



414 Nicollet Mall
Minneapolis, MN 55401

November 25, 2019

**PUBLIC DOCUMENT
NOT PUBLIC DATA EXCISED**

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

—Via Electronic Filing—

RE: SUPPLEMENT – EXECUTED POWER PURCHASE AGREEMENT
APPROVAL OF A WIND ENERGY PURCHASE AGREEMENT WITH INVENERGY
WIND ENERGY DEVELOPMENT, LLC
DOCKET NO. E002/M-19-268

Dear Mr. Wolf:

Northern States Power Company, doing business as Xcel Energy, submits the executed Power Purchase Agreement (PPA) between Xcel Energy and Invenergy Wind Energy Development, LLC (Invenergy) to the Minnesota Public Utilities Commission. The PPA is for 100 MW of wind energy generation from a new wind facility to be located in Deuel County, South Dakota. The PPA was executed as of the day of this filing (November 25, 2019).

The terms of the PPA are substantially aligned with the proposal the Company provided along with our initial Petition on October 1 in this docket. The PPA cements in contract what the Petition and proposal included for pricing terms, PPA duration, estimated energy delivery and several other components. Therefore, the PPA supports the request we made in our Petition to approve our procurement of this wind energy resource to serve future Renewable*Connect customers.

The PPA contains some additional specifics regarding the Conditions Precedent for the agreement, which affect the timing of our request for Commission approval. We originally requested approval for the PPA by December 19, 2019. However, given the terms of the PPA and the request to suspend the comment period until the PPA was

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submitted, we are amending this request. Per these Conditions Precedent, the Company now respectfully requests that the Commission consider and approve the Petition by January 16, 2020, but no later than January 23, 2020. In order to facilitate this compressed timeline, we are filing the PPA immediately upon execution and the Company plans to submit any reply comments in an expedited fashion after the initial comment deadline.

Portions of the enclosed PPA are marked “NOT-PUBLIC” as they contain information the Company considers to be trade secret data as defined by Minn. Stat. §13.37(1)(b). This data includes confidential pricing and other contract terms. The information has independent economic value from not being generally known to, and not being readily ascertainable by, other parties who could obtain economic value from its disclosure or use.

We have electronically filed this document with the Minnesota Public Utilities Commission, and copies have been served on the parties on the attached service lists. Please contact me at (612) 330-6064 or bria.e.shea@xcelenergy.com or Farah Mandich at (612) 330-5918 or farah.l.mandich@xcelenergy.com if you have any questions regarding this filing.

Sincerely,

/s/

BRIA E. SHEA
DIRECTOR, REGULATORY AND STRATEGIC ANALYSIS

Enclosure
c: Service List

EXECUTION VERSION

WIND ENERGY PURCHASE AGREEMENT
BETWEEN
NORTHERN STATES POWER COMPANY
AND
DEUEL HARVEST WIND ENERGY LLC



November 25, 2019

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**WIND ENERGY PURCHASE AGREEMENT
BETWEEN
NORTHERN STATES POWER COMPANY
AND
DEUEL HARVEST WIND ENERGY LLC**

This Wind Energy Purchase Agreement (this "PPA") is made as of this 25th day of November 2019, by and between (i) Northern States Power Company, a Minnesota corporation with a principal place of business at 1800 Larimer Street, Denver, CO 80202 ("Company"), and (ii) Deuel Harvest Wind Energy LLC, a Delaware limited liability company with a principal place of business at 1 South Wacker Drive, Chicago, IL 60606 ("Seller"). Company and Seller are hereinafter referred to individually as a "Party" and collectively as the "Parties."

WHEREAS Seller desires to develop, design, construct, interconnect, own, operate and maintain the Full Project (which is anticipated to be approximately 300 MW); and

WHEREAS Seller desires to sell and deliver, and Company desires to purchase, accept and receive, the Renewable Energy (including all Green Benefits) associated with the Facility, and certain products and services generated and delivered from the Facility to the Point of Delivery at the prices and on the terms and conditions set forth in this PPA.

WHEREAS, to the extent that Seller installs wind generation equipment in addition to the Facility, any such excess shall be deemed not to constitute part of the Facility and is not covered by this PPA and it is Seller's responsibility to take all necessary steps to separate and segregate such excess from the Facility and associated Renewable Energy contracted for under this PPA; provided that the Parties acknowledge and understand that any such excess constitutes a portion of the Full Project and is physically integrated with the Facility.

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 1 - Rules of Interpretation

1.1 Interpretation.

(A) Capitalized terms listed in this PPA shall have the meanings set forth in Exhibit A - Definitions or as otherwise defined in this PPA, whether in the singular or the plural or in the present or past tense. Words not otherwise defined in this PPA shall (i) have meanings as commonly used in the English language, (ii) be given their generally accepted meaning consistent with Good Utility Practice, and (iii) be given their well-known and generally accepted technical or trade meanings.

(B) The following rules of interpretation shall apply: (1) The masculine shall include the feminine and neuter; (2) references to “Articles,” “Sections” or “Exhibits” shall be to articles, sections, or exhibits of this PPA except as the context may otherwise require; (3) all Exhibits are incorporated into this PPA (*provided, however*, that in the event of a conflict with the terms of this PPA, the PPA shall control); and (4) use of the words “include” or “including” or similar words shall be interpreted as “include without limitation” or “including, without limitation.”

(C) This PPA was negotiated and prepared by both Parties with the advice and participation of counsel. 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.

1.2 Interpretation with Other Agreements.

(A) This PPA does not provide Seller authorization to interconnect the Facility or inject power into the Transmission Authority’s System. Seller shall contract for interconnection services in accordance with the applicable Transmission Tariff. Seller acknowledges that the Interconnection Agreement is/will be a separate contract and that (i) this PPA is not binding on the Transmission Authority, (ii) this PPA does not create any rights between Seller and the Transmission Authority, and (iii) the Interconnection Agreement does not modify the Parties’ rights and obligations under this PPA. The applicable Transmission Authority shall be deemed to be a separate and unaffiliated contracting party for purposes of this PPA, regardless whether such Transmission Authority is Company or an Affiliate of Company.

(B) This PPA does not provide for the supply of retail power for purposes of operating the Full Project, including start-up, shut-down, oil heating, turbine adjustment, HVAC or any other purpose (“House Power”). Seller shall contract with the utility providing House Power to the Site (the “Local Provider”) for the supply of House Power. Seller acknowledges that (i) Seller must obtain House Power independently, (ii) this PPA is not binding on the Local Provider, (iii) this PPA does not create any rights between Seller and the Local Provider, and (iv) Seller’s contract for House Power does not affect the Parties’ rights and obligations under this PPA. For purposes of this PPA, the Local Provider shall be deemed to be a separate and unaffiliated contracting party regardless whether the Local Provider is Company or an Affiliate of Company; *provided* that, if (and only if) the Local Provider is Company or an Affiliate of Company, Seller may obtain House Power by self-generating and netting such self-generation from the Contract Energy provided to Company unless prohibited by Applicable Law.

1.3 Good Faith and Fair Dealing. The Parties shall act reasonably and 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) when this PPA specifically references the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned or delayed, and (b) wherever this PPA specifically 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 Commercially Reasonable.

Article 2 - Term and Termination

This PPA shall become effective as of the date of its execution, and shall remain in full force and effect until the 11:59 pm on the last Day of the calendar month during which occurs the 15th anniversary of the Delivery Commencement Date (the "Scheduled Termination Date"), subject to early termination as provided in this PPA. Applicable provisions of this PPA shall continue in effect after termination to the extent necessary to (i) provide for final billings, payments and adjustments, (ii) enforce or complete the duties, obligations or responsibilities of the Parties (including under Section 12.1(B)-(D), Section 12.2(C), Section 12.3(B)-(C), Article 13 and Article 17 below), and (iii) address any remedies or indemnifications arising prior to termination.

Article 3 - Facility Description

3.1 Description. Seller shall construct, interconnect, own, operate, and maintain the Facility, as further described in Exhibit C - Facility/Full Project Description. A scaled map that identifies the Site, the location of the Facility, the Interconnection Point and Interconnection Facilities, the Point of Delivery, and other important facilities, is included in Exhibit C - Facility/Full Project Description.

3.2 General Design of the Facility.

(A) Seller shall design, construct, operate and maintain the Facility according to Good Utility Practices and the Interconnection Agreement.

(B) The Facility shall include all equipment specified in Exhibit C - Facility/Full Project Description and otherwise necessary to fulfill Seller's obligations under this PPA, including all equipment necessary (i) to meet the requirements of Exhibit I - Real Time Communication & Generation Forecasting Protocols, and (ii) to interconnect successfully with the Transmission Authority's System for the delivery of Renewable Energy to the Point of Delivery.

(C) Except as otherwise provided in Section 4.5(E), the Facility shall be 100 MW, +/- 0.5%. Seller reserves the right to install additional wind generation equipment and other equipment and facilities in excess of 100 MW at or adjacent to the Site as part of the Full Project (of which the Facility is part), provided, however, that Seller recognizes and agrees that any such excess capacity shall be deemed not to constitute any part of the Facility under this PPA. Company's obligations under this PPA shall be limited to the Facility and all of the Renewable Energy and Green Benefits associated with the Facility.

