

Purchase Power
Agreement
for a
Wind Resource
between

Minnesota Power
30 West Superior Street
Duluth, Minnesota, 55802
www.mnpower.com

and

Seller

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THIS POWER PURCHASE AGREEMENT (the “PPA” or the “Agreement”) is made as of the ___ day of ____, 20___, by and between Minnesota Power (“MP”), a division of ALLETE, Inc., a Minnesota corporation with headquarters at 30 West Superior Street, Duluth, Minnesota 55802 and [Seller], a _____ (“Seller”). Seller and MP are each referred to herein as a “Party” and collectively as the “Parties.”

WHEREAS, MP is an electric utility, as defined in Minn. Stat. § 216B.1691; and

WHEREAS, Seller will plan, design, finance, construct, own, operate and maintain a project consisting of a wind electric generating plant with an Installed Capacity of ___ MW to provide Accreditable Capacity and associated Contract Energy to MP, and which is further defined below as the “Facility;” and

WHEREAS, Seller intends to locate the Facility in _____, _____ and will interconnect the Facility at the Interconnection Point and will generate, sell and deliver the Accreditable Capacity, Contract Energy and any associated Green Tags to MP at the Point of Delivery, and MP will receive and purchase the same all in accordance with the terms of this Agreement; and

NOW THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

Article I. Term and Contingencies to Effectiveness

Section 1.01 Term. The Term of this Agreement (the “Term”) shall commence on the Commencement Date and shall expire [___] years from the Commercial Operation Date with the Agreement remaining in full force and effect through the interim unless terminated or extended in accordance with the terms of this Agreement. Applicable provisions of this PPA shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination and, as applicable, to provide for: final billings and adjustments related to the period prior to termination, repayment of any money due and owing to either Party pursuant to this PPA, repayment of principal and interest associated with security funds, and the indemnifications specified in this PPA.

Section 1.02 MP Contingencies. MP shall make every commercially reasonable effort to submit this Agreement for MPUC Approval as soon as practicable after the execution of this Agreement by both Parties. Obtaining MPUC Approval shall constitute a condition precedent to MP's performance of its other obligations hereunder. MP shall use commercially reasonable efforts to obtain MPUC Approval and MP's purchase hereunder as being reasonable, in the public interest and costs recovered pursuant to applicable Minnesota law subject only to ongoing prudence review of MP's purchase hereunder.

- (a) If, as outlined in Section 1.02 above, the MPUC declines to approve the PPA or approves the PPA subject to material conditions that are unacceptable to MP or Seller, each in its sole discretion, then the Parties agree to negotiate in good faith for a period of sixty (60) days from the date of the MPUC's written order to amend the PPA in a manner that will satisfactorily address the MPUC's reason for disapproval of, or conditions to, the Agreement. Any amendment agreed to by the Parties shall be subject to MPUC approval and the Parties shall seek approval of the PPA, as amended, in accordance with the procedure set forth in this Section. If the Parties cannot agree on mutually acceptable amendments by the end of the sixty

(60) days or such longer period as the Parties may agree, then either Party shall have the right to terminate the PPA upon written Notice to the other Party with no further obligations under this Agreement. Failure of either Party to provide timely Notice of termination shall be deemed a waiver of this condition and either Party shall not thereafter have the right to terminate this Agreement based on this condition.

- (b) If MP is unable to obtain Delivery Arrangements for the Accreditable Capacity and Contract Energy commencing as of the Commercial Operation Date in accordance with the provisions of Sections 6.03 and 6.05, provided that this condition shall be deemed satisfied unless MP satisfies its obligations under Section 6.04 to seek any such Delivery Arrangements and exercises its right to terminate no later than six (6) months after COD unless mutually agreed to.

Article II. Purchase and Sale

Section 2.01 Accreditable Capacity and Contract Energy. Beginning on the Commercial Operation Date, Seller shall generate from the Facility, deliver to the Point of Delivery, and sell to MP the Accreditable Capacity and Contract Energy from the Facility. Beginning on the Commercial Operation Date, MP shall accept and purchase at the prices set forth in this Agreement, the Accreditable Capacity and Contract Energy generated from the Facility and delivered by Seller to the Point of Delivery during the Term. The Seller is responsible for all costs and scheduling related to congestion and losses to the Energy Delivery Point.

- (a) For this agreement, Commercial Operation Date (COD) shall be 12:01 a.m. on the Day following the date on which MP receives Seller's COD Notice and all conditions under the provisions in Section 5.05 have been met and accepted by MP.

Section 2.02 Test Energy. If the Facility generates Test Energy prior to the Commercial Operation Date, MP agrees to accept and purchase all Test Energy generated by the Facility and delivered to the Point of Delivery at a rate equal to seventy percent (70%) of the Contract Energy price set forth in Exhibit B \$/MWh. Seller shall coordinate the production and delivery of Test Energy with MP, and MP agrees to cooperate to facilitate the delivery and acceptance by MP of Test Energy of the Facility. Seller shall notify MP, fifteen (15) Days prior to the initial delivery of Test Energy to MP. In no instance shall MP be obligated to purchase Test Energy in amounts more than that associated with the Installed Capacity.

Article III. Title and Risk of Loss

Section 3.01 Until Point of Delivery. As between the Parties, Seller shall retain title to, and be deemed to be in control of the Accreditable Capacity, Contract Energy, Ancillary Services, and Test Energy from the Facility up to and until delivery to MP at the Point of Delivery.

Section 3.02 After Point of Delivery. MP shall take title to, and be deemed to be in control of, the Accreditable Capacity, Contract Energy, Test Energy, Ancillary Services and Green Tags purchased by MP hereunder, from and after delivery at the Point of Delivery.

- (a) Seller warrants that it will deliver to MP the Accreditable Capacity, Contract Energy, Test Energy, Ancillary Services, and Green Tags purchased by MP hereunder, free and clear of all liens, security interests, claims, and encumbrances or any similar interest therein or thereto in favor of any Person and arising or attaching prior to the Point of Delivery.

- (b) Seller shall not curtail or interrupt Accreditable Capacity, Contract Energy, Test Energy, Ancillary Services, and Green Tags to MP for any economic reason.

Section 3.03 Green Tags. The Parties agree that the price set forth in Exhibit B includes compensation for Green Tags associated with the Contract Energy and Accreditable Capacity purchased by MP pursuant to this Agreement and that MP is entitled to utilize any and all such Green Tags to the full extent allowed by applicable laws or regulations, MP shall own or be entitled to claim all Green Tags purchased hereunder to the extent such Green Tags may exist during the Term, and to the extent necessary, Seller shall assign to MP all rights, title and authority to register, own, hold and manage such Green Tags in MP's own name and account, including any rights associated with any renewable energy information or tracking system that may be established with regard to monitoring, tracking, certifying, or trading such Green Tags.

Article IV. Contract Energy and Pricing

Section 4.01 Contract Energy. The Installed Capacity of the Facility shall be [] MW, consisting of the equipment described in Exhibit A. Seller must notify MP within three (3) Days of execution of this Agreement of final Wind Turbine(s) selection and provide MP written evidence of wind turbine purchase commitment. Seller shall provide, under Exhibit F, estimates of Annual and Monthly Expected Energy predicted by the Wind Performance Modeling Program for a typical Commercial Operation Year using 8760 data and annually thereafter for the term of the PPA.

Section 4.02 Mechanical Availability Amount. Commencing at the beginning of the Commercial Operation Year #2 and for each Guarantee Period thereafter, the Facility shall deliver at least equal to the Mechanical Availability Amount.

- (a) For purposes of this Agreement, the Mechanical Availability Amount for any Guarantee Period means (i) ninety-three percent (93%) quotient of Operational Hours (numerator) by Available Hours (divisor).
- (i) "Operational Hours" - for each Wind Turbine is the sum of the number of hours during a Guarantee Period in which a Wind Turbine was available for energy production with operating systems capable of delivering energy production to the Point of Delivery, as calculated by a Wind Turbine's programmable logic controller, less without duplication, the number of hours in which a Wind Turbine was not available for energy production due to Excused Curtailments or Compensated Curtailments.
 - (ii) "Available Hours" – for each Wind Turbine is the sum of the number of hours during a Guarantee Period in which a Wind Turbine was available for energy production with operating systems capable of delivering energy production to the Point of Delivery, as calculated by a Wind Turbine's programmable logic controller, plus without duplication, the number of hours in which a Wind Turbine was not available for energy production due to Excused Curtailments or Compensated Curtailments.
 - (iii) Mechanical Availability Amount is calculated as a percentage in accordance with the following formula:

$$\frac{\text{Mechanical Availability Amount} \times \text{Total Operational Hours during the Guarantee Period}}{\text{Total Available Hours during the Guarantee Period}}$$

- (b) If the quantity of Contract Energy delivered by the Facility during any Guarantee Period is equal to or greater than the Mechanical Availability Amount for such Guarantee Period, Seller’s delivery obligation shall be deemed satisfied for such Guarantee Period.
- (c) If the quantity of Contract Energy delivered by the Facility during any Guarantee Period is less than the Mechanical Availability Amount for such Guarantee Period, the Seller shall determine the resulting shortfall for such Guarantee Period (the “Mechanical Availability Shortfall”) by subtracting the Contract Energy for the relevant Guarantee Period from the Mechanical Availability Amount for the relevant Guarantee Period. The Mechanical Availability Shortfall shall be expressed in MWh.
- (d) If an Mechanical Availability Shortfall exists, then Replacement Power Costs will be payable monthly. If Replacement Power Costs results in a positive number, the Seller shall be liable to MP for the applicable Replacement Power Cost, and MP shall monthly invoice Seller for any amount due, showing adequate documentation and calculation of the Replacement Power Costs incurred. Any undisputed amount due shall be paid by Seller within thirty (30) Days of MP’s invoice.
- (e) Any shortfall payable under this Section shall not be subject to the Aggregate Damage Limitation but shall be subject to an overall separate cumulative limitation of \$_____ during the Term, which shall be calculated separately from the Aggregate Damage Limitation.

Section 4.03 Pricing for Contract Energy. Seller shall be entitled to payment for Accreditable Capacity including any associated Zonal Resource Credits, Contract Energy and any associated Green Tags in accordance with this Section. MP’s payment under this PPA includes Accreditable Capacity, Zonal Resource Credits, Contract Energy, Ancillary Services, any associated Green Tags and any other product derived from the Facility not specifically excluded by this PPA.

- (a) MP shall pay Seller for Contract Energy delivered to MP at the Point of Delivery in accordance with the schedule set forth in Exhibit B.
- (b) This PPA does not provide for the supply of any electric service by MP to Seller or to the Facility and nothing in this Agreement shall obligate MP to provide any electric service to Seller or to the Facility (“House Power”). Seller recognizes and acknowledges that it shall be solely responsible for obtaining electric service for the Facility in accordance with applicable law and service territory.
- (c) Any and all Ancillary Services (as that term is defined and implemented pursuant to the MISO or other relevant Tariff(s) and FERC Order No. 827) that the Facility is capable of providing associated with the Installed Capacity, shall be deemed to have been purchased by MP hereunder at no additional charge. Upon achieving the Commercial Operation Date, Seller

shall use all commercially reasonable efforts to maximize the Ancillary Services available to MP to the extent available from the Installed Capacity, consistent with and subject to Good Utility Practice, provided that Seller shall not be required to make any capital expenditures or incur any increased operating expenses in connection with such efforts other than what is already required to comply with the requirements of the Interconnection Agreement and any related instructions from MISO or the Interconnection Provider. Notwithstanding anything in this Section to the contrary, Seller shall not reduce, curtail or suspend production and delivery of Contract Energy to MP for the purpose of preserving or providing Reactive Power to itself or any other person.

Article V. Facility Requirements

Section 5.01 General Description. The Accreditable Capacity and Contract Energy purchased by MP under this Agreement shall be exclusively generated by the Facility located at the Site. Seller shall design, construct, operate and maintain the Facility in material compliance with all Facility Permits and Requirements of Law, and according to Good Utility Practice.

Section 5.02 Site. Exhibit A contains a scaled map that identifies the Site, the location of the Facility at the Site, the equipment and components which make up the Facility, a one-line diagram, the location of the Interconnection Point, the location of Electric Metering Devices, and the Point of Delivery. Exhibit A shall be amended to reflect any material changes in siting of the generating facilities or related facilities during permitting and construction.

Section 5.03 Milestones. Seller acknowledges that time is of the essence with respect to Seller meeting its obligation to supply the Accreditable Capacity and Contract Energy purchased by MP hereunder. To that end, Seller shall use all commercially reasonable efforts to complete the Facility by the Major Construction Milestones as set forth in Exhibit C. In furtherance of Seller's obligation, Seller shall reasonably endeavor to achieve each of the interim Major Construction Milestones set forth in Exhibit C on or prior to the applicable date set forth for such Major Milestone.

Section 5.04 Milestones; Extensions. The Major Construction Milestone dates listed in Exhibit C (including the Commercial Operation Milestone) may be extended upon the occurrence of Force Majeure; provided that in no event shall the total number of Days of all such extensions as a result of Force Majeure exceed ninety (90) Days in the aggregate; provided, further, that if Seller shall fail to achieve the Commercial Operation Date within ninety (90) Days after the Commercial Operation Milestone for any reason whatsoever, including Force Majeure but excluding any default under this Agreement by MP that results in a delay in achievement of the Commercial Operation Milestone, then such failure shall entitle MP to terminate this PPA without further obligation to Seller.

Section 5.05 Conditions to Commercial Operation. Commercial Operation shall not occur before _____, and all Contract Energy Delivered by _____ prior to that date shall be Test Energy. After _____, Commercial Operation of the Facility shall commence the Day following MP's acceptance (which shall not be unreasonably withheld) of Seller's Notice that all conditions set forth in this Section have been successfully satisfied. An officer of Seller who has knowledge of the Facility must certify in written Notice to MP that all the conditions set forth in this Section have been satisfied. Thereafter, MP shall have ten (10) business Days to challenge the satisfaction of any condition set forth in this Section and in the event, MP raises any such challenge, Seller shall provide MP with additional information establishing satisfaction of the condition. In the event the Parties are unable to agree upon satisfaction of the conditions to Commercial Operation, the matter shall be referred to dispute

resolution in accordance with this Agreement. Seller must certify:

- (a) that the Facility is substantially complete in all material respects, that Seller is in compliance with its Construction Contract, that Seller is in full compliance with the terms of this Agreement, that Seller is in material compliance with the Interconnection Agreement, and that the Facility can be safely operated in conformance with this Agreement.
- (b) that Seller has successfully completed testing of the Facility which is required by the Facility's Permits and the Interconnection Agreement, and the generating facility has been commissioned by the manufacturer in accordance with Good Utility Practice and any applicable agreements.
- (c) that Seller has executed all agreements and made all arrangements necessary to deliver the Contract Energy and Accreditable Capacity from the Facility to the Point of Delivery in compliance with the provisions of this PPA.
- (d) that all Security arrangements in accordance with Article XI have been established in a form and in the amounts sufficient to meet the requirements of this Agreement and that Seller has provided MP with proof that such arrangements are in place.
- (e) that certificates proving insurance coverages required by this Agreement have been submitted to MP.
- (f) that all Permits required to be obtained from any Governmental Authority to construct and/or operate the Facility in compliance with applicable Requirements of Law and this PPA have been obtained and are in full force and effect.
- (g) that the Seller has contracted with the local utility to provide House Power to the site; and
- (h) that the Seller has provide MP with any applicable information required to register the Facility with the appropriate Green Tag tracking system.

