

**CONTRACT BETWEEN  
THE PUBLIC UTILITY COMMISSION OF TEXAS  
AND SABER PARTNERS**

This Agreement (“Agreement”), effective as of the last date signed below by a duly authorized representative of any Party (“Effective Date”), is entered into by and between the Public Utility Commission of Texas, an agency of the state of Texas with its office at 1701 N. Congress Ave., Austin, TX 78701 (the “PUCT” or the “Commission”), Saber Partners, LLC and Saber Capital Partners, LLC (collectively “Saber Partners”).

**RECITALS**

WHEREAS, pursuant to its statutory responsibility under Chapter 39, Subchapter G of the Public Utility Regulatory Act, (“PURA”) the PUCT designated Saber Partners as the PUCT’s financial advisor with respect to AEP Texas Central Company’s (“AEP”) application for a financing order to securitize the stranded costs finalized in Docket No. 31056, Application of AEP Texas Central Company and CPL Retail Energy, LP to Determine True-Up Balances Pursuant to PURA §39.262, to ensure compliance with the statutory requirements of PURA and the terms of the Financing Order issued in Docket No. 32475; and

WHEREAS, Saber Partners has served the Commission effectively as an advocate of the Commission’s interests and in protecting ratepayer interests in connection with all five prior series of transition bonds issued pursuant to Chapter 39, Subchapter G of PURA and in ensuring that the structuring and pricing of each of those series of transition bonds achieved the lowest transition bond charges consistent with market conditions and the applicable financing orders;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the PUCT and Saber Partners (the “Parties”) hereby agree as follows:

**Article 1. Definitions**

When used in this Agreement, the following terms shall have the respective meanings set forth in this Agreement.

**1.1 “Confidential Information”** has the meaning provided in Attachment B to this Agreement.

**1.2 “Intellectual Property Rights”** means any patent, trade secret, confidential or proprietary information, know-how, show-how, maskwork right, copyright (e.g. including but not limited to any moral right), and any other intellectual property protection and intangible legal rights and interests, of any one or more countries, including, for example, but not limited to (a) any publicity or privacy right, (b) any utility model or application, (c) any industrial model or application, (d) any certificate of invention or application, (e) any application for patent, including, for example, but not

limited to any provisional, divisional, reissue, reexamination or continuation application. (f) any substitute, renewal or extension of any such application, and (g) any right of priority resulting from the filing of any such application.

**1.3 “Moral Rights”** means any rights to claim authorship of intellectual property, to object to or prevent the modification of any intellectual property, or to withdraw from circulation or control the publication or distribution of any intellectual property, and any similar right, existing under judicial or statutory law of any country in the world, or under any treaty, regardless of whether or not such right is denominated or generally referred to as a “moral right.”

**1.4 “Public Utility Commission,” “PUCT,” or “Commission”** means the Public Utility Commission of Texas acting through its executive director and the agency’s designated Contract Administrator.

**1.5 “Saber Partners”** includes Saber Partners, LLC, Saber Capital Partners, LLC, and any successors, heirs and assigns.

**1.6 “Services”** means any and all services performed and any and all goods and products delivered by Saber Partners as specified in Attachment A, Services to Be Performed – AEP Transition Bonds.

**1.7 “Financing Order”** means the Financing Order approved in PUCT Docket No. 32475 (or a subsequent docket number assigned upon remand to the Commission).

**1.8 “Issuance”** means the sale of Transition Bonds approved in Docket No. 32475 (or a subsequent docket number assigned upon remand to the Commission) in the amount specified in the Financing Order.

**1.9 “Transition Bonds”** means those transition bonds issued pursuant to the Financing Order approved in PUCT Docket No. 32475 (or a subsequent docket number assigned upon remand to the Commission).

## **Article 2. Compensation**

**2.1 Compensation.** Saber Partners agrees to provide all services (including labor, expenses, and legal services) described in Attachment A for a flat fee of \$500,000 (the “Fee”). Of this fee, \$100,000 is specifically allocated to payment for legal services to Saber Partners. If Saber Partners documents to the Commission's satisfaction that it necessarily incurred more than \$100,000 in legal expenses for legal services to Saber Partners, Saber Partners’ fee may be increased to a maximum of \$750,000, with any amount over \$500,000 specifically allocated to pay such legal expenses. The Commission must pre-approve the increase in fee for legal expenses by written amendment to this Agreement.

**2.2 Payment for Services.** Saber Partners acknowledges that the PUCT has not been appropriated any funds for the purposes of this Agreement. All compensation and reimbursements to Saber Partners provided for by Section 2.1 hereof shall be paid or caused to be paid by wire transfer at the time and directly from the proceeds of the Issuance of the Transition Bonds as a condition of closing. The Parties expressly agree that nothing in this Agreement is intended to constitute an obligation either against or payable from funds appropriated to the PUCT for any purpose, or general revenue funds or any other funds of the State of Texas.

**2.3 Payments made to Subcontractors.** Saber Partners shall pay any subcontractor hereunder the appropriate share of payments received not later than the 10th day after the date Saber Partners receives the payment. The subcontractor's payment shall be overdue on the 11th day after the date Saber Partners receives the payment. The use of any subcontractor by Saber Partners, other than Orrick, Herrington & Sutcliffe, LLP, shall be pre-approved by PUCT. (See Sec. 5.1)

**2.4 Records.** Saber Partners and its subcontractors shall maintain records and books of account relating to services provided under this Agreement. Such records and books shall be made available to the PUCT, its designee, or the Texas State Auditor's Office for review upon reasonable notice during Saber Partners' normal business hours for a period of at least four years after the end of the term of the Agreement.

