

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (“Agreement”) is made effective as of the last date stated in the signature blocks to this Agreement (the “Effective Date”) by and between _____, a _____ with its principal office at _____

_____ (“Counterparty”), and ENGIE Energy Marketing NA, Inc., a Delaware corporation with its principal office at 1360 Post Oak Blvd, Suite 400, Houston, Texas 77056 (“EEMNA”) (each individually a “Party” or collectively the “Parties”).

WHEREAS, EEMNA and Counterparty have initiated discussions in connection with one or more potential renewable hedge or other commodity and/or business transactions (the “Possible Transaction”); and

WHEREAS, in connection with the Parties’ discussions regarding the Possible Transaction, EEMNA and Counterparty may disclose to each other certain information that each Party desires to remain confidential.

NOW, THEREFORE, in consideration of the mutual agreements, covenants and conditions contained in this Agreement, as well as for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. “Affiliate” means, with respect to a Party, a Person that directly or indirectly through one or more intermediaries, Controls or is Controlled by, or is under common Control with, the Party specified.
2. “Confidential Information” means all information or material of one Party (the “Disclosing Party”) that is disclosed to the other Party (the “Receiving Party”), whether revealed orally, visually, or in tangible or electronic form, that is identified by the Disclosing Party as confidential or proprietary information or that is not generally known to the public, including, but not limited to, marketing strategies, financial data, sales and marketing data including forward-pricing data, customer lists, operations, engineering and technical data and designs, personnel and employee information, business procedures, together with the Notes.
3. “Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of an entity, whether through ownership of voting securities, by contract or otherwise.
4. “Notes” means all memoranda, notes, summaries, analyses, compilations and other writings prepared by the Receiving Party or any of its Representatives relating to or based upon the Confidential Information.
5. “Person” means any individual, partnership, company, corporation, limited liability company or other entity.

6. “Representative” means a Party’s Affiliates, and a Party’s and its Affiliates’ officers, directors, members, partners, employees, legal counsel, advisors, financing parties, accountants, contractors, auditors, consultants, insurance carriers and other agents.
7. In consideration of the disclosure by the Disclosing Party to the Receiving Party pursuant to this Agreement, Receiving Party agrees to keep the Confidential Information in confidence and utilize the Confidential Information solely for the purpose of evaluating the Possible Transaction and complying with or enforcing this Agreement. Except as provided in the preceding sentence, the Receiving Party shall not make any competitive, commercial or other use of Confidential Information obtained from the Disclosing Party without the Disclosing Party’s prior written consent. The Receiving Party shall be permitted to disclose the Confidential Information only to those of its Representatives who have a need to know such Confidential Information for purposes of assisting the Receiving Party in evaluating the Possible Transaction. Each such Representative shall be subject to an obligation of confidentiality to the Receiving Party with respect to the Confidential Information or a duty of confidentiality with respect to information that Receiving Party discloses to such Representatives. Furthermore, each such Representative shall be informed by the Receiving Party of the confidential nature of the Confidential Information, shall be directed by the Receiving Party to treat such information confidentially and shall be informed that by receiving such Confidential Information they are agreeing to be bound by the terms of this Agreement. The Receiving Party shall be responsible for any breach of this Agreement by its Representatives.
8. In maintaining the confidentiality of the Confidential Information, the Receiving Party shall employ reasonable procedures no less restrictive than the procedures ordinarily used by that Party to protect its own confidential information and trade secrets.
9. Without the other Party’s prior written consent or except as otherwise provided in Section 15, neither Party nor its Representatives shall disclose to any Person that (i) Confidential Information has been provided to the Receiving Party or its Representatives, (ii) discussions or negotiations are taking place concerning the Possible Transaction, or (iii) any of the terms, conditions or other facts with respect to the Possible Transaction, including the timing or status thereof.
10. Except for the Notes, the Confidential Information shall remain the property of the Disclosing Party and its Affiliates. Upon written request of the Disclosing Party, the Confidential Information, including without limitation any Notes, and all copies thereof that have been previously provided to the Receiving Party, whether in written or machine readable form, shall be returned to the Disclosing Party or destroyed. Upon request from the Disclosing Party, the Receiving Party shall deliver a certificate from a corporate officer stating that all such Confidential Information in the Receiving Party’s possession has been returned to the Disclosing Party or destroyed. It is provided, however, that neither the Receiving Party nor its Representatives shall be obligated to return or destroy Confidential Information (i) contained in an archived computer system backup in accordance with the Receiving Party’s or its Representative’s security and/or disaster