Article VI. Interconnection, Delivery and Metering

Section 6.01 Interconnection Service and Costs. Seller shall apply for and use commercially reasonable efforts to obtain MISO (if applicable) or local utility (115kV or greater) interconnection service necessary to interconnect the Facility to the Interconnection Point. If the interconnection is governed by MISO, Seller shall apply for Network Resource Interconnection Service as that term is defined in the MISO OATT or comparably firm interconnection service sufficient to facilitate making the interconnected Facility available to MP's native load customers. Seller shall release deliverability study results to MP. In the event that the deliverability study findings determine that Network Resource status is not available or is not available without substantial network upgrades for which Seller is unwilling to contribute to accordance with its respective obligation under any Tariff, MP shall negotiate in good faith to allow the designation of the Facility as an Energy Resource. Seller is responsible for any Replacement Power Cost due receiving an Energy Resource Interconnection Service in place of the Network Resource Interconnection Service, for negotiating, entering and performing its obligations under the Interconnection Agreement.

Section 6.02 Separate Interconnection Agreement. The Parties recognize that Seller will enter into a separate Interconnection Agreement with the Interconnection Provider.

- (a) The Parties acknowledge and agree that the Interconnection Agreement shall be a separate and free-standing contract regardless of Seller's counterparties to such an agreement and nothing

in the Interconnection Agreement shall alter or modify Seller's or MP's rights or obligations under this Agreement and nothing in this Agreement shall alter or modify Seller's rights or obligations under the Interconnection Agreement.

- (b) Seller recognizes that, for purposes of this Agreement, the Interconnection Provider shall be deemed to be a separate entity and separate contracting party whether the Interconnection Agreement is entered into with MP or an Affiliate of MP.

Section 6.03 Seller Transmission. Seller shall be responsible for all interconnection, electric losses, transmission and ancillary service arrangements and costs required to deliver, on a firm transmission service basis, the Capacity and Energy, including Test Energy, from the Facility to MP at the Point of Delivery. Seller shall also be responsible for paying any transmission service charges required or assessed to either MP or Seller by non-MISO entities in connection with this PPA.

Section 6.04 Buyer Transmission. MP shall arrange for delivery of the Contract Energy and Accreditable Capacity from the Point of Delivery to MP's customers, or any other point and MP shall bear all transmission and scheduling costs associated with accepting and transmitting the Facility's Accreditable Capacity and Contract Energy from the Point of Delivery to MP's customers or any other point. MP shall be responsible for any scheduling of the Contract Energy from the Point of Delivery to MP's customers or any other Person, including, without limitation, arranging any Open Access Same-Time Information Systems ("OASIS"), tagging, transmission scheduling or similar protocols from MISO or any other Persons. If at any time during the Term, either MP or the entity owning the transmission facilities at the Point of Delivery ceases to be a member of MISO or the facilities at the Point of Delivery cease to be subject to the MISO Tariff, then the Parties shall cooperate in good faith to amend this PPA in a manner to facilitate the delivery of Contract Energy from the Point of Delivery to MP's customers at no cost to Seller and at the least possible incremental cost to MP.

Section 6.05 Transmission Arrangements. The anticipated path for MP's delivery of Contract Energy from the Point of Delivery is for delivery to _____. The Parties recognize that (i) MISO or any New Joint Transmission Authority, or (ii) FERC and the ERO have established and approved electric market rules (as amended, "Market Rules") that apply to MP's system, and which allocate responsibility for imbalance or other payments associated with imbalances.

- (a) Seller shall not be responsible for imbalance payments for energy output deviations that satisfy MISO's Failure to Follow Dispatch Flag business manual practice applicable to intermittent energy sources. The wind project must have proper controls installed that meet MISO requirements to follow dispatch orders for an intermittent resource.

Section 6.06 Metering. The Parties acknowledge and agree that the metering of the Contract Energy to be delivered pursuant to this PPA shall occur at the Point of Delivery and Seller shall be responsible for electric losses from transmission from the Facility to the Point of Delivery. Further, the parties agree that delivered energy is the net metered energy output twenty-four (24) hours a Day seven Days a week.

- (a) The Facility shall be designed to accommodate metering, generator telemetering equipment, and communications equipment that meet the requirements of this Section. To the extent not otherwise set forth in the Interconnection Agreement, metering equipment necessary for determining the Contract Energy, Test Energy and Accreditable Capacity (real and reactive) for billing purposes shall comply with MP's metering requirements for this installation and Electric Metering Devices shall include, but not be limited to, kWh and kvar meters, metering

cabinets, metering panels, conduits, cabling, metering units, current transformers and potential transformers directly or indirectly providing input to meters or transducers, meter recording devices, telephone circuits, signal or pulse dividers, transducers, pulse accumulators and any other equipment necessary to implement the provisions of this Agreement. All Electric Metering Devices for billing purposes will be revenue billing grade devices and have an accuracy of at least +/- 0.2%. All instrument transformers used for metering will be metering class devices with an accuracy of at least +/- 0.2%. Current transformer ratios will be chosen to measure minimum power within the device's accuracy range. A primary meter and associated recording device shall measure and record the flow of Energy and Capacity (real and reactive) associated with the Facility. The meter shall measure the bi-directional watt-hour and var-hour quantities (or other quantities required by MP) and shall be used to determine the amount of Energy and Capacity received by MP from Seller. The frequency of meter reads shall meet the requirement for participating in the MISO energy market and MP's standards for monitoring, tracking, and reporting,

- (b) To the extent not otherwise provided in the Interconnection Agreement, MP shall design, install, own, and maintain all Electric Metering Devices used to measure the Energy and Capacity made available to MP by Seller under this PPA and to monitor and coordinate operation of the Facility. If Electric Metering Devices are not installed at the Point of Delivery, meters or meter readings will be adjusted to reflect losses from the Electric Metering Devices to the Point of Delivery. All Electric Metering Devices used to provide data for the computation of payments shall be sealed and only MP shall break the seal when such Electric Metering Devices are to be inspected and tested or adjusted in accordance with this Section. MP shall specify the number, type, and location of such Electric Metering Devices.
- (c) MP shall, at its own expense, inspect and test all Electric Metering Devices owned by MP, and Seller shall, at its own expense, inspect and test all Electric Metering Devices owned by Seller, upon installation and at least annually thereafter. Each Party will be provided with reasonable advance notice of, and a representative of the other Party shall be permitted to witness and verify such inspections and tests, provided that the requesting Party shall comply with all applicable safety standards and not unreasonably interfere with or disrupt the activities of the testing Party. Each Party shall, if reasonably requested, perform additional inspections or tests of any Electric Metering Device and shall permit a qualified representative of the other Party to inspect or witness the testing of any Electric Metering Device, provided further, that the requesting Party shall comply with all of the testing Party's safety standards and shall not unreasonably interfere with or disrupt the activities of the testing Party. The requesting Party shall bear the actual expense of any requested additional inspection or testing of the other Party's Electric Metering Device, unless upon such inspection or testing an Electric Metering Device is found to register inaccurately by more than the allowable limits established in this Section, in which event the expense of the requested additional inspection or testing shall be borne by the testing Party. The testing Party shall, if requested in writing, provide copies of any inspection or testing reports to the requesting Party.
- (d) In addition to the Electric Metering Devices, any Party may elect to install and maintain, at its own expense, backup metering devices ("Back-Up Metering"). This installation and maintenance shall be performed in accordance with Good Utility Practice and in a manner acceptable to MP. The installing Party, at its own expense, shall inspect and test Back-Up Metering upon installation and at least annually thereafter. The installing Party shall provide

the other Party with reasonable advance notice of and permit a representative of the requesting Party to witness and verify such inspections and tests, provided that the requesting Party shall comply with all applicable safety standards and shall not unreasonably interfere with or disrupt the activities of the installing Party. Upon request, the installing Party shall perform additional inspections or tests of Back-Up Metering and shall permit a qualified representative of the requesting Party to inspect or witness the testing of Back-Up Metering, provided that the requesting Party shall comply with all applicable safety standards and shall not unreasonably interfere with or disrupt the activities of the testing Party. The requesting Party shall bear the actual expense of any such requested additional inspection or testing, unless, upon such inspection or testing, Back-Up Metering is found to register inaccurately by more than the allowable limits established in this Section, in which event the expense of the requested additional inspection or testing shall be borne by the testing Party. The testing Party shall, if requested in writing, provide copies of any inspection or testing reports to the requesting Party.

- (e) If any Electric Metering Devices or Back-Up Metering, is found to be inaccurate or defective, they shall be adjusted, repaired, replaced, and/or recalibrated as near as practicable to a condition of zero error by the Party owning such defective or inaccurate device and at that Party's expense.

Section 6.07 Adjustment for Inaccurate Meters. If an Electric Metering Device, or Back-Up Metering, fails to register, or if the measurement made by an Electric Metering Device, or Back-Up Metering, is found upon testing to be inaccurate by more than five-one hundredths of one percent (0.05%), an adjustment shall be made correcting all measurements by the inaccurate or defective Electric Metering Device, or Back-Up Metering, for both the amount of the inaccuracy and the period of the inaccuracy, in the following manner:

- (a) If the Electric Metering Device is found to be inaccurate or defective, and that Back-Up Metering has been tested and maintained in accordance with the provisions of this Section, the Parties shall use Back-Up Metering, if installed, to determine the amount of such inaccuracy.
- (b) Metering is installed on the low side of Seller's step-up transformer. If Back-up Metering is also found to be inaccurate by more than five hundredths of one percent (0.05%) or no back-up metering was installed, the Parties shall use the SCADA data collected at the Facility for the period of inaccuracy, adjusted as agreed by the Parties. If, and to the extent, such SCADA is incomplete or unavailable, the Parties shall estimate the amount of the necessary adjustment based on deliveries of Contract Energy from the Facility during periods of similar operating conditions when the Electric Metering Device was registering accurately. The adjustment shall be made for the period during which inaccurate measurements were made.
- (c) In the event that the Parties cannot agree on the actual period during which the inaccurate measurements were made, the period during which the measurements are to be adjusted shall be the shorter of (i) the one hundred eighty (180) Days immediately preceding the test that found the Electric Metering Device to be defective or inaccurate or (ii) the last one-half of the period from the last previous test of the Electric Metering Device to the test that found the Electric Metering Device to be defective or inaccurate.
- (d) MP shall use the corrected measurements as determined in accordance with this Section to recompute the amount due for the period of the inaccuracy to the extent that the adjustment period covers a period of deliveries for which payment has already been made by MP, and MP

shall subtract the previous payments by MP for this period from such recomputed amount. If the difference is a negative number, that difference shall be paid by Seller to MP, or at the discretion of MP, may take the form of an offset to payments due Seller by MP in an amount each month of no more than thirty percent (30%) of each applicable invoice; if the difference is a positive number, the difference shall be paid by MP to Seller. Payment of such difference by the owing Party shall be made not later than thirty (30) Days after the owing Party receives Notice of the amount due, except to the extent MP elects payment via an offset.

Article VII. Facility Operation and Maintenance

Section 7.01 Facility Operations and Control. After the Commercial Operation Date, Seller shall staff, control, and always operate the Facility consistent with Good Utility Practice and according to the Operating Procedures developed by the Operating Committee. Personnel capable of disconnecting the Facility shall be available 24 hours per Day, 365 Days per year. Seller shall ensure that personnel are available by telephone, or other means to ensure prompt response to contingencies. Prompt response includes capability of remotely starting, operating and stopping the Facility within 10 minutes, and the ability to be at the site within 30 minutes.

Section 7.02 Facility Planned Outages/Maintenance. After the Commercial Operation Date, Seller shall maintain the Facility according to applicable warranty requirements, relevant equipment manufacturer's specifications, and Good Utility Practice(s).

- (a) Seller shall provide MP with an annual schedule of the expected Scheduled Outages/Deratings for the Facility ("Maintenance Schedule") prior to March 1 of each preceding year during the Term, which describes expected maintenance activities for rolling two Commercial Operation Years. Any substantial changes to the Maintenance Schedule shall be provided to MP no later than one hundred thirty-five (135) Days prior to the scheduled maintenance to align with MISO Tariff rules, as amended from time to time. Seller will use commercially reasonable efforts to provide Notice to MP of Scheduled Outages/Deratings involving the Facility, other than as listed in the Maintenance Schedule, as soon as practicable. Seller will use commercially reasonable efforts to not have a Schedule Outage
- (b) Seller shall use commercially reasonable efforts to avoid or limit any Scheduled Outages/Deratings for the Facility, excluding outages associated with Emergencies and Forced Outages, during any Peak Period. Seller shall use good faith efforts to minimize such outages, to minimize the occurrence and duration of such outages during any Peak Period.. Seller also agrees to cooperate with MP as a part of the Operating Committee functions to use commercially reasonable efforts in establishing the timing of Scheduled Outages/Deratings during times of MP's scheduled outages to conduct maintenance of MP-owned transmission facilities used for delivery of Contract Energy.
- (c) Not less than twelve (12) hours prior to commencement of any Scheduled Outage/Derating of the Facility, MP may request, by phone or email, that Seller defer such scheduled maintenance. Subject to Good Utility Practice, Seller shall use commercially reasonable efforts to comply with any such request and seek to reschedule such deferred maintenance to a subsequent date mutually agreed upon between the Parties. In connection with any such request by MP for deferral of scheduled maintenance, Seller shall provide to MP, in advance, a non-binding good faith estimate of the incremental direct costs to be incurred by Seller to comply with such request. If MP desires Seller to incur such incremental costs at MP's expense, MP shall

promptly advise Seller to that effect. Seller may then invoice MP for, and MP shall pay Seller for, all the actual incremental direct costs incurred by Seller in connection with such deferral and rescheduling of maintenance.

Section 7.03 Forced Outages. Seller shall use commercially reasonable efforts to minimize the occurrence, scope and duration of Forced Outages at the Facility. During the Peak Period, Seller shall use all commercially reasonable efforts to avoid or overcome any Forced Outages at the Facility.

Section 7.04 Outage Reporting. Seller shall operate the Facility in a manner that complies with all national and regional reliability standards, including standards set by NERC, MISO, NAEMA, the MRO, the FERC and the MPUC, or any other applicable or successor agencies setting reliability standards for the operation of generating facilities.

Section 7.05 Capacity Accreditation. MP has certain planning, operating and reporting requirements to MISO. As between the Parties, MP is responsible for seeking MISO accreditation of the Installed Capacity as Resource Adequacy Capacity, and Seller agrees to provide reasonable cooperation to MP, including the provision of data necessary for MP to calculate Accreditable Capacity. Currently, MP believes no generator tests are required by MISO for accreditation of renewable energy conversion facilities; to the extent such testing is required in the future, Seller shall be responsible for the costs associated with such testing. Seller makes no representations with respect to MISO accreditation of the Installed Capacity as Resource Adequacy Capacity.

Section 7.06 Excused Curtailments. Notwithstanding anything else in this PPA to the contrary, MP shall not be required to pay any amount for full or partial hours of Compensated Curtailment. If Compensated Curtailment resulting from transmission outages or other reasons is consistent for more than 96 full or partial hours, MP shall be obligated to pay Seller as determined pursuant to Section 8.06(b). The Operating Committee shall develop a mechanism to track the usage of curtailments under this section. For example, Excused curtailments result from actions taken by the Transmission Authority, Interconnection Provider, or other regulatory bodies that result in the lack of available transmission to the Point of Delivery.

Section 7.07 Obligation to Rebuild. If substantial damage to all or a substantial portion of the Facility, any insurance proceeds shall be applied in accordance with the terms of the Financing Documents or similar instruments defining the rights of lenders and investors in the Facility or Seller. Seller shall use commercially reasonable efforts to negotiate terms in the Financing Documents that require use of the proceeds for reconstruction of the damaged part of the Facility. If at the time of the damage (i) there are no requirements of Financiers that prevent reconstruction; and (ii) MP is relying on the Facility to meet any state and/or federal requirement for renewable energy generation, then Seller shall apply the proceeds of any such insurance to rebuild or repair the Facility, provided that if the cost to repair or reconstruct the Facility exceeds the available insurance proceeds for reasons other than a default by Seller under this PPA, the Parties may amend this Agreement to permit the reconstruction or repair on terms that make the Facility, as reconstructed or repaired, financially viable.