**2.5 Sole Compensation.** Payments under this Article 2 are Saber Partners' sole compensation under this Agreement. Saber Partners shall not incur expenses with the expectation that the PUCT or AEP will directly pay the expense to a third-Party vendor outside payments made under this Article 2, irrespective of whether in exchange for Services or otherwise.

**2.6 Texas State Auditor's Office.** The Texas State Auditor's ("State Auditor") may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds.

### **Article 3. Contract Administration**

**3.1 PUCT Contract Administration.** The PUCT designates Darryl Tietjen to serve as its Technical Point of Contact and primary point of contact with Saber Partners throughout the term of this Agreement. The PUCT designates Paula Mueller as its Contract Administrator to serve as the PUCT's point of contact for contract administration. Saber Partners acknowledges that neither the PUCT Contract Administrator nor the PUCT Technical Point of Contact have any authority to amend this Agreement on behalf of the PUCT, except as expressly provided herein. Saber Partners

further acknowledges that such authority is exclusively held by the Commission or its authorized designee, Executive Director Lane Lanford.

**3.2 Saber Partners Contract Administration.** Saber Partners designates Joseph S. Fichera to serve as its Contract Administrator.

**3.3 Reporting.** Saber Partners shall report directly to the PUCT Contract Administrator and shall perform all activities in accordance with reasonable instructions, directions, requests, rules and regulations issued during the term of this Agreement as conveyed to Saber Partners by the PUCT Contract Administrator and the PUCT Technical Point of Contact.

**3.4 Cooperation.** The Parties' Contract Administrators shall handle all communications between them in a timely and cooperative manner. The Parties shall timely notify each other by email or other written communication of any change in designee or contact information. The Parties also recognize that implementation of the securitization in the marketplace is a dynamic process and often is done under tight time demands. The Contract Administrator and Technical Point of Contact shall have a regularly scheduled weekly telephone conference call to discuss the status of Saber Partner's execution of this Agreement and any concern of either Party.

**3.5 Inquiries and Prompt Referral.** Saber Partners will promptly refer all inquiries regarding this Agreement received from state legislators, other public officials, the media, or non-Parties to the PUCT Contract Administrator.

#### **Article 4. Reports and Records**

**4.1 Written Reports.** Saber Partners will provide written reports to the PUCT in the form and with the frequency as specified in Attachment A.

**4.2 Records Review.** Saber Partners shall, for a period of four (4) years following the expiration or termination of this Agreement, maintain its records of the work performed under this Agreement. Saber Partners shall make all records that support the performance of Services and payment available to PUCT and/or its designees or the State Auditor during normal business hours given reasonable notice, upon the request of the PUCT Contract Administrator.

**4.3 Progress Reports.** In addition to the reports required by Attachment A. Saber Partners' Contract Administrator shall provide regular progress reports, either orally or electronically, to the PUCT Contract Administrator or the PUCT Technical Point of Contact, in a format and on a schedule agreed upon. Saber Partners agrees to provide additional ad hoc reports, within reason and in oral, written or electronic form, that may be required by the PUCT. If Saber Partners cannot provide such reports without incurring unreasonable additional expense, Saber Partners shall notify the PUCT's Contract Administrator of the estimated cost for providing the additional reports and

information substantiating the cost, prior to incurring the expense. Failure to provide these reports may result in termination of this contract.

#### **Article 5. Subcontracting Parties**

**5.1 Use of Subcontractors.** The Parties acknowledge and agree that at the time of execution of this Agreement Saber Partners intends to perform the Services required under this Agreement using its own members, employees, and Advisory Board members, with the exception of those legal services to Saber Partners which shall be performed by outside legal counsel retained by Saber Partners. Saber Partners will notify the PUCT Contract Administrator of any other proposed subcontract and will work with the PUCT HUB Coordinator to procure such other subcontractor and to submit appropriate subcontractor selection documentation for approval prior to engaging any other subcontractor, such approval not to be unreasonably withheld. Any such other subcontract or subsequent substitution of a subcontractor must be approved according to the terms of Article 7 herein.

**5.2 Primary Point of Contact.** Joseph S. Fichera will serve as the primary point of contact for the PUCT with Saber Partners' subcontractors on all matters related to this Agreement.

**5.3 Sole Responsibility.** Saber Partners is solely responsible for the quality and timeliness of the work produced by all subcontractors that may be engaged by Saber Partners to provide Services hereunder and for the timely payment for all such work produced by all subcontractors which is accepted by and paid for in accordance with the terms of this Agreement.

**5.4 Prime Vendor Contract.** The Parties expressly agree that this Agreement is intended to constitute a prime vendor contract, with Saber Partners serving as the prime vendor for delivery of the Services made the subject hereof. Saber Partners acknowledges and agrees that Saber Partners is fully liable and responsible for timely, complete delivery of the Services described in this Agreement notwithstanding the engagement of any subcontractor to perform an obligation under this Agreement.

#### **Article 6. Term, Suspension and Termination**

**6.1 Term.** The term of this Agreement shall begin on the Effective Date and shall continue in effect until the later of the issuance of the Transition Bonds or the last deliverable per Attachment A unless sooner terminated under Sections 6.2 or 6.3 of this Agreement.

**6.2 Termination for Cause by the PUCT.** If Saber Partners is in default of any material term of this Agreement, the PUCT may serve upon Saber Partners written notice requiring Saber Partners to cure such default. Unless within thirty (30) days after receipt of said notice by Saber Partners, said default is corrected or arrangements satisfactory to the PUCT, as applicable, for correcting the default have been made by Saber Partners, the

PUCT may terminate this Agreement for default and shall have all rights and remedies provided by law and under this Agreement. In the event of termination, Saber Partners will provide reasonable cooperation to transfer the duties of Saber Partners under the Agreement to another entity without disruption to the progress of the securitization.

