion of a Party the court shall enter a judgment in conformity therewith as provided by the New Mexico Uniform Arbitration Act. Said judgment is enforceable in other States and Territories of the United States under the Full Faith and Credit provisions of the United States Constitution and other Laws.

9.7 Fees and Expenses. Fees and expenses of the arbitrators will be paid by the non-prevailing Party, unless the Arbitration Award specifies some other apportionment of such fees and expenses. All other expenses and costs of the arbitration, including attorney fees and expert witness fees, will be borne by the Party incurring the same.

9.8 Prompt Resolution. The Parties acknowledge the importance of prompt dispute resolution. Accordingly, it is agreed that any arbitration proceeding hereunder must be scheduled and conducted in such a manner that the Arbitration Award is rendered no later than two hundred and seventy (270) days after the Arbitration Notice is served.

9.9 Legal Remedies. Nothing in this Section 9 will be deemed to prevent a Party from commencing judicial action: (i) to obtain a provisional remedy to protect the effectiveness of the arbitration proceeding; (ii) to confirm, enforce, modify, correct or vacate or challenge an Arbitration Award on grounds provided for in the New Mexico Uniform Arbitration Act; (iii) to obtain relief in instances where the arbitrators are unable or unwilling to act within the time provided for in Section 9.8; (iv) where, as the result of the unreasonable or dilatory conduct of another Party, a Party is not able to obtain a timely valid and enforceable Arbitration Award; or (v) if a Party is prohibited by Law from participating in binding arbitration.

## **10.0 Power and Authority**

10.1 Requisite Power and Authority. Each Party represents and warrants to the other Parties that it has the requisite power and authority to execute this Decommissioning Agreement and to perform its obligations set out in this Decommissioning Agreement. The execution and delivery of this Decommissioning Agreement and the performance of the obligations set out herein have been duly authorized by all necessary action on the part of each Party. The obligations set out herein will, upon execution hereof by each Party, be valid and binding obligations of such Party, enforceable against such Party in accordance with the terms and conditions hereof, except to the extent that enforceability hereof or thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws generally affecting creditors' rights and by equitable principles, regardless of whether enforcement is sought in equity or at Law.

10.2 No Violation. Each Party, to the best of its knowledge and upon reasonable inquiry, represents and warrants to the other Parties that the execution and delivery of this Decommissioning Agreement by such Party, and the performance by such Party of all of its obligations hereunder, will not violate any term, condition or provision of its Charter Documents; any applicable Law by which the Party is bound; any applicable court or administrative order or

decree; or any agreement or contract to which it is a party. Further, each Party represents and warrants to the other Parties that, to the best of its knowledge and upon reasonable inquiry, there is no claim pending or threatened against it which seeks a writ, judgment, order or decree restraining, enjoining or otherwise prohibiting or making illegal any of the transactions contemplated by this Decommissioning Agreement or which could result in the filing of any mechanic's or materialman's lien against the SJGS Plant Site.

## **11.0 Relationship of Parties**

11.1 Several Obligations. All covenants, obligations and liabilities of the Parties are, except as otherwise specifically provided herein, intended to be several and not joint or collective. At no time will a non-defaulting Party be responsible for making payments required under this Decommissioning Agreement on behalf of any other Party. Each Party will be individually responsible for its own covenants, obligations and liabilities as provided for herein.

11.2 No Joint Venture or Partnership. Nothing in this Decommissioning Agreement will be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or liability on or with regard to any one or more of the Parties. No Party or group of Parties will be under the control of or will be deemed to control any other Party or the Parties as a group. Except as provided in this Decommissioning Agreement, the Restructuring Agreement or the Mine Reclamation Agreement, no Party will be the agent of or have a right or power to bind any other Party without its express written consent.

## **12.0 Assignments**

12.1 Successors and Assigns. This Decommissioning Agreement is binding upon and inures to the benefit of the Parties and their respective authorized successors and assigns.

12.2 No Right to Mortgage. No Party will have the right to mortgage, create or provide for a security interest in or convey in trust its rights, titles and interests in a Decommissioning Trust created pursuant to this Decommissioning Agreement, or in funds held in a Decommissioning Trust created pursuant to this Decommissioning Agreement, to a trustee or trustees under deeds of trust, mortgages or indentures, or to secured parties under a security agreement, as security for their present or future bonds or other obligations or securities, and to any successors or assigns thereof.

12.3 Prior Written Consent. No Party may assign its rights, or delegate its obligations, under this Decommissioning Agreement without the prior written consent of all of the other Parties, which consent will not be unreasonably delayed or denied; provided, however, that consent will not be granted unless (i) the assignee has first agreed in writing with the non-assigning Parties to fully perform and discharge all of the obligations hereunder of the Assigning Party; and (ii) the assignee demonstrates to the Decommissioning Committee it has creditworthiness equal to or higher than that of the assigning Party. Such prior consent of the other Parties will not be required in the event of the transfer or assignment by a Party of its interest in the Project to a duly authorized successor; provided, however, that such successor has agreed in writing with the remaining Parties to fully perform and discharge all of the obligations

hereunder of the Assigning Party and the remaining Parties have agreed in writing to the substitution of the successor, in place of the Assigning Party, which consent will not be unreasonably delayed or denied.

12.4 Assignee's Obligation to Establish and Fund Decommissioning Trust. Among the contracts that the assignee must have executed in connection with any assignment is a Decommissioning Trust Agreement with a financial institution, consistent with the requirements of this Decommissioning Agreement. Pursuant to such Decommissioning Trust Agreement, the assignee must establish and fully fund its Decommissioning Trust to its then-required share of the Decommissioning Funding Target Amount in accordance with Section 6.2. Such Decommissioning Trust Fund Agreement must be provided to the Decommissioning Agent for review and approval by the Decommissioning Committee before the assignment becomes effective.

12.5 Parties not Relieved of Obligations. No Party will be relieved of any of its obligations and duties to the other Parties by a transfer or assignment under this Section 12 without the express prior written consent of the remaining Parties, which consent will not be unreasonably withheld, conditioned or delayed.

12.6 Assigning Party's Right of Refund. Upon receipt of the written consents provided for in Sections 12.3 and 12.5, and the assignee having fully funded its Decommissioning Trust as required in Section 12.4, the Assigning Party will be: (i) released from further obligations under this Decommissioning Agreement; and (ii) entitled to a return of all monies remaining in its Decommissioning Trust.