(D) It is anticipated that the Full Project will have a Nameplate Capacity of approximately 300 MW. Seller shall certify to Company the final actual Nameplate Capacity of the Full Project promptly following COD.

(E) Each of the Parties recognizes and agrees that any capacity in excess of 100 MW shall not be included under this PPA for any purpose and Company has no responsibility whatsoever under this PPA for any such excess. Seller shall be solely responsible to make separate arrangements for the generation, delivery, metering, sale and billing of any such excess. Company understands and acknowledges that the Facility is a portion of the Full Project and the Facility is attached to and physically integrated with such excess.

Article 4 - Implementation

4.1 Project Development.

(A) Seller shall enter into and perform at its expense all contracts required for (i) the engineering, procurement, construction, acquisition, manufacture, delivery and installation of the Facility, and (ii) the generation and delivery of Renewable Energy from the Facility to the Point of Delivery (generally, the "Construction Contracts") with qualified and experienced contractors.

(B) [RESERVED].

(C) Prior to COD, Seller shall (i) submit monthly progress reports to Company in a form agreed by the Parties, advising Company of the current status of construction, any significant developments or delays (along with an action plan for making up delays), and Seller's best estimate of COD and the Delivery Commencement Date; and (ii) invite Company to participate in monthly meetings to discuss the progress reports, answer questions, and assess the schedule.

(D) Upon request, Company shall have the right to monitor the construction, start-up, testing, and operation of the Facility at the Site to verify compliance with this PPA, *provided, however*, that Company shall comply with all of Seller's applicable safety and health rules and requirements and shall not interfere with construction, start-up, testing or operation of the Facility while at the Site.

(E) Neither Company's review of Seller's reports, nor its monitoring of development, construction, and operation of the Facility, shall be construed as endorsement by Company of the design, engineering, construction or testing thereof nor as any express or implied warranty as to the performance, safety, durability, or reliability of the Facility.

4.2 Environmental Matters.

(A) No later than █ Days following PUC Approval, Seller shall complete and provide to Company a comprehensive independent "Phase I" environmental investigation of the Site or its equivalent (including associated raw data, if requested by Company). Seller shall notify Company promptly (i) if (and to what extent) any Environmental Contamination on the Site will preclude or interfere with Seller's ability to perform its obligations under this PPA, and (ii) Seller's plan for remediation thereof that would allow Seller to perform this PPA as and when due. The Phase I

report delivered to Company under this paragraph shall be deemed Confidential Information for purposes of Section 20.18.

(B) Throughout the Term, Seller promptly shall

1. disclose to Company and remediate, at Seller's sole cost and expense, any Environmental Contamination identified at the Site;

2. provide to Company copies of any further environmental assessments or investigations of the Site (including associated raw data, if requested by Company); and

3. disclose to Company the existence of any enforcement, legal, or regulatory action or proceeding relating to any alleged presence of Environmental Contamination and/or the alleged violation of any Applicable Law related to the protection of endangered, migratory or other protected species.

(C) For purposes hereof:

"Environmental Contamination" means the introduction or presence of Hazardous Materials at such levels, quantities or location, or of such form or character, that (i) requires remediation under Applicable Law, (ii) present a material risk that the Site will not be available or usable for the purposes contemplated by this PPA, and/or (iii) will preclude or interfere with Seller's ability to perform its obligations under this PPA as and when due.

"Hazardous Materials" means 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 protection of non-human forms of life, land, water, groundwater, and air), including 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).

4.3 Permits.

(A) Seller shall obtain and pay for all Permits necessary or advisable under Good Utility Practice for the construction, ownership, operation and maintenance of the Facility and the generation and delivery of the output from the Facility to Company. Seller shall keep Company informed as to the status of its permitting efforts and shall provide Company the opportunity to review major applications for draft and final Permits. Seller shall promptly inform Company of (i) any Permits which Seller is unable to obtain, that are delayed, limited, suspended, terminated or otherwise constrained, along with a statement of whether and to what extent this circumstance may limit or preclude Seller's ability to perform under this PPA, and (ii) Seller's plan to overcome such issue(s) to allow Seller to perform this PPA as and when due. Company shall have the right to inspect and obtain copies of all Permits held by Seller.

(B) Seller represents and warrants to Company that, except for those Permits identified in Exhibit F - Seller's Needed Permits (each of which Seller anticipates will be obtained by Seller in the ordinary course of business), all Permits and other actions required by applicable Governmental Authorities to authorize Seller's execution, delivery and performance of this PPA (including Permits with respect to protected species) have been duly obtained and are in full force and effect.

(C) Throughout the Term, Seller promptly shall disclose to Company the existence of any enforcement, legal, or regulatory action or proceeding relating to the alleged violation of any Permit held by Seller, which proceeding (if successful) could materially interfere with Seller's performance of this PPA.

(D) For purposes hereof, "Permits" means all applicable construction, land use, air quality, emissions control, environmental, protected species, and other permits, licenses and approvals from any Governmental Authority for construction, ownership, operation and maintenance of the Facility and the generation and delivery of Renewable Energy therefrom.

4.4 Governmental Inspections. Seller shall notify Company (i) sufficiently in advance of any known upcoming significant inspections by any Governmental Authority relating to the Facility, to allow Company the opportunity to attend, and (ii) promptly after any unscheduled or impromptu inspection with a description of the nature and outcome of such inspection.

4.5 Delivery Commencement Date.

(A) Seller shall cause Delivery Commencement to occur no later than December 31, 2021 (the "Target Delivery Commencement Date"), as such date may be extended pursuant to this PPA. Company shall not be obligated to accept and establish a Delivery Commencement Date earlier than October 1, 2021.

(B) Seller shall notify Company of the date on which Seller believes the Facility has achieved the Delivery Commencement Date (a "DCD Notice"). A DCD Notice shall include all necessary supporting documentation of the satisfaction or occurrence of all Delivery Commencement Conditions. Company shall have [REDACTED]

Business Days to review a DCD Notice and raise any Commercially Reasonable objection to Seller's satisfaction of any of the Delivery Commencement Conditions. Seller's DCD Notice shall be deemed accepted by Company if Company fails to object within such time period. Seller may notify Company of completion of one or more Delivery Commencement Conditions on an individual and incremental basis prior to the Delivery Commencement Date, *provided, however*, that Company shall in all cases have up to [REDACTED] Business Days to review and object to each such DCD Notice. If Company objects to Seller's satisfaction of the Delivery Commencement Conditions and it is subsequently determined that Seller had in fact satisfied the Delivery Commencement Conditions, the Delivery Commencement Date shall be the date of Seller's original DCD Notice.

(C) For purposes of this PPA, including Section 12.2(B), Seller expects the Full Project to achieve COD on or before December 31, 2020 (the "Expected COD"). If Seller has achieved COD on or before the Target Delivery Commencement Date, all Delivery Commencement Conditions shall be deemed satisfied or occurred, and Seller shall be deemed to have issued Company a DCD Notice on the Target Delivery Commencement Date, pursuant to Section 4.5(B).

(D) For purposes hereof:

1. the "Delivery Commencement Date" means 12:01 am on the Day following the date on which Company receives the DCD Notice, without valid objection thereto by Company;

2. the "Outside Delivery Commencement Date" means the date that is [REDACTED] Days after the Target Delivery Commencement Date;

3. the first "Commercial Operation Year" shall mean the period starting at 12:01 a.m. on the Delivery Commencement Date and ending at 11:59 pm on the last Day of the calendar month in which the first anniversary of the Delivery Commencement Date occurs, and each successive "Commercial Operation Year" shall mean the 12-month period following the prior Commercial Operation Year; and

4. the "Delivery Commencement Conditions" are:

(a) an officer of Seller, authorized to bind Seller and who is familiar with the Facility, has provided written confirmation that (1) all necessary and material Permits have been obtained and are in full force and effect, (2) Seller is in compliance with this PPA in all material respects, (3) Seller has made all necessary arrangements to obtain and pay the Local Provider for House Power, and (4) the Facility is available to commence normal operations in accordance with Seller's operating agreements, Construction Contracts, and applicable manufacturers' warranties;

(b) Seller has proven to Company's reasonable satisfaction that (1) Seller and the Transmission Authority have signed the Interconnection Agreement, and Seller has received no notice of breach thereof from

the Transmission Authority, (2) the Facility is interconnected to the Transmission Authority's System, has been fully tested, has achieved initial synchronization, and has been successfully operated at a generation level acceptable to the Transmission Authority, without experiencing any abnormal or unsafe operating conditions on any interconnected system, and (3) Seller has made all other arrangements necessary to deliver Renewable Energy from the Facility to the Point of Delivery during the Term;

(c) Seller has obtained and provided to Company an independent registered professional engineer's certification stating that the Facility has been completed in all material respects, except for (i) Wind Turbines comprising not more than █% of the Nameplate Capacity planned for the Facility, and (ii) "punch list" items that do not have a Material Adverse Effect on the ability of the Facility to operate for its intended purpose;

(d) Seller has demonstrated the reliability of the Facility's communications systems and SCADA interface with Company's EMCC, and the capability of the Facility to send Real Time Communication data points, identified in Exhibit I - Real Time Communication & Generation Forecasting Protocols, to Company's SCADA System; and

(e) Wind Turbines comprising at least █% of the Nameplate Capacity planned for the Facility, and associated equipment sufficient to allow such Wind Turbines to generate and deliver Renewable Energy to the Point of Delivery, have been installed and become operable. Such █% (or less) shortage in installed and operable Nameplate Capacity is the "Capacity Deficiency".