Article VIII. Billing and Payment

Section 8.01 Billing Statement and Invoices. The monthly billing period shall be a calendar month. No later than two (2) Business Days after the close of the billing month, Seller shall provide to MP, email by such method of delivery as mutually agreed to by the Parties, an invoice for the amount due Seller by MP, under this PPA, for the billing period covered by the statement. The invoice will show

Contract Energy delivered from the Facility during the applicable month, all billing parameters, rates and factors, and any other data reasonably pertinent to the calculation of monthly payments due to Seller.

Section 8.02 Payments. Payments due under this PPA shall be due and payable by electronic funds transfer, as designated by the owed Party, on or before the twentieth (20th) Business Day following receipt of the billing invoice. Remittances received by first-class mail will be considered to have been paid when due if the postmark shows the payment was mailed on or before the payment due date. If any amount due is not paid by the due date, the amount due shall bear interest on the unpaid balance at a rate equal to two (2) percent plus the prime rate as determined by Wells Fargo, N. A. or its successor for the Days of the late payment period multiplied by the number of Days elapsed from and including the Day after the due date to and including the payment date.

Section 8.03 Billing Disputes. Either Party may dispute invoiced amounts but shall pay to the other Party at least the undisputed part of invoiced amounts on or before the date on which payment is due. To resolve any billing dispute, the Parties shall use the dispute resolution procedures in this Agreement. When the billing dispute is resolved, the Party owing shall pay the amount owed within five (5) Business Days of the date of such resolution.

- (a) If MP disputes any amount in the invoice, MP shall describe items in dispute, as well as all supporting documentation upon which MP relies to dispute the invoice. Billing disputes shall be resolved following Article VII.

Section 8.04 Billing and Payment Records. To facilitate payment and verification, Seller and MP shall keep all books and records necessary for billing and payments and grant the other Party reasonable access to those records. All records of Seller about the operation of a Facility shall be maintained on the premises of the Facility or some other mutually agreed-upon location for a minimum of six (6) years.

Section 8.05 Wire Transfer. MP shall make payment of invoices via wire transfer, ACH or similar electronic means if requested in writing to do so by Seller, at Seller's expense, and if the request contains adequate payment information. MP shall be entitled to conclusively presume, without any liability whatsoever, that the payment information given by Seller is accurate and will not be required to pay any bill more than once where the invoice was first paid in accordance with Seller's payment instructions.

Section 8.06 Compensated Curtailments. Except as expressly provided for in this Section, Seller shall be entitled only to payment for Contract Energy delivered to the Point of Delivery.

- (a) No payment shall be due Seller for curtailments of delivery of Contract Energy from the Point of Delivery resulting from any of the following (each an "Excused Curtailment"): (i) an Emergency or Force Majeure, (ii) any action taken by the Interconnection Provider and permitted under the Interconnection Agreement as a result of the Facility's failure to comply with power quality or similar requirements in connection with delivery of the Contract Energy to the Point of Delivery; (iii) any curtailment of Delivery Arrangements by the applicable transmission service provider to provide delivery of Contract Energy from the Point of Delivery; or (iv) any curtailment resulting from Seller's failure to maintain in full force and effect any Permit required by law for operation of the Facility. For the avoidance of doubt, the Parties agree that an Excused Curtailment shall mean all curtailments other than a Compensated Curtailment. Nothing in this Section or Agreement shall limit or affect any rights

Seller may have under the Interconnection Agreement or against any other Person under any other agreement or applicable law.

- (b) Seller shall be compensated in the event and to the extent production and delivery of Contract Energy is curtailed by MP other than Excused Curtailments, including, but not limited to, MP's inability or refusal to accept Contract Energy at the Point of Delivery (i) as a result of low load conditions that justify not accepting Contract Energy, (ii) MP's election to utilize non-firm transmission service(s) to deliver Contract Energy, or (iii) lack of available transmission capacity or service at the time of curtailment due to a failure by MP to obtain such service or capacity (collectively "Compensated Curtailments") except in each case, to the extent such Compensated Curtailment constitutes or results from an Excused Curtailment. Seller shall calculate the amount of Contract Energy the Facility would have produced and delivered to the Point of Delivery but for a Compensated Curtailment using actual availability of the Facility during the applicable period. Seller is entitled to compensation and MP shall compensate Seller for the Contract Energy that would have been produced and delivered but for a Compensated Curtailment by paying the Contract Energy price in Section 4.03 and Exhibit B plus applicable tax or investment benefits, for all such Contract Energy. Seller shall include an invoice for payment for such Contract Energy with its regular monthly invoice to MP, along with the information showing its calculation of amounts due for Contract Energy curtailed by any Compensated Curtailment.
- (c) All Excused Curtailments and Compensated Curtailments shall be considered to be delivered for purposes of calculating the Contract Energy.

Article IX. Information and Implementation

Section 9.01 Pre-COD Reporting Obligations. Seller and MP shall each keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this PPA, including such records as may be required by Governmental Authorities in the prescribed format. Seller and MP may examine the records and data kept by the other Party relating to transactions under and administration of this PPA, upon reasonable request and during normal business hours.

- (a) If it is required by any Financier or Governmental Authority, and within thirty (30) Days after completion, Seller shall provide MP with a copy of a report summarizing a Phase I environmental investigation conducted of the Site by an independent environmental engineer familiar with the Site.
- (b) At the times specified by the Major Milestones, Seller shall provide to MP copies of Permits governing the design and construction of the Facility, and redacted copies of major contracts affecting the Facility showing the identity of the contracting parties, their execution of the contract, a summary of services or work involved, and the date the contract was executed, so that MP may monitor Seller's progress in meeting its obligations under this Agreement.
- (c) On or about the first Day of each calendar month after execution of this PPA, and weekly after physical construction has commenced and until the Commissioning Date is achieved, Seller shall submit to MP a progress report, which shall notify MP in reasonable detail of the current status of each Major Milestone, Facility permitting, financing and construction, and any other information that will permit MP to assess the status of progress toward Commercial Operation.
- (d) MP shall have the right to monitor the construction, start-up and testing of the Facility and

Seller shall cooperate with all reasonable requests of MP with respect to these events. All persons visiting the Facility on behalf of MP shall comply with all of Seller's applicable safety and health rules and requirements, and the requirements of any lease or Permit as to the Site. MP's technical review and inspection of the Facility shall not be construed as endorsing the design of such Facility nor as any warranty of safety, reliability, or durability of the Facility.

Section 9.02 Post-Construction Information. Seller and MP shall each keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this PPA, including such records as may be required by Governmental Authorities in the prescribed format. Seller and MP may examine the records and data kept by the other Party relating to transactions under and administration of this PPA, upon reasonable request and during normal business hours.

- (a) Seller shall maintain an accurate and up-to-date operating log, in electronic format, at the Facility with records of real and reactive power production for each clock hour; energy production dedicated to this PPA and energy production generated for other purposes; changes in operating status; Scheduled Outage/Deratings and Forced Outages, number of generating unit starts, and any unusual conditions found during inspections. The operating log shall be made available to MP upon reasonable request. Seller shall provide the described information to the extent the SCADA, controller or similar equipment monitoring the Facility is capable of measuring and retaining the information.
- (b) Appropriate representatives of MP shall at all reasonable times and with reasonable prior notice, have access to the Facility to read meters and to perform all inspections, maintenance, service, and operational reviews as may be appropriate to facilitate the performance of this PPA. While at the Facility, such representatives shall observe such reasonable health and safety precautions as may be required by Seller and the requirements of any lease or Permit as to the Site and shall conduct themselves in a manner that will not interfere with the operation of the Facility.
- (c) Each Party shall deliver or cause to be delivered to the other Party certificates of its officers, accountants, engineers or agents as to matters as may be reasonably requested, and shall make available, upon reasonable request, personnel and records relating to the Facility to the extent that the requesting Party requires the same in order to fulfill any regulatory reporting requirements, or to assist the requesting Party in litigation, including, but not limited to, administrative proceedings before utility regulatory commissions.

Article X. Operating Committee and Operating Procedures

Section 10.01 Operating Committee. There shall be an Operating Committee established to assist the Parties in implementing their obligations under this Agreement. The Operating Committee shall have no authority to modify the terms or conditions of this PPA.

- (a) MP and Seller shall each appoint one representative and one alternate representative to act in matters relating to the Parties' performance obligations under this PPA and to develop operating arrangements for the generation, delivery and receipt of power and energy hereunder. Such representatives shall constitute the Operating Committee. The Parties shall notify each other in writing of such appointments and any changes thereto. The Operating Committee may only take action that is agreed to by both Parties' representatives.
- (b) The Operating Committee shall provide liaison between the Parties with respect to

implementation of the provisions of this Agreement. The Operating Committee shall develop mutually agreeable written Operating Procedures, which shall include, but not be limited to, method of day-to-day communications; metering, telemetering, telecommunications, and data acquisition procedures; key personnel list for applicable MP and Seller operating centers; clearances and switching practices; operating and maintenance scheduling and reporting; unit operations log; and such other matters as may be mutually agreed upon by the Parties.

- (c) The Operating Committee shall have the following additional functions, among all others specified elsewhere in this Agreement:
- (i) To review and make recommendations regarding Seller's schedule for Scheduled Outages/Deratings and Facility maintenance.
 - (ii) To review Seller's implementation of its obligations under this Agreement.
 - (iii) To establish, prepare and discuss the statistical and administrative reports, budgets, and information and other similar records, and the form thereof, to be kept by and furnished by Seller and MP as required by this Agreement.
 - (iv) To perform such other functions and duties as it may undertake from time to time in connection herewith or as may be assigned to it by the Parties and to make any recommendations to either Party deemed appropriate or desirable.

Section 10.02 Wind Data and Capacity. Seller shall install sufficient measuring equipment at the Facility to collect data necessary to reasonably determine the amount of Facility generation under various conditions, including conditions where production from the Facility has been curtailed. Seller shall install by no later than the Commercial Operation Date permanent meteorological towers of at a minimum of 80-meter height around the Site to provide the capability of measuring and recording representative wind data twenty-four (24) hours per Day, which Wind data shall be used to calculate any amounts due Seller under this PPA for curtailed or lost production. The tower required by this PPA must be provided on a nearby or adjacent site and serve more than one facility and shall be at a location agreed to by the MP. After the Commercial Operation Date, MP shall have the right on a real-time basis to access all weather data from the meteorological equipment electronically and Seller shall cooperate reasonably in providing such access, provided that MP shall hold all such data confidential pursuant to the terms of this Agreement. The Parties shall develop protocols and procedures through the Operating Committee for the determination of potential production under circumstances. Seller shall cooperate reasonably to assist MP in maximizing (pursuant to the terms and conditions of this Agreement) and determining the amount of Accreditable Capacity. Seller shall collect data and perform tests and calculations in compliance with Module E of the TEMT and MISO Business Practices Manual for Resource Adequacy, as they change from time to time. All required testing shall be conducted at Seller's expense.

Article XI. Security

Section 11.01 Seller Credit Support. Sellers that do not have a 1) credit rating for its senior unsecured debt of BBB or higher (for Standard & Poor's) or Baa2 or higher (for Moody's) or 2) provide credit support from a corporate guarantor that meet this requirement shall establish and fund the initial Security in the amount of \$_____ [Security calculation shall be \$300/kW multiplied by Installed Capacity of _____ kW], no later than five (5) Days after executing this PPA.

- (a) The Seller Credit Support shall be available to pay any amount due MP pursuant to this PPA, and to provide MP security that Seller will properly and timely develop, construct, operate and maintain the Facility and deliver Accreditable Capacity and Contract Energy to the Point of Delivery pursuant to this Agreement.
- (b) The Security shall also provide security to MP to cover damages, including but not limited to Replacement Power Costs, Liquidated Delay Damages, Actual Damages, liquidated damages for failure to achieve COD, and any amounts for which MP is entitled to indemnification under this PPA. Seller shall replenish the Security to such required level within fifteen (15) Business Days after any draw on the Security by MP. Seller shall maintain the Security at such required level throughout the remainder of the Term.

Section 11.02 Security Characteristics and Draw.

- (a) Security shall be comprised of either a letter of credit or performance bond or a cash escrow, at Seller's option, or a combination of these options if the total amount of Security is no less than required.
- (b) If Seller elects to utilize a cash escrow as Security, it shall establish an interest-bearing escrow account with a commercial bank or other mutually acceptable escrow agent as escrow agent, and the account shall name MP as the exclusive beneficiary for the duration of the existence of the escrow account. The escrow account shall be in United States currency, and funds in the account may be invested in a money-market fund, short-term treasury obligations, investment grade commercial paper or other investment-grade investments with maturities of three months or less. All income and interest earned on the accounts held in the escrow account shall accrue for the benefit of Seller, and Seller may withdraw the income and interest earned at any time if the balance in the account after the withdrawal meets the minimum funding requirements of this Section. The escrow agreement shall require the escrow agent to notify MP if the balance in the escrow account is, together with the amount of any letter of credit, at any time, below the minimum amount required by this Agreement. The escrow agreement governing the account shall include terms that (i) prohibit termination of the account prior to establishment of alternative Security that satisfies all the requirements of this PPA; (ii) require notice of no less than sixty (60) Days by the escrow agent to MP prior to any termination of the account; (iii) allow MP to draw the entire balance in the escrow account up to the amount of the Security if Security has not been replaced in accordance with this Agreement at least five (5) Business Days prior to the expiration or termination of the escrow account, and MP shall hold such amounts in lieu of escrow until such time as the Security has been replaced, at which time the funds shall be returned to Seller. At the end of the Term, any balance remaining in the escrow account shall be returned or released to Seller.
- (c) In conjunction with or instead of cash security as provided, Seller may provide Security in the form of an irrevocable letter of credit in a commercially reasonable form and otherwise in compliance with the requirements of this Section (the "LOC"). The LOC shall be issued by a state or federally chartered commercial bank which issues similar letters of credit in the ordinary course of its business and that (i) has an unsecured bond rating equivalent to A- or better as determined by at least two (2) rating agencies, one of which must be either Standard & Poor's or Moody's, or, if these are not available, CAMEL ratings from the FDIC or OCC used in the banking industry no less than a 3 and (ii) has a minimum of \$100 million in capital (the "Issuer"). The LOC must provide the following: (i) it must be issued for a minimum term

of three hundred and sixty (360) Days, and, where permitted by the Issuer, shall be automatically extended for a period of one year on each successive expiration date unless, at least ninety (90) Days before the current expiration date, the Issuer notifies Seller and MP by certified mail that the Issuer has decided not to extend the letter of credit, (ii) provide that draws shall be payable upon presentation of a sight draft executed by an officer of MP substantially in the form approved by MP; and (iii) expressly permit partial and multiple draws. Any unused portion of the letter of credit shall be available, regardless of renewal, through the then current expiration date. Seller may replace the letter of credit with another Issuer which includes a provision for at least ninety (90) Days advance Notice to MP and shall cause the renewal or extension of the LOC meeting the criteria set forth in this Section within thirty (30) Days prior to the expiration or cancellation of the then current LOC, and failure to do so shall authorize MP to draw immediately upon the then current LOC. If the Issuer notifies Seller and MP that it will not renew the LOC, MP may then, at Seller's cost and with Seller's funds, place the amounts so drawn in an interest bearing escrow account, until and unless Seller provides a substitute form of such security meeting the requirements of this Section. Security in the form of an irrevocable standby letter of credit shall be governed by the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Brochure No. 500.