### **13.0 Audit Rights; Related Disputes**

13.1 Right of Audit. The Decommissioning Agent will maintain complete and accurate records of all expenses and transactions for which a Party may have cost responsibility under this Decommissioning Agreement. Such records will be maintained from the date an expense is billed to a Party hereunder for a period of the longer of: (i) the expiration of the statute of limitations for actions based on contract; or (ii) the date the records may be destroyed under the Decommissioning Agent's document retention policy. Any Party (an "Initiating Party") may, upon reasonable advance written notice to the Decommissioning Agent, conduct an audit of all records, invoices, costs, expenses or liabilities charged to the Initiating Party or for which the Initiating Party has or may have cost responsibility. Parties desiring to perform an audit will cooperate with one another so as to minimize the number of audits and any undue burden upon the Decommissioning Agent. Each such audit will be carried out by an auditor of the Initiating Party's choosing and at the expense of the Initiating Party, except as provided in Section 13.3. The Decommissioning Agent will cooperate with the Initiating Party and the Initiating Party's auditor and will make available its relevant business records at reasonable times and places, upon reasonable advance notice. A copy of the audit report will be provided to all Parties by the Initiating Party within fifteen (15) days of receipt of the audit report.

13.2 Audit Dispute Resolution. If any Party disagrees with an audit finding from an audit conducted under Section 13.1, the Party may within fifteen (15) Business Days of the

receipt of the audit report request in writing that the audit be reviewed by providing such request to all of the Parties. After any such request, the affected Parties will review the expenditure and will endeavor to agree upon whether an over- or under-billing occurred. If, after the review, the affected Parties determine that the expenditure was over- or under-billed, an adjustment to the billing that is the subject of the audit finding will be made to eliminate the over- or under-billing and an adjusted bill will be sent as provided for in Section 13.3. Each Party that receives a payment as a result of under- or over-billing will reimburse the Initiating Party as provided for in Section 13.3. If within thirty (30) Business Days of the date of the mailing of the written request for review the affected Parties are unable to agree in writing on a modification of the expenditure to eliminate the over- or under-billing, the matter will be submitted to dispute resolution pursuant to Section 9.

**13.3 Adjusted Billing Procedures.** If as the result of an audit and any related dispute resolution procedures under Section 13.1 or Section 13.2 it is determined that there was an under- or over-billing, the Decommissioning Agent will issue invoices to correct the under- or over-billing with interest at the Prime Rate. Interest will be calculated from the due date for payments on the prior invoices that included the under- or over-billed amounts to the date of the revised billings. The owing Party will pay any amounts owed on the corrected invoices within twenty (20) Business Days after receipt of the revised billing reflecting the result of the audit report. Each Party (other than an Initiating Party) that receives a payment or credit as a result of an audit report will reimburse the Initiating Party for the cost of the audit based on the amount received by such Party as a percentage of the total amount of payments and credits received by Parties; provided that if the amount received by a Party is less than the lower of (i) \$5,000 or (ii) ten percent (10%) of the amount of the disputed billing, no reimbursement for the audit costs will be required.

**13.4 Audit of Decommissioning A&G Expenses.** To the extent practicable, any audit of Decommissioning A&G Expenses will be coordinated with audits of A&G expenses under any other San Juan Project-related agreements.

**14.0 Uncontrollable Forces.** No Party will be considered to be in default in the performance of any of its obligations hereunder (other than obligations of a Party to pay costs and expenses and to fully fund its Decommissioning Trust) if failure of performance is due to Uncontrollable Forces. The term “Uncontrollable Forces” means any cause beyond the control of the Party affected, including failure of facilities, flood, earthquake, storm, fire, lightning, epidemic or pandemic, war, riot, civil disturbance, labor dispute, sabotage or terrorism, restraint by court order or public authority, or failure to obtain approval from a necessary Governmental Authority which by exercise of due diligence and foresight such Party could not reasonably have been expected to avoid and which by exercise of due diligence it is unable to overcome. Nothing contained herein requires a Party to settle any strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any obligation by reason of Uncontrollable Forces will promptly provide notice to the other Parties and exercise due diligence to remove such inability with all reasonable dispatch.

**15.0 Invalid Provisions.** If any provision of this Decommissioning Agreement is held to be illegal, invalid or unenforceable under any present or future Law, and if the rights or obligations of any Party under this Decommissioning Agreement will not be materially and

adversely affected thereby, such provision will be fully severable, this Decommissioning Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, the remaining provisions of this Decommissioning Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom, and the Parties will negotiate in good faith to attempt to agree upon a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

## **16.0 Applicable Law and Venue**

16.1 Compliance with Law. The Parties will comply with all applicable Law in the performance of their respective obligations under this Decommissioning Agreement.

16.2 Governing Law. This Decommissioning Agreement is made under and will be governed by New Mexico law, without regard to conflicts of Law or choice of Law principles that would require the application of the Laws of a different jurisdiction.

16.3 Venue. Venue with respect to any judicial proceeding arising out of or relating to this Decommissioning Agreement will lie exclusively in the state or federal courts in Albuquerque, New Mexico, and the Parties irrevocably consent and submit to the exclusive jurisdiction of such courts for such purpose and irrevocably waive the defense of an inconvenient forum to the maintenance of any such action or proceeding. Service of process may be made in any manner recognized by such courts. A final judgment of the state or federal court will be enforceable in other states under applicable Law.

## **17.0 Entire Agreement**

17.1 Entire Agreement. This Decommissioning Agreement, together with the schedules and exhibits hereto and the Decommissioning Trust Agreements, supersede all prior negotiations, agreements and understandings between the Parties with respect to the covenants and obligations agreed upon in this Decommissioning Agreement.

17.2 Amendment and Modification. Except as otherwise provided herein, this Decommissioning Agreement may be amended, modified or supplemented only by written instrument executed by all of the Parties with the same formality as this Decommissioning Agreement.

17.3 Prior Obligations Unaffected. Except as otherwise provided herein, nothing in this Decommissioning Agreement will be deemed to relieve the Parties of their obligations in effect prior to the Effective Date and such obligations will continue in full force and effect until satisfied or as otherwise mutually agreed.

**18.0 No Interpretation Against Drafter**. This Decommissioning Agreement has been drafted with the full participation by all of the Parties and their counsel of choice, and no provision of this Decommissioning Agreement will be construed against any Party on the ground that such Party or its counsel was the author of such provision. All of the provisions of this



Decommissioning Agreement will be construed in a reasonable manner to give effect to the intentions of the Parties in executing this Decommissioning Agreement.