(E) In the event of a Capacity Deficiency:

1. Seller shall continue to use Commercially Reasonable Efforts to complete the remaining Wind Turbines so as to eliminate the Capacity Deficiency.

2. For each Day following the Target Delivery Commencement Date that a Capacity Deficiency persists, Seller will pay the Company liquidated damages in the amount of █ per MW comprising the Capacity Deficiency ("Deficiency Liquidated Damages"); *provided, however*, Deficiency Liquidated Damages shall cease accruing as of the Outside Delivery Commencement Date if Seller buys down the Capacity Deficiency pursuant to Section 4.5(E)3,

3. If Seller fails to eliminate the Capacity Deficiency prior to the Outside Delivery Commencement Date, and has paid all accrued Deficiency Liquidated Damages, Seller may declare and fix the aggregate Nameplate Capacity of the Facility at a fewer number of MW than 100 MW (the "Declared Capacity").

(a) Seller shall elect the Declared Capacity on or before the Outside Delivery Commencement Date by written notice to Company (the "Nameplate Buy-Down"), upon which notice Seller shall be liable to pay to Company

█ per MW of Capacity Deficiency then-existing as of the Outside Delivery Commencement Date (the "Buy-Down Payment").

(b) Upon Seller making Buy-Down Payment, each of the aggregate Nameplate Capacity of the Facility, the Expected Facility Output, and Seller's obligations with respect to performance of this PPA shall be adjusted to reflect the Declared Capacity for the remainder of the Term, and Seller shall not be obligated to complete the remaining Wind Turbines at the Facility.

(c) Company may draw from the Security Fund to pay any portion of the Buy-Down Payment that has not been paid within █ days after Seller's notice pursuant to Section 4.5(E)(3)(a), and such Security Fund shall remain in place and available to Company until satisfaction of all such obligations.

(d) The Parties expressly agree that the Buy-Down Payment does not constitute an Event of Default and payment of such amount is not a remedy or a penalty. Rather, the Buy-Down Payment is a negotiated liquidated damage allowing Seller to reduce the size of the Facility under specified circumstances and reflects the value of such reduction to Company in light of Company's obligation to purchase specified amounts of wind-generated power under Minnesota law.

4.6 [RESERVED].

Article 5 - Delivery

5.1 Arrangements.

(A) Seller shall be responsible for arranging, maintaining and paying the costs associated with the interconnection of the Facility to the Transmission Authority's System. Seller shall comply with the Transmission Authority's requirements for interconnection and shall comply with all requirements set forth in the applicable Transmission Tariff. Seller's interconnection application shall request that the Transmission Authority study the Facility for Energy Resource Interconnection Service under the Transmission Tariff. The resulting Interconnection Agreement must include Energy Resource Interconnection Service at a minimum. Seller shall cooperate reasonably, at Company's expense, in any request by Company to assist in Company's efforts to have the Facility approved as a Network Resource or equivalent classification pursuant to the applicable Transmission Tariff.

(B) Seller hereby authorizes Company to contact, discuss and obtain information concerning the Facility and Interconnection Facilities directly with/from the Transmission Authority. Promptly upon request by Company, Seller shall confirm such authorization in writing to the Transmission Authority and any applicable transmission owners in such form as may be requested by Company or the Transmission Authority. Seller shall be allowed to participate in these meetings at Seller's sole discretion. Company shall provide to Seller a copy of any correspondence between Company and the Transmission Authority relevant to Seller.

(C) To the extent required, Company shall arrange and be responsible for transmission services at and beyond the Point of Delivery. To the extent applicable, Seller shall be the Market Participant for the Facility, and shall be responsible for scheduling at the Point of Delivery to accommodate Market Operator's schedule. Exhibit B - Metering And Market Registration Protocols sets forth the manner in which market participation and metering for the Facility and the Full Project occurs.

(D) 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, Renewable Energy from the Facility to the Point of Delivery. Company shall be responsible for all electric losses, transmission and ancillary service arrangements and costs required to transmit and deliver Renewable Energy beyond the Point of Delivery.

5.2 Market Changes.

(A) If at any time during the Term, the Transmission Authority changes or the facilities at the Point of Delivery cease to be subject to the Transmission Tariff, the Parties shall cooperate in good faith to facilitate the delivery of Renewable Energy from the Point of Delivery to Company's load, at the least possible cost to the Parties, consistent with this PPA to the extent possible.

(B) Seller, at its expense, shall create and input Facility schedules to comply with Market Operator rules, requirements and operating protocols. The Parties shall cooperate to approve schedules via the Market Operator's applicable market interface and scheduling systems. If and to the extent that changes to the rules of the Market Operator require Seller to change the manner in which Seller schedules and dispatches the Facility, the Parties shall cooperate in good faith to change their protocols for operation of the Facility accordingly, at the least possible cost to the Parties, consistent with this PPA to the extent possible.

5.3 Electric Metering Devices.

(A) All Electric Metering Devices used to measure energy shall be owned, installed, and maintained in accordance with the Interconnection Agreement, at no cost to Company.

1. Meter readings will be adjusted to reflect losses from the Electric Metering Devices to the Point of Delivery in accordance with applicable manufacturers' parameters or as otherwise agreed by the Parties.

2. Seller shall arrange any necessary authorization to provide Company access to all Electric Metering Devices for purposes related to this PPA, and shall provide Company the opportunity to be present at any time when such Electric Metering Devices are to be inspected, tested or adjusted.

(B) Either Party may elect to install and maintain, at its own expense, backup metering devices ("Back-Up Metering"), *provided, however,* that the

specifications, installation and testing of any such Back-Up Metering shall be consistent with the requirements for the Electric Metering Devices. Upon written request from the other Party, the installing Party shall test the Back-Up Metering. The actual cost of any such test shall be borne by the Party requesting the test, unless, upon such test, Back-Up Metering is inaccurate by more than one percent, in which case the cost of the retest shall be borne by the installing Party. If requested in writing, the installing Party shall provide copies of any inspection or testing reports to the requesting Party.

(C) If an Electric Metering Device or Back-Up Metering fails to register, or if the measurement is inaccurate by more than one percent, an adjustment shall be made correcting all measurements as follows:

1. If the Electric Metering Device is found to be defective or inaccurate, the Parties shall use Back-up Metering, if installed, to determine the amount of such inaccuracy, provided, however, that Back-Up Metering has been tested and maintained and adjusted for losses on the same basis as the Electric Metering Device. If Back-Up Metering is not installed, or Back-Up Metering is also found to be inaccurate by more than one percent, the Parties shall use the best available information for the period of inaccuracy, adjusted for losses to the Point of Delivery in accordance with applicable manufacturers' parameters or as otherwise agreed by the Parties.

2. If the Parties cannot agree on the actual period during which inaccurate measurements were made, the period shall be the shorter of (i) 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, or (ii) █ Days immediately preceding the test that found the Electric Metering Device to be defective or inaccurate.

3. To the extent that an adjustment period covers a period of deliveries for which payment has already been made by Company, Company shall use the corrected measurements as determined in accordance with this Article 5 to re-compute the amount due for the period of the inaccuracy and shall subtract the previous payments made by Company for this period from such re-computed amount. The net difference shall be reflected as an adjustment on the next regular invoice in accordance with Article 9.

(D) The one-line diagram on Exhibit B - Metering And Market Registration Protocols illustrates the manner in which the Facility and the Full Project are to be metered.

(E) Company shall have access to the meter records and recorded data of Full Project including Facility as may reasonably be required in order to verify compliance with this PPA.

(F) Seller shall be the "Meter Data Management Agent" for the Facility, as defined by the Market Operator's operating protocols.

Article 6 - Conditions Precedent

6.1 PUC Approval.

(A) Prior to the date of this PPA, Company applied to the MN PUC for PUC Approval.

(B) Company shall use Commercially Reasonable Efforts to obtain PUC Approval as soon as reasonably practicable. Seller shall use Commercially Reasonable Efforts to cooperate with Company's efforts to obtain PUC Approval.