recovery procedures or that constitutes one (1) copy solely for archival purposes, (ii) submitted to the Receiving Party's board of directors or other screening or investment committees in connection with its evaluation of the Possible Transaction or (iii) if, in the opinion of the Receiving Party's or its Representative's counsel, the destruction of such Confidential Information would be unlawful or would violate any order, judgment, writ or decree to which such party is subject or by which it is bound. Notwithstanding the return, destruction or retention of any Confidential Information, the Receiving Party and its Representatives will continue to be bound by their obligations hereunder.

11. The obligations of confidentiality set forth herein shall not apply to any information that:
 - (a) is in the public domain as of the date of this Agreement or subsequently becomes part of the public domain through no breach of this Agreement by the Receiving Party or its Representatives; or
 - (b) is already in the possession of the Receiving Party or its Representatives, provided that such information is not known by the Receiving Party or, as applicable, its Representatives to be subject to another confidentiality agreement with or other obligation of secrecy to the Disclosing Party or another Person; or
 - (c) becomes available to the Receiving Party or its Representatives on a non-confidential basis from a source other than the Disclosing Party or its Representatives provided that such source is not known by the Receiving Party or, as applicable, its Representatives to be bound by a confidentiality agreement with or other obligation of secrecy to the Disclosing Party or another Person; or
 - (d) is independently developed by the Receiving Party or its Representatives without reliance on or reference to (as documented by the Receiving Party's or its Representatives' written records) the Confidential Information.
12. The Parties agree that money damages may not be a sufficient remedy for any breach or anticipated breach of this Agreement by the Receiving Party or its Representatives. In addition to all other remedies, the Receiving Party acknowledges that disclosure of the Confidential Information may cause irreparable harm to the Disclosing Party for which damages would be an insufficient remedy, and the Disclosing Party shall be entitled to specific performance or injunctive or other equitable relief, as a non-exclusive remedy for any such breach. In no event shall either Party be liable for special, consequential, incidental, punitive, exemplary or indirect damages (including without limitation any loss of anticipated revenues, earnings or profits or increased expense of operations) in connection with this Agreement, whether by statute, in contract, tort, including negligence, strict liability or otherwise and all such damages are hereby expressly disclaimed.
13. This Agreement shall become effective from the Effective Date when it has been signed on behalf of both Parties. This Agreement shall terminate on the date that is two (2) years from the Effective Date.

14. The Disclosing Party shall not be deemed to have made any covenant, condition, warranty or representation, express or implied, as to the accuracy or completeness of any Confidential Information disclosed by it. Only those covenants, conditions, representations and warranties made by the Disclosing Party in writing in a subsequent definitive agreement related to a transaction between the Parties, if any, shall be of any legal effect. The Receiving Party has not relied upon and shall be responsible for making its own evaluation of such Confidential Information and agrees that the Disclosing Party shall have no liability to the Receiving Party or its Representatives resulting from the use of the Confidential Information by the Receiving Party or its Representatives. In making Confidential Information available to the Receiving Party, the Disclosing Party undertakes no obligation to provide the Receiving Party with access to any additional Confidential Information or to update, or to correct any inaccuracies that may become apparent in the Confidential Information supplied.
15. Disclosure by a Receiving Party or its Representatives of the other Party's Confidential Information that is requested by oral questions, interrogatories, requests for information or other documents in legal proceedings, subpoena, civil investigative demand or any other similar process or that is required by law, rule, regulation, judicial, administrative, or governmental order, shall not constitute a breach of this Agreement provided that, unless legally restricted, the Receiving Party provides timely written notice to the Disclosing Party of any such request or requirement in order to provide the Disclosing Party a reasonable opportunity to seek an appropriate protective order or other remedy. The Receiving Party and its Representatives shall, unless legally restricted, cooperate in a reasonable manner with the Disclosing Party in attempting to obtain an appropriate protective order or other remedy. In the event such protective order or other remedy is not obtained, Receiving Party agrees to furnish only that portion of the Confidential Information that, in the opinion of its legal counsel, Receiving Party is legally required to furnish. In the event that disclosure is made in accordance with this paragraph, the Receiving Party shall exercise and cause its Representatives to exercise reasonable efforts to preserve the confidentiality of the Confidential Information.
16. THE VALIDITY AND INTERPRETATION OF THIS AGREEMENT AND THE LEGAL RELATIONS OF THE PARTIES TO IT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK, EXCLUDING ANY CHOICE OF LAW RULES THAT WOULD OTHERWISE REQUIRE THE APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION. EACH PARTY HEREBY IRREVOCABLY CONSENTS AND SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK AND OF ANY NEW YORK STATE COURT SITTING IN NEW YORK COUNTY FOR ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF THIS AGREEMENT, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH OF THE PARTIES HEREBY (I) ACCEPTS THE JURISDICTION OF THE FOREGOING COURTS AND (II) IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE

LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDINGS WITH RESPECT HERETO BROUGHT IN ANY SUCH COURT, AND FURTHER IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. EACH OF THE PARTIES AGREES THAT A FINAL JUDGMENT (AFTER ANY APPEAL) IN ANY SUCH SUIT, ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER TO THE EXTENT PROVIDED BY LAW.

17. EACH PARTY WAIVES ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE ARISING OUT OF, CONNECTED WITH, RELATING TO OR INCIDENTAL TO THIS AGREEMENT.
18. This Agreement does not establish a partnership, agency, broker relationship, joint venture or similar relationship, nor does it obligate any Party to enter into such a relationship. At any time prior to the execution of definitive agreements between the Parties with respect to the Possible Transaction, either Party may voluntarily withdraw for any reason from discussions with the other Party concerning the Possible Transaction by giving the other Party written notice to such effect; provided, however, the Receiving Party shall remain subject to the confidentiality obligations set forth in this Agreement. The Parties expressly recognize and agree that this Agreement does not create any exclusive dealing arrangement between the Parties with respect to the Possible Transaction and that Disclosing Party shall be free to conduct any process with respect to a Possible Transaction and shall be entitled to make any changes thereto (including abandonment of the process) as it may in its sole discretion determine. This Agreement shall not be construed as an offer capable of acceptance with respect to any arrangement or transaction that may be contemplated between the Disclosing Party and the Receiving Party, nor does it entitle any Party to consideration, compensation, expenses or other fees with respect to the Possible Transaction.
19. This Agreement is for the benefit of the Disclosing Party and its Affiliates and its or their respective directors, officers, employees, owners, partners, auditors, and agents. This Agreement and the obligations set forth herein shall be binding upon and inure to the benefit of the Parties hereto, and their respective successors and assigns. This Agreement constitutes the entire understanding between the Parties with respect to the subject matter indicated herein, and its terms may not be changed or amended unless agreed to in writing by the Parties. It is further understood that no failure or delay by the Disclosing Party in exercising any right, power or privilege hereunder shall operate as a waiver hereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.
20. If any term or provision hereof is held to be unenforceable or otherwise invalid by a court of competent jurisdiction, such invalidity shall not affect the enforceability or validity of

any other term or provision hereof and such invalid term or provision shall be deemed to be modified to the extent necessary to make it enforceable and/or valid.

21. Each Party represents and warrants that it has the full power and authority to execute and deliver this Agreement and to perform the obligations set forth herein.
22. This Agreement may be executed in any number of counterparts and by each of the Parties in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement. The delivery of an executed counterpart of this Agreement by facsimile, pdf or other electronic communication shall be deemed to be valid delivery thereof.
23. All notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, to the address set forth in the introductory paragraph of this Agreement “Attention: General Counsel”. Any Party may change its address or telecopy number for notices and other communications hereunder by notice to the other Party. Notice delivered or transmitted as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a business day prior to 4:00 p.m. eastern prevailing time or if such day is not a business day, then such notice shall be deemed to have been given and received on the next business day. For the purposes of this clause, “business day” means any day other than a Saturday, Sunday, or statutory holiday in New York, New York.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Confidentiality Agreement as of the Effective Date.

ENGIE ENERGY MARKETING NA, INC

COUNTERPARTY

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____