**19.0 Independent Covenants.** The covenants and obligations set forth in this Decommissioning Agreement are independent covenants, not dependent covenants, and the obligation of a Party to perform all of the obligations and covenants to be by it kept and performed is not conditioned on the performance by another Party of all the covenants and obligations to be kept and performed by it. Nothing in this Section 19 affects the rights of the Parties under the dispute resolution and default provisions of Sections 8 and 9.

**20.0 Other Documents.** Each Party agrees, upon request of another Party, to make, execute and deliver any and all documents and instruments reasonably required to carry into effect the terms of this Decommissioning Agreement; provided, that such documents and instruments will not increase or expand the obligations of a Party hereunder.

## **21.0 Notices**

21.1 Manner of Giving of Notice. Any notice, demand or request provided for in this Decommissioning Agreement, or served, given or made in connection with it, will be deemed properly served, given or made (i) when delivered personally or by prepaid overnight courier, with a record of receipt; (ii) on the fourth day after mailing if mailed by certified mail, return receipt requested; or (iii) on the day of transmission, if sent by facsimile or electronic mail during regular business hours or the day after transmission, if sent after regular business hours (provided, however, that such facsimile or electronic mail will be followed on the same day or next Business Day with the sending of a duplicate notice, demand or request by a nationally recognized prepaid overnight courier with record of receipt), to the persons specified below:

21.1.1 Public Service Company of New Mexico  
Attn: Vice President, PNM Generation  
2401 Aztec N.E., Bldg. A  
Albuquerque, NM 87107

With a copy to:

Public Service Company of New Mexico  
c/o Secretary  
414 Silver Ave. S.W.  
Albuquerque, NM 87102

21.1.2 Tucson Electric Power Company  
88 E. Broadway Blvd.  
MS HQE901  
Tucson, AZ 85701  
Attn: Corporate Secretary

21.1.3 City of Farmington

c/o City Clerk  
800 Municipal Drive  
Farmington, NM 87401

with a copy to:

Farmington Electric Utility System  
Electric Utility Director  
101 North Browning Parkway  
Farmington, NM 87401

21.1.4 M-S-R Public Power Agency  
c/o General Manager  
1231 11<sup>th</sup> Street  
Modesto, CA 95354

21.1.5 Southern California Public Power Authority  
c/o Executive Director  
1160 Nicole Court  
Glendora, CA 91740

21.1.6 City of Anaheim  
c/o City Clerk  
200 South Anaheim Boulevard  
Anaheim, CA 92805

with a copy to:

Public Utilities General Manager  
201 South Anaheim Boulevard  
Suite 1101  
Anaheim, CA 92805

21.1.7 Incorporated County of  
Los Alamos, New Mexico  
c/o County Clerk  
1000 Central Ave.  
Suite 240  
Los Alamos, NM 87544

with a copy to:

Incorporated County of  
Los Alamos, New Mexico  
c/o Utilities Manager  
1000 Central Ave.

Suite 130  
Los Alamos, NM 87544

21.1.8 Utah Associated Municipal Power Systems  
c/o General Manager  
155 North 400 West  
Suite 480  
Salt Lake City, UT 84103

21.1.9 Tri-State Generation and Transmission  
Association, Inc.  
c/o Chief Executive Officer  
1100 West 116<sup>th</sup> Avenue  
Westminster, CO 80234  
Or P. O. Box 33695  
Denver, CO 80233

For purposes of overnight courier service, Tri-State's address will be:

Tri-State Generation and Transmission Association, Inc.  
c/o Chief Executive Officer  
3761 Eureka Way  
Frederick, CO 80516

21.1.10 PNMR Development and Management Corporation  
c/o Corporate Secretary  
PNM Resources  
Corporate Headquarters  
414 Silver Ave. S.W.  
Albuquerque, NM 87102

21.2 Changes in Designation. A Party may, at any time or from time-to-time, by written notice to the other Parties, change the designation or address of the person so specified as the one to receive notices pursuant to this Decommissioning Agreement.

**22.0 Captions and Headings.** The captions and headings appearing in this Decommissioning Agreement are inserted merely to facilitate reference and will have no bearing upon the interpretation of the provisions hereof.

### **23.0 Effect of Municipal Law**

23.1 Anaheim and M-S-R. Anaheim (which includes its Public Utilities Department) and M-S-R are governmental entities whose liability is limited by the California Government Claims Act (Government Code §§ 810 – 998.3) and any liability or indemnity assumed by Anaheim or M-S-R in this Decommissioning Agreement will be limited by the provisions of the

California Government Claims Act. Nothing in this Decommissioning Agreement is intended to create or will be construed or applied to create any obligation, agreement, covenant or promise to indemnify, hold harmless or defend which is against public policy, void and unenforceable. Notwithstanding any other provision of this Decommissioning Agreement, the payment for all purchases, fees or charges made by Anaheim or M-S-R under this Decommissioning Agreement will be made from the legally available revenues of M-S-R or the legally available revenues of the Anaheim Electric System. In no event will the obligation to pay under this Decommissioning Agreement be considered an obligation against the general faith and credit or general taxing power of Anaheim or of M-S-R or any of the members of M-S-R.

23.2 Southern California Public Power Authority. SCPPA is a joint exercise of powers agency organized under the laws of the State of California, created to acquire, construct, finance, operate and maintain generation and transmission projects on behalf of its members. In no event will the obligation to pay under this Decommissioning Agreement be considered an obligation against the general faith and credit or taxing power of any member of SCPPA.

23.3 Farmington and Los Alamos. Farmington (and the Farmington Electric Utility System) and Los Alamos are governmental entities whose liability is limited by the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1 through 41-4-27, and any liability or indemnity assumed by Farmington and the Farmington Electric Utility System or Los Alamos in this Decommissioning Agreement will be limited by the provisions of the New Mexico Tort Claims Act. Notwithstanding any other provisions of this Decommissioning Agreement, the payment for all purchases, fees or charges made by Farmington and Los Alamos under this Decommissioning Agreement will be made from the legally available revenues of Farmington's and/or Los Alamos's Electric Utility System. In no event will the obligation to pay under this Decommissioning Agreement be considered an obligation against the general faith and credit or general taxing power of Farmington or Los Alamos.

23.4 Utah Associated Municipal Power Systems. UAMPS is a joint action agency organized under the laws of the State of Utah, created to acquire, construct, finance, operate and maintain generation and transmission projects on behalf of its members. In no event will the obligation to pay under this Decommissioning Agreement be considered an obligation against the general faith and credit or taxing power of any member of UAMPS.