(C) Company shall have the right to terminate this PPA, without any further financial or other obligation to Seller as a result of such termination, by notice to Seller, if on or before the date that is 60 Days after the date of this PPA (the "Outside PUC Date"):

1. by issuance of a written order, the MN PUC rejects PUC Approval,

2. by issuance of a written order, the MN PUC grants PUC Approval with conditions unacceptable to Company in its sole discretion;

3. the MN PUC has not issued a written order granting or rejecting PUC Approval;

If Company is eligible to terminate this PPA pursuant to this Section 6.1(C) but fails to deliver written notice of its election to terminate this PPA to Seller by the Outside PUC Date, Company shall be deemed to have waived its right to terminate this PPA under this Section 6.1(C), and this PPA shall remain in full force and effect thereafter.

(D) For purposes of this PPA, "PUC Approval" means a written order of the MN PUC, which makes an affirmative determination that all costs incurred under this PPA are recoverable from Company's retail customers pursuant to Applicable Law, subject only to the requirement that the MN PUC retain ongoing prudency review of Company's performance and administration of this PPA.

6.2 [RESERVED].

6.3 [RESERVED].

Article 7 - Sale and Purchase

7.1 General Obligation.

(A) Beginning on the Delivery Commencement Date, Seller shall generate from the Facility, deliver to the Point of Delivery, and sell to Company, and Company shall receive and purchase at the Point of Delivery, the Renewable Energy and other products and services required by this PPA. Seller shall not curtail or interrupt deliveries of Renewable Energy to Company for economic reasons of any type.

(B) Title and risk of loss of the products and services transacted by this PPA shall transfer from Seller to Company at the Point of Delivery.

7.2 [RESERVED].

7.3 Green Benefits. The Parties acknowledge that existing and future Applicable Laws create significant value in the ownership, use and allocation of Green Benefits. To the full extent allowed by Applicable Law, Seller hereby assigns to Company (and Company shall own and be entitled to claim) all Green Benefits to the extent existing or created during the Term associated with the Facility and the Renewable Energy purchased by Company hereunder, at no additional charge to Company under this PPA.

(A) At its sole expense, and prior to COD, Seller shall register and maintain the Facility as an Eligible Energy Resource and own, hold and manage the Green Benefits associated with the Facility in its own name and for its account, including any rights associated with any renewable energy information or tracking system that exists or may be established (including participation in any applicable REC Registration Program) with regard to monitoring, registering, tracking, certifying, and/or trading such Green Benefits.

(B) At its sole expense, and prior to COD, Seller shall make all applications and/or filings required by Applicable Law for accreditation of Green Benefits and for the assignment of such Green Benefits to Company. At its sole expense, Seller may retain a third party to serve as the "Qualified Reporting Entity" (as defined in the REC Registration Program's Operating Procedures) for the Facility (the "QRE"). The QRE shall be reasonably acceptable to Company.

(C) As of the Delivery Commencement Date, and for each billing period (as set forth in Section 9.1), Seller shall, at its sole expense, transfer (or cause the QRE to transfer) to Company the Green Benefits associated with the Facility (the "Company Green Benefits") within Days after they were created in the REC Registration System. Upon Company's confirmation of transfer of the Company Green Benefits pursuant to the REC Registration Program, Seller shall have no additional rights or interest in such Company Green Benefits.

(D) For purposes hereof, "Green Benefits" means existing and future environmental credits, benefits or attributes, emissions reductions and avoidances (including emission rate credits), offsets, allowances and green tags, attributable to the Facility during the Term and/or Renewable Energy sold to Company under this PPA, recognized by Applicable Law, including any rights to compensation therefor. Green Benefits include

1. Renewable Energy Credits;
2. Avoided emissions of pollutants to the air, soils or waters, such as sulfur oxides (SOx), nitrogen oxides (NOx) and carbon monoxide (CO);

3. Avoided emissions of greenhouse gases (such as carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulfur hexafluoride (SF₆)) that have been or may in the future be determined by the United Nations Intergovernmental Panel on Climate Change or by Applicable Law to contribute to the threat of climate change; and

4. Reporting rights for avoided emissions, such as Green Tag Reporting Rights.

For the avoidance of doubt, Green Benefits exclude: (i) PTCs, ITCs and other local, state or federal tax credits providing a tax benefit to Seller based on ownership of the Facility or energy production therefrom, including the PTC that may be available to Seller with respect to the Facility under IRC § 45, and (ii) depreciation and other tax benefits arising from ownership or operation of the Facility.

7.4 Ancillary Services.

(A) Seller shall be entitled to all Ancillary Services associated with the Facility.

(B) For purposes hereof, "Ancillary Services" means ancillary services associated, directly or indirectly, with the reliable generation and/or transmission of Renewable Energy from the Facility from time to time, including any rights to compensation therefor. "Ancillary Services" include operating reserves, ramp capability, reactive supply and/or voltage control. For avoidance of doubt, Ancillary Services under this PPA does not include capacity or resource-adequacy characteristics.

(C) Company shall be entitled to all capacity and resource-adequacy characteristics associated with the Facility.

Article 8 - Payment Calculations

8.1 Payment for Renewable Energy.

(A) [RESERVED].

(B) Commencing on the Delivery Commencement Date, Company shall pay the Energy Payment Rate to Seller all Renewable Energy delivered to the Point of Delivery; provided that Company shall never be required to pay for net instantaneous output of the Facility (as measured at the Point of Delivery) in excess of 100MW.

(C) The Energy Payment Rate shall be deemed Confidential Information for purposes of Section 20.18 below.

8.2 [RESERVED].

Article 9 - Billing and Payment

9.1 Billing.

(A) The billing period under this PPA shall be the calendar month.

(B) No later than [REDACTED] Business Days after the end of each month, Seller shall submit an invoice to Company in a form and by a method to be agreed by the Parties, showing the amount due Seller for the preceding month, specifying the products and services provided, all billing parameters, rates and factors, and any other data relevant to the calculation of payments due to Seller. Such invoice shall include an explanation of any items in dispute, as well as all supporting documentation upon which Seller relies.

9.2 Payment. All payments shall be remitted via check or electronic funds transfer, as designated by the owed Party, on or before the [REDACTED] Business Day following receipt of the invoice. Remittances received by mail will be considered to have been paid when due if the postmark indicates the payment was mailed on or before the [REDACTED] Business Day following receipt of the billing invoice.

(A) If a payment is late, a late payment charge shall be applied to the unpaid balance for the number of days payment was late and shall be added to the next billing statement. Late payment charges shall include interest calculated using the prime rate of interest as published on the date of the invoice in The Wall Street Journal (or, if unavailable, an equivalent publication on or about that date).

(B) Company at any time may offset against amounts owed to Seller, any liquidated amounts, accrued damages and other payments, and undisputed billing errors and adjustments, which are owed by Seller to Company.

(C) Seller and Company may and shall net their obligations to each other under this PPA, and payment of the net amount shall discharge all mutual undisputed obligations between the Parties.

9.3 Billing Disputes. Either Party may dispute invoiced amounts pursuant to Section 13.1, but shall pay to the other Party at least the portion of invoiced amounts that is not disputed, on or before the invoice due date. When the billing dispute is resolved, the owing Party shall pay the amount owed within [REDACTED] Business Days of the date of such resolution, with late payment interest charges calculated on the amount owed in accordance with Section 9.2(A).

Article 10 - Operations and Maintenance

10.1 Operation and Administration.

(A) Seller shall staff, control, and operate the Facility consistent with Good Utility Practices, the requirements of all Governmental Authorities and all reasonable requirements of Company in the operation of the Facility. By way of

example only, Seller shall perform all capacity testing of the Facility and related reporting, as and when required by Governmental Authorities.

(B) Seller shall provide to Company a day-ahead generation forecast in accordance with Exhibit I - Real Time Communication & Generation Forecasting Protocols and any other reporting requirements required for compliance with NERC reliability standards.

10.2 Facility Maintenance.

(A) Seller shall maintain the Facility in accordance with Good Utility Practice.

10.3 Books and Records.

(A) Seller shall maintain an accurate and up-to-date operating log at the Facility, in electronic format, with records of production for each clock hour; changes in operating status; Forced Outages; information required by Governmental Authorities in the prescribed format; and other information reasonably requested by Company.

(B) Seller and Company 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 metering, billing and payment records, and such records as may be required by Governmental Authorities. Originals or copies of all Operating Records shall be maintained at the Facility, at such other Minnesota location as may be specified by Seller from time to time, or at Seller's home office in the United States. Company may examine and make copies of such Operating Records from time to time upon request, during normal business hours.

10.4 Access to Facility. Representatives of Company shall have access to the Facility from time to time, on Commercially Reasonable prior notice, to read meters, perform inspections and take such other actions as may be appropriate to facilitate Company's performance of this PPA. While at the Facility, such representatives shall observe Seller's standard safety precautions and shall conduct themselves in a manner that will not interfere with operation of the Facility.

10.5 Real Time Data.

(A) Seller shall communicate all data necessary for Company to integrate the Facility into Company's EMCC in real time through the Facility's SCADA System in accordance with Exhibit B - Metering And Market Registration Protocols and Exhibit I - Real Time Communication & Generation Forecasting Protocols.