- (d) MP shall have the right to monitor the financial condition of Seller and the Issuer to the extent set forth herein, and Seller shall provide written Notice to MP within five (5) Business Days of becoming aware that the Issuer does not have an Investment Grade Credit Rating. In addition, Seller shall provide to MP, at the beginning of each calendar quarter after the Commercial Operation Date, evidence satisfactory to MP sufficient to establish that Seller is in compliance with the security requirements set forth in this Section, including such evidence sufficient to establish that the current Issuer has a credit rating or assets as required. In the event that the financial condition of the current Issuer has deteriorated to a level below that required, Seller shall provide alternative Security as soon as practicable that complies with this Section and, in no event, later than thirty (30) Days after becoming aware of the Issuer's failure to meet the requirements of this Article.

Section 11.03 Release of Security. Promptly following the termination of this PPA and the completion of all Seller's obligations under this PPA, MP shall release the Security (including any accumulated interest, if applicable) to Seller.

Section 11.04 Permitted Draws, Effects of Draws. In addition to any other remedy available to it, MP may, before or after termination of this PPA, draw against the Security to satisfy any undisputed obligations of Seller to MP arising under this Agreement (including without limitation the payment of Replacement Power Costs, if any, or any indemnification obligations) which Seller has not otherwise paid or performed when due, after any required notice and opportunity to cure. In the event MP draws against the Security and Seller subsequently disputes MP's entitlement to any portion of the funds drawn, neither MP's draw, the Issuer's payment under the LOC, nor Seller's replenishment of the Security or reimbursement of the Issuer or escrow agent shall constitute a waiver of Seller's rights to seek recovery of any amount disputed. To the extent MP elects to draw upon the Security to satisfy obligations that otherwise constitute, or might constitute, an Event of Default by Seller and entitle MP to terminate this Agreement, MP's draw against the Security shall be deemed a cure of such Event of Default and shall waive MP's right to terminate in that respect. With respect to any Event of Default by Seller that remains uncured and which could be cured by payment of an undisputed amount to MP,

MP shall first draw upon the Security to cure the Event of Default, and only if such Security is insufficient to cure the Event of Default shall any right of termination which MP may otherwise have be exercised by MP.

Article XII. Force Majeure

Section 12.01 Applicability of Force Majeure. A Party shall not be responsible, liable or in default with respect to any delay or failure to perform hereunder if, and to the extent, the delay or failure is substantially caused by Force Majeure. The Party affected by Force Majeure shall exercise commercially reasonable efforts to remove such disability with reasonable dispatch but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

Section 12.02 Force Majeure Procedures.

- (a) A Party delayed in performing or unable to perform any obligation hereunder by reason of Force Majeure shall give Notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as practicable after the occurrence of the cause relied upon.
- (b) Telephone or verbal communications given pursuant to this Section shall be confirmed in writing as soon as reasonably possible and shall specifically state the full particulars of the Force Majeure, the time and date when such Force Majeure occurred and when the Force Majeure is reasonably expected to cease.
- (c) A Party's suspension of performance due to a Force Majeure shall be no longer or broader than necessary as a result of the Force Majeure and the Party claiming Force Majeure shall resume full performance of its obligations as promptly as possible.
- (d) When the non-performing Party can resume performance of its obligations under this PPA, that Party shall give the other Party written Notice to that effect.

Section 12.03 Limitations on Force Majeure. In no event will any delay or failure of performance caused by any conditions or Force Majeure extend this PPA beyond its stated Term.

- (a) Economic hardship and changes in market conditions shall not constitute Force Majeure.
- (b) Suspension or curtailment in the electric output of the Facility that is caused by or arises from the acts or omissions of any third party, including, without limitation, any vendor, materialman, customer, or supplier of any Party, shall not constitute Force Majeure, unless such acts or omissions are themselves excused by reason of Force Majeure.
- (c) Mechanical or equipment breakdown or other mishap or events or conditions attributable to normal wear and tear or flaws to equipment shall not constitute Force Majeure, unless such breakdown, mishap or event is itself caused by Force Majeure.
- (d) In the event that any delay or failure of performance caused by Force Majeure continues for an uninterrupted period of one hundred eighty (180) Days from its inception, the Party not claiming Force Majeure may, at any time following the end of such one hundred eighty (180) Day period, terminate this PPA upon written Notice to the affected Party, without further obligation by either Party except as to costs and balances incurred prior to the effective date of such termination. The Party not claiming Force Majeure may, but shall not be obligated to,

extend such one hundred eighty (180) Day period, for at least ninety (90) Days, and such additional time as it, at its sole discretion, deems appropriate, if the affected Party is exercising due diligence in its efforts to cure the Force Majeure.

Article XIII. Default, Termination, and Remedies

Section 13.01 Events of Default by Seller. Any of the following shall constitute a default of Seller:

- (a) Seller's Abandonment of the Facility.
- (b) Seller's Failure to achieve Critical Path Milestones. Seller shall be in default under this PPA if the Facility fails to achieve any Critical Path Milestones identified in Exhibit D. Seller shall be liable to pay \$_____ [calculation shall be \$400/MW multiplied by Installed Capacity of ____ MW for the Wind generation facility] per Day ("Liquidated Delay Damages") to MP as a liquidated damage and not a penalty, in lieu of Actual Damages, for any Critical Path Milestone missed in Exhibit D. If Seller achieves the Commercial Operation Date, the Liquidated Delay Damages for failure to achieve Critical Path Milestones paid to date shall be refunded thirty (30) Days after COD is achieved and accepted.
- (c) Seller's Failure to achieve Commercial Operation Date. Seller shall be in default under this PPA if the Facility fails to achieve COD by the Commercial Operation Milestone identified in Exhibit C. Seller shall be liable to pay \$_____ [calculation shall be \$400/MW multiplied by Installed Capacity of ____ MW for the Wind generation facility] per Day ("Liquidated Delay Damages") to MP as a liquidated damage and not a penalty, in lieu of Actual Damages, for missing the Commercial Operation Date identified in Exhibit C.
- (d) Seller shall be in default of this PPA for failure to timely execute the Community Outreach Plan as defined herein and in accordance with Good Utility Practices. Seller shall begin implementing the Community Outreach Plan upon approval of this PPA by the MPUC and continue to follow it until COD. Seller shall provide MP updates every thirty (30) Days of its efforts under the Community Outreach Plan upon MPUC Approval. In the event MP determines that Seller is not meeting the Community Outreach Plan and causing harm to MP, MP shall notify Seller of the Event of Default. Seller shall have the right to cure any deficiencies within thirty (30) Days of such Notice before proceeding to termination.
- (e) Seller's assignment of this PPA or any of its rights hereunder for the benefit of creditors (except for an assignment to Financier as security under the Financing Documents as permitted by this PPA).
- (f) Seller's filing of a petition in bankruptcy or insolvency for dissolution or liquidation under the bankruptcy laws of the United States or under any insolvency act of any state, or the filing of such a petition by another Person against Seller seeking dissolution or liquidation, and Seller's failure to obtain the dismissal of the petition within forty-five (45) Days.
- (g) The sale by Seller to a third party, or diversion by Seller for any use by a third party, of Accreditable Capacity, Contract Energy, or any associated Green Tags to which MP is entitled under this PPA except as expressly allowed under this Agreement.
- (h) Seller's failure to establish and maintain the funding of the Security as and in the amounts required.

- (i) Seller's failure to make any payment required under this PPA unless such payment is subject to a good faith dispute.
- (j) Seller's assignment of this PPA, or any direct or indirect change of control of Seller, or Seller's sale or transfer of its interest, or any part thereof, in the Facility, except as permitted by this Agreement to the extent such assignment is not deemed void.
- (k) Any representation or warranty made by Seller in this PPA shall prove to have been false or misleading in any material respect when made or ceases to remain true during the Term if such cessation would reasonably be expected to result in a material adverse impact on MP, provided that Seller shall have a reasonable time not exceeding thirty (30) Days to correct the false or misleading condition; and/or
- (l) Seller's failure to comply with any other material obligation under this PPA, which would result in a material adverse impact on MP.

Section 13.02 Seller Remedies. Seller's failure to achieve the COD by the Commercial Operation Milestone and if the Seller has failed to cure such failure within forty-five (45) Days after such Milestone for reasons other than Force Majeure or a delay by MP, provided that if during such forty-five (45) Day period Seller provides a written opinion from a mutually-agreeable independent engineer that the COD can reasonably be achieved within an additional forty-five (45) Day period, then Seller shall be allowed a total period not to exceed ninety (90) Days after the Commercial Operation Milestone to achieve the COD;

Section 13.03 Financier's Right to Cure Default of Seller. Seller shall provide MP with a Notice identifying each Financier and providing appropriate contact information for each Financier. Following receipt of such Notice, MP shall provide Notice of any default of Seller to each Financier, and MP will accept a cure to a default of Seller performed by the Financier, so long as the cure is accomplished within the applicable cure period set forth in this PPA, if any. If Financier needs to foreclose on the Facility or otherwise take legal action to gain possession of the Facility in order to cure the applicable Event of Default, the applicable cure period shall be extended by the amount of time necessary for the Financier, using all reasonable due diligence, to obtain possession of the Facility. If Financier, or its designee, obtains possession of the Facility and assumes all the obligations of the Seller under this Agreement, and cures any Events of Default, MP agrees to recognize the Financier, or its designee, as the successor to Seller under the terms of the PPA and to perform its obligations to Financier or its designee.

Section 13.04 Termination by Seller Default. Failure to cure a COD Delay within the applicable cure shall be an Event of Default by Seller. Upon such an Event of Default, MP may (i) terminate this PPA immediately upon notice to Seller, without penalty or further obligation to Seller except as to costs and balances incurred prior to the effective date of such termination, and (ii) in connection therewith, in addition to accrued Liquidated Delay Damages but in lieu of Actual Damages for the balance of the Term, collect from Seller liquidated damages therefor in the amount of \$ _____ [calculation shall be \$300/kW multiplied by Installed Capacity of _____ kW for the Wind generation facility].

Section 13.05 Events of Default of MP. Any of the following shall constitute a default of MP:

- (a) MP fails to make a payment due to Seller that is not subject to a good-faith dispute when such payment is due.

- (b) MP's dissolution or liquidation, provided that division of MP into multiple entities, or other corporate reorganization, shall not constitute dissolution or liquidation.
- (c) MP's assignment of this PPA or any of its rights hereunder for the benefit of creditors.
- (d) MP's filing of a petition in bankruptcy or insolvency for dissolution or liquidation under the bankruptcy laws of the United States or under any insolvency act of any State, or the filing of such a petition by another Person against MP seeking dissolution or liquidation, and MP's failure to obtain the dismissal of the petition within forty-five (45) Days;
- (e) Any representation or warranty made by MP in this PPA shall prove to have been false or misleading in any material respect when made or ceases to remain true during the Term if such cessation would reasonably be expected to result in a material adverse impact on Seller; and/or
- (f) MP's failure or refusal to accept delivery of Contract Energy at the Point of Delivery for reasons other than an Excused Curtailment, or a Compensated Curtailment where the applicable payment is made to Seller with respect to such curtailment pursuant to the terms of the PPA.
- (g) MP's failure to comply with any other material obligation under this PPA, which would result in a material adverse impact on Seller.

Section 13.06 Remedies. Upon the occurrence of any curable default, the non-defaulting Party shall provide the defaulting Party with Notice of the Default and a reasonable opportunity to cure, such period not to exceed twenty (20) Days with respect to any failure to pay or thirty (30) Days from such Notice with respect to any other Default. For any default which has not been cured in the time required, the non-defaulting Party may, at its option do any, some or all the following:

- (a) Terminate this Agreement to the extent permitted.
- (b) Offset from any payments due from the non-defaulting Party to the defaulting Party any amount otherwise due.
- (c) Seek damages in such amounts and on such bases for the default as authorized by this Agreement.
- (d) In the case of a default by Seller, MP may draw on the Security as the case may be in the amount of any damages subject to the terms of Article XI.
- (e) In the case of a default by Seller, MP may exercise its Step-In Rights in the manner and to the extent set forth in Section 13.10.

Section 13.07 Termination. Upon the occurrence of an Event of Default which has not been cured within the time required or otherwise waived, as provided for in this Agreement, the non-defaulting Party shall have the right to terminate this PPA by Notice to the non-defaulting Party without further obligation to the defaulting Party except for obligations arising or accruing prior to the date of termination.

- (a) Upon the termination of this PPA under this Section, the non-defaulting Party shall be entitled to receive from the defaulting Party all of the actual damages incurred by the non-defaulting Party to the extent allowed by law including, if Seller is the defaulting Party, Replacement Power Costs as and when allowed by this Agreement, up to the Aggregate Damage Limitation set forth in Section 13.08, and subject to the limitations of Section 13.13 and other provisions

of this PPA.

- (b) Applicable provisions of this PPA shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination and, as applicable, to provide for: final billings and adjustments related to the period prior to termination, repayment of any money due and owing to either Party pursuant to this PPA, repayment of principal and interest associated with Security, and the indemnifications specified in this PPA.
- (c) In the event the existence of an Event of Default or a Party's right to terminate this Agreement is disputed, and the dispute has been submitted to dispute resolution pursuant to Article XVI, the Party claiming the right to terminate shall not be able to exercise that right until the conclusion of dispute resolution or any other applicable legal proceeding resolving the dispute.

Section 13.08 Aggregate Damage Limitation. Except as otherwise provided in this Section, Seller's aggregate financial liability to MP for Replacement Power Costs and other damages shall not exceed \$375 / Kw. If MP incurs such damages and after MP's application of (i) all Security available under this PPA, (ii) any amounts offset against obligations of MP to Seller and (iii) payments made by Seller, Financiers or other Persons toward such damages, there remains a balance due to MP which Seller fails to pay as required, then MP may terminate this Agreement. The Aggregate Damage Limitation shall not apply to damages caused by or arising out of any of the following events and any such damages shall be due and payable without regard to the Aggregate Damage Limitation:

- (a) material intentional misrepresentation or intentional misconduct sanctioned by, or at the direction of, Seller in connection with this PPA.
- (b) the sale or diversion by Seller to another Person of Accreditable Capacity or Contract Energy to which MP is entitled under this PPA.
- (c) Seller's failure to apply any insurance proceeds to reconstruction of the Facility following a casualty.
- (d) any claim for Indemnification arising.
- (e) any Environmental Contamination caused by Seller.

Section 13.09 Seller's Right to Mitigate Damages. If MP fails to accept delivery of any Contract Energy, except for curtailment, for a period of ten (10) or more continuous Days, notwithstanding any provision herein to the contrary, Seller shall be entitled to sell the Energy, Capacity and associated Green Tags produced by the Facility to MISO or another Person until such time as MP provides Notice to Seller that MP will resume receipt of delivery of the Contract Energy, and the net income from any such third-party sales shall be in the nature of mitigation of Seller's damages arising from MP's breach of its obligation to accept delivery of Contract Energy.

Section 13.10 MP Step-In Rights. [To be discussed regarding additional MP Step-In Rights after ten years beyond default events]

- (a) Upon the occurrence of an uncured Event of Default by Seller, prior to and in lieu of termination of this PPA due to any default of Seller, MP shall have the right, but not the obligation, to possess, assume control of, and operate the Facility as agent for Seller (in accordance with Seller's rights, obligations, and interests under this PPA) during the period provided for herein ("Step-In Rights"). Seller shall not grant any person, other than any

Financier, a right to possess, assume control of, and operate the Facility that is equal to or superior to MP's right under this Section. MP's rights under this Section shall be expressly subordinate to the rights of any Financier, except to the extent the Financier waives such rights.