**6.2.1 Termination for the Convenience of the PUCT.** The PUCT may, upon thirty (30) days written notice to Saber Partners, terminate this Agreement whenever the interests of the PUCT so require.

**6.3 Termination for Cause by Saber Partners.** If the PUCT fails to comply with any of its obligations hereunder in any material respect, Saber Partners may serve upon the PUCT written notice of default. Should the PUCT fail to remedy such default or fail to present a plan acceptable to Saber Partners to remedy such default within thirty (30) days after receipt of such written notice of default, Saber Partners shall have the right to terminate the Agreement. In the event of termination, Saber Partners will provide reasonable cooperation to transfer the duties of Saber Partners under the Agreement to another entity without disruption to the progress of the securitization.

**6.4 Survival.** In the event that this Agreement expires or is terminated by a Party pursuant to the terms hereof, the rights and obligations of the Parties hereunder shall terminate; provided that the provisions of Article 2, Sections 4.2, 7.3, 7.5 and 19.1 through 19.10 hereof, Articles 10, 11, 12, 14, 15 and 16 hereof and Attachment B in its entirety shall survive any termination or expiration of this Agreement.

## **Article 7. Assignment, Amendments and Modifications**

**7.1 Material Change Requests.** PUCT may propose changes to Attachment A, Services to Be Performed – AEP Transition Bonds. Upon receipt of a written request from the PUCT for a change to Attachment A, Saber Partners' Contract Administrator shall, within a reasonable time thereafter, submit to the PUCT a detailed written estimate of any proposed price and schedule adjustment(s) to this Agreement. No changes to Attachment A will occur without the written consent of Saber Partners and unless and until the PUCT or its designee approves Saber Partners' proposed modification proposal, including the schedule adjustments and the costs (if any) associated with the modifications, in writing, as provided in accordance with the terms stated in this Agreement.

**7.2 Changes in Law, Rules, or Rulings.** Subsequent changes in federal and state legislation or rules and regulations or rulings by the PUCT may require modification of the terms of this Agreement, including an increase or decrease in the duties of Saber Partners and/or compensation. In the event of such subsequent changes to statutes, rules and/or regulations, the PUCT and Saber Partners shall negotiate the terms of a contract modification, whether an increase or a decrease in Saber Partners' duties and/or compensation, in good faith and incorporate such modification into this Agreement by written amendment.

**7.3 No Assignment of Duties.** This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of any Party (including by merger of Saber Partners or otherwise by operation of law); provided however that Saber Partners shall not otherwise, without the prior written consent of the PUCT, or as provided in Section 7.3.1 herein, assign or transfer this Agreement or any obligation incurred under this Agreement. Any attempt by Saber Partners to assign or transfer this Agreement or any obligation incurred under this Agreement, in contravention of this paragraph, shall be void and of no force and effect.

**7.3.1 Assignment Permitted** This Agreement may not be assigned, changed, amended or modified in any manner except by written instrument executed by authorized representatives of both Parties in accordance with the terms of the Agreement, provided, however, that any activities of Saber Partner, LLC under this Agreement that may require registration as a securities broker or dealer may be assigned by Saber Partners, LLC in its discretion to Saber Capital Partners LLC ("SCP") so long as (i) SCP remains a wholly-owned subsidiary of Saber Partners, LLC, (ii) SCP remains registered as a broker and dealer with the U.S. Securities and Exchange Commission, (iii) SCP remains a member in good standing of the NASD, and (iv) Joseph Fichera remains Chief Executive Officer of SCP, and any assignment by Saber Partners, LLC of any activity or activities of SCP pursuant to the preceding sentence shall not increase or otherwise affect the aggregate amount of compensation payable to Saber Partners, LLC and SCP, collectively, for any services performed under this Agreement, although Saber Partners and SCP shall to the extent practicable arrange to have compensation payable to SCP for any such activity or activities performed by SCP paid directly to SCP. In the event of any breach of this Agreement by SCP following an assignment to SCP pursuant to this Section 7.3.1, both Saber Partners, LLC and SCP shall be jointly and severally liable to the PUCT for damages to the PUCT resulting directly from that breach.

**7.4 Amendments and Modifications.** This Agreement may not be amended or modified in any manner except by written instrument executed by authorized representatives of the Parties in accordance with the terms of this Agreement. Any additional amounts to be securitized for AEP at a later date will be the subject of an amendment to this contract with compensation to be negotiated in good faith at that time.

**7.5 Binding on Successors.** The terms of this Agreement shall be binding on any successor organization of any of the signatory Parties.

## **Article 8. Representations, Warranties and Covenants**

**8.1 Warranty of Performance.** Saber Partners represents, warrants and covenants that it will perform the services outlined in Attachment A. Services to be Performed – AEP Transition Bonds, in a professional and workmanlike manner, consistent with professional standards of practice in the industry and in accordance with its undertakings in Article 17 hereof.

**8.2 Warranty of Services.** Saber Partners warrants that the services shall be rendered by the qualified personnel referred to in, or as otherwise agreed upon pursuant to, Section 19.11 hereof. If Services provided under this Agreement require a professional license, then Saber Partners represents, warrants and covenants that the activity will be performed only by duly licensed personnel.

### **Article 9. Risk of Loss and Property Rights**

**9.1 Risk of Loss.** The risk of loss for all items to be furnished hereunder shall remain with Saber Partners until the items are delivered to the PUCT, at which time the risk of loss shall pass to the PUCT.