**24.0 Parties' Cost Responsibilities.** Except for costs incurred by the Decommissioning Agent in its capacity as Decommissioning Agent, each Party will be solely responsible for its own costs and expenses, including fees and costs of counsel, incurred in connection with the negotiation of this Decommissioning Agreement and with any actions associated with the implementation of this Decommissioning Agreement.

**25.0 No Third Party Beneficiaries.** The terms and provisions of this Decommissioning Agreement are intended solely for the benefit of the Parties and their respective successors and permitted assigns, and it is not the intention of the Parties to confer third-party beneficiary rights upon any other person.

**26.0 No Admission of Liability.** The terms of this Decommissioning Agreement are the product of compromise between and among the Parties. Neither any conduct nor statements made in its negotiation, nor entry by the Parties into it, will constitute evidence of, or an admission of, liability; provided, however, nothing in this Section 26 will be construed or interpreted to excuse any Party from, or be used by any Party to argue against, that Party's performance of any of its obligations under this Decommissioning Agreement.

## **27.0 Confidentiality**

**27.1 Confidentiality of Negotiations.** The Parties' discussions and negotiations that led to the development of this Decommissioning Agreement, the Restructuring Agreement, the Mine Reclamation Agreement, the SJPPA Restructuring Amendment and the SJPPA Exit Date Amendment, including discussions taking place in the context of mediation, were conducted in confidence and will remain confidential; provided, that nothing herein will prevent a Party from making disclosures pursuant to a requirement of Law (including laws related to the inspection of public records and securities), including a subpoena or discovery request. If any Party determines that it is legally obligated to make a disclosure, the Party obligated to make such disclosure will make reasonable efforts to notify the other Parties prior to such disclosure and will reasonably cooperate with any other Party in seeking an order of a Governmental Authority preventing or limiting such disclosure; provided further, however, that the Party seeking any such order to prevent or limit disclosure will be responsible for all costs for seeking such an order. Prior to making disclosure, a Party will, as available or appropriate, attempt to utilize a confidentiality agreement to protect the confidentiality of the information disclosed.

**27.2 Non-confidentiality of Decommissioning Agreement.** While negotiations were and remain confidential as addressed in Section 27.1, neither this Decommissioning Agreement nor any version of it publicly disclosed pursuant to applicable Law is confidential.

**28.0 Damages.** In no event will any Party be liable under any provision of this Decommissioning Agreement for any indirect, punitive or incidental damages or costs of any other Party (including loss of revenue, cost of capital and loss of business reputation or opportunity), whether based in contract, tort (including negligence or strict liability), or otherwise, and the Parties hereby waive, release and discharge one another from all such indirect, punitive and incidental damages and costs.


**29.0 Execution in Counterparts.** This Decommissioning Agreement may be executed in any number of counterparts, and each executed counterpart will have the same force and effect as an original instrument as if all the Parties to the aggregated counterparts had signed the same instrument. Any signature page of this Decommissioning Agreement may be detached from any counterpart thereof without impairing the legal effect of any signatures thereon and may be attached to any other counterpart of this Decommissioning Agreement identical in form thereto but having attached to it one or more additional pages. Electronic or pdf signatures will have the same effect as an original signature.

**IN WITNESS WHEREOF**, the Parties have caused this Decommissioning Agreement to be executed on their behalf and the signatories hereto represent that they have been duly

authorized to enter into this Decommissioning Agreement on behalf of the Party for whom they sign.

[Signatures on succeeding pages]

**PUBLIC SERVICE COMPANY OF NEW MEXICO**

By:   
Its: Vice President, Generation  
Date: June 30, 2015

**TUCSON ELECTRIC POWER COMPANY**

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

**THE CITY OF FARMINGTON, NEW MEXICO**

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

**M-S-R PUBLIC POWER AGENCY**

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

**THE INCORPORATED COUNTY OF LOS ALAMOS, NEW MEXICO**

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

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY**

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

**CITY OF ANAHEIM**

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





**PUBLIC SERVICE COMPANY OF NEW MEXICO**

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

**TUCSON ELECTRIC POWER COMPANY**

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

**THE CITY OF FARMINGTON, NEW MEXICO**

By: Robert Mann  
Its: City Manager  
Date: 7/11/15

**M-S-R PUBLIC POWER AGENCY**

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

**THE INCORPORATED COUNTY OF LOS ALAMOS, NEW MEXICO**

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

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY**

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

**CITY OF ANAHEIM**

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

**UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS**

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

Its: \_\_\_\_\_

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

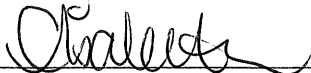
**TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.**

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

Its: \_\_\_\_\_

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

**PNMR DEVELOPMENT AND MANAGEMENT CORPORATION**

By: 