- (b) MP shall give Seller reasonable notice under the circumstances of the exercise of MP's rights under this Section. Upon such notice, Seller shall diligently and promptly collect and have available at a convenient location all documents, contracts, books, manuals, reports, and records associated with operation and maintenance of the Facility in accordance with Good Utility Practice and all contractual obligations of Seller and third parties with respect to the Facility. Upon such notice, MP, its employees, contractors, or designated third parties shall be given the unrestricted right to enter the Site and the Facility for the purpose of operating the Facility subject to the terms and conditions of any applicable leases, easements, Permits and other contracts and agreements with respect to use of the Site and operation of the Facility, including, but not limited to, wind turbine supply agreements, operation and maintenance agreements, and any agreements with or obligations to Financiers. Seller hereby irrevocably appoints MP as Seller's attorney-in-fact for the exclusive purpose of executing such documents and taking such other actions as MP may reasonably deem necessary or appropriate to exercise MP's Step-In Rights under this Section.
- (c) MP shall be entitled to immediately draw upon the Security to cover any actual and reasonable expenses incurred by MP in exercising its rights under this Section and as necessary or appropriate to operate the Facility.
- (d) During any period that MP is in possession of the Facility, MP shall perform and comply with all of the obligations of Seller under this PPA, Permits, and any contractual and legal obligations of Seller with respect to the Site and Facility and shall use the proceeds from the sale of electricity generated by the Facility to, first, reimburse MP for any and all expenses reasonably and actually incurred by MP in taking possession of and operating the Facility (and which are not otherwise reimbursed by draws upon the Security), and to, second, pay any operating and contractual expenses due and owing with respect to the Facility, and, third, remit remaining proceeds, if any, to Seller.
- (e) During any period that MP is in possession of and operating the Facility, Seller shall retain legal title to and ownership of the Facility and MP shall assume possession, operation, and control solely as agent for Seller, except that MP's agency shall not include the right to create or cause any new obligations or liabilities for Seller.
- (f) In the event that MP has exercised its Step-In Rights, Seller may resume operation and MP shall relinquish its right to operate at such time as Seller demonstrates to MP's reasonable satisfaction that Seller has or will promptly remove those grounds that originally gave rise to MP's exercise of its Step-In Rights, and that Seller (i) will resume operation of the Facility in accordance with the provisions of this PPA, and (ii) has cured any defaults of Seller which allowed MP to exercise its rights under this Section.
- (g) MP's exercise of its rights hereunder to possess and operate the Facility shall not be deemed an assumption by MP of any preexisting liability attributable to Seller. If at any time after exercising its rights to take possession of and operate the Facility MP elects to return such possession and operation to Seller, MP shall provide Seller with at least fifteen (15) Days advance Notice of the date MP intends to return such possession and operation, and upon

receipt of such Notice Seller shall take all measures necessary to resume possession and operation of the Facility on such date.

- (h) In the event that a Financier, or a nominee or transferee, becomes entitled to assume possession and control of the Facility pursuant to any security or collateral instrument or applicable law, MP agrees to relinquish possession and control of the Facility in accordance with the request of the Financier or its nominee or transferee, if applicable.
- (i) In the event MP assumes operation of the Facility under this Section, MP shall operate the Facility in conformance with Good Utility Practice and all contractual obligations of Seller with respect to the Facility, including the Interconnection Agreement.

Section 13.11 Specific Performance. Each Party recognizes that MP is relying upon the availability of the Installed Capacity and Contract Energy provided from the Facility and that this Agreement is a significant asset of Seller. Each Party further agrees that, if it defaults under this Agreement, and if the other Party thereafter brings an action seeking specific performance of this Agreement, the defaulting Party shall not defend against such action based on the non-defaulting Party having an adequate remedy at law. Without limiting the rights of either Party as otherwise set forth in this Agreement, each Party hereby waives all rights to invoke any defenses to its respective obligations to perform under this Agreement to the extent based on the doctrines of commercial impracticability, impossibility of performance or frustration of purpose.

Section 13.12 Remedies Cumulative. Subject to the Aggregate Damage Limitation, and provisions of Section 13.13 below, each right or remedy of the Parties provided for in this PPA shall be cumulative of and shall be in addition to every other right or remedy provided for in this PPA, and the exercise, or the beginning of the exercise, by a Party of any one or more of the rights or remedies provided for herein shall not preclude the simultaneous or later exercise by such Party of any or all other rights or remedies provided for herein.

Section 13.13 Waiver and Exclusion of Other Damages. The Parties confirm that the express remedies and measures of damages provided in this PPA satisfy the essential purposes hereof. If no remedy or measure of damages is expressly herein provided, the obligor's liability shall be limited to direct, actual damages only. Neither Party shall be liable to the other Party for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages by statute, in tort or contract (except to the extent expressly provided in this PPA); provided, that if either Party is held liable to a third party for such damages and the Party held liable for such damages is entitled to indemnification therefor from the other Party hereto, the indemnifying Party shall be liable for, and obligated to reimburse the indemnified Party for, such damages. To the extent any damages required to be paid hereunder are liquidated, the Parties acknowledge that the damages are difficult or impossible to determine, that otherwise obtaining an adequate remedy is inconvenient, and that the liquidated damages constitute a reasonable approximation of the harm or loss. MP further acknowledges that in the event MP fails or refuses to accept delivery of Contract Energy, except as otherwise permitted by this Agreement, the resulting loss of PTC Value by Seller shall be considered direct and actual damages incurred by Seller and not consequential damages.

Section 13.14 Payment of Amounts Due to MP. Without limiting any other provisions of this Section and at any time before or after termination of this PPA, MP may send Seller an invoice for such damages or other amounts as are due to MP at such time from Seller under this PPA and any invoiced amounts not subject to good faith dispute shall be payable within thirty (30) Days. MP may offset all

such undisputed amounts from any monthly invoice due and owing to Seller up to a maximum amount equal to thirty percent (30%) of the invoice and MP may withdraw funds from the Security as needed to provide payment for such undisputed amounts to the extent any such amounts are not paid by Seller or offset by MP on or before the tenth (10th) Business Day following the invoice due date.

Section 13.15 Duty to Mitigate. Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur because of the other Party's performance or non-performance of the PPA.

Article XIV. Indemnity

Section 14.01 Indemnification. Each Party (the "Indemnifying Party") agrees to indemnify, defend and hold harmless the other Party and its directors, officers, employees, members or agents (the "Indemnified Party") from and against all third party claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) for personal injury or death to persons and damage to the Indemnified Party's real property and tangible property or facilities or the property of any other Person to the extent arising out of, resulting from, or caused by an Event of Default under this PPA, violation of any applicable environmental laws, or by the negligent or intentional tortious acts, errors, or omissions of the Indemnifying Party, its directors, officers, employees, or agents. Nothing in this Section shall enlarge or relieve Seller or MP of any liability to the other for any breach of this Agreement. This indemnification obligation shall apply notwithstanding any negligent or intentional acts, errors or omissions of the Indemnified Party, but the Indemnifying Party's liability to pay damages to the Indemnified Party shall be reduced in proportion to the percentage by which the Indemnified Party's negligent or intentional acts, errors or omissions caused the damages. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

Section 14.02 Indemnified Party. If an Indemnified Party is entitled to indemnification under this Agreement as a result of a claim by a non-party, and the Indemnifying Party fails, after Notice and reasonable opportunity to proceed to assume the defense of such claim, such Indemnified Person may at the expense of the Indemnifying Party, contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

Section 14.03 Indemnifying Party. If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this Article, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual loss, net of any insurance or other recovery.

Section 14.04 Indemnity Procedures. Promptly after receipt by an Indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Article XIV may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such Notice shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

- (a) The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the defendants in any such action include one or more Indemnified Parties and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be legal

defenses available to it and/or other Indemnified Parties which are different from or additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Party or Indemnified Parties having such differing or additional legal defenses.

- (b) The Indemnified Party shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Party and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of interest between the Indemnified Party and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Party, which shall not be reasonably withheld, conditioned or delayed.
- (c) Damages. Except as otherwise provided in this Article, in the event that a Party is obligated to indemnify and hold the an Indemnified Party harmless under this Article, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's actual loss net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

Article XV. Insurance

Section 15.01 Evidence of Insurance. Seller shall, on or before commencement of construction and thereafter at least five (5) Days prior to each applicable expiration date provide MP with two copies of insurance certificates acceptable to MP evidencing that insurance coverages for the Facility follow the specifications for insurance coverage set forth below in this Article.

- (a) All policies shall (a) name MP as an additional insured (except worker's compensation); (b) provide that MP shall receive thirty (30) Days prior written Notice of non-renewal, cancellation of, or significant modification to any of the corresponding policies (except that such Notice shall be ten (10) Days for non-payment of premiums); and (c) provide a waiver of any rights of subrogation against MP, its affiliated entities and their officers, directors, agents, subcontractors, and employees.
- (b) All policies shall be written with insurers licensed to provide insurance in Minnesota with a Best's rating of A- or better and a financial category of VIII or better.
- (c) All policies shall be written on an occurrence basis or other basis acceptable to MP, except as provided in this Article.
- (d) All policies shall contain a language that Seller's policy shall be primary in all instances regardless of like coverages, if any, carried by MP. Seller's liability under this PPA is not limited to the amount of insurance coverage required herein.

Liability limits may be satisfied with a combination of primary and excess/umbrella liability insurance.

Section 15.02 Commercial General Liability (CGL) Insurance shall be procured at a minimum limit of coverage of \$2,000,000 each occurrence and \$4,000,000 in the aggregate. If CGL insurance contains a general aggregate limit, it shall apply separately to the Facility.

CGL insurance shall be written on ISO occurrence form CG 00 01 10 01 (or a substitute form providing equivalent coverage and acceptable to MP) and shall cover liability arising from operations, products/completed operations, premises, independent contractors, property damage, personal injury and advertising injury, failure to supply power and liability assumed under an insured contract (including the tort liability of another assumed in a business contract), all with limits as specified above. CGL insurance shall include ISO endorsement CG 24 17 (or its updated equivalent endorsement) which modifies the definition of “Insured contract” to eliminate the exclusion of easement or license agreements in connection with construction or demolition operations on or within fifty (50) feet of a railroad. There shall be no endorsement or modification of the CGL insurance limiting the scope of coverage for liability arising from collapse, explosion, or underground property damage.

MP shall be included as an additional insured under the CGL policy, using ISO additional insured endorsement CG 20 10 10 01 and CG 20 37 10 01 (or an updated substitute providing equivalent coverage).

The CGL insurance to be obtained by or on behalf of Seller shall be endorsed as follows: “Such insurance as afforded by this policy for the benefit of MP shall be primary as respects any claims, losses, expenses, damages including reasonable attorneys’ fees or liabilities arising out of this Agreement, and insured hereunder, and any insurance carried by MP shall be excess of and noncontributing with insurance afforded by this policy.”

Section 15.03 Automobile Liability Insurance. Automobile Liability insurance shall be procured at a level of \$2,000,000 combined single limit Bodily Injury and Property Damage including all Owned, Non-Owned, Hired and Leased Autos. Automobile Liability insurance shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or an updated form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

Section 15.04 Workers Compensation Insurance. Workers Compensation Insurance shall be procured at the level required by relevant state statutes. Seller may comply with these requirements using a qualified self-insurance plan.

Section 15.05 Employers Liability Insurance. Employers Liability Insurance shall be procured at the level of \$1,000,000 each accident for bodily injury by accident, or \$1,000,000 per employee for bodily injury by disease.

Section 15.06 Umbrella or Excess Liability Insurance. Umbrella or Excess Liability Insurance shall be procured at the level of not less than \$30,000,000 each occurrence, and applying excess of the primary Commercial General Liability, Automobile Liability, and Employers Liability policies. Coverage shall be on a form that is at least as broad as the underlying policies it follows.

Section 15.07 Builder’s Risk Insurance. If applicable, Builder’s Risk insurance shall be procured at the replacement value of the Facility. Builder’s Risk insurance, or an installation floater, shall include coverage for earthquake and flood, faulty workmanship, collapse, materials and design, freezing or changes in temperature, testing of machinery or equipment, and debris removal. There shall be no limitation of coverage for occupancy prior to full completion and acceptance.

Section 15.08 Environmental Impairment Liability. Policy shall cover third party bodily injury, property damages, and clean-up costs from sudden and gradual pollution conditions, including from exacerbation of known or unknown existing conditions. Policy shall have no limitations for contractual liability, mold, asbestos, or natural resource damages. Environmental Impairment Liability shall be procured at a level of \$5,000,000 each occurrence.

Section 15.09 “All Risk” Property Insurance. “All Risk” Property insurance, covering physical loss or damage to the Facility, shall be procured at the full replacement value of the Facility or with lower limits acceptable to MP. A deductible may be carried, which deductible shall be the responsibility of Seller. “All-Risk” Property insurance shall include coverage for flood, fire, wind and storm, tornado and earthquake with respect to facilities similar in construction, location and occupancy to the Facility, with sub-limits consistent with Prudent Industry Practices and acceptable to MP for severe convective storm (tornado, hail, lightning, derechos) flood and earthquake.

Section 15.10 Business Interruption Insurance. Business Interruption insurance shall be procured at the amount required to cover Seller’s loss of revenues, value of PTCs, and continuing or increased expenses, resulting from full interruption for a period of no less than twelve (12) calendar months. Business Interruption insurance shall cover loss of revenues, PTCs and the increased expense associated with the cost of replacement power attributable to the Facility by reason of total or partial suspension or delay of, or interruption in, the operation of the Facility as a result of an insured peril covered under Property and/or Boiler & Machinery insurance as set forth above to the extent available on commercially reasonable terms, subject to a reasonable deductible which shall be the responsibility of Seller. Notwithstanding any other provision of this Agreement, Seller shall not be required to have Business Interruption insurance until the Commercial Operation Date.

Section 15.11 Term and Modification of Insurance.

- (a) All liability insurance(s) required under this PPA shall cover occurrences during the Term and for a period of two (2) years after the Term. In the event that any insurance as required herein is commercially available only on a “claims-made” basis, such insurance shall provide for a retroactive date not later than the Commencement Date and such insurance shall be maintained by Seller, with a retroactive date not later than the retroactive date required above, for a minimum of five (5) years after the Term.
- (b) If any insurance required to be maintained by Seller hereunder ceases to be reasonably available and commercially feasible in the commercial insurance market, Seller shall provide written Notice to MP, accompanied by a certificate from an independent insurance advisor of recognized national standing, certifying that such insurance is not reasonably available and commercially feasible in the commercial insurance market for electric generating plants of similar type, geographic location and capacity. Upon receipt of such Notice, Seller shall use commercially reasonable efforts to obtain other insurance which would provide comparable protection against the risk to be insured and MP shall not unreasonably withhold its consent to modify or waive such requirement.

Article XVI. Dispute Resolution

Section 16.01 Dispute Resolution. The Parties will use reasonable efforts to resolve disputes informally and without the need to resort to litigation.

- (a) For all disputes that arise pursuant to the PPA, the Parties immediately, through their

designated representatives selected in the sole discretion of each Party (individually, the “Party Representative”, together, the “Parties’ Representatives”), shall negotiate with one another in good faith in order to reach resolution of the dispute. Such negotiation shall commence within fourteen (14) Days of the date of the letter from one Party Representative to the other Party Representative notifying that Party of the nature of the dispute.

- (b) In the event that the Parties’ Representatives cannot agree to a resolution of the dispute within thirty (30) Days after the commencement of negotiations, written Notice of the dispute (the “Dispute Notice”), together with a statement describing the issues or claims, shall be delivered, within seventy-two (72) hours after the expiration of such thirty (30) Day period, by each of the Parties’ Representatives to its respective senior officer or official (such senior officer or official to be selected by each of the Party Representatives in his or her sole discretion, provided that such senior officer or official has authority to bind the respective Party). Within three (3) Business Days after receipt of the Dispute Notice, the senior officers or officials for both Parties shall commence negotiating in good faith to resolve the dispute.
- (c) If the Parties are unable to resolve the dispute within fourteen (14) Days of receipt of the Dispute Notice by the senior officers or officials, either Party may seek available legal remedies.