**9.2 Ownership.** Except for materials where any intellectual property rights are vested in a third-Party, such as software or hardware, in which case such rights shall remain the property of the third Party, all finished materials, conceptions, or products created and/or prepared for on behalf of the PUCT and purchased by the PUCT, or on behalf of the PUCT, which the PUCT has accepted as part of the performance of services hereunder, shall be the PUCT's property exclusively and will be given to the PUCT either at the PUCT's request during the term of the Agreement or upon termination or expiration of the Agreement. Notwithstanding the foregoing, materials created, prepared for, or purchased exclusively by the PUCT or on behalf of the PUCT are the PUCT's exclusive property regardless of whether delivery to the PUCT is effectuated during or upon termination or expiration of this Agreement.

**9.3 Licensed Software.** Saber Partners may obtain software licenses as an agent of the PUCT for software that is used by Saber Partners solely for the purpose of providing services under this Agreement. Saber Partners shall provide the PUCT with a copy of any software license obtained by Saber Partners as an agent for the PUCT for the purpose of providing services under this Agreement.

**9.4 Prior Works.** Except as provided herein, all previously owned materials, conceptions or products shall remain the property of Saber Partners and nothing contained in this Agreement will be construed to require Saber Partners to transfer ownership of such materials to the PUCT.

**9.5 Trademarks.** The Parties agree that no rights to any trademark or service mark belonging to another Party or to any non-Party are granted to any other Party by this Agreement, unless by separate written instrument. The PUCT acknowledges and agrees that use of any trademark associated with any software provided by Saber Partners under this Agreement does not give the PUCT any rights of ownership in the trademark or the software.

**9.6 Program Information.** Program information, data, and details relating to Saber Partners' services under this Agreement shall be maintained separately from other Saber Partners' activities. Saber Partners shall undertake all reasonable care and precaution in the handling and storing of this information.



**9.7 Provision to be Inserted in Subcontracts.** Saber Partners shall insert an article containing paragraphs 9.2 and 9.6 of this Agreement in all subcontracts hereunder except altered as necessary for proper identification of the contracting Parties and the PUCT under this Agreement.

#### **Article 10. Confidential Information.**

**10.1 Confidential Information.** The Parties hereby acknowledge that they may become exposed to Confidential Information in connection with their relationship hereunder. In consideration thereof, the Parties agree to abide by the provisions of the confidentiality agreement in Attachment B hereto, which is hereby incorporated by reference herein.

**10.2 Agreement Not Confidential.** The Parties acknowledge that not all terms of this Agreement may be confidential pursuant to the Texas Public Information Act, regardless of whether those terms are marked "Proprietary" and/or "Trade Secret" and/or "Confidential," and regardless of the provisions of Attachment B hereto.

**10.3 Texas Public Information Act. (Texas Government Code Chapter 552).** The Parties acknowledge that notwithstanding any other provisions of this Agreement, the Texas Public Information Act ("PIA") governs the treatment of all information held by or under the control of the Commission. The Commission will notify Saber Partners of requests for Confidential Information within one business day of receiving the request.

#### **Article 11. Conflicts of Interest and Employment Restriction**

**11.1 No Conflicting Relationships.** Saber Partners certifies to the Commission that no existing or contemplated relationship exists between Saber Partners and the Commission that interfere with fair competition or is a conflict of interest, and that no existing or contemplated relationship exists between Saber Partners and another person or organization, whether or not located within the State of Texas, that constitutes or will constitute a conflict of interest for Saber Partners with respect to the Commission.

**11.2 Independence.** Saber Partners, as the Commission's financial advisor, must be free from any conflicts of interest and must provide the Commission with independent advice. Neither Saber Partners nor any affiliate of Saber Partners may have any financial interest in or any securities trading relationship with any entity that engages in the business of underwriting or trading in bonds or other fixed income products. From the beginning of this engagement and for at least 12 months following the date of issuance of the bonds, neither Saber Partners nor any affiliate of Saber Partners may engage in the business of underwriting or trading in the market for bonds or other fixed income products for their own account or for others.

**11.3 Prohibition on Transactions with Company.** No member of the team of Saber Partners' employees for this assignment is currently executing any securities transactions, advisory assignments, or credit transactions for American Electric Power. During the

term of this Agreement and for a period of one (1) year thereafter, Saber Partners shall not staff any Saber Partners' team members on any such assignments for American Electric Power without the prior written consent of the PUCT. Saber Partners will require that all members of Saber Partners' team agree to a prohibition against stock ownership of stock of American Electric Power during the term of this Agreement and for one (1) year thereafter. Prior to staffing any Saber Partners' employee to perform services under this Agreement, Saber Partners shall notify such employee of the provisions hereof and obtain a written agreement that he or she is bound hereby.

**11.4 Prohibition on Transactions with Parties Adverse to Commission.** Saber Partners agrees that during performance of this Agreement, it will neither provide contractual services nor enter into any agreement, oral or written, to provide services to a person or organization that is regulated or funded by the Commission or that has interests that are directly or indirectly adverse to those of the Commission. The Commission may waive this provision in writing if, in the Commission's sole judgment, such activities of the Contractor will not be adverse to the interests of the Commission.

**11.5 Notice of Conflict.** Saber Partners agrees to promptly notify the PUCT of any circumstance that may create a real or perceived conflict of interest. Saber Partners agrees to use its best efforts to resolve any real or perceived conflict of interest to the satisfaction of the PUCT. Failure of Saber Partners to do so shall be grounds for termination of this contract for cause, pursuant to Section 6.2.

## **Article 12. Other Acknowledgements and Agreements by the Parties**

**12.1 Indemnification.** Saber Partners shall indemnify, defend and hold harmless the PUCT, the State of Texas, its officers and employees from any and all liabilities, claims, demands or causes of action of whatever kind or nature asserted by a third-Party and occurring or in any way incident to, arising out of, or in connection with wrongful acts of Saber Partners, its agents, employees and subcontractors, committed in the conduct of this Agreement.

