

GUARANTY AGREEMENT

1. PARTIES

1.1 This Guaranty Agreement (the “Guaranty”) is made by _____ (the “Guarantor”), a corporation duly organized under the laws of _____ in favor of the **SILVER STATE ENERGY ASSOCIATION** (“SSEA” or the “Counterparty”), a political subdivision of the state of Nevada.

1.2 The Guarantor and the Counterparty are hereinafter referred to singly as “Party” and collectively as “Parties.”

1.3 As used in this Guaranty:

1.3.1 “Guarantor” and “Counterparty” respectively include the Party’s successors-in-interest and assigns.

2. EXPLANATORY RECITALS

2.1 The Counterparty is or may become a party to an unspecified number of physically traded electricity contracts, including, but not limited to, forwards, options, and exchanges, during an open-ended period with _____, a subsidiary of the Guarantor (the “Subsidiary”), under the WSPP Agreement, as amended periodically and on file with the Federal Energy Regulatory Commission (the “WSPP Agreement”) and any Confirmations or other documents executed in connection with the WSPP Agreement, (collectively, whether one or more, the “Agreement” or “Agreements”).

2.2 As parent of the Subsidiary, the Guarantor will receive substantial and direct benefits from the transactions contemplated by the Agreement, and has agreed to enter into this Guaranty to induce the Counterparty to enter into those transactions by providing assurance for the payment obligations of the Subsidiary in connection with the Agreement.

2.3 The Parties intend that this Guaranty be special, absolute and continuing and not general, conditional or restricted.

IN CONSIDERATION of good and valuable consideration, the adequacy, receipt and sufficiency of which are hereby acknowledged, the Guarantor hereby agrees as follows:

3. GUARANTY

3.1 **Statement of Guaranty.** Subject to written demand in accordance with section 6, and except as limited by subsection 3.2, the Guarantor hereby unconditionally, absolutely and irrevocably guarantees to the Counterparty the prompt and complete payment when due, whether by acceleration or otherwise, of:

3.1.1 all payment obligations and liabilities of the Subsidiary arising under any Agreement, whether now in existence or hereafter arising, as the Agreement may be amended or modified by agreement between the Subsidiary and the Counterparty from time to time. These

payment obligations and liabilities are hereinafter referred to collectively as the “Guaranteed Obligations.”

3.1.2 all interest at the rate provided in the Agreement and, except as provided in the next sentence, reasonable attorneys’ fees, court costs, and other costs and expenses incurred by the Counterparty in collecting or compromising any Guaranteed Obligation from or with the Subsidiary or in enforcing this Guaranty. The Guarantor shall not be liable for any such costs and expenses if no payment obligation or liability as described in paragraph 3.1.1 is due under the Agreement.

3.2 **Limitation on Liability.** Notwithstanding the aggregate amount of the Guaranteed Obligations at any time or from time to time payable by the Subsidiary to the Counterparty, the total liability of the Guarantor to the Counterparty under this Guaranty at any one time, exclusive of liability for interest and the costs and expenses described in paragraph 3.1.2, is limited to the lesser of:

3.2.1 the Guaranteed Obligations under all Agreements; or

3.2.2 _____ million U.S. Dollars (\$___,000,000.00).

3.3 **Reimbursement of Returned Amounts.** In addition, subject to the limitations of subsections 3.1 and 3.2, the Guarantor shall reimburse the Counterparty for all sums paid to the Counterparty by the Subsidiary with respect to Guaranteed Obligations which the Counterparty is subsequently required to return to the Subsidiary or a representative of the Subsidiary’s creditors as a result of the Subsidiary’s bankruptcy, insolvency, reorganization, liquidation, receivership, or similar proceeding.

3.4 **Indebtedness in Excess of Limitation.** The liability of the Guarantor under this Guaranty to the extent of the limitation provided in subsection 3.2.2 shall not be affected or impaired by the existence, from time to time, of an indebtedness or liability of the Subsidiary to the Counterparty in excess of the amount provided in that paragraph.

3.5 **Payment Only.** The Guarantor’s payment obligations and liability under this Guaranty shall be limited to those described in subsection 3.1, and, except as provided in subsection 7.1, the Guarantor shall have no obligation to perform under any Agreement, including, without limitation, to sell, deliver, supply or transport electricity.