Section 16.02 Governing Law. The interpretation and performance of this PPA and each of its provisions shall be governed and construed in accordance with the laws of the State of Minnesota, without regard to its conflict of laws principles of the United States of America, as applicable. The Parties hereby submit to the exclusive jurisdiction of the federal courts of the State of Minnesota. To the extent that the federal courts lack subject matter jurisdiction over any dispute (through lack of diversity or otherwise) the Parties hereby submit to the exclusive jurisdiction of the applicable Minnesota District Court.

Article XVII. Representations, Warranties and Covenants

Section 17.01 Seller’s Representations, Warranties and Covenants. Seller hereby represents and warrants as follows:

- (a) Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the state in which the Facility is physically located. Seller is qualified to do business in each other jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller; and Seller has all requisite power and authority to conduct its business, to own its properties, and to execute, deliver, and perform its obligations under this PPA.
- (b) The execution, delivery, and performance of its obligations under this PPA by Seller have been duly authorized by all necessary company action, and do not and will not:
 - (i) require any consent or approval by any governing body of Seller, other than that which has been obtained and is in full force and effect (evidence of which shall be delivered to MP upon its request).
 - (ii) violate any provision of law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award currently in effect having applicability to Seller or violate any provision in any formation documents of Seller, the violation of which could have a material

adverse effect on the ability of Seller to perform its obligations under this PPA;

- (iii) result in a breach or constitute a default under Seller's formation documents or bylaws, or under any agreement relating to the management or affairs of Seller or any indenture or loan or credit agreement, or any other agreement, lease, or instrument to which Seller is a party or by which Seller or its properties or assets may be bound or affected, the breach or default of which could reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligations under this PPA; or
 - (iv) result in, or require the creation or imposition of any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature (other than as may be contemplated by this PPA) upon or with respect to any of the assets or properties of Seller now owned or hereafter acquired, the creation or imposition of which could reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligations under this PPA.
- (c) This PPA is a valid and binding obligation of Seller, subject to the contingencies identified in Article I.
 - (d) The execution and performance of this PPA will not conflict with or constitute a breach or default under any contract or agreement of any kind to which Seller is a party or any judgment, order, statute, or regulation that is applicable to Seller or the Facility.
 - (e) To the best knowledge of Seller, and except for those permits, consents, approvals, licenses and authorizations identified in Exhibit E, which Seller anticipates will be obtained by Seller in the ordinary course of business, all permits, consents, approvals, licenses, authorizations, or other action required by any Governmental Authority to authorize Seller's execution, delivery and performance of this PPA have been duly obtained and are in full force and effect.
 - (f) Seller intends to comply with all applicable local, state, and federal laws, regulations, and ordinances, including but not limited to any applicable equal opportunity and affirmative action requirements and all applicable federal, state, and local environmental laws and regulations presently in effect or which may be enacted during the Term of this PPA.
 - (g) Seller shall disclose to MP, to the extent that, and as soon as it is known to Seller, any violation of any environmental laws or regulations arising out of the construction or operation of the Facility, or the presence of Environmental Contamination at the Facility or on the Site, alleged to exist by any Governmental Authority having jurisdiction over the Site, or the existence of any past or present enforcement, legal, or regulatory action or proceeding relating to such alleged violation or alleged presence of Environmental Contamination.

Section 17.02 MP's Representations, Warranties and Covenants. MP hereby represents and warrants as follows:

- (a) MP is an operating division of ALLETE, Inc. , a corporation duly organized, validly existing and in good standing under the laws of the State of Minnesota and is qualified in each other jurisdiction where the failure to so qualify would have a material adverse effect upon the business or financial condition of MP; and MP has all requisite power and authority to conduct its business, to own its properties, and to execute, deliver, and perform its obligations under this PPA.

- (b) The execution, delivery, and performance of its obligations under this PPA by MP have been duly authorized by all necessary corporate action, and do not and will not:
 - (i) require any consent or approval of MP's Board of Directors, or shareholders, other than that which has been obtained and is in full force and effect (evidence of which shall be delivered to Seller upon its request).
 - (ii) violate any provision of law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award currently in effect having applicability to MP or violate any provision in any corporate documents of MP, the violation of which could have a material adverse effect on the ability of MP to perform its obligations under this PPA;
 - (iii) result in a breach or constitute a default under MP's corporate charter or bylaws, or under any agreement relating to the management or affairs of MP, or any indenture or loan or credit agreement, or any other agreement, lease, or instrument to which MP is a party or by which MP or its properties or assets may be bound or affected, the breach or default of which could reasonably be expected to have a material adverse effect on the ability of MP to perform its obligations under this PPA; or
 - (iv) result in, or require the creation or imposition of any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature (other than as may be contemplated by this PPA) upon or with respect to any of the assets or properties of MP now owned or hereafter acquired, the creation or imposition of which could reasonably be expected to have a material adverse effect on the ability of MP to perform its obligations under this PPA.
- (c) This PPA is a valid and binding obligation of MP, subject to the contingencies identified in Article I.
- (d) The execution and performance of this PPA will not conflict with or constitute a breach or default under any contract or agreement of any kind to which MP is a party or any judgment, order, statute, or regulation that is applicable to MP.
- (e) To the best knowledge of MP, and except for the contingencies set forth in Article I, all approvals, authorizations, consents, or other action required by any Governmental Authority to authorize MP's execution, delivery and performance of this PPA have been duly obtained and are in full force and effect.

Article XVIII. Financing Provisions

Section 18.01 No Assignment Without Consent. Except as expressly permitted in this Section, neither Party shall assign this PPA or any portion thereof, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; provided that (i) at least thirty (30) Days prior Notice of any such assignment shall be given to the other Party; (ii) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party, and no assignment, whether or not consented to, shall relieve the assignor of its obligations hereunder in the event the assignee fails to perform, unless the other Party agrees in writing in advance to waive the assignor's continuing obligations pursuant to this PPA; (iii) any assignee of Seller shall provide required Security; (iv) before the PPA is assigned by a Party, the proposed assignee must first obtain such approvals as may be required by all applicable Governmental Authorities; (v) the proposed

assignee is acceptable to any Financier to Seller and provides MP with reasonable evidence that the assignee itself, or the operator it proposes to use at the Facility, has past operational experience of at least two years at a renewable generation facility of equal or greater size than the Facility; and (vi) in the case of Seller, the assignee shall provide evidence that, if previously attained by the Seller and approved by the MPUC.

- (a) MP's consent shall not be required for Seller to assign this PPA for collateral purposes to any Financier.
- (b) Notwithstanding the foregoing, Seller's consent shall not be required for MP to assign this PPA to an Affiliate of MP, provided that MP provides assurances and executes documents reasonably required by Seller and any Financiers regarding MP's continued liability for all of MP's obligations under this PPA in the event of any nonperformance on the part of such assignee. In the event that the assignee has or obtains an investment grade unsecured bond rating equivalent to or better than the unsecured bond rating of MP (but in no event worse than the equivalent of BBB-), then Seller agrees to relieve MP from its obligations under this PPA and any other assurances upon written request by MP.

Section 18.02 Accommodation of Financier. To facilitate Seller's obtaining of financing to construct and operate the Facility, MP shall make reasonable efforts to provide such consents to assignments, certifications, representations, information or other documents as may be reasonably requested by Seller or any Financier in connection with the financing of the Facility; provided that in responding to any such request, MP shall have no obligation to provide any consent, or enter into any agreement, that materially adversely affects any of MP's rights, benefits, risks and/or obligations under this PPA. Seller shall reimburse, or shall cause any Financier to reimburse, MP for the incremental direct expenses (including, without limitation, the reasonable fees and expenses of counsel) incurred by MP in the preparation, negotiation, execution and/or delivery of any documents requested by Seller or any Financier, and provided by MP, pursuant to this Section.

Section 18.03 Change of Control. Except as otherwise provided in this Section, any direct change of control of Seller shall require the prior written consent of MP, which shall not be unreasonably withheld, conditioned or delayed. For purposes of this Section, a change of control shall mean a transfer of at least fifty percent (50%) of the voting rights of Seller. Seller and any of its members may sell or transfer any of their respective membership interests to any Person in accordance with the member control or operating agreement of Seller and applicable law without MP's consent. MP's consent shall not be required for any change of control which occurs by operation of Seller's member control agreement, and which merely results in a change of percentage ownership among Persons (including Financiers) who constitute Seller's members and which does not involve the addition of a new member or transfer of voting rights to any other Person.

Section 18.04 Notice of Financier Action. Within ten (10) Days following Seller's receipt of each written Notice from any Financier of default, or any Financier's intent to exercise any remedies, under the Financing Documents, Seller shall deliver a copy of such Notice to MP.

Section 18.05 Transfer Without Consent is Null and Void. Any purported sale, transfer, or assignment of any interest in this PPA made without fulfilling the conditions precedent to such assignment (if any) or obtaining the consent of the other Party (if required) shall be null and void.

Article XIX. Miscellaneous

Section 19.01 Notices. Notices required by this PPA shall be in writing and addressed to the other Party, including the other Party's representative on the Operating Committee, at the addresses noted in Exhibit G as Party updates them from time to time by written Notice to the other Party. Any Notice under this PPA shall either be hand delivered or delivered by first-class mail, postage prepaid, to the applicable representative of said other Party. If mailed, the Notice shall be simultaneously sent by email. Any such Notice shall be deemed to have been received by the close of the Business Day on which it was postmarked, hand delivered or transmitted electronically (unless hand delivered or transmitted after the close of regular business hours in which case it shall be deemed received at the close of the next Business Day). Real-time or routine communications concerning Facility operations shall be exempt from this Section.

- (a) Each Party shall maintain a designated representative to receive Notices as listed on Exhibit G. Such representative may, at the option of each Party, be the same person as that Party's representative or alternate representative on the Operating Committee, or a different person.
- (b) Either Party may change the information for their Notice addresses in Exhibit G at any time without the approval of the other Party by providing Notice to the other Party.

Section 19.02 Taxes.

- (a) Seller shall be solely responsible for any and all present or future taxes relating to the construction, ownership or leasing, operation or maintenance of the Facility, or any components or appurtenances thereof, and all ad valorem taxes relating to the Facility, and all personal property or production taxes assessed against the Facility, whether based on value or production, and income taxes payable on income earned by Seller. MP shall be responsible for any taxes imposed on its purchase of the Contract Energy, Accreditable Capacity and Green Tags or any transmission, use or sale of Contract Energy, Accreditable Capacity or Green Tags after MP's receipt at the Point of Delivery.
- (b) The Parties shall cooperate to minimize tax exposure; provided that neither Party shall be obligated to incur any financial burden to reduce taxes for which the other Party is responsible hereunder. All electric energy delivered by Seller to MP hereunder shall be sales for resale, with MP reselling such electric energy. MP shall obtain and provide Seller with any certificates required by any Governmental Authority, or otherwise reasonably requested by Seller to evidence that the deliveries of electric energy hereunder are sales for resale.
- (c) Seller is entitled to receive any federal tax credits pursuant to 26 U. S. C. § 48, as amended, and 26 U. S. C. §45, as amended, and any other investment or production tax credits or payments or other tax credits, grants or assistance available to Seller or the Facility from any Governmental Authority, and MP acknowledges that Seller is entitled to such credits.

Section 19.03 Fines and Penalties.

- (a) Any fines, penalties or other costs incurred by either Party or such Party's agents, employees or subcontractors for non-compliance by such Party, its agents, employees or subcontractors with the requirements of any Governmental Authority shall not be reimbursed by the other Party but shall be the sole responsibility of such non-complying Party.
- (b) If fines, penalties or other costs are assessed against a Party by any Governmental Authority or court of competent jurisdiction due to the wrongful or unlawful actions or inactions of the other Party, the Party causing the fine, penalty or other cost to be assessed shall indemnify and hold

harmless the other Party against any and all losses, liabilities, damages and claims suffered or incurred thereby. The indemnifying Party shall also reimburse the other Party for all legal or other expenses (including attorneys' fees) actually and reasonably incurred in connection with such losses, liabilities, damages and claims.

Section 19.04 Rate Changes.

- (a) The terms and conditions and the rates for service specified in this Agreement shall remain in effect for the term of the transaction described herein. Absent the Parties' written agreement, this Agreement shall not be subject to change by application of either Party pursuant to Section 205, 206 or 306 of the Federal Power Act.
- (b) Absent the written agreement of all Parties to the proposed change, the standard of review for changes to this Agreement whether proposed by a Party, a non-party, or the Federal Energy Regulatory Commission acting sua sponte shall be the "public interest" standard of review set forth in *United Gas Pipe Line v. Mobile Gas Service Corp.*, 350 U. S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U. S. 348 (1956) (the "Mobile-Sierra doctrine") as interpreted in *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1*, 554 U. S. 527 (2008).

Section 19.05 Relationship of the Parties.

- (a) The duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. This PPA shall not be interpreted to create an association, joint venture, or partnership between the Parties nor to impose any partnership obligation or liability or any trust or fiduciary obligation or relationship upon either Party. Except as specifically provided for in Section 13.13, neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to function as an agent or representative of, the other Party.
- (b) Seller shall be solely liable for the payment of all wages, taxes, and other costs related to the employment of persons to perform Seller's obligations under the PPA, including all federal, state, and local income, social security, payroll, and employment taxes and statutorily mandated workers' compensation coverage. None of the persons employed by Seller shall be considered employees of MP for any purpose; nor shall Seller represent to any person that it is or shall become a MP agent.
- (c) In executing this PPA, MP does not, nor should it be construed to, extend its credit or financial support for the benefit of any third parties lending money to or having other transactions with Seller. Nothing in this PPA shall be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a party to this PPA.
- (d) The relationship between MP and Seller shall be that of contracting party to independent contractor. Accordingly, subject to the terms of this Agreement, MP shall have no general right to prescribe how Seller shall meet its obligations under this Agreement.

Section 19.06 Subcontracting. Seller may subcontract its duties or obligations under this PPA without the prior written consent of MP, provided that no such subcontract shall relieve Seller of any of its duties or obligations hereunder.

Section 19.07 Forward Contract. MP and Seller acknowledge and agree that this Agreement

constitutes a “forward contract” within the meaning of the United States Bankruptcy Code.

Section 19.08 Equal Employment Opportunity Compliance Certification. Seller acknowledges that as a government contractor MP is subject to various federal laws, executive orders, and regulations regarding equal employment opportunity and affirmative action. These laws may also be applicable to Seller as a contractor to MP. All applicable equal opportunity and affirmative action clauses shall be deemed to be incorporated herein as required by federal laws, executive orders, and regulations, including but not limited to 41 C. F. R. § 60-1. 4(a)(1-7).

Section 19.09 Survival of Obligations. Cancellation, expiration, or earlier termination of this PPA shall not relieve the Parties of obligations that by their nature should survive such cancellation, expiration, or termination, prior to the term of the applicable statute of limitations, including without limitation warranties, remedies, or indemnities which obligation shall survive for the period of the applicable statute(s) of limitation.

Section 19.10 Severability. In the event any of the terms, covenants, or conditions of this PPA, or the application of any such terms, covenants, or conditions, shall be held invalid, illegal, or unenforceable by any court or administrative body having jurisdiction, all other terms, covenants, and conditions of the PPA and their application not adversely affected thereby shall remain in force and effect; provided, however, that MP and Seller shall negotiate in good faith to implement an equitable adjustment in the provisions of this Agreement with a view toward the purposes of this Agreement by replacing the invalid, illegal or unenforceable provision with valid provisions, the economic and other effects of which come as close as possible to that of the invalid, illegal or unenforceable provision.