## **Article 13. Insurance**

**13.1 Minimum Insurance.** Saber Partners shall, at its sole cost and expense, secure and maintain as a minimum, from the Effective Date and thereafter during the term of this Agreement, for its own protection and the protection of the PUCT: (a) commercial liability insurance; (b) automobile liability coverage for vehicles driven by Saber Partners employees; and (c) workers' compensation insurance. The commercial liability policy shall provide a minimum coverage of \$500,000 per occurrence and \$1,000,000 aggregate. The automobile liability policy shall provide a minimum coverage of \$500,000 per occurrence. The workers' compensation insurance shall provide the following coverage: \$300,000 for medical expenses and coverage for at least 104 weeks, \$100,000 for accidental death and dismemberment, 70% of employee's pre-injury income for not less than 104 weeks; and \$500 maximum weekly benefit. The PUCT shall be named an additional insured on the commercial liability and automobile policies.

**13.2 Certificates of Insurance.** Saber Partners shall furnish to the PUCT certificates of insurance, signed by authorized representatives of the surety or insurers, of all such bonds and insurance and confirming the amounts of such coverage within ten days of the Effective Date of this Agreement, upon request. Saber Partners shall provide the PUCT Contract Administrator with timely renewal certificates as the coverage renews. Failure to maintain such insurance coverage specified herein, or to provide such certificates promptly, shall constitute a material breach of this Agreement.

**Article 14. Dispute Resolution**

**14.1 Alternative Dispute Resolution.** The Parties agree that to the extent required by Chapter 2260 of the Texas Government Code or other Texas statutes, any and all disputes that may arise between the Parties regarding the terms of this Agreement shall be first submitted for settlement by negotiation and mediation, or other means of alternative dispute resolution. The Parties further agree that any such dispute resolution to which Chapter 2260 of the Texas Government Code applies shall be conducted in accordance with PUCT Substantive Rule Chapter 27, Subchapter C.

**Article 15. Sovereign Immunity**

**15.1 Sovereign Immunity.** The State of Texas and the PUCT do not waive sovereign immunity by entering into this Agreement and specifically retain immunity and all defenses available to them under the laws of the State of Texas or the common law.

**Article 16. Governing Law**

**16.1 Governing Law.** Notwithstanding anything to the contrary in this Agreement, this Agreement shall be deemed entered into in the State of Texas and shall be governed by and construed and interpreted in accordance with the laws of the State of Texas that apply to contracts executed in and performed entirely within the State of Texas, without reference to any rules of conflict of laws. The Parties consent to the exclusive jurisdiction of the State of Texas. The Parties hereby submit to the jurisdiction of courts located in, and venue is hereby stipulated to, the state courts located in Travis County, Texas. Each Party stipulates that it is subject to the jurisdiction of the courts located in Travis County, Texas, for any cause of action arising from any act or omission in the performance of this Agreement. Further, each Party hereby waives any right to assert any defense to jurisdiction being held by the courts located in Travis County, Texas, for any cause of action arising from any act or omission in the performance of this Agreement.

**Article 17. Compliance with Law**

**17.1 General.** Saber Partners shall comply with all federal, state and local laws, executive orders, regulations and rules applicable at the time of performance. Saber Partners warrants that all services sold hereunder shall have been produced, sold, delivered, and furnished in strict compliance with all applicable laws and regulations, including Equal Employment Opportunity laws, to which they are subject. All laws and

regulation required in agreements of this character are hereby incorporated by this reference.

**17.2 Taxes.** Saber Partners agrees to comply with any and all applicable state tax laws that may require any filing with and/or payment to the State of Texas as result of any action taken as a result of this Agreement.

**17.3 Worker's Compensation.** Saber Partners agrees that it shall be in compliance with applicable state worker's compensation laws throughout the term of this Agreement.

**17.4 Conflicts.** Saber Partners agrees to abide by the requirements of and policy directions provided by the Texas statutes and the rules and regulations of the PUCT, and will inform and consult with the PUCT when further interpretations or directions are needed in order to fully implement the rules and regulations of the Commission. In the event that Saber Partners becomes aware of inconsistencies between this Agreement and a Texas statute or PUCT rule, Saber Partners will so advise the PUCT and will cooperate fully to revise applicable provisions of this Agreement as necessary.

#### **Article 18. Saber Partners Certification**

**18.1 Effect of Acceptance.** By accepting the terms of this Agreement, Saber Partners certifies that, to the extent applicable:

**18.1.1 Prohibitions on Gifts.** Saber Partners has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Agreement.

**18.1.2 Delinquent Obligations.** Saber Partners is not currently delinquent in the payment of any franchise or sales tax owed the State of Texas, and is not delinquent in the payment of any child support obligations under applicable state law.

**18.1.3 Antitrust.** Neither Saber Partners nor anyone acting for such firm, corporation, or institution has violated the antitrust laws of this State, codified in Section 15.01, et seq., of the Texas Business and Commerce Code or the Federal Antitrust Laws, nor has communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage.

**18.1.4 Family Code.** Saber Partners has no principal who is ineligible to receive funds under Texas Family Code § 231.006 and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

**18.1.5 Prohibited Compensation.** Saber Partners has not received compensation from the PUCT, or any agent, employee, or person acting on the PUCT's behalf for participation in the preparation of this Agreement.

**18.1.6 Family Code.** Pursuant to Texas Family Code § 231.006(d), no individual or business entity named in this contract is ineligible to receive the specified grant, loan, or payment; and Saber Partners acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

**18.1.7 Government Code.** Pursuant to Texas Government Code § 2155.004, regarding the collection of state and local sales and use taxes, the individual or business entity named in the proposal and with whom the PUCT is contracting is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate.

**18.1.8 Outstanding Obligations.** Payments due under the contract will be applied towards any debt that is owed to the State of Texas, including but not limited to delinquent taxes and child support.