4. NATURE OF GUARANTY

4.1 Liability Several, Primary, Absolute and Continuing.

4.1.1 The payment obligations of the Guarantor hereunder are several and not joint with the Subsidiary or any other person, and are primary obligations for which the Guarantor is the principal obligor and not a surety. Although the obligations for which Guarantor is the principal obligor are primary as noted above, the primary nature of the obligations will not otherwise affect the payment procedures described in Section 3 of this Guaranty.

4.1.2 There are no conditions precedent to the enforcement of this Guaranty, except as expressly provided in subsection 6.1. It shall not be necessary for the Counterparty, in order to enforce payment by the Guarantor under this Guaranty, to exhaust its remedies against the Subsidiary or any collateral pledged by Subsidiary, any other guarantor, or any other person liable for the payment or performance of the Guaranteed Obligations, or otherwise mitigate damages or take any other action to reduce, collect, or enforce the Guaranteed Obligations. This Guaranty is an independent guaranty of payment, and not a guaranty of payment through collection, and shall apply regardless of whether recovery of all such Guaranteed Obligations may be discharged or uncollectible in any bankruptcy, insolvency, reorganization, liquidation, receivership, or similar proceeding affecting the Subsidiary or its assets. The Counterparty is not obligated to file any claim relating to the Guaranteed Obligations should the Subsidiary become subject to a bankruptcy, reorganization or similar proceeding, and the failure of the Counterparty to so file shall not affect the Guarantor's obligations hereunder.

4.1.3 The Guarantor agrees that this is a continuing guaranty. This Guaranty may be terminated only as provided in subsection 9.6. Until terminated as provided in subsection 9.6, this Guaranty shall cover all future indebtedness of the Subsidiary to the Counterparty arising under successive transactions between them made under the Agreements.

4.2 Factors not Affecting Nature of Guaranty. Subject to the limitations of subsections 3.1 and 3.2, the liability of the Guarantor under this Guaranty is absolute, unconditional and irrevocable, and will not be discharged except by complete payment of the amounts due under the Agreement, irrespective of:

4.2.1 the value, genuineness, validity, regularity or enforceability of any Agreement, except where the Agreement is void and not merely voidable under the laws of the State of New York.

4.2.2 any modification, extension or waiver of any of the terms of any Agreement.

4.2.3 any change in the time, manner, terms or place of payment of, or in any other term of, any of the Guaranteed Obligations, or any other amendment or waiver of or any consent to departure from any Agreement or any other agreement or instrument executed in connection therewith, including without limitation any settlement or compromise, or any other course of dealing between the Counterparty and the Subsidiary or other action permitted under the terms of the Agreement.

4.2.4 the existence, validity, enforceability, perfection or extent, or the substitution, exchange, surrender, release or other modification, of any collateral for the Guaranteed Obligations; or any liabilities incurred directly or indirectly hereunder or any setoff against any of those liabilities, or any release or amendment or waiver of or consent to departure from any other guaranty, for any of the Guaranteed Obligations.

4.2.5 the failure, omission, delay, waiver or refusal by the Counterparty to exercise, in whole or in part, any right or remedy held by the Counterparty with respect to any Agreement or any transaction under any Agreement.

4.2.6 any change in the existence, name, structure or ownership of the Guarantor or the Subsidiary, or any bankruptcy, insolvency, reorganization, liquidation, receivership, or similar proceeding affecting the Guarantor or the Subsidiary or their respective assets.

4.3 **Arbitration.** If one or more of the Agreements provide for the arbitration of any dispute between the Counterparty and the Subsidiary, the Guarantor agrees to become, and without further act shall be, a party to any arbitration proceeding under the Agreement. The Guarantor, the Subsidiary and the Counterparty shall be bound by any award rendered in any such proceeding. Notwithstanding the foregoing provisions of this subsection, and in addition to those provisions and regardless of whether an arbitration proceeding is pending under the Agreement, the Counterparty may at any time enforce its rights under this Guaranty in any court of competent jurisdiction.

5. **WAIVERS BY GUARANTOR**

The Guarantor hereby expressly waives:

5.1 except for the acceptance required from the Counterparty below, notice of acceptance of this Guaranty; notice of the creation or existence of any of the Guaranteed Obligations; and notice of any action by the Counterparty in reliance hereon or in connection herewith.