(B) Seller shall use Commercially Reasonable Efforts to adjust the real time Park Potential of the Facility when Company communicates to Seller a measured difference of plus or minus two percent between the metered Renewable Energy and Park Potential, during periods when generation is not curtailed.

10.6 Accreditation. Seller shall perform from time to time, at its expense, any reporting and testing (including capacity testing) of the Facility required by Governmental Authorities.

10.7 Operating Committee and Operating Procedures.

(A) Company and Seller shall each appoint one representative and one alternate representative to act as the Operating Committee in matters relating to the Parties' performance obligations under this PPA and to develop operating arrangements for the generation, delivery and receipt of Renewable Energy from the Facility. The Parties' initial representatives on the Operating Committee are set forth in Exhibit D - Notices.

(B) The Operating Committee may develop mutually agreeable written Operating Procedures consistent with the requirements of this PPA, to address matters such as day-to-day communications; key personnel; operations-center interface; metering, telemetering, telecommunications, and data acquisition procedures; operations and maintenance scheduling and reporting; reports; operations log; testing procedures; and such other matters as may be mutually agreed upon by the Operating Committee.

(C) The Operating Committee shall review Exhibit B - Metering And Market Registration Protocols and the requirements for Real Time Communication and Generation Forecasting from time to time after the date hereof and may agree on modifications thereto to the extent necessary or convenient for operation of the Facility in accordance with this PPA.

(D) The Operating Committee shall have authority to act in all technical and day-to-day operational matters relating to performance of this PPA and to attempt to resolve potential disputes, *provided, however*, that except as explicitly provided herein, the Operating Committee shall have no authority to amend or waive any provision of this PPA.

Article 11 - Security for Performance

11.1 Security Fund.

(A) During the Term of this PPA, Seller shall fund and maintain security in favor of Company, at Seller's expense, to secure Seller's obligations to Company under this PPA (the "Security Fund"), in accordance with this Article 11.

(B) The Security Fund shall be funded as follows:

1. No later than [REDACTED] Days following the date of the execution of this PPA, Seller shall establish and fund the initial Security Fund in the amount of [REDACTED].

2. [REDACTED] [REDACTED] Business Days following the Delivery Commencement Date, the amount of the Security Fund shall be reduced to [REDACTED] (the "Post Delivery Commencement Amount").

(C) Upon [REDACTED] Days' notice to Seller, unless a specific notice period is otherwise stipulated under this PPA, Company may draw from the Security Fund such amounts as are necessary to recover amounts owing to Company pursuant to this PPA, which have not been paid when due and remain unpaid following Buyer's notice, including any Liquidated Delay Damages, Deficiency Liquidated Damages, Actual Damages, Buy-Down Payment, liquidated damages for failure to achieve Delivery Commencement Date, and any amounts for which Company is entitled to indemnification under this PPA. Company may, in its sole discretion, draw all or any part of such amounts from any form of security to the extent available pursuant to this Article 11 and in any sequence Company may select. Company's failure or delay to draw any amount from the Security Fund in any instance shall not prejudice Company's rights to subsequently recover such amount from the Security Fund or in any other manner.

(D) Company shall notify Seller within [REDACTED] Business Days following any draw on the Security Fund by Company, including the amount thereof and the basis therefor.

11.2 Replenishment. Seller shall replenish the Security Fund to the applicable levels set forth in Section 11.1(B) within [REDACTED] Business Days after Company makes a draw on the Security Fund; *provided* that following the Outside Delivery Commencement Date such replenishment shall not exceed the amount remaining under the Damage Cap (as provided in Section 12.4(A)). Notwithstanding the foregoing, within [REDACTED] Business Days after Company makes a draw on the Security Fund associated with the damages described in Section 12.4(B), Seller shall replenish all amounts drawn from the Security Fund.

11.3 Form.

(A) The Security Fund may be in the form of an irrevocable standby letter of credit substantially in the form of Exhibit G - Form of Letter of Credit (a "Letter of Credit") from a financial institution acceptable to Company ("Issuer").

1. The Issuer of the Letter of Credit shall have and maintain a Credit Rating equivalent to A- (or better) by Standard & Poor's and A3 (or better) from Moody's. If such Credit Rating is A- or A3, the Issuer must not be on credit watch by any rating agency.

2. The Letter of Credit must be for a minimum term of [REDACTED] Days. Seller shall give Company at least [REDACTED] Days advance notice prior to any expiration or earlier termination of the Letter of Credit. Seller shall cause the renewal or extension of the Letter of Credit for additional consecutive terms of [REDACTED] Days or more (or, if shorter, the remainder of the Term) more than [REDACTED] Days prior to each expiration

date of the security. If the Letter of Credit is not renewed or extended at least [REDACTED] Days prior to its expiration date or otherwise is terminated early, Company shall have the right to draw immediately upon the Letter of Credit and to place the amounts so drawn, at Seller's cost and with Seller's funds, in an Escrow Account in accordance with paragraph (B) below, until and unless Seller provides a substitute form of security meeting the requirements of this Section 11.3.

(B) The Security Fund may be in the form of U.S. currency deposited into an escrow account with a state- or federally-chartered commercial bank with an office in the State of Minnesota, with net assets of at least \$1 billion (the "Escrow Account").

1. The Escrow Account shall be governed by an escrow agreement in form mutually satisfactory to Seller, Company and the escrow agent, provided that (a) Company shall hold a first and exclusive perfected security interest in the funds in the Escrow Account, (b) Company shall be permitted unilaterally to draw down any amount therein, regardless of any protest by Seller or any other party liable thereon (provided that nothing in the Escrow Agreement shall preclude any protest against Company by Seller, following any draw, that such draw did not comply with this PPA), and (c) Seller shall pay all fees and expenses of the escrow agent.

2. Funds held in the Escrow Account may be invested as Seller may direct in any of the following:

- a money-market fund sponsored by the escrow agent;
- U.S. treasury obligations with a maturity of 90 Days or less;
- commercial paper rated "A" or better, with a maturity of 90 days or less; and
- other liquid investment-grade investments with maturities of three months or less, approved by Company in advance (such approval not to be unreasonably withheld or delayed).

3. All investment income on the Escrow Account shall be taxable to, and accrue for the benefit of, Seller. After the Delivery Commencement Date, periodic sweeps by Seller for recovery of interest earned by the escrowed funds shall be allowed, and, at any time the balance in the Escrow Account exceeds the required amount of security, the escrow agent may remit any excess to Seller.

(C) Following Delivery Commencement Date, the Security Fund may consist of a guaranty substantially in the form of Exhibit H - Form of Guaranty, from a parent or other guarantor ("Guarantor") with a minimum of net worth of at least [REDACTED] and an Investment Grade Credit Rating (and if such Credit Rating is exactly equivalent to BBB- (S&P) / Baa3 (Moody's), the Guarantor must not be on credit watch by any rating agency). If the Credit Rating of the Guarantor is downgraded below

Investment Grade, put on credit watch, or an event occurs that (in the reasonable determination of Company) portends a Material Adverse Effect in the creditworthiness of the Guarantor, then Company may require Seller to convert the guaranty to a Security Fund instrument meeting the criteria set forth in either paragraph (A) or paragraph (B) above no later than [REDACTED] after notice from Company.

(D) Upon request by Seller, Company shall negotiate in good faith immaterial changes to Exhibit G - Form of Letter of Credit and/or Exhibit H - Form of Guaranty, provided that Seller shall pay or reimburse Company for the incremental direct expenses (including the fees and expenses of counsel) incurred by Company in connection therewith.

(E) Seller may change the form of the Security Fund at any time and from time to time upon Commercially Reasonable prior notice to Company, *provided, however,* that the Security Fund must at all times satisfy the requirements of this Article 11.

11.4 Replacement. In the event that the Security Fund ever fails to comply with the requirements of this Article 11 or Company determines in a commercially reasonable manner that an event has occurred or circumstances have developed that threaten to cause the Security Fund to fail to comply with the requirements of this Article 11 (e.g. a Guarantor is placed on negative credit watch by a rating agency), Seller shall be required to replace the Security Fund with security in compliance with Section 11.3 within [REDACTED] Days following notice thereof from Company.

11.5 Survival. The Security Fund shall survive termination of this PPA to be available to pay any amounts owed to Company arising prior to or upon termination. Promptly following (i) the end of the Term and the completion of all of Seller's obligations under this PPA, or (ii) termination of this PPA for any reason prior to the Scheduled Termination Date, Company shall determine the amount, if any, owed by Seller for any obligations or damages arising out of this PPA. Company may draw such amount and shall release the balance of the Security Fund (including any accumulated interest, if applicable) to Seller.

11.6 Expenses. Seller shall reimburse Company for its direct expenses (including the fees and expenses of counsel) incurred by Company in connection with the preparation, negotiation, execution and/or release (including making a draw of funds) of the Security Fund under this Article 11.