Its: President, Chief Executive Officer and Treasurer

Date: June 30, 2015

**EXHIBIT A**  
**DECOMMISSIONING SHARES<sup>1</sup>**

	Pre 2018	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
<b>PNM</b>	46.6%	46.9%	47.2%	47.5%	47.8%	48.0%	48.3%	48.5%	48.8%	49.0%	49.2%	49.4%
<b>PNMR</b>	-	0.2%	0.4%	0.6%	0.8%	0.9%	1.1%	1.3%	1.4%	1.5%	1.7%	1.8%
<b>TEP</b>	20.2%	20.2%	20.2%	20.2%	20.2%	20.2%	20.2%	20.2%	20.2%	20.2%	20.2%	20.2%
<b>MSR</b>	8.7%	8.4%	8.2%	8.0%	7.8%	7.6%	7.4%	7.3%	7.1%	6.9%	6.8%	6.6%
<b>COF</b>	2.6%	2.6%	2.7%	2.7%	2.8%	2.9%	2.9%	3.0%	3.0%	3.1%	3.1%	3.1%
<b>Tri State</b>	2.4%	2.4%	2.3%	2.2%	2.2%	2.1%	2.1%	2.0%	2.0%	1.9%	1.9%	1.8%
<b>LAC</b>	2.2%	2.2%	2.3%	2.3%	2.4%	2.4%	2.5%	2.5%	2.6%	2.6%	2.6%	2.7%
<b>SCPPA</b>	12.3%	12.0%	11.7%	11.4%	11.1%	10.8%	10.5%	10.3%	10.1%	9.8%	9.6%	9.4%
<b>COA</b>	3.0%	2.9%	2.9%	2.8%	2.7%	2.7%	2.6%	2.5%	2.5%	2.4%	2.4%	2.3%
<b>UAMPS</b>	2.1%	2.2%	2.2%	2.3%	2.3%	2.4%	2.4%	2.5%	2.5%	2.5%	2.6%	2.6%
<b>Total</b>	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040
<b>PNM</b>	49.6%	49.8%	50.0%	50.1%	50.3%	50.5%	50.6%	50.8%	50.9%	51.0%	51.2%	51.3%
<b>PNMR</b>	1.9%	2.0%	2.2%	2.3%	2.4%	2.5%	2.6%	2.7%	2.8%	2.8%	2.9%	3.0%
<b>TEP</b>	20.2%	20.2%	20.2%	20.2%	20.2%	20.2%	20.2%	20.1%	20.1%	20.1%	20.1%	20.1%
<b>MSR</b>	6.5%	6.4%	6.2%	6.1%	6.0%	5.9%	5.8%	5.7%	5.6%	5.5%	5.4%	5.3%
<b>COF</b>	3.2%	3.2%	3.3%	3.3%	3.3%	3.4%	3.4%	3.4%	3.5%	3.5%	3.5%	3.5%
<b>Tri State</b>	1.8%	1.8%	1.7%	1.7%	1.7%	1.6%	1.6%	1.6%	1.6%	1.5%	1.5%	1.5%
<b>LAC</b>	2.7%	2.7%	2.8%	2.8%	2.8%	2.9%	2.9%	2.9%	2.9%	3.0%	3.0%	3.0%
<b>SCPPA</b>	9.2%	9.0%	8.8%	8.7%	8.5%	8.3%	8.2%	8.0%	7.9%	7.8%	7.6%	7.5%
<b>COA</b>	2.3%	2.2%	2.2%	2.1%	2.1%	2.0%	2.0%	2.0%	1.9%	1.9%	1.9%	1.8%
<b>UAMPS</b>	2.6%	2.7%	2.7%	2.7%	2.8%	2.8%	2.8%	2.8%	2.9%	2.9%	2.9%	2.9%
<b>Total</b>	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053
<b>PNM</b>	51.4%	51.5%	51.7%	51.8%	51.9%	52.0%	52.1%	52.2%	52.3%	52.4%	52.5%	52.5%	52.6%
<b>PNMR</b>	3.1%	3.2%	3.2%	3.3%	3.4%	3.4%	3.5%	3.6%	3.6%	3.7%	3.7%	3.8%	3.8%
<b>TEP</b>	20.1%	20.1%	20.1%	20.1%	20.1%	20.1%	20.1%	20.1%	20.1%	20.1%	20.1%	20.1%	20.1%
<b>MSR</b>	5.2%	5.1%	5.0%	4.9%	4.9%	4.8%	4.7%	4.6%	4.6%	4.5%	4.4%	4.4%	4.3%
<b>COF</b>	3.6%	3.6%	3.6%	3.6%	3.7%	3.7%	3.7%	3.7%	3.7%	3.8%	3.8%	3.8%	3.8%
<b>Tri State</b>	1.4%	1.4%	1.4%	1.4%	1.4%	1.3%	1.3%	1.3%	1.3%	1.3%	1.2%	1.2%	1.2%
<b>LAC</b>	3.0%	3.0%	3.1%	3.1%	3.1%	3.1%	3.1%	3.2%	3.2%	3.2%	3.2%	3.2%	3.2%
<b>SCPPA</b>	7.4%	7.2%	7.1%	7.0%	6.9%	6.8%	6.7%	6.6%	6.5%	6.4%	6.3%	6.2%	6.1%
<b>COA</b>	1.8%	1.8%	1.8%	1.7%	1.7%	1.7%	1.6%	1.6%	1.6%	1.6%	1.5%	1.5%	1.5%
<b>UAMPS</b>	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.1%	3.1%	3.1%	3.1%	3.1%	3.1%	3.2%
<b>Total</b>	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

<sup>1</sup> Assumes Units 1 and 4 retire at the same time and there is no change in ownership or Unit rating. Should any of the assumptions change, the Decommissioning Committee will recalculate the Decommissioning Shares.

**EXHIBIT B****MANDATORY PROVISIONS**

Trust provisions substantially as shown below are considered to be the “Mandatory Provisions” for the individual Party Decommissioning Trust Agreements as required by Section 6.1 of the San Juan Decommissioning and Trust Funds Agreement (for purposes of this Exhibit B, the “Decommissioning Agreement”). For purposes of this Exhibit B, “Party A” refers to the Party that is a party to a Decommissioning Trust Agreement entered into pursuant to the terms of the Decommissioning Agreement. The numbering provisions in this form are for purposes of convenience and need not correspond to the actual section numbers in the actual Decommissioning Trust Agreement.

1. Purpose. The purpose of this Decommissioning Trust Agreement is to provide funding for the payment of Decommissioning Costs for the San Juan Project in accordance with Party A’s obligations as set out in the Decommissioning Agreement.
2. Identification of Beneficiaries. The beneficiaries of this Decommissioning Trust (“Beneficiaries”) are: (i) Party A, as the settlor; (ii) each of the other Parties to the San Juan Decommissioning and Trust Funds Agreement (“Decommissioning Agreement”); and (iii) the Decommissioning Agent as provided for in the Decommissioning Agreement. At the time of the establishment of Party A’s Trust, Party A will notify the Trustee of the names and contact information of all of the Parties to the Decommissioning Agreement and the Decommissioning Agent.
3. Settlor’s Relinquishment of Beneficial Interest. Party A, as settlor of the Trust, retains no beneficial interest in the funds held in trust except to utilize funds in the Trust as set forth in Section 4 and to receive a return of any funds that may remain in the Trust after the purposes of the Trust have been accomplished and the Trust has been terminated.
4. Decommissioning Trust Fund. Party A hereby establishes and is funding herewith the Decommissioning Trust Fund in accordance with the Decommissioning Agreement. Prior to termination, funds may be disbursed from the Decommissioning Trust Fund for the following and no other purposes: (a) to pay the costs and fees associated with the maintenance of the Decommissioning Trust Account, including the fees and expenses of the Trustee; and (b) to pay Party A’s Decommissioning Share (as defined in Section 5.3 and Exhibit A of the Decommissioning Agreement) of Decommissioning Costs pursuant to invoices rendered to Party A by the Decommissioning Agent (as that term is defined in the Decommissioning Agreement) and approved for payment by Party A. The Trustee will pay funds out of the Decommissioning Trust Fund in accordance with the following procedures. The Decommissioning Agent must bill Party A, in writing, for Decommissioning Costs at least ten (10) Business Days prior to the date that payment is due. Party A must promptly review such invoice and, upon Party A’s review and approval of such invoice from the Decommissioning Agent, must direct the Trustee to pay such invoice by making payment out of the assets of the Decommissioning Trust, in immediately available funds, to the Decommissioning Agent. Upon the making of such payment, the Trustee must provide notice of such payment to Party A. Party A must provide the Trustee with

