DISTRIBUTION INTERCONNECTION AGREEMENT

BY AND BETWEEN

DEARBORN INDUSTRIAL GENERATION, L.L.C.

AND

THE DETROIT EDISON COMPANY

EFFECTIVE AS OF APRIL 16, 2001

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DISTRIBUTION INTERCONNECTION AGREEMENT

THIS DISTRIBUTION INTERCONNECTION AGREEMENT (the "Agreement") is made and entered into as of the _____ day of _____, 2001 (the "Effective Date") by and between Dearborn Industrial Generation, L.L.C. ("*Customer*"), a Michigan limited liability company, and The Detroit Edison Company ("*Company*"), a Michigan corporation. The Customer and Company shall be, individually, a "Party" and, collectively, the "Parties".

WITNESSETH:

WHEREAS, the Customer plans to own and operate a power and steam generation facility, including four (4) electricity generators and associated appurtenances, located in Dearborn, Michigan (the "Facility") having a maximum output of 780 MW at 230 kV;

WHEREAS, this Agreement provides for interconnection of the Facility and Customer's distribution and interconnection facilities to distribution and interconnection facilities owned by the Company which, in turn, will be interconnected to The International Transmission Company ("*ITC*") electric transmission system;

WHEREAS, the Customer has requested and Company has agreed to enter into a distribution interconnection agreement to enable the Customer to interconnect with facilities of the Company, said interconnection to be used, pursuant to separate agreements or tariffs, for the purposes of both distributing power to retail electric loads connected to Customer's facilities and transmitting electric power from the Facility to the ITC electric transmission system; and

WHEREAS, under this Agreement the Customer will provide a Contribution In Aid of Construction ("*CIAC*") for certain Company facilities related to the interconnection of Customer's facilities to the Company's facilities.

NOW, THEREFORE, for and in consideration of the agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Customer and Company hereby agree as follows:

ARTICLE 1
DEFINITIONS

Whenever used in this Agreement, the following terms shall have the following meanings:

1.1 "***Affiliate***" shall mean, with respect to any Person, another Person (i) which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, (ii) which, directly or indirectly, of record or beneficially, owns or holds 10% or more of the shares of any class of capital stock or other ownership interest of such Person having voting power or (iii) as to which 10% or more of the shares of any of the capital

stock or other ownership interest of the Affiliate having voting power is owned or held, directly or indirectly, of record or beneficially, by or for such Person. For purposes of this definition, "control" when used with respect to any entity means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

1.2 ***"Business Day"*** shall mean any day of the week other than a Saturday or Sunday that is not a federal or State of Michigan holiday, or a day on which banks in the state of Michigan are authorized by law or executive order to be closed.

1.3 ***"Commercially Reasonable"*** shall mean, with respect to any action required to be made, attempted, or taken by a Party under this Agreement, such efforts as a reasonably prudent business would undertake for the protection of its own interests under the conditions affecting such action, including but not limited to the amount of notice of the need to take such action, the duration and type of such action, the competitive environment in which such action occurs and the risk to the Party required to take action.

1.4 ***"Commercial Operation Date"*** shall be established for each generator as mutually agreed to between the Parties after which all energy delivered to the facilities of the Company for further delivery to the ITC System is scheduled and coordinated under the terms of the ITC OATT.

1.5 ***"Distribution/Interconnection Facilities"*** shall mean all of the equipment described below and further described in Exhibit A, which is attached hereto and made a part of this Agreement.

a. ***"Company Distribution/Interconnection Facilities"*** shall mean the equipment constructed, owned, operated, and maintained by or for the Company on its side of the Points of Interconnection that in the Company's reasonable judgment is required to be installed to accommodate distribution of electric energy to Customer's site and the interconnection of the Facility to the Company's facilities and thereon to the ITC System. Company Distribution/Interconnection Facilities will include: (1) the 230 kV conductor from the Navarre-Waterman Tap up to and including the disconnect switch at DIG Tower No. 3, (2) the 230 kV conductor from the Baxter Substation up to and including the disconnect switch at Baxter Position HG including associated relays and control devices, and (3) any metering, communications and relaying equipment constructed, owned, operated, and maintained by the Company or its agent on Customer's side of the Points of Interconnection that in the Company's reasonable judgment is required to be installed to accommodate the interconnection of Customer's facility to the Company's facilities and thereon to the ITC System.

b. ***"Customer Distribution/Interconnection Facilities"*** shall mean the equipment constructed, owned, controlled, operated, and maintained by the Customer or third parties on Customer's side of the Points of Interconnection that in the Company's reasonable judgment is required to be installed to accommodate distribution of electric energy to loads on Customer's side of the Points of Interconnection or the interconnection of the Facility to the Company's facilities and thereon to the ITC System. Customer Distribution/Interconnection Facilities will include: (1) the DIG 230 kV GIS Ring Bus; and (2) the 230 kV conductor from the Baxter Substation up to and including the 230 kV conductor connecting to the DIG 230 kV GIS Ring Bus.