Article 12 - Default and Remedies

12.1 Default by Seller: General

(A) Events. Any of the following events shall constitute a default by Seller under this PPA. If no cure period is provided below, such default shall be deemed an Event of Default by Seller immediately upon its occurrence. If a cure period is provided below, such default shall mature into an Event of Default if not cured within the indicated cure period, subject to Section 13.3 below.

1. Seller's application for, or consent (by admission of material allegations of a petition or otherwise) to, the appointment of a receiver, trustee or liquidator for Seller or for all or substantially all of its assets, or its authorization of such application or consent, or the commencement of any proceedings seeking such appointment without such authorization, consent or application, which proceedings continue undismissed or unstayed for a period of [REDACTED] Days from inception.

Cure Period: None.

2. Seller's authorization or filing of a voluntary petition in bankruptcy or application for or consent (by admission of material allegations of a petition or otherwise) to the application of any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction or the institution of such proceedings against Seller without such authorization, application or consent, which proceedings remain undismissed or unstayed for [REDACTED] Days from its inception or which result in adjudication of bankruptcy or insolvency within such time.

Cure Period: None.

3. Seller's assignment of this PPA or the Facility, or any Change of Control, not permitted by Section 19.1.

Cure Period: None.

4. Any representation or warranty by Seller in this PPA that has a Material Adverse Effect on Seller's ability to perform this PPA is proven to have been false in any material respect when made.

Cure Period: [REDACTED] Days after Company provides notice of such breach.

5. Seller's failure to establish and maintain the Security Fund as and in the amounts required under Article 11.

Cure Period: [REDACTED] Business Days after Company provides notice of Seller's failure.

6. Seller's failure to obtain and maintain insurance in scope and amounts required under Article 16.

Cure Period: [REDACTED] Business Days after Company provides notice of Seller's failure.

7. Seller's failure to make any payment to Company as and when required by this PPA, including Liquidated Delay Damages, Deficiency Liquidated Damages, Buy-Down Payment, Actual Damages, and any required indemnification.

Cure Period: [REDACTED] Business Days after the date Seller receives notice from Company that the amount is overdue.

8. Any representation or warranty by Seller in this PPA that has a Material Adverse Effect on Seller's ability to perform this PPA ceases to remain true during the Term, other than due to a change of law.

Cure Period: [REDACTED] Days after Company provides notice of such breach.

9. A breach by Seller of the Interconnection Agreement, which breach materially interferes with Seller's delivery of Renewable Energy to the Point of Delivery, Company's ability to accept Renewable Energy at the Point of Delivery, Company's ability to transmit Renewable Energy beyond the Point of Delivery, and/or otherwise has a Material Adverse Effect on Company.

Cure Period: [REDACTED] Days from the breach or the cure period allowed by the Interconnection Agreement (whichever is longer).

10. Beginning with the second Commercial Operation Year, the failure of the Facility to achieve an Actual Availability Percentage for any two consecutive Availability Periods (as determined pursuant to Exhibit M) of [REDACTED] % or more.

Cure Period: Seller shall be deemed to have cured this default if, in the succeeding Availability Period, the Facility achieves an Actual Availability Percentage for such Availability Period (again as determined pursuant to Exhibit M) of [REDACTED] % or more. If Seller fails to cure during the succeeding Availability Period, Company may terminate the PPA without any additional cure period.

11. The failure by Seller to perform or observe any other material obligation to Company under this PPA, unexcused by Force Majeure (other than failure to achieve Delivery Commencement Date, which is addressed in Section 12.2 below).

Cure Period: [REDACTED] Days after notice thereof shall have been given by Company; provided, that if such default is not reasonably capable of cure within such [REDACTED] Day period, Seller shall have such additional period of time (not to exceed [REDACTED] Days in any event) as is reasonably necessary for cure, so long as Seller initiates cure within such [REDACTED] Day period and diligently prosecutes the cure to conclusion thereafter.

(B) Remedies for Default. In connection with any default by Seller under this Section 12.1 (whether or not cured by Seller), Company may:

1. Seek Actual Damages in such amounts and on such basis for the default as authorized by this PPA;

2. Offset against any payments due to Seller, any Actual Damages and other amounts due from Seller; and/or

3. Draw any Actual Damages and other amounts due from Seller, from the Security Fund.

(C) Termination for Event of Default. Upon and at any time following an Event of Default by Seller under this Section 12.1, in addition to its rights under Section 12.1(B) above, Company may terminate this PPA immediately upon notice to Seller, without penalty or further obligation to Seller, provided that such Event of Default (if subject to a cure period) remains uncured at the time of Company's notice. In connection with any such termination, Company may collect from Seller (subject to the Damage Cap) all Actual Damages arising from such Event of Default through the Scheduled Termination Date.

(D) Specific Performance. In addition to the other remedies specified herein, upon any Event of Default of Seller under this Section 12.1, Company may elect to treat this PPA as being in full force and effect and Company shall have the right to specific performance.

12.2 Default by Seller: Failure to Achieve Delivery Commencement Date.

(A) Delivery Delay. Subject to Section 4.5(E), Seller shall be in default under this PPA if the Facility fails to achieve Delivery Commencement Date by the Target Delivery Commencement Date ("Delivery Delay"). Seller shall be liable to pay [REDACTED] per Day ("Liquidated Delay Damages") to Company as a liquidated damage and not a penalty, in lieu of Actual Damages, for any Delivery Delay. Except as provided in Section 12.2(C) below, the payment of Liquidated Delay Damages shall be Company's sole and exclusive remedy for a Delivery Delay. Liquidated Delay Damages shall begin to accrue on the Day after the Target Delivery Commencement Date (which date shall be extended for all purposes under this Agreement to the extent that the Delivery Commencement Date has been delayed due to Force Majeure) until the first to occur of (i) the Delivery Commencement Date, or (ii) termination of this PPA pursuant to Section 12.2(C) below.

(B) Cure. In the event Seller has not achieved Delivery Commencement Date by the Target Delivery Commencement Date, Seller shall have a cure period of [REDACTED] Days for its failure to achieve Delivery Commencement Date by the Target Delivery Commencement Date. The payment of accrued Liquidated Delay Damages shall be a condition to any such cure.

(C) Termination. Subject to Section 4.5(E), failure to cure a Delivery Delay within the applicable cure period set forth in Section 12.2(B) shall be an Event of Default by Seller. Upon such an Event of Default, Company 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 [REDACTED].

12.3 Default by Company.

(A) Events. Any of the following events shall constitute a default by Company under this PPA. If no cure period is provided below, such default shall be deemed an Event of Default by Company immediately upon its occurrence. If a cure period is provided below, such default shall mature into an Event of Default if not cured within the indicated cure period, subject to Section 13.3 below.

1. Company's application for, or consent (by admission of material allegations of a petition or otherwise) to, the appointment of a receiver, trustee or liquidator for Company or for all or substantially all of its assets, or its authorization of such application or consent, or the commencement of any proceedings seeking such appointment without such authorization, consent or application, which proceedings continue undismissed or unstayed for a period of [REDACTED] Days from inception.

Cure Period: None.

2. Company's authorization or filing of a voluntary petition in bankruptcy or application for or consent (by admission of material allegations of a petition or otherwise) to the application of any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction or the institution of such proceedings against Company without such authorization, application or consent, which proceedings remain undismissed or unstayed for [REDACTED] Days from its inception or which result in adjudication of bankruptcy or insolvency within such time.

Cure Period: None.

3. Company's assignment of this PPA, not permitted by Section 19.2.

Cure Period: None.

4. Any representation or warranty by Company in this PPA that has a Material Adverse Effect on Company's ability to perform this PPA is proven to have been false in any material respect when made.

Cure Period: [REDACTED] Days after Seller provides notice of such breach.

5. Company's failure to make any payment to Company as and when required by this PPA, including invoiced amounts, Actual Damages and any required indemnification.

Cure Period: [REDACTED] Business Days after the date Company receives notice from Seller that the amount is overdue.

6. Any representation or warranty by Company in this PPA that has a Material Adverse Effect on Company's ability to perform this PPA ceases to remain true during the Term, other than due to a change of law.

Cure Period: [REDACTED] Days after Seller provides notice of such breach.

7. The failure by Company to perform or observe any other material obligation to Seller under this PPA, unexcused by Force Majeure.

Cure Period: [REDACTED] Days after notice thereof shall have been given by Seller; *provided*, that if such default is not reasonably capable of cure within such [REDACTED] Day period, Company shall have such additional period of time (not to exceed [REDACTED] Days in any event) as is reasonably necessary for cure, so long as Company initiates cure within such [REDACTED] Day period and diligently prosecutes the cure to conclusion thereafter.

(B) Remedies for Default. In connection with any default by Company (whether or not cured by Company), Seller may

1. Seek Actual Damages in such amounts and on such basis for the default as authorized by this PPA; and/or

2. Offset against any payments due to Company, any Actual Damages and other amounts due from Company.

(C) Termination for Event of Default. Upon an Event of Default by Company, in addition to its rights under Section 12.3(B) above, Seller may terminate this PPA immediately upon notice to Company, without penalty or further obligation to Company, provided that such Event of Default (if subject to a cure period) remains uncured at the time of Seller's notice. In connection therewith, Seller may collect from Company all Actual Damages arising from such Event of Default through the Scheduled Termination Date.