5.2 notice of the entry into any Agreement between the Subsidiary and the Counterparty and notice of any amendments, supplements or modifications thereto; or notice of any waiver of consent under any Agreement, including waivers of the payment and performance of the obligations thereunder.

5.3 notice of any increase, reduction or rearrangement of the Subsidiary's obligations under any Agreement or notice of any extension of time for the payment of any sums due and payable to the Counterparty under any Agreement.

5.4 except as expressly provided in section 6, presentment, demand for payment, notice of dishonor or nonpayment, protest and notice of protest, or any other notice of any other kind with respect to the Guaranteed Obligations.

5.5 any requirement that suit be brought against, or any other action by the Counterparty be taken against, or any notice of default or other notice be given to, or any demand be made on, the Subsidiary, the Guarantor or any other person, or that any other action be taken or not taken as a condition to the Guarantor's liability for the Guaranteed Obligations under this Guaranty or as a condition to the enforcement of this Guaranty against the Guarantor.

6. **DEMAND AND PAYMENT**

6.1 The Counterparty is not entitled to make demand upon the Guarantor until a default occurs in payment of any Guaranteed Obligations by the Subsidiary to the Counterparty. Any demand by the Counterparty for payment hereunder must be in writing, reference this Guaranty, reference the Guaranteed Obligations, and be signed by a duly authorized

representative of the Counterparty and delivered to the Guarantor pursuant to section 8. There are no other requirements of notice, presentment or demand.

6.2 The Guarantor shall pay, or cause to be paid, such Guaranteed Obligations within three (3) business days of receipt of the demand. All sums payable by the Guarantor hereunder must be made in United States Dollars and in immediately available and freely transferable funds.

6.3 With or without notice to the Guarantor, the Counterparty, in its sole discretion, may apply all payments from the Subsidiary under the Agreements or from the Guarantor under this Guaranty, or payments realized from any collateral, in such manner and order or priority as the Counterparty sees fit, to any obligation of the Subsidiary, whether or not the obligation is due at the time of such application.

6.4 The Guarantor reserves those defenses to payment that may be expressly reserved to Subsidiary under the Agreements, but only to the extent that such defenses are expressly set forth in the Agreements and may be validly asserted by Subsidiary.

7. SUBROGATION

7.1 Except as provided in subsection 7.2, the Guarantor shall be subrogated to all rights of the Counterparty against the Subsidiary in respect of any amounts paid by the Guarantor pursuant to the provisions of this Guaranty.

7.2 The Guarantor shall not be entitled to enforce or to receive any payments arising out of, or based upon, the rights set forth in subsection 7.1, and waives any rights it may acquire by way of that subsection, or by any payment made hereunder or otherwise (including, without limitation, any statutory rights of subrogation under Section 509 of the Bankruptcy Code, 11 U.S.C. §509, or otherwise); reimbursement; exoneration; contribution; indemnification; or any right to participate in any claim or remedy of the Counterparty against the Subsidiary or any collateral which the Counterparty now has or acquires, until all Guaranteed Obligations are irrevocably paid to the Counterparty in full.

8. NOTICES

8.1 All demands, notices and other communications provided for hereunder, unless otherwise specifically provided herein:

8.1.1 must be in writing addressed to the party receiving the notice at the address set forth in subsection 8.2 or 8.3, as the case may be, or at such other address as may be designated by written notice from time to time to the other party.

8.1.2 are effective upon delivery by hand; overnight courier; U.S. mail, registered or certified, return receipt requested, postage prepaid; or by facsimile transmission promptly confirmed by certified or registered mail.

8.2 If to Counterparty:

SILVER STATE ENERGY ASSOCIATION
100 City Parkway, Suite 700, MS 115
Las Vegas, Nevada 89106
Attention: Manager, Silver State Energy Association
Fax: 702-691-5240

8.3 If to Guarantor:

Name of Guarantor

Attention: _____

Fax: _____

9. GENERAL PROVISIONS

9.1 **Waivers by Counterparty.** No waiver of any provision of this Guaranty or consent to any departure by the Guarantor therefrom shall in any event be effective unless such waiver is in writing and signed by the Counterparty. Any such waiver shall be effective only in the specific instance and for the specific purpose for which it was given. No failure on the part of the Counterparty to exercise, and no delay in exercising, any right hereunder operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

9.2 **Rights, powers, remedies cumulative.** All rights, powers, and remedies of the Counterparty under this Guaranty or any other instrument, now or at any later time in force between the Counterparty and the Guarantor, are cumulative and not alternative, and are in addition to all rights, powers and remedies given to the Counterparty by law.