All Company Distribution/Interconnection Facilities shall be owned by Company, or if ITC requires that it own certain interconnection facilities, by Company and ITC; provided, however, that in any case the Company shall own a portion of the Distribution/Interconnection Facilities between Customer and ITC in order for Company to assess applicable retail charges pursuant to the Michigan retail access program.

1.6 "***Facility***" shall mean the power and steam generation facility, including four (4) electricity generators and associated appurtenances, located in Dearborn, Michigan having a maximum output of 780 MW at 230 kV.

1.7 "***Force Majeure***" shall have the meaning set forth in Article 13.

1.8 "***Good Utility Practice***" shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of acceptable practices, methods or acts generally accepted in the region by the utility industry.

1.9 "***Governmental Authority***" shall mean a local, state, regional, federal or national administrative, legal, judicial or executive agency, commission, department or other governmental entity.

1.10 ***"ITC System"*** shall mean the electric transmission facilities owned by International Transmission Company, its successor(s) or assign(s).

1.11 "***OATT"*** shall mean any applicable open access transmission tariff filed with the Federal Energy Regulatory Commission for the purpose of accommodating transmission service for electric energy as provided by the Facility, as may be amended from time-to-time.

1.12 ***"Person"*** means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, trustee(s) of a trust, unincorporated organization, or any federal, state, county, municipal or regional governmental authority, agency, board, body, instrumentality or court.

1.13 ***"Persons Indemnified"*** means, collectively or individually (as the context might indicate), Company, Company's Affiliates, and the directors, officers, representatives, agents and employees of each of them.

1.14 ***"Points of Interconnection"*** shall be the disconnect switch at DIG Tower No. 3 and the disconnect switch at Baxter Position HG, as shown in Exhibit A, attached hereto.

1.15 "***System Emergency***" shall mean a condition or situation (i) which in the sole judgment of ITC may cause a significant disruption on or significant damage to the ITC System (or any material portion thereof) or any systems interconnected with the ITC System (or any material portion thereof), or (ii) which in the sole judgment of Company may cause significant disruption on or significant damage to the Company's Distribution/Interconnection Facilities, or (iii) which in the sole judgment of ITC may cause any other unforeseen circumstance or combination of circumstances necessitating immediate action to avert significant impairment or degradation of ITC System reliability. The inability to meet load requirement due to insufficient generation resources (other than deliverability) does not constitute a System Emergency.

ARTICLE 2
Term and Termination of Agreement

2.1 **Term.** This Agreement shall be effective as of the Effective Date and shall remain in effect for an initial term ending December 31, 2030 (the "Term").

2.2 **Termination.** If any of the following events (each an "*Event of Default*") shall occur and be continuing after the applicable cure period and any notice requirement:

a. Failure of a Party to make any payment required pursuant to this Agreement and such failure shall continue for a period of thirty (30) days after receipt of written notice thereof; or

b. Failure of a Party in any material respect to comply with, observe or perform any covenant or obligation under this Agreement, and after receipt of written notice, such failure shall continue for a period of thirty (30) days unless such Party shall have commenced efforts to and shall be continuing in good faith the pursuit of a remedy for such failure, the cure of which shall be completed in a reasonable period given the nature of the failure but for no longer period; or

c. (i) A receiver, liquidator or trustee of a Party or of any of its property shall be appointed by a court of competent jurisdiction, and such receiver, liquidator or trustee shall not have been discharged within sixty (60) days, or (ii) by decree of such court a Party shall be adjudicated bankrupt or insolvent or any substantial part of its property shall have been sequestered, and such decree shall have continued undischarged and unstayed for a period of sixty (60) days after the entry thereof, or (iii) a petition to declare bankruptcy or to reorganize a Party pursuant to any of the provisions of the Federal Bankruptcy Code, or pursuant to any other similar state statute, shall be filed against a Party and shall not be dismissed within sixty (60) days after such filing; or

d. A Party shall file a voluntary petition in bankruptcy under any provision of any federal or state bankruptcy law or shall consent to the filing of any bankruptcy or reorganization petition against it under any similar law; or, without limiting the generality of the foregoing, a Party shall file a petition or answer or consent seeking relief or assisting in seeking relief in a bankruptcy under any provision of any federal or state bankruptcy law or shall consent to the filing of any bankruptcy or reorganization petition against it under any similar law, or any answer admitting the material allegations of a petition filed against it in such a proceeding; or a Party shall make an assignment for the benefit of creditors; or a Party shall admit in writing its inability to pay its debts generally as they become due; or a Party shall consent to the appointment of a receiver, trustee, or liquidator of it or of all or any part of its property;