12.4 Limitations on Damages.

(A) Except as otherwise provided in Section 12.4(B), following (i) the Outside Delivery Commencement Date, and (ii) if Seller elected the Nameplate Buy-Down pursuant to Section 4.5(E)(3)(a), Seller's payment of the Buy-Down Payment, Seller's aggregate financial liability to Company for Actual Damages shall not exceed [REDACTED] (the "Damage Cap"). If at any time following Outside Delivery Commencement Date, Company incurs damages in excess of the Damage Cap that Seller does not pay when billed by Company, Company shall have the right to terminate this PPA upon notice to Seller, without further obligation by either Party except as to costs and balances incurred prior to the effective date of such termination.

(B) Actual Damages payable by Seller arising out of any of the following events shall not be subject to the Damage Cap and shall not be credited against the Damage Cap:

1. damage to Company-owned facilities proximately caused by negligence, breach of this PPA or other misconduct by Seller, its directors, officers, employees and agents;
2. Seller's intentional misrepresentation or intentional misconduct in connection with this PPA or the operation of the Facility;
3. the sale or diversion by Seller to a third party of any capacity or energy from the Facility, excluding sales in mitigation of damages;
4. Seller's failure (i) to maintain insurance coverages in the types and amounts required by this PPA or (ii) to apply any insurance proceeds as required by Section 16.4;
5. any claim for indemnification under this PPA;
6. any Environmental Contamination caused by Seller; or
7. damages incurred by Company in connection with any bankruptcy or insolvency proceeding involving Seller, including Company's loss of the benefit of its bargain due to rejection or other termination of this PPA in such proceeding.

(C) 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 all direct damages proximately caused by such default ("Actual Damages") incurred by the non-defaulting Party, provided that if Seller is the defaulting Party, Actual Damages recoverable by Company hereunder may include Replacement Power Costs. **Neither Party shall be liable to the other Party for consequential, incidental, punitive, exemplary, special, treble, equitable or indirect damages, lost profits or other business interruption damages regardless of whether the relevant cause of action arises from statute, in tort or contract** (except to the extent expressly provided herein); *provided, however*, 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 from the other Party hereto, the indemnifying Party shall be liable for, and obligated to reimburse the indemnified Party for all such damages.

(D) To the extent damages required to be paid hereunder are liquidated, the Parties acknowledge that actual damages would be substantial but 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.

12.5 [RESERVED].

12.6 Bankruptcy.

(A) The Parties covenant and agree that (i) this PPA constitutes a “master netting agreement,” (ii) all transactions pursuant to this PPA constitute “forward contracts” or a “swap agreement,” (iii) each Party is a “forward contract merchant” and “master netting agreement participant,” and (iv) all payments made or to be made pursuant to this PPA constitute “settlement payments”, as defined in Title 11 of the United States Code (the “US Bankruptcy Code”).

(B) This PPA grants each Party the contractual right to “cause the liquidation, termination or acceleration” of the transactions within the meaning of Sections 556, 560 and 561 of the U.S. Bankruptcy Code, as they may be amended superseded or replaced from time to time. Upon a bankruptcy, a non-defaulting Party shall be entitled to exercise its rights and remedies under this PPA in accordance with the safe harbor provisions of the Bankruptcy Code set forth in, *inter alia*, Sections 362(b)(6), 362(b)(17), 362(b)(27), 362(o), 546(e), 548(d)(2), 556, 560 and 561, as they may be amended, superseded or replaced from time to time.

12.7 Cumulative Remedies. Except as explicitly provided to the contrary in this PPA, 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 of one or more of the rights or remedies provided for herein shall not preclude the simultaneous or later exercise by such Party of any other rights or remedies provided for herein

12.8 Duty to Mitigate. Each Party shall use Commercially Reasonable Efforts to mitigate any damages it may incur as a result of a default by the other Party under this PPA.

Article 13 - Dispute Resolution

13.1 Negotiation.

(A) In the event of any dispute arising under or associated with the Parties’ performance of this PPA (a “Dispute”), within █ Business Days following notice by either Party (a “Dispute Notice”), (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively.

(B) In the event the Parties’ representatives cannot resolve the Dispute within █ Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to senior management. Within █ Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within █ Business Days after receipt of each Party’s Dispute summaries, the designated senior managers for both Parties shall negotiate in good faith to resolve the Dispute. If such senior managers are unable to resolve the Dispute thereafter, either Party may seek available legal remedies, subject to Section 13.3.

13.2 Time Bar. If no Dispute Notice has been issued within 18 months following the occurrence of events or circumstances giving rise to the Dispute (regardless of the actual knowledge of either Party of such events and circumstances), all claims related to such Dispute (including any allegations of billing errors) shall be deemed waived and the aggrieved Party shall thereafter be barred from proceeding thereon.

13.3 No Termination Pending Dispute Resolution. Notwithstanding Section 12.1 or Section 12.3 to the contrary:

(A) An Event of Default shall not be deemed to have occurred (and hence neither Party may terminate this PPA) for failure by the other Party to pay any amount(s) allegedly due totaling less than [REDACTED], if (1) such amount(s) are disputed in good faith, (2) the Party alleged to owe such amount(s) promptly commences and diligently pursues resolution of the Dispute pursuant to Section 13.1, and (3) the owed amount (if any) is paid within [REDACTED] Business Days after all dispute resolution mechanisms are completed with respect thereto.

(B) An Event of Default by Seller shall not be deemed to have occurred (and hence Company may not terminate this PPA) for failure by Seller to pay any amount(s) allegedly due totaling [REDACTED] or more, if

1. such amount(s) are disputed by Seller in good faith;
2. Seller promptly commences and diligently pursues resolution of the Dispute pursuant to Section 13.1;
3. Seller either holds an Investment Grade Credit Rating, or posts cash collateral to secure its obligations (if any) with respect to the disputed amount(s), in an amount equal to the amount(s) in dispute, under a mutually agreeable third-party escrow agreement, in addition to the Security Fund; and
4. the owed amount (if any) is paid by Seller within [REDACTED] Business Days after all dispute resolution mechanisms are completed with respect thereto.

(C) An Event of Default by Company shall not be deemed to have occurred (and hence Seller may not terminate this PPA) for failure by Company to pay any amount(s) allegedly due totaling [REDACTED] or more, if

1. such amount(s) are disputed by Company in good faith;
2. Company promptly commences and diligently pursues resolution of the Dispute pursuant to Section 13.1;
3. Company either holds an Investment Grade Credit Rating, or posts cash collateral to secure its obligations (if any) with respect to the disputed amount(s), in an amount equal to the amount(s) in dispute, under a mutually agreeable third-party escrow and account control agreement; and

4. the owed amount (if any) is paid by Company within [REDACTED] Business Days after all dispute resolution mechanisms are completed with respect thereto.

13.4 Governing Law. The interpretation and performance of this PPA and all actions related hereto (whether sounding in contract, tort or otherwise), shall be governed and construed in accordance with the laws of the State of South Dakota, exclusive of conflict of laws principles.

13.5 Venue. The Parties submit to the exclusive jurisdiction of the state courts of the State of Minnesota for purposes of resolving any Dispute hereunder. Venue for any court proceedings shall lie exclusively in the Minnesota District Court for the Fourth District or, if jurisdictionally available, the U.S. District Court for the District of Minnesota.

13.6 Waiver of Jury Trial. **Seller and Company each hereby knowingly, voluntarily and intentionally waive any rights they may have to a trial by jury** in respect of any litigation based hereon, or arising out of, under, or in connection with, this PPA or any course of conduct, course of dealing, statements (whether oral or written) or actions of Seller and Company related hereto and expressly agree to have any Disputes be adjudicated by a judge of the court having jurisdiction, without a jury.

Article 14 - Force Majeure

14.1 Definition. For purposes hereof, "Force Majeure" means [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

By way of example only, "Force Majeure" includes any delay or failure by the Transmission Authority to perform its obligations under the Interconnection Agreement, and any interruption in transmission service on Company's side of the Point of Delivery for reliability or other reasons.

14.2 Applicability of Force Majeure. A Party shall be relieved of its obligations to perform this PPA and shall not be considered to be in default with respect to any obligation under this PPA if and to the extent such Party is prevented from fulfilling such obligation by Force Majeure, *provided, however*, that: (i) such Party gives prompt notice describing the circumstances and impact of the Force Majeure; (ii) the relief from its obligations sought by such Party is of no greater scope and of no longer duration than is required by the Force Majeure; (iii) such Party proceeds with due diligence to overcome the Force Majeure and resumes performance of its obligations under this PPA as soon as practicable thereafter; and (iv) such Party provides notice upon conclusion of the Force Majeure.

14.3 Limitations on Effect of Force Majeure.

(A) Force Majeure shall only relieve a Party of such obligations as are actually precluded by the Force Majeure.