Section 19.11 Complete Agreement; Amendments. The terms and provisions contained in this PPA constitute the entire agreement between MP and Seller with respect to the Facility and shall supersede all previous communications, representations, or agreements, either verbal or written, between MP and Seller with respect to the sale of Capacity and Energy from the Facility. This PPA may be amended, changed, modified, or altered only in a writing signed by both Parties.

Section 19.12 Binding Effect. This PPA, as it may be amended from time to time pursuant to this Article, shall be binding upon and inure to the benefit of the Parties hereto and their respective successors-in-interest, and assigns permitted hereunder.

Section 19.13 Headings. Captions and headings used in this PPA are for ease of reference only and do not constitute a part of this PPA.

Section 19.14 Waiver. Unless otherwise expressly set forth herein, the failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions of this PPA, or to take advantage of any of its rights thereunder, shall not constitute a waiver or relinquishment of any such terms, conditions, or rights, but the same shall be and remain at all times in full force and effect.

Section 19.15 Compliance with Laws. Each Party shall at all times comply with all applicable laws, ordinances, rules, and regulations applicable to it, except for any non-compliance which, individually or in the aggregate, could not reasonably be expected to have a material effect on the business or financial condition of the Party or its ability to fulfill its commitments hereunder. As applicable, each Party shall give all required Notices, shall procure and maintain all necessary governmental permits, licenses, and inspections necessary for performance of this PPA, and shall pay its respective charges and fees in connection therewith.

Section 19.16 Counterparts. This PPA may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument.

Section 19.17 Publicity. The Parties will cooperate in good faith to agree upon press releases that can be issued following execution of the PPA, describing the location, size, type and timing of construction of the Facility, the long-term nature of the PPA and other relevant factual information. Subject to the Parties' confidentiality obligation set forth in Section 19.19, nothing in this Section shall restrict the contacted Party from responding to any such media contact.

Section 19.18 Disclaimer of Third-Party Beneficiary Rights. Nothing in this PPA shall be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a party to this PPA. No provision of this PPA is intended to, nor shall it in any way, inure to the benefit of any customer or any other Person not a Party to constitute any such Person a third-party beneficiary under this PPA.

Section 19.19 Confidentiality. This Agreement shall be considered proprietary and trade secret and shall not be provided in whole or in part to any other Person without prior written approval of the other Party. In the event certain information must be provided pursuant to a regulatory proceeding, the Parties shall take reasonable steps to protect the confidentiality of proprietary and trade secret information, and Seller shall cooperate with MP to limit the scope of information designated as proprietary to that which Seller, at the time, deems to still be trade secret.

- (a) The Parties acknowledge and agree that during the performance of their respective obligations under this Agreement, either Party may need to provide information to the other Party that the disclosing Party deems confidential, proprietary or trade secret. All documentation and data, including but not limited to, contracts, special techniques, methods, computer programs and software, that the disclosing Party wants the receiving Party to maintain as confidential shall be designated as proprietary, confidential or trade secret (collectively "Proprietary Data") and shall be treated as such by the receiving Party to be proprietary, confidential or trade secret. The disclosing Party hereby grants to the receiving Party authority to use Proprietary Data only for the purposes of this Agreement. The receiving Party agrees to keep such Proprietary Data confidential, to use it only for work necessary to the performance of this Agreement, and not to sell, transfer, sublicense, disclose or otherwise make available any such Proprietary Data to any other Persons, including any employees or agents of a Party (other than a Party's counsel, consultants, accountants, lenders and prospective lenders, investors and prospective investors, and prospective purchasers, who agree to maintain the confidentiality of the information). If a Party is required by law or regulatory or judicial order to disclose Proprietary Information of the other Party, the receiving Party shall provide prompt notice of the proposed disclosure in order that the disclosing Party may take such action as is appropriate to prevent, limit or condition such disclosure. In such an event, the receiving Party shall take all reasonable actions to prevent the disclosure, to limit the scope of the disclosure, or to condition the disclosure on the receipt of adequate protections. Without limiting the generality of the foregoing, each Party shall observe at least the same safeguards and precautions regarding Proprietary Information of the other Party which such Party observes with respect to its own trade secret information. Each Party agrees that it will make Proprietary Information available to its own employees only on a need-to-know basis for purposes associated with approval or management of this Agreement, and that all persons to whom such Proprietary Information is made available will be required to maintain the confidentiality of the information. MP specifically agrees that it

shall not disclose any information or documents received from Seller to any MP agents, consultants, representatives, or contractors who are involved in the development, engineering, procurement, construction, operation, financing or otherwise with respect to energy conversion facilities to be owned or developed by MP and MP employees shall not utilize any information or documents from Seller in the development, engineering, procurement, construction, operation, financing or otherwise with respect to energy conversion facilities to be owned or developed by MP. Notwithstanding the foregoing either Party may disclose any Proprietary Information that becomes public information through no wrongful act of the receiving Party; or that is provided to the receiving Party by a third party without restriction known to the receiving Party and without breach of this Agreement. The obligations of the Parties under this Section shall remain in full force and effect for two (2) years following the termination of this Agreement.

- (b) Except as required by applicable law, regulation or securities exchange rule, any public announcement, press release or similar publicity with respect to this Agreement or the transaction contemplated hereby will be issued at such time, in such manner and with such content as the Parties mutually agree.
- (c) Notwithstanding the foregoing, the Parties will cooperate reasonably to prepare a “public version” of this PPA for inclusion in the public record at the MPUC. The Parties agree that the public version of this PPA will redact only such information that properly constitutes “trade secret” information.

Section 19.20 Electronic Signature. Each Party agrees that the electronic signatures [whether digital or encrypted] of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures pursuant to the Minnesota Uniform Electronic Transactions Act (Minn. Stat. Ann. § 325L. 01 et seq.) as amended from time to time.

Article XX. Definitions

Section 20.01 Definitions. The following terms shall have the meanings set forth herein:

“Abandonment” – (i) the sale of the Facility by Seller, other than a transfer permitted under this PPA, or (ii) prior to the Commercial Operation Date, complete cessation of construction of the Facility for sixty (60) consecutive Days by Seller or Seller’s contractors, but only if such sale or cessation is not caused by or attributable to a default of, or request by, MP, or Force Majeure.

“Accreditable Capacity” – the amount of net generating capability associated with the Facility, if any, for which capacity credit may be obtained under MISO rules. Initially, such requirements are set forth in Module E of the MISO Tariff, the MISO Resource Adequacy Construct, and the MISO Business Practices Manual for Resource Adequacy and subject to delivery to Local Resource Zone 1 as defined by MISO.

“Affiliate” of any named person or entity – any other person or entity that controls, is under the control of, or is under common control with, the named entity. The term “control” (including the terms “controls”, “under the control of” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management of the policies of a person or entity, whether through ownership interest, by contract or otherwise.

“Aggregate Damage Limitation” – shall have the meaning as set forth in Section 13.08.

“Ancillary Services” – shall have the meaning set forth in the relevant Tariff.

“Business Day” – any calendar day that is not a Saturday, a Sunday, or a NERC recognized holiday.

“Commencement Date” – the date on which both Parties shall have executed and delivered this PPA.

“Commercial Operation” – the period beginning on the Commercial Operation Date and continuing through the Term of this PPA.

“Commercial Operation Date” or “COD” – at 12:01 a. m. on the Day following the date that Seller successfully satisfies the provisions of Section 5.05 and all the conditions specified have occurred or otherwise been satisfied and accepted by MP.

“Commercial Operation Milestone” – the Major Milestone for the Commercial Operation Date. The Commercial Operation Milestone is specified in Exhibit C, subject to the provisions of this Agreement for extensions and modifications.

“Commercial Operation Year” – any consecutive twelve (12) month period, during the Term of this PPA, commencing at 12:01 a. m. on the first day of the first month following the last Commercial Operation Date and ending at 11:59 p. m. on the last Day of the corresponding calendar month or any anniversary thereof.

“Commissioning Date” – the date on which the developer issues a commissioning certificate for the Facility indicating that the Facility has satisfied all commissioning procedures.

“Compensated Curtailment” – shall have the meaning set forth in Section 8.06(b) hereof.

“Contract Energy” – All energy generated by the Facility and delivered to MP at the Point of Delivery. For clarity, Contract Energy is net of Station Service.

“Construction Contract” – the contract or contracts providing for the engineering, procurement acquisition, manufacture, delivery and installation of the equipment that is to be part of the Facility.

“Day” – a calendar day.

“Delivery Arrangements” – any or a combination of: (1) firm or non-firm transmission reservation across a third party’s systems in the form of a transmission service agreement for firm transmission service or otherwise, or (2) firm point-to-point or network (or equivalent) transmission service, or non-firm point-to-point transmission service on or off the Interconnection Provider’s System, granted by MISO, an RTO or other New Joint Transmission Authority.

“Electric Metering Device(s)” – all revenue quality meters, metering equipment, and data processing equipment used to measure, record, or transmit data relating to the electric power and energy output from the Facility and located as shown in Exhibit A.

“Eligible Energy Resource” means any resource that qualifies as a carbon-free resource and a

renewable eligible energy technology under Minn. Stat. § 216B.1691 and is certified to generate, claim, own or use Green Tags pursuant to the protocols and procedures developed and approved by applicable Government Authorities for the M-RETS Program and any successors.

“Emergency” – any condition or situation which in the judgment of MP, Interconnection Provider, MISO, MRO or any other entity with operational control or authority over the Interconnection Facilities (as communicated to MP or the Interconnection Provider), (i) endangers or might endanger life or property or (ii) adversely affects or might adversely affect MP’s ability, or the ability of any other entity associated with the interconnected transmission system, to maintain safe and reliable electric service, including, but not limited to, an “Emergency” as defined in the Interconnection Agreement.

“Energy” – the amount of electricity either used or generated over a period, expressed in terms of megawatt-hours (“MWh”).

“Energy Delivery Point” – The delivery point in the MISO nodal market where the Seller will be responsible for all transmission tariffs, congestion cost, and losses cost.

“Energy Resource Interconnection Service” –interconnection of a generation Facility to the Interconnection Facilities or distribution system, as applicable, to deliver the Eligible Energy Resource’s electric output using the existing firm or non-firm capacity of the Interconnection Provider’s System on an as available basis. Interconnection service which allows Seller to connect the Facility to the Interconnection Provider’s System as an “Energy Resource” as defined by the MISO OATT, and to be eligible to deliver the Facility’s output using the existing firm or non-firm capacity on the transmission system on an as-available basis.

“Environmental Contamination” – the presence of Hazardous Materials at such levels, quantities or location, or of such form or character, as to constitute a violation of federal, state or local laws or regulations, and present a material risk under federal, state or local laws and regulations that the Site will not be available or usable for the purposes contemplated by this PPA.

“Excused Curtailment” – shall have the meaning set forth in Section 8.06(a) hereof.

“Expected Energy – All projected energy generated by the Facility and delivered to MP at the Point of Delivery over the Term.

“Facility” – Seller’s electric generating facility, associated balance of plant, parts, fixtures and equipment, and all of equipment necessary to interconnect to Interconnection Provider’s system, including, but not limited to, Seller’s equipment, buildings, generators, step-up transformers, output breakers, protective and associated equipment, improvements, and other tangible assets on the Site reasonably necessary for the construction, operation, and maintenance of the electric generating facility that produces the power and energy to be delivered to MP pursuant to this PPA.

“Failure to Follow Dispatch Flag” – shall have the meaning set forth in the MISO Tariff and the MISO Business Practice Manuals as interpreted by applicable FERC Orders.

“FERC” – the Federal Energy Regulatory Commission and any successor agency.

“Financier” – Any individual or entity providing money or extending credit (including any capital lease) to Seller for (i) the construction, term, or permanent financing of the Facility whether in the form of debt, equity or other financing; or (ii) working capital or other ordinary business requirements for the Facility. “Financier” shall not include common trade creditors of Seller.

“Financing Documents” – the loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, mortgages, interest rate exchanges, or swap agreements and other documents relating to the development, bridge, construction and/or the permanent financing for the Facility, including any credit enhancement, credit support, working capital financing, or refinancing documents, and any and all amendments, modifications, or supplements to the foregoing that may be entered into from time to time at the discretion of Seller in connection with development, construction, ownership, leasing, operation or maintenance of the Facility.

“Firm Delivery Arrangements” – firm point-to-point or network service (or equivalent) transmission service, granted by MISO, or other entity with authority to grant such service, and /or subsequent equivalent transmission service.

“Force Majeure” – means causes or events beyond the reasonable control of, and without the fault or negligence of the Party claiming Force Majeure, which by exercise of due diligence and reasonable foresight could not reasonably have been avoided, including, without limitation, (i) acts of God; (ii) sudden actions of the elements, such as floods, earthquakes, hurricanes or tornadoes, lightning, ice storms, high winds of sufficient strength or duration to materially damage a facility or significantly impair its operation for a period of time longer than normally encountered in similar businesses under comparable circumstances; (iii) serial manufacturing and/or design defects in the Wind generators or other major components comprising the Facility only in the event and to the extent that such occurrence is established to constitute a serial defect under Seller’s Wind generator supply agreement or Construction Contract; (iv) long-term material changes in renewable energy flows across the Facility caused by climactic change; (v) fire, sabotage, vandalism beyond that which could reasonably be prevented by Seller; terrorism; war; riots; fire; explosion; blockades; insurrection; and (vi) actions or inactions by any Governmental Authority taken after the date hereof (including the adoption or change In any Applicable Laws imposed by such Governmental Authority), but only if such requirements, actions, or failures to act prevent or delay performance; and (vii) inability, despite due diligence, to obtain any licenses, permits, or approvals required by any Governmental Authority.

Notwithstanding the foregoing, the term Force Majeure does not include (i) inability by Seller to procure Wind generators or any component parts, for any reason (the risk of which is assumed by Seller), (ii) any other acts or omissions of any third party, including any vendor, materialman, customer, or supplier of Seller, except failure of the Interconnection Provider (transmission owner) to complete all network upgrades (through no fault of Seller) necessary to deliver Contract Energy to the Point of Delivery, unless such acts or omissions are themselves excused by reason of Force Majeure; (iii) any full or partial curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishaps, events or conditions attributable to normal wear and tear or flaws, unless such acts or omissions are themselves excused by reason of Force Majeure; (iv) failure to abide by Good Utility Practices; (v) changes in market

conditions that affect the cost of Seller's supplies, or that affect demand or price for power and/or RECs; strike; slow-down or labor disruptions against Seller or Seller's contractors or subcontractors; or (vii) foreseeable disruptions to the Facility caused by weather events typically experienced in the region of the country where the facility is located, but excluding events and actions listed in this definition above.

"Forced Outage" – any condition that requires immediate and unplanned removal of the Facility, or some part thereof, from service, another outage state, or a reserve shutdown state, resulting from immediate mechanical/electrical/hydraulic control system trips and operator-initiated trips in response to abnormal Facility conditions or alarms. For clarity, a reduction in output or removal from service of a Facility due to directives by MISO does not constitute a Forced Outage.

"Guarantee Period" – shall have the meaning set forth in Section 4.02.

"Good Utility Practice(s)" – any of the practices, methods, and acts engaged in or approved by a significant portion of the electric or electric power generation 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 or reasonably should have known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good 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 acceptable practices, methods, or acts generally accepted in the region.