appropriate wiring instructions for the making of payments in immediately available funds to the Decommissioning Agent. Party A must notify the Trustee of the identity of the Decommissioning Agent and of any changes in the Decommissioning Agent. Subject to and in accordance with the terms and conditions hereof, the Trustee agrees that it will receive, hold in trust, invest, reinvest, and release, disburse or distribute the funds in the Decommissioning Trust Account (“Decommissioning Trust Funds”). All interest and other earnings on the Decommissioning Trust Funds will become a part of the Decommissioning Trust Account and the Decommissioning Trust Funds for all purposes, and all losses resulting from the investment or reinvestment thereof from time to time, and all amounts charged thereto to compensate or reimburse the Trustee for amounts owing to it hereunder from time to time, will be set off against the Decommissioning Trust Funds, from the time of such loss or charge, and thereafter no longer will constitute part of the Decommissioning Trust Funds.

5. Funding Provisions. Party A must fund the Decommissioning Trust Account according to the terms set forth in the Decommissioning Agreement. The Trustee will have no obligation to take any action whatsoever in connection with Party A’s funding of the Decommissioning Trust, or to enforce any obligations that Party A has, or may have, under the Decommissioning Agreement with respect to the funding of the Decommissioning Trust.

6. Modifications. A Decommissioning Trust created pursuant to this Agreement is irrevocable and may not be modified by Party A in a manner that (i) is inconsistent with the Decommissioning Agreement; or (ii) will adversely affect the ability of any Beneficiary to perform its obligations under the Decommissioning Agreement. It will be a condition to any modification of this Agreement that Party A has certified to the Trustee that such modification is not inconsistent with the Decommissioning Agreement and will not adversely affect the ability of any Beneficiary to perform its obligations under the Decommissioning Agreement. In no circumstance will this Agreement be modified in a way that impacts the Trustee’s rights or duties, without the Trustee’s prior written consent.

7. Good Faith Duties of Administration. The Trustee must exercise reasonable care, skill and caution in the administration of the Decommissioning Trust and must administer the Decommissioning Trust in good faith, in accordance with the terms of this Agreement. The Trustee must take reasonable steps to protect the Decommissioning Trust property.

8. No Conflicts of Interest. The Decommissioning Trust will be administered solely in the interests of the Beneficiaries. The Trustee may not permit to exist a conflict of interest between its duties under this Agreement and its personal interests and must keep the Decommissioning Trust property separate from the Trustee’s own property.

9. Trustee Records and Reports. The Trustee must keep or cause to be kept and maintained accurate books and records reflecting all income, principal and expense transactions, which books and records will be open at all reasonable times for inspection by Party A or its duly authorized representatives, upon at least two (2) Business Days prior written notice to the Trustee. The Trustee must furnish statements to Party A and the Decommissioning Agent at least as often as annually, as directed by Party A. The Trustee must promptly respond to requests for information related to the administration of the Decommissioning Trust from Party

A. When applicable and required by applicable regulations, the Trustee will issue annual IRS Form 1099.

10. Scope of Undertaking. The Trustee [, as a fiduciary] [Party A and the Trustee may insert this language or omit it] will be subject to and must perform all duties in accordance with [this Agreement] [all rules of law relating to fiduciaries and trustees] [Party A and the Trustee may insert either of the bracketed phrases.]. The Trustee will perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants, agreements or duties will be read into this Agreement against the Trustee. The Trustee will have no duty to perform, cause the performance of, manage, monitor, evaluate or approve the Decommissioning Work. The Trustee is not a principal, participant, or beneficiary in any transaction underlying this Agreement and will have no duty to inquire beyond the terms and provisions of this Agreement except as specifically provided herein. The Trustee will not be required to deliver the Decommissioning Trust Funds or any part thereof, or take any action with respect to any matters that might arise in connection therewith, other than to receive, hold in trust, invest, reinvest, and release, disburse or distribute the Decommissioning Trust Funds as herein provided. The Trustee will not be required to notify or obtain the consent, approval, authorization or order of any court or governmental body to perform its obligations under this Agreement, except as expressly provided herein. Without limiting the generality of the foregoing, it is hereby expressly agreed and stipulated by the Parties that, unless otherwise provided herein, the Trustee will not be required to exercise any discretion hereunder and will have no investment or management responsibility and, accordingly, will have no duty to, or liability for its failure to, provide investment recommendations or investment advice to Party A. The Trustee will not be liable for any error in judgment, any act or omission, any mistake of law or fact, or for anything it may do or refrain from doing in connection herewith, subject, however, to its own willful misconduct or [negligence] [gross negligence] [Party A and the Trustee may agree upon either standard]. It is the intention of the Parties that the Trustee will not be required to use, advance or risk its own funds or otherwise incur financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder.

11. Termination of Decommissioning Trust and of this Agreement. The Decommissioning Trust and this Agreement will terminate no earlier than twenty-four (24) months after the Decommissioning Committee determines that the Decommissioning Work is complete; provided, however, that in the event all fees, expenses, costs and other amounts required to be paid to the Trustee hereunder are not fully and finally paid prior to termination, the provisions of Section \_\_\_ [concerning payment of Trustee] will survive the termination hereof, and provided further, that the provisions of Section \_\_\_ [concerning interpleader] and Section \_\_\_ [concerning indemnity] if applicable) will, in any event, survive the termination hereof. Notice of termination of the Decommissioning Trust and of this Agreement must be provided to the Trustee in the following manner: the Decommissioning Agent, at the direction of the Decommissioning Committee, must give written notice to Party A and to each of the other Parties that the Decommissioning Work was completed , and Party A must, in turn, give written notice to the Trustee of the satisfaction of Party A's obligations under the Decommissioning Agreement.

12. Distribution of Assets. Until satisfaction of Party A's obligations under the Decommissioning Agreement, Party A will have no right of return of any of the

Decommissioning Trust Funds. Upon the termination of this Agreement, the Trustee must distribute any remaining assets in the Decommissioning Trust Account to Party A.

