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COMPANY: NIAGARA MOHAWK POWER CORPORATION REVISION: 0
INITIAL EFFECTIVE DATE: 06/01/99 SUPERSEDING REVISION:
STAMPS:
RECEIVED: 04/26/99 STATUS: Effective EFFECTIVE: 06/01/99

SERVICE CLASSIFICATION NO. 11
LOAD AGGREGATION (continued)

Limitation of Liability

1. The Company shall not be liable to a customer or a Marketer/Direct Customer for any damages or losses of any nature (including economic losses), or for any costs or expenses (including attorneys* fees), or for any judgments or claims, directly or indirectly caused by, arising out of, or resulting from the Company*s acts or omissions under this Service Classification, or from its supply of data and information, or under any legal or regulatory requirements related to the Supplier Select Program, except for any damages or losses caused by the gross negligence or intentional misconduct of the Company.
2. The Company shall not be liable to a customer for any damages or losses of any nature (including economic losses), or for any costs or expenses (including attorneys* fees), or for any judgments or claims, directly or indirectly caused to the customer by any act or omission of a Marketer/Direct Customer.
3. The Company shall not be liable to a Marketer/Direct Customer for any damages or losses of any nature (including economic losses), or for any costs or expenses (including attorneys* fees), or for any judgments or claims, directly or indirectly caused to the Marketer/Direct Customer by any act or omission of a customer.
4. Any suspension or termination of a Marketer/Direct Customer shall be without any liability to the Company.
5. The Company*s total cumulative liability to a Marketer/Direct Customer or a customer whether arising out of Tariff, contract, tort (including negligence and strict liability) or otherwise, shall be limited to direct damages.
6. In no event shall the Company be liable to a customer or a Marketer/Direct Customer, whether in contract, tort (including negligence and strict liability), or otherwise, for any and all special, indirect, penal, punitive, or consequential damage of any kind, including, but not limited to, loss of use of equipment or facilities, lost profits or revenues, expenses involving cost of capital, cost of repair or cleanup, additional costs involved in construction or operation of facilities, or claims of customers or suppliers. The provisions of the Service Classification shall survive the customer*s and the Marketer/Direct Customer*s participation in the Supplier Select Program.

Issued By: Darlene D. Kerr, Executive Vice President, Syracuse, New York