**18.1.9 Contracting with Executive Head of State Agency.** The Agreement is in compliance with Texas Government Code § 669.003 relating to contracting with the executive head of a State agency.

**18.1.10 Buy Texas.** Saber Partners will comply with Texas Government Code § 2155.4441, pertaining to service contracts regarding the use of products produced in the State of Texas.

## **Article 19. General Provisions**

**19.1 Relationship of Parties.** Saber Partners is and shall remain at all times an independent contractor, and nothing in this Agreement shall be deemed to create a joint venture, partnership, employment, franchise, master-servant, or agency relationship between the Parties. Except as expressly provided to the contrary elsewhere in this Agreement, no Party has any right or authority to act on behalf of another Party, nor to assume or create any obligation, liability or responsibility on behalf of another Party. Under no circumstances shall the relationship of employer and employee be deemed to arise between the PUCT and Saber Partners' personnel. Saber Partners shall be solely responsible for achieving the results contemplated by this Agreement, whether performed by Saber Partners, its agents, employees or subcontractors.

**19.2 Taxes and Statutory Withholdings.** Saber Partners acknowledges that it is not a PUCT employee, but is an independent contractor. Accordingly, it is Saber Partners' sole obligation to report as income all compensation received by Saber Partners under the terms of this contract. Saber Partners is solely responsible for all taxes (federal, state, local), withholdings, social security, unemployment, Medicare, Worker's Compensation insurance, and other similar statutory obligations (of any governmental entity of any country) arising from, relating to, or in connection with any payment made to Saber Partners under this contract. Saber Partners shall defend, indemnify and hold the PUCT harmless to the extent of any obligation imposed by law on the PUCT to pay any tax (federal, state, local), withholding, social security, unemployment, Medicare, Workers'

Compensation insurance, or other similar statutory obligation (of any governmental entity of any country) arising from, relating to, or in connection with any payment made to Saber Partners under this contract.

Further, Saber Partners understands that neither it nor any of its individual employees is eligible for any PUCT employee benefit, including but not limited to holiday, vacation, sick pay, withholding taxes (federal, state, local), social security, Medicare, unemployment or disability insurance, Worker's Compensation, health and welfare benefits, profit sharing, 401(k) or any employee stock option or stock purchase plans. Saber Partners hereby waives any and all rights to any such PUCT employment benefit.

**19.3 Notice.** Except as otherwise stated in this Agreement, all notices provided for in this Agreement shall be (a) in writing, (b) addressed to a Party at the address set forth below (or as expressly designated by such Party in a subsequent effective written notice referring specifically to this Agreement), (c) sent by Certified U.S. mail, Return Receipt Requested, with proper postage affixed and (d) deemed effective upon the third business day after deposit of the notice in the U.S. mail.

IF TO THE PUCT:

ATTENTION: W. LANE LANFORD, EXECUTIVE DIRECTOR  
1701 N. Congress Ave., 7th Floor  
Austin, TX 78701

With a copy to the PUCT Contract Administrator, Paula Mueller, at the same address.

IF TO Saber Partners:

ATTENTION: JOSEPH S. FICHERA, CEO  
Saber Partners, LLC  
44 Wall Street  
New York, NY 10005

With a copy sent via facsimile to (212) 461-2371.

**19.4 Severability.** The Parties intend all provisions of this Agreement to be enforced to the fullest extent permitted by law. Saber Partners and the PUCT acknowledge and agree that each covenant and promise contained herein is a separate obligation independently supported by good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged. Accordingly, if a court of competent jurisdiction determines that the scope and/or operation of any provision of this Agreement is unenforceable as written, then the PUCT and Saber Partners intend that the court should reform such provision (e.g. to a narrower scope and/or operation) as it determines to be enforceable (e.g. maximum enforceable period of time, territory, and/or scope). If, however, any

provision of this Agreement is held to be unenforceable under present or future law, and not subject to reformation, then (a) such provision shall be fully severable, (b) this Agreement shall be construed and enforced as if such provision was never a part of this Agreement, and (c) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by unenforceable provisions or by their severance.

**19.5 Force Majeure.** No Party shall be responsible to another Party for any resulting loss if fulfillment of any of the terms or provisions of this Agreement is delayed or prevented by any act or event which is beyond the reasonable control of the affected Party (including but not limited to, court decisions, including appeals, acts of God, landslides, lightning, earthquakes, fires, explosions, floods, epidemics or acts of a public enemy, wars, blockades, riots, rebellions, sabotage, insurrections, civil disturbances or similar occurrences; and strikes, work stoppages, secondary boycotts and walkouts).

**19.6 Waiver.** Neither the PUCT nor Saber Partners shall not be required to give notice to enforce strict adherence to all provisions of this Agreement. No breach or provision of this Agreement shall be deemed waived, modified or excused by a Party, unless such waiver, modification or excuse is in writing and signed by an authorized officer of the Party. The failure by or delay of the aggrieved Party in enforcing or exercising any of its rights under this Agreement shall not be deemed a waiver, modification or excuse of such right or of any breach of the same or different provision of this Agreement, nor shall it prevent a subsequent enforcement or exercise of such right. The Party shall be entitled to fully enforce any other Party's covenants and promises contained herein, notwithstanding the existence of any claim or cause of action by that aggrieved Party against another Party under this Agreement or otherwise.

**19.7 Headings.** Titles and headings of paragraphs and sections within this Agreement are provided merely for convenience and shall not be used or relied upon in construing this Agreement or the Parties' intentions with respect thereto.