13. Spendthrift Clause. The interests of the Beneficiaries are held subject to a spendthrift trust. No interest in the Decommissioning Trust Funds established pursuant to this Agreement will be transferable or assignable, voluntarily or involuntarily, or be subject to the claims of Party A or its creditors other than as provided in the Decommissioning Agreement.

14. Tax Matters. Party A must provide the Trustee with its taxpayer identification number documented by an appropriate Form W8 or W9 (or other appropriate identification information for tax purposes) upon execution of this Agreement. Failure to provide such form may prevent or delay disbursements from the Decommissioning Trust Funds and may also result in the assessment of a penalty and the requirement that the Trustee withhold tax on any interest or other income earned on the Trust Funds. The Parties agree that, for all tax purposes, all interest or other income, gain, or loss from investment of the Trust Funds, as of the end of each calendar year and to the extent required by the Internal Revenue Service or other taxing authority, will be reported as having been earned or lost, as the case may be, by Party A. Any payments of income will be subject to applicable withholding regulations then in force in the United States or any other jurisdiction, as applicable.

15. Third Party Beneficiaries. Nothing in this Agreement will entitle any person other than the Parties to any claim, cause of action, remedy, or right of any kind, except the rights expressly provided to the persons described in Section \_\_\_\_ (if applicable).

**EXHIBIT C**

**SJGS PLANT SITE**

The SJGS Plant Site consists of Parcels A, B, D, E and F in the property descriptions below.

**PARCELA**

The following portions of Township 30 North, Range 15 West, N.M.P.M., San Juan County, New Mexico:

- Section 16: SW 1/4
- Section 20: NE 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4
- Section 21: NW 1/4 NW 1/4
- Section 29: NE 1/4

**PARCEL B**

The following portions of Township 30 North, Range 15 West, N.M.P.M., San Juan County, New Mexico:

- Section 19: SE 1/4 SW 1/4, SW 1/4 SE 1/4
- Section 20: E 1/2 NW 1/4, NE 1/4 SW 1/4
- Section 29: NW 1/4, N 1/2 SW 1/4
- Section 30: NE 1/4, E 1/2 NW 1/4, N 1/2 SE 1/4

**PARCEL D**

The following portions of Township 30 North, Range 15 West, N.M.P.M., San Juan County, New Mexico:

- Section 17: SE 1/4 SW 1/4, S1/2 SE 1/4

**PARCELE**

The following portions of Township 30 North, Range 15 West, N.M.P.M., San Juan County, New Mexico:

- Section 19: SE 1/4 SE 1/4  
NE 1/4 SE 1/4  
E 1/2 NW 1/4 SE 1/4



S 1/2 S 1/2 SE 1/4 NE 1/4

Section 20: SE 1/4 SW 1/4  
SW 1/4 SW 1/4  
NW 1/4 SW 1/4  
S 1/2 SW 1/4 SW 1/4 NW 1/4

Containing 235 acres, more or less.

**PARCEL F**

The following portions of Township 30 North, Range 15 West, N.M.P.M., San Juan County, New Mexico:

Section 20: SE 1/4 SE 1/4

**EXHIBIT D**  
**INITIAL DECOMMISSIONING WORK**

<b>Equipment</b>	<b>Scope</b>	<b>Decommissioning Cost Estimates</b>	
		<b>Unit 2</b>	<b>Unit 3</b>
Cleanup ash/coal residual	Remove ash and coal from external and internal areas following unit shutdown.	\$400,000	\$400,000
Unit 2 Cooling Tower	Unit 2 Cooling Tower is a wood structure that would be demolished for safety and to eliminate the need for periodic inspections.	\$400,000	NA

**EXHIBIT E**  
**RETIREMENT IN PLACE**

EXECUTION VERSION

Equipment	Scope	Costs	
		Unit 2	Unit 3
Mercury switches	Identify, remove, and dispose of instrumentation containing Mercury, Estimated 132 Instruments on U3 and 120 Instruments on U2.	\$25,000	\$25,000
Freon refrigerant	Included in other costs estimates	Included	Included
Lighting Fixture PCB's	Several lighting fixtures contain PCB's. Would isolate and remove those and dispose of PCB's.	\$100,000	\$195,000
Nuclear sources	Remove and dispose of all nuclear source instrumentation. Highest cost is disposal requirements. 51 sources associated with Unit 3, 20 sources associated with Unit 2 - potential for early disposal prior to 2017.	\$112,200	\$44,000
Purge Generator of Hydrogen	Normal shutdown activity	\$0	\$0
Other chemicals (Acid/ Caustic/etc.)	Plans would be to decrease and suspend feed rates in last few weeks and flush in last few days to clean out tanks and equipment.	\$0	\$0
Oil filled equipment	Drain and dispose of oil/fuel from Fans, BFP, AH, CT gearboxes, Mills, Turbine LO, Diesel Generators, EHC fluid, MOVs, LC transformers, motors, HVAC units, sootblowers, hoists, fuel oil, etc.	\$60,000	\$60,000
Resins (Stator Cooling, etc.)	Removal and disposal of resins	\$2,000	\$2,000
Baghouse bags	Remove excess ash from bags	\$5,000	\$5,000

Batteries	Unit 2 - Battery Charger 2C and Batteries 2C, Unit 3 Battery Charger 2B and Batteries 2B (Systems power EBOP & ESOP motors)	\$15,000	\$15,000
DC & UPS System	Disconnect DC circuits and UPS circuits no longer in use	\$15,000	\$15,000
Precipitator T/R sets	Remove oil in Precipitator T/R sets	\$5,000	\$5,000
Safety Surveys	Setup periodic safety survey. Perform walkdown of remaining structures and equipment to identify potential hazards. Make minor remedies.	\$25,000	\$25,000
Ductwork and Misc. Equipment Stabilization	Follow-up from safety survey and other identified items to ensure equipment remains in safe condition	\$75,000	\$75,000
<b>Review of Major Stand Alone Structures</b>			
Stacks	Maintain minimum maintenance to defer tear down costs	\$25,000	\$25,000
Stacks - install stack caps	Install cap on top of stack to protect stack liner and pooling of water internal to the stack.	\$25,000	\$25,000
Stacks	Maintain minimum maintenance to defer tear down costs	* Aircraft light maint - \$5k per year * Elevator PM until obsolete - \$5k per year * Period stack structural inspection \$10k every 2 years-- Light maintenance for caulking up to \$50k over stack life	* Aircraft light maint - \$5k per year * Elevator PM until obsolete - \$5k per year * Period stack structural inspection \$10k every 2years Light maintenance for caulking up to \$50k over stack life.