"Governmental Authority" – any nation, government, state or other political subdivision thereof, whether foreign or domestic, including, without limitation, any municipality, township and county, and any entity exercising executive, legislative, judicial, regulatory, or administrative functions of or pertaining to government, including, without limitation, any corporation, or other entity owned or controlled by any of the foregoing. "'Green Tag'" – shall mean any contractual right to the full set of non-energy attributes, including any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, directly attributable to a specific amount of capacity and/or electric energy generated from an Eligible Energy Resource, including any and all environmental air quality credits, carbon reduction credits, benefits, emissions reductions, off-sets, allowances, or other benefits as may be created or under any existing or future statutory or regulatory scheme (federal, state, or local) by virtue of or due to the Facility's actual energy production or the Facility's energy production capability because of the Facility's environmental or renewable characteristics or attributes, including any Renewable Energy Credits or similar rights arising out of or eligible for consideration in the M-RETS Program. For the avoidance of doubt, Green Tags excludes (i) any local, state or federal depreciation deductions or other tax credits providing a tax benefit to Seller based on ownership of, or energy production from, any portion of the Facility, including the investment tax credit, Production Tax Credit and United States Treasury Cash Grant that may be available to Seller with respect to the Facility under Applicable Laws, and (ii) depreciation and other tax benefits arising from ownership or operation of the Facility unrelated to its status as a generator of renewable or environmentally clean energy.

"Hazardous Materials" – any substance, material, gas, or particulate matter that is regulated by any

Governmental Authority as an environmental pollutant or dangerous to public health, public welfare, or the natural environment including, without limitation, protection of non-human forms of life, land, water, groundwater, and air, including, but not limited to, any material or substance that is (i) defined as “toxic,” “polluting,” “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” “solid waste” or “restricted hazardous waste” under any provision of local, state, or federal law; (ii) petroleum, including any fraction, derivative or additive; (iii) asbestos; (iv) polychlorinated biphenyls; (v) radioactive material; (vi) designated as a “hazardous substance” pursuant to the Clean Water Act, 33 U. S. C. §1251 et seq. (33 U. S. C. §1251); (vii) defined as a “hazardous waste” pursuant to the Resource Conservation and Recovery Act, 42 U. S. C. §6901 et seq. (42 U. S. C. §6901); (viii) defined as a “hazardous substance” pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U. S. C. §9601 et seq. (42 U. S. C. §9601); (ix) defined as a “chemical substance” under the Toxic Substances Control Act, 15 U. S. C. §2601 et seq. (15 U. S. C. §2601); or (x) defined as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U. S. C. §136 et seq. (7 U. S. C. §136).

“House Power” – the purchased retail power for purposes of operating the Facility common buildings and associated equipment, security lighting and associated systems, control room, SCADA system, building cameras, and external communications or for any other associated purpose.

“Installed Capacity” – the maximum net design capacity of the Facility in MW under specific conditions. The capacity of generating equipment is generally expressed in net MW. Installed Capacity is also referred to as “capability” in the industry and for the purposes of this Agreement.

“Interconnection Agreement” – the separate agreement between Interconnection Provider, Seller and MISO (if applicable) with respect to the interconnection of the Facility to the Interconnection Provider’s System, as such agreement may be amended from time to time.

“Interconnection Facilities” – all the facilities installed for the direct purpose of interconnecting the Interconnection Provider’s System and the Facility at the Interconnection Point.

“Interconnection Point” – the physical point at which electrical interconnection is made between the Facility and the Interconnection Provider’s System as further identified and described in Exhibit A and which shall be the same location as the Interconnection Point under the Interconnection Agreement. “Interconnection Provider” – the Person that owns and operates the transmission lines, Interconnection Facilities and other equipment and facilities with which the Facility interconnects at the Interconnection Point, and any successor(s) or permitted assignees thereto.

“Interconnection Provider’s Interconnection Facilities” – the facilities necessary to connect the Interconnection Provider’s System with the Facility at the Interconnection Point, including breakers, bus work, bus relays, metering equipment and communication, and associated equipment installed by the Interconnection Provider for the purpose of interconnecting the Facility, along with any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the construction, operation and maintenance of such facilities.

“Interconnection Provider’s System” – the contiguously interconnected electric transmission and sub transmission facilities, including Interconnection Provide’s Interconnection Facilities, over which the Interconnection Provider has rights (by ownership or contract) to provide interconnection service for the Contract Energy at the Interconnection Point.

“Investment Grade Credit Rating” – with respect to (a) a corporation, limited liability company, partnership, or other entity other than a financial institution, a long-term unsecured, general obligation bond rating of BBB or above from Standard & Poor’s Corporation (“S&P”) or Baa2 or above from Moody’s Investors Services (“Moody’s”), in each case with a “stable” outlook, or (b) a financial institution, a rating on the senior long-term debt of such financial institution of BBB or above from S&P or Baa2 or above from Moody’s, in each case with a “stable” outlook.

“ITCs” – federal investment tax credits arising from electricity produced from certain renewable resources pursuant to 26 U. S. C. § 48 as amended.

“ITC Value” – the value of ITCs derived.

“kWh”- kilowatt-hour

“Liquidated Delay Damages”-- in the event Seller fails to satisfy its obligation set forth in Article XIII,

“Major Milestone(s)” – the date(s) set forth in Exhibit C by which Seller agrees to achieve the corresponding result(s) specified for such date(s), including, but not limited to, the Commercial Operation Milestone.

“Market Rules” – shall have the meaning set forth in Section 6.05.

“Mechanical Completion” – shall mean when the Facility has been built per the engineering specifications, all materials and equipment have been installed and tested, and the electrical and instrumentation have been completed. The Facility is ready for commissioning activities to begin.

“MISO” – the Midcontinent Independent Transmission Service Operator, Inc., and any successor organization or regional transmission organization for which Minnesota Power is a full member and provides notice to Seller of such membership.

“MPUC” – the Minnesota Public Utilities Commission and any successor agency.

“MPUC Approval” – receipt of a written final order from the MPUC approving this PPA or which otherwise approves the PPA as reasonable and in the public interest, subject only to the MPUC’s ongoing jurisdiction to review the prudence of MP’s purchases of Contract Energy, Accreditable Capacity and Green Tags pursuant to the PPA.

“M-RETS Program”-- the Midwest Renewable Energy Trading System program, MPUC Docket No. E-999/CI-04-1616 and subsequent related proceedings.

“MRO” – the Midwest Reliability Organization, a NERC regional electric reliability council, and any successor organization.

“NAEMA” – the North American Energy Marketers Association or any successor organization

“NERC” – the North American Electric Reliability Council and any successor organization.

“Network Resource Interconnection Service” or “NRIS” – network resource interconnection service as defined in the MISO OATT. Network Resource Interconnection Service does not convey transmission service.

“Network Resource” – The applicable amount of Capacity for the Facility that has been designated for resource adequacy as a “Network Resource” under Module E of the MISO Open Access Transmission and Energy Markets Tariff.

“New Joint Transmission Authority” – any independent service organization or other Person that may be created or becomes operational subsequent to the date of this Agreement and that is empowered or authorized to plan, coordinate, operate, regulate or otherwise manage any or all of the Interconnection Provider’s System, whether in place of, or in addition to, MISO.

“Notice” – any notice, request, consent, or other communication required or authorized under this PPA to be given by one Party to the other Party.

“OATT” – any relevant Open Access Transmission Tariff in effect and as amended from time to time in accordance with applicable FERC regulations.

“Peak Period” – A certain time of day at which energy consumption or market energy prices are at its highest.

“Operating Committee” – one representative each from MP and Seller as described in Article X.

“Operating Procedures” – those procedures implemented by the Operating Committee.

“Operating Records” – all agreements associated with the Facility, operating logs, blueprints for construction, operating manuals, all warranties on equipment, and all documents, whether in printed or electronic format, that Seller uses or maintains for the operation of the Facility.

“Parties” – MP and Seller, and their respective successors and permitted assignees.

“Party” – MP or Seller, and their respective successors and permitted assignees.

“Permits” – all state, federal, and locate authorizations, certificates, permits, licenses, and approvals required by any Governmental Authority for the construction, operation, and maintenance of the Facility.

“Person” – an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture, Governmental Authority, or other entity.

“Point of Delivery” – the point on the electric system at which Seller makes available to MP and delivers to MP the Contract Energy being sold by Seller to MP under this PPA, and shall for the purposes of this PPA be the same physical location as the Electric Interconnection Point, which is described in Exhibit A.

“PTCs” – federal production tax credits arising from electricity produced from certain renewable

resources pursuant to 26 U. S. C. § 45 as amended, or such substantially equivalent tax credit that provides Seller (or its owners) with a tax credit based on energy production from any portion of the Facility.

“PTC Benefits” – the value of PTCs derived.

“Requirements of Law” – collectively, the certificate of incorporation and bylaws or other organizational or governing documents of Seller or MP and any United States or Canadian federal, state or provincial law, treaty, franchise, rule, regulation, order, writ, judgment, injunction, decree, award or determination of any arbitrator or a court or other Governmental Authority.

“Replacement Power Costs” – in the event Seller fails to satisfy its obligation set forth in Section 4.02;

Replacement Power Costs for any period mean the costs incurred by MP to replace the products and services which Seller was required to provide under this PPA (but failed to so provide) during such period, less the sum of any payments from MP to Seller under this PPA that were eliminated with respect to such period as a result of such failure. Replacement Power Costs shall be determined on a monthly basis and shall equal the sum of the following for the month where the following calculation achieves a positive number:

Monthly Replacement Power Costs = (A + B + C + D) – E, where

“A” = the product of (x) the number of MW of lost capacity, derived by subtracting the number of MW of capacity of the Facility that qualifies for capacity credit actually made available to MP from the amount of qualifying capacity associated with the entire Facility, and (y) the applicable market price for capacity made available to MP’s system, for such month;

“B” = the price paid by MP for the MWh of energy purchased by MP to replace the Contract Energy that was not delivered under this PPA during such month. The cost to replace Contract Energy can include the capital and O&M cost to build a replacement wind project with similar operating characteristics;

“C” = the product of (x) the number of MWh of energy purchased by MP with respect to such month, to replace the [wind – Expected Energy] [wind – Contract Energy] that was not delivered under this PPA, and (y) the actual cost of registered RECs/Green Tags for that number of MWh, for such month;

“D” = the actual cost of transmission, ancillary services, fuel and fuel transportation, other incremental costs, and any related penalties that could not be avoided or mitigated, and transaction charges to deliver reasonably available energy to MP in amounts equal to the number of MWh for which Replacement Power Costs are owed; and

“E” = the sum of all payments avoided by MP as a result of Seller’s breach, for such month, including avoided payments under Article IX

“Resource Adequacy Capacity” – the amount of Contract Capacity that Buyer is permitted to claim

annually under MISO's Resource Adequacy Construct to meet capacity, installed reserve, resource adequacy or other similar requirements as established by MISO.

“Scheduled Outage/Derating” – a planned interruption/reduction of the Facility's generation that is reasonably required for inspection, or preventive or corrective maintenance.

“Security” – the amount and type of security that Seller is required to establish and maintain, pursuant to Article XI, as security for Seller's performance under this PPA.

“Site” – the parcel of real property on which the Facility will be constructed and located, including any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the construction, operation and maintenance of the Facility. The Site is more specifically described in Exhibit A to this PPA.

–“Station Service” -Energy losses used to operate the skid powered wind generating equipment including, but not limited to, inverter power, transformer losses, onboard communication equipment, remote SCADA, trackers, and MET station.

“Substantial Completion” – shall mean when commissioning is complete, and the Facility is being used for its intended purpose.

“TEMT” – the MISO Transmission and Energy Markets Tariff (“TEMT”) in effect and as amended from time to time in accordance with applicable FERC regulations.

“Term” – Has the meaning ascribed to it in Section 1.01.

“Test Energy” – that Energy which is produced by the Facility and delivered to MP at the Point of Delivery to perform testing of the Facility prior to Commercial Operation.

“Wind Turbines” – electric generating devices powered by the wind that are included in the Facility.

“Zonal Resource Credits” shall mean Capacity Resources that are converted to a seasonal Zonal Resource Credits pursuant to the MISO Tariff.

Section 20.02 Rules of Construction. The capitalized terms in this Agreement shall have the meanings set forth herein whenever the terms appear in this PPA, whether in the singular or the plural or in the present or past tense. Other terms used in this PPA but not listed in this Section shall have meanings as commonly used in the English language and the generally accepted technical or trade meanings for technical terms used herein. In addition, the following rules of interpretation shall apply:

- (a) The masculine shall include the feminine and neuter.
- (b) References to “Sections” or “Exhibit” shall be to Articles, Sections, or Appendices of this PPA.
- (c) The Exhibits and Appendices attached hereto are incorporated in and made a part of this PPA; provided that in the event of a conflict between the terms of any Exhibit or Appendix and the terms set forth in the body of this PPA, the terms set forth in the body of this PPA shall take precedence.

- (d) This PPA was negotiated and prepared by both Parties with advice of counsel to the extent deemed necessary by each Party. The Parties have agreed to the wording of this PPA and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this PPA or any part hereof.
- (e) The Parties shall act in accordance with the principles of good faith and fair dealing in the performance of this PPA. Unless expressly provided otherwise in this PPA, (a) where the PPA requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned or delayed, and (b) wherever the PPA gives a Party a right to determine, require, specify or take similar action with respect to a matter, such determination, requirement, specification or similar action shall be reasonable.

[remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this PPA.

Minnesota Power:

Seller:

By: _____

By: _____

Title

Title:

EXHIBIT A FACILITY DESCRIPTION, ONE-LINE DIAGRAM, AND SITE MAP

Exhibit A contains a scaled map that identifies the Site, the location of the Facility at the Site, the equipment and components which make up the Facility, a one-line diagram, the location of the Interconnection Point, the location of Electric Metering Devices, and the Point of Delivery.

The Facility will consist of _____ wind turbines manufactured by _____ and designated as its _____ [model type], including associated _____, rated at _____ MW, for a total Installed Capacity of _____ MW.

EXHIBIT B CONTRACT ENERGY PRICE SCHEDULE

Commercial Operation Year	Contract Energy Price (\$/MWh)	Commercial Operation Year	Contract Energy Price (\$/MWh)
1		19	
2		20	
3		21	
4		22	
5		23	
6		24	
7		25	
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			

Projected Contract Year 1 Starting Date: _____, 20__

Commissioning Date: _____, 20__

Commercial Operation Milestone: _____, 20__

The first Commercial Operation Year begins at on the Commercial Operation Date and continues for the next 12 consecutive months.

EXHIBIT C MAJOR CONSTRUCTION MILESTONES

Milestone	Date
Project boundary defined and land acquisition complete	
Interconnection Agreement Executed	
Issuance of Full Notice to Proceed to Contractor	
High Voltage (HV) Step-up Transformers Procurement with promise date	
Medium Voltage (MV) Step-up Transformers Procurement with promise date	
High Voltage (HV) Step-up Transformers delivered to site	
Medium Voltage (MV) Step-up Transformers delivered to site	
Interconnection Facilities Placed In-Service	
Access Roads Complete	
Wind Turbine Foundations Complete	
Wind Turbine Components delivered to Site	
Medium Voltage (MV) Collector System Complete	
O&M Facility Complete	
Substantial Completion	
Commercial Operation Date	

EXHIBIT D CRITICAL PATH MILESTONES

Milestone	Date
All Project Permits Received	
Execution of all Construction Contracts required to Construct the Facility	
Closing on Financing for the Facility with Proof of Financial Capability to Construct the Facility	
Mechanical Completion	

EXHIBIT E SELLER'S REQUIRED GOVERNMENTAL AUTHORITY, PERMITS, CONSENTS, APPROVALS, LICENSES AND AUTHORIZATIONS TO BE OBTAINED

Permit/ Approval	Issuing Agency

EXHIBIT F EXPECTED ANNUAL AND MONTHLY ENERGY

Contract Month After COD Acceptance	Total Monthly Contract Energy (MWh's)
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
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