**19.8 Export Laws.** Saber Partners represents, warrants, agrees and certifies that it (a) shall comply with the United States Foreign Corrupt Practices Act (regarding, among other things, payments to government officials) and all export laws and rules and regulations of the United States Department of Commerce or other United States or foreign agency or authority and (b) shall not knowingly permit any non-Party to directly or indirectly, import, export, re-export, or transship any intellectual property or any third Party materials accessed by Saber Partners during the course of this Agreement in violation of any such laws, rules or regulations.

**19.9 Entire Agreement.** This Agreement, including Attachments A and B, constitutes the entire agreement and understanding between the PUCT and Saber Partners relating to the subject matter hereof and supersedes and merges all prior discussions, writings, negotiations, understandings and agreements with respect thereto and shall not be amended or modified, nor shall any right be waived, except by a written amendment that is completely executed and delivered by the PUCT and Saber Partners. Any subsequent change or changes in Saber Partners' duties or compensation shall not affect the validity

or scope or operation of this Agreement. By signing below, each of the Parties hereto acknowledges that it has read, understands and agrees to this Agreement as being effective for all purposes as of the Effective Date, notwithstanding any later date of execution set forth elsewhere in this Agreement.

**19.10 Preprinted Forms.** The use of preprinted forms, such as purchase orders or acknowledgments, in connection with this Agreement is for convenience only and all preprinted terms and conditions stated thereon are void and of no effect. The terms of this Agreement, including but not limited to Article 19.11, cannot be amended, modified or altered by any conflicting preprinted terms, provisions or conditions contained in a preprinted form, such as purchase orders or acknowledgements. If any conflict exists between this Agreement and any terms and conditions on a purchase order, acknowledgment or other preprinted form, the terms and conditions of this Agreement will govern.

**19.11 Specific Personnel.** The composition of Saber Partners personnel for this assignment ("Team"), have been identified by Saber Partners as follows:

As needed to perform the tasks specified herein, Saber Partners anticipates utilizing the services of its members, employees, and Advisory Board members, including Joseph S. Fichera, Michael Noel, Taylor Nance, Ross Comeaux, Paul Sutherland, and Martha Elvey. The law firm of Orrick, Herrington, & Sutcliffe LLP will provide legal counsel to Saber Partners. Dean Criddle will be the representative of Orrick Herrington.

Saber Partners warrants that it shall use its best efforts to avoid any changes to the Team during the course of this Agreement. Should personnel changes occur during the contract period, Saber Partners will recommend to the PUCT personnel with comparable experience and required qualifications and training. The PUCT must approve any change in personnel on this project. Saber Partners shall provide individuals qualified to perform the tasks assigned to such individual. At the PUCT's request, Saber Partners shall remove from the project any individual whom the PUCT finds unacceptable. Saber Partners shall replace such individual with another individual satisfactory to the PUCT as soon as practicable.



IN WITNESS WHEREOF both Parties by their duly authorized representatives have executed this Agreement as of the day and year signed below.

Public Utility Commission of Texas

By: 

W. Lane Lanford  
Executive Director

Date Signed: June 1, 2006

Saber Partners, LLC

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

Joseph S. Fichera,  
Manager & CEO

Date Signed: June 1, 2006

Saber Capital Partners, LLC

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

Manager & CEO

Date Signed: June 1, 2006

## ATTACHMENT A

### SERVICES TO BE PERFORMED AEP TRANSITION BONDS

1. REGULATORY SUPPORT AND DELIVERABLES.
  - a. If requested, assist PUCT staff in preparing proposed forms of Financing Orders.
  - b. Provide advice and recommendations to the PUCT on matters relating to structuring and pricing the Transition Bonds.
  - c. Under the direction of the PUCT, assist the Commission in evaluating the issuance advice letter.
  - d. Upon request, provide one or more oral briefings to the Commission, the PUCT Staff or other Parties on the results of the transaction.
  - e. Provide other written reports as directed by the Commission or the PUCT Staff.
2. TRANSACTION DUTIES--STRUCTURING, PRICING, MARKETING.
  - a. Advise the Commission in making decisions with respect to structuring, pricing, and marketing of the Transition Bonds. The PUCT retains the authority to select the senior bookrunning manager and underwriting team as well as the authority to determine the compensation for the senior book running manager and the underwriting team. If there is a disagreement between Saber Partners and AEP regarding structuring, marketing, and pricing of the transition bonds, the PUCT shall make the final decision.
  - b. Provide advice to the Commission related to the structuring, pricing, and marketing of the transition bonds.
  - c. Review all written marketing materials and provide analysis and recommendations concerning them as requested by the Commission.
  - d. Participate in reviewing all aspects of interactions with the rating agencies, including (without limitation): (1) cash flow models designed to calculate transition charges and transition bond payments; (2) "stress test" cash flow analyses; (3) business issues related to legal opinions; and (4) the resolution of other rating agency issues. including required capital contributions, overcollateralization, and other credit enhancement levels to achieve triple-A ratings. Provide analysis and recommendations concerning interactions with the rating agencies as requested by the Commission.
  - e. Review the underwriters' plans for marketing the series of Transition Bonds, including their: (a) strategy to market the bonds to all relevant domestic and international

debt market segments, including potential crossover buyers from the corporate bond market, and (b) marketing materials in both written and electronic form (e.g., sales point memoranda, road shows, and other investor education materials). Provide analysis and recommendations concerning marketing the transition bonds as requested by the Commission.

f. Evaluate market conditions and make recommendations on various aspects of the transaction including: (a) the timing of the proposal; and (b) the alternative tranching structures to target current demand conditions.

g. Review the underwriters' list of investors to whom the underwriters propose to offer the series of Transition Bonds. Provide analysis and recommendations concerning the proposed investors as requested by the Commission.

h. Review or attend written or oral presentations to the Commission by any underwriter or group of underwriters to investors, and participate in discussions relating to structure or price of transition bonds as the Commission requests.

i. Coordinate price talks with underwriters and review and advise the Commission regarding preliminary pricing indications prior to release to the marketplace.

j. Have open access to the bookrunning manager's book and all orders with respect to the series of Transition Bonds.

k. Review the proposed pricing of the series of Transition Bonds and, if there is an oversubscription, recommend whether the oversubscribed Transition Bonds should be re-priced.

l. Obtain written certification from the bookrunning underwriter(s) that the structuring, marketing and pricing of the Transition Bonds resulted in the lowest cost of funds and transition bond charges consistent with market conditions and the terms of the Financing Order.