EXECUTION VERSION

Unit 3 Cooling Tower	Unit 3 Cooling Tower is a metal structure. Philosophy would be same as baghouse to leave in place until structural issues, if any, are identified. Plan would be to drain all equipment and leave in place.	\$0	\$5,000
Other Plant Structures	Typically steel structures that are anticipated to be able to stand until final decommissioning with little maintenance and periodic inspections.	\$5,000	\$5,000
Common Building Dismantle (Southside waste water building, .....)	A number of common unit buildings are no longer necessary. Dismantlement is preference for several of these - undetermined at this time.	\$50,000	\$50,000
Blank off chemical feeds	Blank off feeds to Unit 2 & 3 equipment to ensure no inadvertent filling of equipment or tanks from common chemical systems.	\$20,000	\$20,000
Physical Barriers	Setup physical barriers to prevent access to unmaintained areas.	\$25,000	\$25,000
Boiler	Secure/Close bottom of boiler to prevent draft through system - potentially fill seal tough	\$10,000	\$10,000
Misc. Structural and Environmental Issues	Address any emergent structural integrity or environmental conditions, if any, with equipment and facilities.	TBD	TBD
DCS Logic Changes	Changes to align DCS to two unit operation - logic changes	\$50,000	\$50,000
Medium Voltage Motors	Disconnect 4160V/6900V motors at the switchgear. Label cubicles as spare.	\$20,000	\$20,000
480V Motors	Disconnect 480V motor at the LC/MCC. Label cubicles as spare.	\$30,000	\$30,000
De-energize/disconnect Cooling Tower LC/MCC's	De-energize electrical equipment. Potential physical disconnect to remove potential for inadvertently re-energizing.	\$10,000	\$10,000

EXECUTION VERSION

etc.			
Electrical disconnect from substation	Physical removal high voltage wire between the Generator MOD and the GSU Xfmrs. Physical removal of the potential backfeeds from medium voltage switchgear bus to the Aux Xfmrs and Generator, also included the Aux feeds to the SO2 Switchgear.	\$50,000	\$50,000
Coal Connection	Physically separate coal system so no inadvertent coal added back into Units 2 & 3 silos, etc.	\$15,000	\$15,000
Fire Protection	Insurance provider recommends maintaining fire detection in areas with oil storage or energized electrical equipment. May cap and drain non-operational areas.	\$50,000	\$50,000
Building elevators	Board up unit elevators - will need to transfer ownership on some to remaining owners to allow access to common piping runs, etc. - need better assessment	\$0	\$0
Property Taxes	Review/address continuing obligations, if any, on property taxes.		
Insurance Requirements	Review/address continuing obligations on required insurance.		
Aux Power Requirements	Aux power requirements for freeze protection, FAA warning lights, and other lighting equipment for the retired units.		
Building winter enclosures	Cover and repair vents, louvers, etc. in areas for heat loss and freeze protection in winter and air ventilation in the summer.	\$10,000	\$10,000

**EXHIBIT F****EQUIPMENT REQUIRED FOR ON-GOING  
OPERATION OF UNITS 1 AND 4**

<b>Unit Needing Support</b>	<b>Unit Providing Support</b>	<b>Common System</b>	<b>Power Source Feeding</b>	<b>Notes</b>
1	2	Sootblowing Air Compressors #1,2, and 3	2C 480 breakers	
1	2	Unit Plant Air compressor #1	2A 4160	
1	2	Unit Plant Air compressor #2 and 3	2B 4160	
4	3	Sootblowing Air Compressors A and B	U3 6900	
4	3	Bearing Cooling Water Pumps A and B	3A and 3B load centers	
1 and 4	2	Lake Station	U2 4160 A Bus	
1 and 4	2	U1 and U2 Ash Water	U2 4160	
1 and 4		Coal System		
1	2	Baghouse Air Compressor	U2	
4	3	Baghouse Air Compressor	U3 6900	
1		Demineralizer System		
4		Demineralizer System		
1	2	Bearing Cooling Water Pumps	U2	
1	2	Boiler Blowdown		Manual Valves
1 and 4	4	Oxidation Air Blowers	U3 and U4 01 MCC	
Common		Limestone Slurry System C Huff Tank		
4	3 and 4	Aux Cooling System	Switchyard	Blank off U3 Piping
1	1 and 2	Raw Water Supply	U2	
4	3 and 4	Raw Water Supply	U3	Heat Trace and Structure
4	3 and 4	HVAC	U3	
1	1 and 2	Control Room	U2	
4	3 and 4	Control Room	U3	
Common	2	Potable Water	U2	
1	1 and 2	Relay Room	U2	
4	3 and 4	Relay Room	U3	
Common	2	Lab and 1 and 2 Maintenance Shop	U2	
Common		Building Steam		Isolation
1	1 and 2	ME Wash 01 Area		Common Tank and Pumping



EXECUTION VERSION

Unit Needing Support	Unit Providing Support	Common System	Power Source Feeding	Notes
				System
4	3 and 4	ME Wash 01 Area		Common Tank and Pumping System
1	1 and 2	Fuel Oil Pumping	U2	
4	3 and 4	Start-Up Boiler Feedpump	U3	
Common	2 and 3	Cranes and Elevators	U2 and U3	
4	3 and 4	CT Chemical Injection	U3	
1	1 and 2	Stack Relay, DCS, and LOTO Area	U3	
1	1 and 2	U1 and U2 FP Booster Pump	U2	
4	3 and 4	U3 and U4 FP Booster Pump	U3	
1	1 and 2	CO2 System	U2	
4	3 and 4	CO2 System	U3	
Common		Control System AC Power		Backup Sources from Sister Unit
1	1 and 2	Sample Panel	U2	
4	3 and 4	Sample Panel	U3	
1	1 and 2	Hydrogen Panels		Valving or Capping
4	3 and 4	Hydrogen Panels		Valving or Capping
Common		DBA Tank and Piping	U3	
1	1 and 2	Cathodic Protection	U2	
4	3 and 4	Cathodic Protection	U3	
Common		Aux Steam		
1	1 and 2	Tripper Deck Exhaust Fans	U2	
4	3 and 4	Tripper Deck Exhaust Fans	U3	
1	1 and 2	Lighting	U2	
4	3 and 4	Lighting	U3	
1	2	Stack Lighting	U2	Needed if Stack not Demolished
4	3	Stack Lighting	U3	Needed if Stack not Demolished
Common	2 and 3	Radio repeater System	U2 and U3	
Common		Contractor Support Shop	U2 and U3	