9.3 **Amendments.** Subject to the Guarantor's right to terminate this Guaranty pursuant to subsection 9.6, no amendment of this Guaranty shall be effective unless in writing and signed by the Guarantor and the Counterparty.

9.4 **Assignment.** The Guarantor may not assign its rights, interests or obligations hereunder to any other person without the prior written consent of the Counterparty, which consent must not be unreasonably withheld or delayed, and any purported assignment absent that consent is voidable at the option of the Counterparty.

9.5 **Binding Effect, Inurement.** This Guaranty is binding upon and inures to the benefit of the Guarantor and the Counterparty and their respective successors-in-interest and permitted assigns.

9.6 **Duration, Termination of Guaranty.** Except as provided in this subsection, this Guaranty shall continue in force from the Effective Date until thirty (30) days following the Counterparty's actual receipt of the Guarantor's written notice to the Counterparty of the

Guarantor's termination of this Guaranty (the "Termination Date"). The termination of this Guaranty shall not affect the Guarantor's obligations hereunder with respect to any Guaranteed Obligations arising prior to the Termination Date notwithstanding the date on which those Guaranteed Obligations are required to be satisfied, and this Guaranty shall remain in force until all such Guaranteed Obligations have been fully satisfied and all liabilities of the Guarantor under this Guaranty have been completely discharged.

9.7 **Governing Law.** This Guaranty shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to choice of law doctrine.

9.8 **Captions.** The captions in this Guaranty have been inserted for convenience only and shall be given no substantive meaning or significance whatsoever in construing the provisions of this Guaranty.

9.9 **Severability.** Every provision of this Guaranty is intended to be severable. If any provision of this Guaranty is prohibited by or invalid under the law governing this Guaranty, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Guaranty.

9.10 **Representation and Warranties.** The Guarantor represents and warrants to the Counterparty as of the date hereof, which representations shall be deemed to be repeated by the Guarantor on each date on which a transaction is entered into with the Subsidiary, that:

9.10.1 it is duly organized and validly existing under the laws of the jurisdiction of its incorporation and has full power and legal right to execute and deliver this Guaranty and to perform the provisions of this Guaranty on its part to be performed;

9.10.2 its execution, delivery and performance of this Guaranty have been and remain duly authorized by all necessary corporate action and do not contravene any provision of its certificate of incorporation or by-laws or any law, regulation or contractual restriction binding on it or its assets;

9.10.3 all consents, authorizations, approvals and clearances (including, without limitation, any necessary exchange control approval), and notifications, reports and registrations requisite for its due execution, delivery and performance of this Guaranty have been obtained from or, as the case may be, filed with the relevant governmental authorities having jurisdiction and remain in full force and effect, and all conditions thereof have been duly complied with, and no other action by, and no notice to or filing with, any governmental authority having jurisdiction is required for such execution, delivery or performance;

9.10.4 this Guaranty is its legal, valid and binding obligation enforceable against it in accordance with its terms, except as enforcement hereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights or by general equity principles; and

9.10.5 the Guarantor's audited financial statements present a fair representation of the financial condition of the Guarantor, and, except as expressly presented to

the Counterparty in writing, there has been no material adverse change in the financial condition of the Guarantor or legal proceedings that would materially impact the financial condition of the Guarantor instituted since the date financial statements were last published.

9.11 Entire Agreement. This Guaranty embodies the entire agreement between the Guarantor and the Counterparty with respect to the Guaranteed Obligations. There are no promises, terms, conditions, or obligations other than those contained in this Guaranty, and this Guaranty supersedes all previous communications, representations, or agreements, either verbal or written, between the Guarantor and the Counterparty.

IN WITNESS WHEREOF, the Guarantor has caused this Guaranty to be executed and delivered by its authorized representative, effective as of this ____ day of _____, 2016 (“Effective Date”).

[GUARANTOR]

**SILVER STATE ENERGY
ASSOCIATION**

[Name]
[Title]
Date:_____

Scott P. Krantz
SSEA Manager
Date:_____

Approved as to Form:

Laura E. Browning
SSEA Legal Counsel
Date:_____