then the non-defaulting Party may, by written notice, terminate this Agreement (other than Articles 9, 12, 13, 14, 15 and 16 or any other provisions of this Agreement related thereto) as of the date such notice is sent, or if the non-defaulting Party is the Company, then the Company may, at its election, terminate the Customer's interconnection with its facilities. In addition to the rights and remedies described in this Agreement, the non-defaulting Party may exercise, at its election, any right or remedy it may have at law or in equity, including compensation for monetary damages, injunctive relief and specific performance. The enumeration of the Events of Default hereunder shall not be construed to limit or exclude the right of either Party to seek such remedies for the material breach by the other Party of any other term, condition, covenant, warranty or obligation under this Agreement.

ARTICLE 3
Interconnection and Reimbursement

3.1 **Interconnection/Other Services.** The Company shall interconnect the Facility and Customer's Distribution/Interconnection Facilities with the Company's

Distribution/Interconnection Facilities and the ITC System in accordance with this Agreement.

a. The Parties agree that the Distribution/Interconnection Facilities shall be operated, maintained and repaired, replaced or modified in accordance with Good Utility Practice.

b. The Customer acknowledges and agrees that its access to and right to use the ITC System for transmission service are governed exclusively by the OATT applicable to the ITC System and all applicable laws and regulations. The Customer acknowledges that nothing in this Agreement shall constitute an expressed or implied representation, warranty or covenant on the part of Company, ITC or other transmission provider with respect to the current or future availability of transmission service on the ITC System or create any obligation to accept deliveries of electric energy from the Facility, unless the Customer or the party requesting delivery of the Customer's electric energy delivered to the ITC System have arranged for transmission service on the ITC System in accordance with the OATT. Customer also agrees that it shall be responsible and reimburse the Company for any and all lawful charges imposed upon the Company by ITC resulting from the Company's interconnection of Customer's electric facilities and any generation or loads connected to such facilities with the Company's Distribution/Interconnection Facilities or the ITC System, including but not limited to transmission, ancillary service and/or control area charges. The Company agrees that it will not enter into any agreement with ITC imposing any such charges without first consulting with and obtaining the agreement of Customer. Company shall promptly transmit to Customer any refunds by ITC of such charges, as well as any payments made by ITC to the Company for ancillary services provided to ITC by the Facility. To the extent ITC files an unexecuted agreement with an appropriate Governmental Authority, the Company will take reasonable steps to facilitate Customer's ability to challenge such charges, subject to Customer's agreement to pay all costs incurred by the Company in such effort.

c. The Customer acknowledges and agrees that the access and rights of Customer and any retail loads connected to Customer's electric facilities to use the Company's Distribution/Interconnection Facilities for transmission service or distribution service are governed by this Agreement and, unless otherwise determined by the Michigan Public Service Commission ("MPSC") or a court having jurisdiction, the Company's Retail Access Service Tariff. Customer agrees to enroll and take service under the Company's Retail Access Service Tariff for any of its loads that use the Company's Distribution/Interconnection Facilities and Customer shall require any and all other retail loads connecting to

Customer's electric facilities to enroll and take service under the Company's Retail Access Service Tariff, and in the event any such load does not do so, Customer shall include such load in its obligations under the Company's Retail Access Service Tariff; *provided, however,* that in the event the MPSC or a court having jurisdiction issues an order or ruling as to the applicability of the Company's Retail Access Service Tariff, or any portion of the charges or provisions set forth therein, to any such load, the provisions of such order or ruling shall take precedence over this Agreement. For purposes of this provision, except as otherwise determined by the MPSC or court as described above, Customer's loads and/or loads connected to Customer's electric facilities will be deemed to use the Company's Distribution/Interconnection Facilities (other than the metering, communications and relaying equipment per 1.5.a (3)) in an amount equal to (i) the contract demand as established under the Company's Retail Access Service Tariff, and (ii) for any kilowatthour-based charges under the Retail Access Service Tariff, including but not limited to charges for securitization, stranded costs, and transition costs, the greater of scheduled or actual net energy flows over the Points of Interconnection and into the Customer's facilities. Except as modified in the preceding sentence (3.1.c.ii), or as otherwise determined by the MPSC or court as described above, Customer shall comply with any and all requirements of the Retail Access Service Tariff. Nothing in this Agreement shall prevent the industrial loads connected to Customer's electric facilities from contesting the applicability to them of all or any portion of the Company's Retail Access Service Tariff before the MPSC or a court having jurisdiction, nor shall the provisions of this Agreement be used as precedent in any such proceeding.

d. The Company agrees to use reasonable efforts to at all times maintain an interconnection between the Customer Distribution/Interconnection Facilities and the Company Distribution/Interconnection Facilities and thereon to the ITC System consistent with Good Utility Practice and this Agreement.