### 3. TRANSACTION DUTIES—DOCUMENT REVIEW AND DUE DILIGENCE.

a. Review all transaction documents on behalf of ratepayers, giving particular attention to covenants, representations, and warranties to be given by AEP and by the Special Purpose Entity ("SPE") issuing the Transition Bonds and to remedies and the measure of damages that will apply in the event of any breach of covenant, representation or warranty by AEP or by the SPE. Provide analysis and make recommendations based on the review as requested by the Commission.

b. Review drafts of all SEC registration statements and any written correspondence with SEC staff and participate in discussions with SEC staff. Provide analysis and recommendations based on the review as requested by the Commission.

- c. Participate in the underwriters' due diligence efforts as requested by the Commission.
- d. Review the issuance advice letter and the Final Report for compliance with the Saber Partners's contract and the Commission's final order. . Provide analysis and recommendations based on the review as requested by the Commission.
- e. Review legal opinions given to rating agencies. . Provide analysis and recommendations based on the review as requested by the Commission.
- f. Review any Internal Revenue Service private letter ruling requests and letter rulings. . Provide analysis and recommendations based on the review as requested by the Commission.
- g. Conduct such other due diligence as may be necessary to support the Final Report.
- h. Promptly notify the Commission if Saber Partners becomes aware that any material aspect of the transaction has been performed in a manner that is not legal or ethical or that any decisions made in the transaction have not been appropriately documented, including documentation of any difficulties, anomalies, or unusual circumstances encountered in the transaction and their resolution.
- i. Provide other support as requested by the PUCT Staff concerning the services and duties of this Agreement.

#### 4. TRANSACTION AND POST-TRANSACTION DUTIES —ACCOUNTING AND FINANCIAL.

- a. Review all relevant information provided by AEP concerning various Qualified Costs (including costs of issuance and on-going servicing costs) and other financeable costs not fixed in the Financing Order. Provide analyses and recommendations concerning these costs as requested by the Commission.
- b. Assist AEP in preparing the issuance advice letter, including documentation that the statutory tests have been met as requested by the Commission.

## ATTACHMENT B

### CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement is an integral part of, and should be read in connection with, the attached Agreement between the Parties thereto. Capitalized terms used herein without definition shall have the meanings provided in the Agreement.

A. **"Confidential Information"** means information of or provided by the PUCT or AEP, referred to as "Discloser," that is provided or disclosed to Saber Partners and is marked as confidential or proprietary. If Confidential Information is initially disclosed orally then (1) it must be designated as confidential or proprietary at the time of the initial disclosure and (2) within twenty (20) days after disclosure, the information must be reduced to writing and marked as confidential or proprietary. Notwithstanding the foregoing, no information of Discloser will be considered Confidential Information to the extent the information:

1. is in the public domain other than through violation by Saber Partners of the terms hereof; or
2. is in the possession of Saber Partners prior to the disclosure, except as disclosed under separate confidentiality provisions between Saber Partners and Discloser, or thereafter is independently developed by Saber Partners 's employees or consultants or those of its affiliates who have had no prior access to the information;
3. is rightfully received by Saber Partners from a third Party without breach of any obligation of confidence to Discloser; or
4. is required to be disclosed by law, court order or governmental rule and regulation.

B. **Use of Confidential Information.** Confidential Information disclosed by Discloser to Saber Partners in connection with the Services conducted under the Agreement does not become the property of Saber Partners and will be used by Saber Partners solely for the purposes of this Agreement.

C. **Disclosure of Confidential Information.** Saber Partners agrees to protect Confidential Information with the same standard of care and procedures that it uses to protect its own Confidential Information. Without Discloser's prior written consent, Saber Partners shall not disclose or transfer Confidential Information to any person other than the PUCT and Saber Partners' employees (including contract and affiliate employees and subcontractors having a need to know) or consultants who participate in the Services if the employees and consultants have been made aware of their responsibilities under this Confidentiality Agreement. If Confidential Information is required by law, regulation, or court order to be disclosed, Saber Partners must first

notify Discloser, if legally permitted, and permit Discloser a reasonable opportunity to seek an appropriate protective order.

**D. Breach of Confidentiality Agreement.** Breach of the provisions of this Confidentiality Agreement by Saber Partners may constitute cause for termination of the Agreement pursuant to its terms. Saber Partners recognizes that any such breach may result in irreparable harm to Discloser and agrees that Discloser shall have the right to seek injunctive relief in the event of such a breach.

**E. Return or Destruction of Confidential Information.** Upon the completion of the Services under the Agreement, or the termination of the Agreement or at Discloser's request, Saber Partners shall return to Discloser or, at Saber Partners' option, shall destroy all Confidential Information in Saber Partners 's possession, custody or control, except as otherwise required by law, court order or governmental rule or regulation. Prior to returning or destroying such Confidential Information, Saber Partners shall file a copy of such information with the PUCT if such information is not already filed with the Commission. With respect to any such information which is destroyed, Saber Partners shall certify by written notification to Discloser and Commission that such Confidential Information has been destroyed.

**F. Termination.** The provisions of this Confidentiality Agreement shall expire on the fifth anniversary of the date hereof.