3.2 **Construction of Distribution/Interconnection Facilities and ITC System Improvements.** The Company shall design, procure, construct and install any Company Distribution/Interconnection Facilities required to interconnect Customer's electric facilities with the ITC System. The Company shall arrange with ITC to provide and/or design, procure, construct and install any substations, equipment or other facilities required to be installed on the ITC System that would not have been required but for the interconnection of the Facility. The Customer shall provide and/or design, procure, construct and install any Customer Distribution/Interconnection Facilities required for the interconnection of the Facility with the Company's Distribution/Interconnection Facilities. Customer shall provide and/or design, procure, construct and install such Customer

Distribution/Interconnection Facilities in accordance with the requirements of Article 5.

3.3 **Reimbursement of Company.** The Customer shall reimburse the Company, in accordance with Exhibit B, for all costs related to the installation of facilities by the Company and/or ITC as provided in Section 3.2. The Customer shall also reimburse the Company for all costs incurred by the Company and/or ITC in coordinating and completing the start-up and testing program provided in Section 5.7 and all costs incurred by Company and/or ITC associated with witnessing any equipment testing. These costs include, but are not limited to; taxes, maintenance and insurance. The Customer shall also reimburse the Company for all costs incurred by the Company and/or ITC to support the Customer Distribution/Interconnection Facilities and any metering, communications and relaying equipment installed on the Customer's side of the Points of Interconnection.

3.4 **Future Modifications.**

a. The Parties recognize that from time to time certain modifications may be necessary to continue to economically, reliably and safely maintain and operate the Distribution/Interconnection Facilities and/or facilities on the ITC System. Such modifications may include alteration, augmentation, modification, removal, upgrade or replacement, changes in design, configuration, operation, maintenance, or location of any of the Distribution/Interconnection Facilities, including protective equipment, or replacement of malfunctioning equipment. The Company shall provide the Customer with reasonable advance notice of any modifications to the Distribution/Interconnection Facilities and/or the ITC System proposed by the Company and/or ITC (hereinafter referred to as "*Distribution/Interconnection Facilities Modifications*"). Within ten (10) Business Days of the Customer's receipt of the Company's notice of proposed changes, the Parties shall meet to discuss such proposed modifications.

b. If the Distribution/Interconnection Facilities Modifications are the result of or necessitated by any improvement, upgrade or change being made generally to the ITC System, or any material portion thereof, in accordance with Good Utility Practice, then such Distribution/Interconnection Facilities Modifications shall be made at the Customer's expense. If the Customer disputes the necessity or cost of such modification as provided under this subsection (b), it may refer the issue for resolution pursuant to the dispute resolution procedures provided under this Agreement for technical disputes, and the Customer's expenditures in implementing such modification shall be subject to refund plus interest calculated in accordance with the methodology specified in 18 C.F.R. § 35.19a(a)(2) unless otherwise agreed. Distribution/Interconnection

Facilities Modifications that are the result of or necessitated by any improvement, upgrade or change being made generally to the Facility shall be made at the Customer's expense. The Company shall design, install, own, operate and maintain modifications to Company Distribution/Interconnection Facilities and ITC shall design, install, own, operate and maintain modifications to the ITC System. The Customer shall design, install, own, operate and maintain modifications to Customer Distribution/Interconnection Facilities, subject to the requirements of Article 5.

c. The Customer shall provide the Company and ITC reasonable advance notice of any modifications proposed by the Customer to the Distribution/Interconnection Facilities. Such modifications shall be subject to the Company's and ITC's review and acceptance, which shall not be unreasonably withheld or delayed, as provided in Section 5.6, before the Customer implements such modifications. The Customer shall be responsible for the cost of such modifications.

d. The Customer shall provide the Company and ITC reasonable advance notice of any modifications to the Customer Distribution/Interconnection Facilities or the Facility by the Customer that materially changes the Customer Distribution/Interconnection Facilities or the Facility output and operational characteristics beyond those analyzed in the interconnection study. Material changes to the Facility may require a new distribution interconnection agreement and a new study.

ARTICLE 4
Rights of Way and Access to Premises

If applicable and to the extent necessary, the Customer agrees to furnish the Company all necessary rights-of-way and access to metering, communications and relaying equipment installed at the Customer Distribution/Interconnection Facilities and the Facility and other electric facilities owned or leased by the Customer. If any part of such metering, communications and relaying equipment are to be installed on property other than property owned or leased by the Customer, the Customer shall procure on the Company's behalf and at the Customer's expense all necessary permanent rights-of-way, easements and access for the construction, operation, maintenance, meter reading and testing of such metering, communications and relaying equipment.

ARTICLE 5
Generator Interconnection Studies and Procedures