(B) In no event will the existence of Force Majeure extend this PPA beyond its stated Term.

(C) If Force Majeure affecting Seller continues for a period of [REDACTED] consecutive Days or any [REDACTED] non-consecutive Days (with respect to Force Majeure occurring prior to Delivery Commencement Date) or for a period of [REDACTED] consecutive Days or any [REDACTED] non-consecutive Days (with respect to Force Majeure occurring after Delivery Commencement Date), Company may, at any time following the end of such period, terminate this PPA upon notice to Seller, without further obligation by either Party except as to costs and balances incurred prior to the effective date of such termination, provided that the Force Majeure is continuing when Company's notice is delivered to Seller.

Article 15 - Representations and Warranties

Each Party hereby represents and warrants to the other as follows, which representations and warranties shall be deemed to be repeated, if applicable, by each Party throughout the Term:

(A) Such Party is a valid separate legal entity, duly organized, validly existing and in good standing under Applicable Law. It is qualified to do business in the State in which the Facility is located and each other jurisdiction where the failure to so qualify would have a Material Adverse Effect on the business or financial condition of the other Party. It 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 Party's execution, delivery, and performance of all of its obligations under this PPA have been duly authorized by all necessary organizational action, and do not and will not:

1. require any consent or approval by any governing corporate or management body, other than that which has been obtained and is in full force and effect (evidence of which shall be delivered to the other Party upon its request);

2. violate any Applicable Law, the violation of which could have a Material Adverse Effect on the representing Party's ability to perform its obligations under this PPA;

3. result in a breach or constitute a default under the representing Party's formation documents, bylaws or equivalent, or under any agreement relating to its management or affairs, any indenture or loan or credit agreement, or any other agreement, lease, or instrument to which it is a party or by which it 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 representing Party's ability to perform its obligations under this PPA; or

4. 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 to a Facility Lender or as permitted under or otherwise contemplated by this PPA) upon or with respect to any of the assets or properties of the representing Party now owned or hereafter acquired, the creation or imposition of which could reasonably be expected to have a Material Adverse Effect on the representing Party's ability to perform its obligations under this PPA.

(C) This PPA is a valid and binding obligation of the representing Party, enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(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 the representing Party is a party or any judgment, order, or Applicable Law, applicable to it or its business.

(E) Such Party is (i) an "eligible contract participant" as defined in the Commodity Exchange Act, as amended, 7 U.S.C. §1a(12), (ii) a "market participant" under applicable exchange and market rules; (iii) a producer, processor, or commercial

user of, or a merchant handling, the commodity which is the subject of this PPA, or the products or by products thereof; and (iv) entering into this PPA solely for purposes related to its business as such.

Article 16 - Insurance

16.1 Evidence of Insurance. No later than commencement of construction and thereafter at least [REDACTED] Days prior to each applicable expiration date, Seller shall provide Company with two copies of insurance certificates acceptable to Company evidencing that insurance coverages for the Facility are in force and in compliance with the specifications for insurance coverage set forth in Exhibit E - Insurance to this PPA. Such certificates shall

(A) name Company as an additional insured (except worker's compensation);

(B) provide that Company shall receive [REDACTED] Days prior written notice of non-renewal, cancellation of, or significant modification to any of the corresponding policies (except that such notice may be [REDACTED] Days for non-payment of premiums);

(C) provide a waiver of any rights of subrogation against Company, its Affiliates and their officers, directors, agents, subcontractors, and employees; and

(D) indicate that the Commercial General Liability policy has been endorsed as described above.

16.2 Policy Requirements. All policies shall be written with insurers with an AM Best rating of at least A-VII or a Standard & Poor's rating of at least A. All policies shall be written on an occurrence basis, except as provided in Section 16.4. All policies shall contain an endorsement that Seller's policy shall be primary in all instances regardless of like coverages, if any, carried by Company. Seller may satisfy its insurance requirements using any reasonable combination of primary and secondary coverage.

16.3 No Implied Limitation. Seller's liability under this PPA is not limited to the amount of insurance coverage required herein.

16.4 Term and Modification of Insurance.

(A) All insurance required under this PPA shall cover occurrences during the Term and for a period of two 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 date of this PPA and such insurance shall be maintained by Seller for a minimum of six 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 notice to Company, 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 that would provide comparable protection against the risk to be insured.

16.5 [RESERVED].

Article 17 - Indemnity

17.1 Indemnification: General. Each Party (the "Indemnifying Party") shall indemnify, defend and hold the other Party (the "Indemnified Party") harmless from and against all claims, demands, lawsuits (including citizen suits), losses, liabilities, fines, penalties, and expenses (including attorneys' fees) (generally, "Losses"), to the extent caused by

- a default under this PPA by the Indemnifying Party;
- a violation or alleged violation of Applicable Laws by the Indemnifying Party; and
- the negligence, intentional acts and other misconduct of the directors, officers, employees, or agents of the Indemnifying Party.

17.2 Indemnification: Environmental. Seller shall indemnify, defend and hold Company harmless from and against all Losses arising out of any claim by any Governmental Authority or other third party alleging Environmental Contamination at the Site and/or illegal disposal of Hazardous Materials off-Site, regardless of merit and regardless of Seller's responsibility therefor.

17.3 Limitations.

(A) The foregoing indemnification obligations shall apply notwithstanding any contributory misconduct of the Indemnified Party, but the Indemnifying Party's liability to indemnify the Indemnified Party shall be reduced in proportion to the percentage by which the Indemnified Party's misconduct caused the damages.

(B) Neither Party shall be indemnified for Losses resulting from the sole negligence or willful misconduct of the directors, officers, employees, or agents of such Party.

(C) 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. Nothing in this Article 17 shall enlarge or relieve Seller or Company of any liability to the other for any breach of this PPA.

17.4 Procedures.

(A) Promptly after receipt by a Party of any claim or notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 17 may apply, the Indemnified Party shall provide notice thereof to the Indemnifying Party; *provided* that a delay in providing such notice shall limit the obligations of the Indemnifying Party only to the extent that such delay actually prejudices the ability of the Indemnifying Party to contest the claim or defend the proceeding.

(B) The Indemnifying Party shall assume the defense thereof with counsel designated by such Party and satisfactory to the Indemnified Party, *provided, however,* if the defendants in any such action include both the Indemnified Party and the Indemnifying Party, and the Indemnified Party shall reasonably conclude that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense.

(C) If an Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may contest, settle, or pay such claim at the expense of the Indemnifying Party, *provided, however,* that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or otherwise warrants settlement.

17.5 Amounts Owed. In the event that a Party is obligated for indemnification under this Article 17, 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 Commercially Reasonable effort by the Indemnified Party to obtain such insurance proceeds.

Article 18 - Lender Provisions

18.1 Accommodation of Facility Lender.

(A) Company shall provide such consents to collateral assignment, certifications, representations, estoppels, information or other documents, as may be reasonably requested by Seller in connection with the financing of the Facility consistent with the terms set forth in Exhibit K - Lender Consent Provisions (generally, a "Lender Consent"), *provided, however,* that in providing a Lender Consent, Company shall have no obligation to

1. modify the terms of this PPA;
2. provide any consent or enter into any agreement that has a Material Adverse Effect on any of Company's rights, benefits, risks, or obligations under this PPA;

- Company;
3. transfer or release any property or property interests of
 4. release or subordinate (or cause the release or subordination) of any lien on any property of Company for the benefit of Seller or the Facility Lender; or
 5. permit any lien to be placed on property of Company.

(B) Seller shall reimburse, or shall cause the Facility Lender to reimburse, Company for the direct expenses (including the fees and expenses of counsel) incurred by Company in the preparation, negotiation, execution and/or delivery of each Lender Consent and any documents requested by Seller or the Facility Lender pursuant to this Section 18.1.

18.2 Notices.

(A) Seller shall provide Company with a notice identifying the Facility Lender and providing appropriate contact information for the Facility Lender. Following receipt of such notice, Company shall provide to the Facility Lender a copy of each notice of alleged default delivered to Seller under Section 12.1 or Section 12.2, and Company will accept a cure thereof performed by the Facility Lender, so long as the cure is accomplished within the applicable cure period set forth in this PPA or the relevant Lender Consent.

(B) Within Days following Seller's receipt of each notice of default or Facility Lender's intent to exercise any remedies under the Financing Documents, Seller shall deliver a copy of such notice to Company.

Article 19 - Assignment

19.1 Assignment by Seller.

(A) Seller shall not sell, exchange or otherwise transfer the Facility or any material portion thereof to any third party, nor shall Seller undergo any Change of Control (whether voluntary or by operation of law), absent the prior written consent of Company, which shall not be unreasonably withheld or delayed. Company shall have no obligation to provide any consent under this Section unless

1. Seller has provided to Company such information concerning the transferee's direct and indirect ownership as Company reasonably requests;
2. the transferee has substantial experience in the operation of power generation facilities similar to the Facility, either directly, through its affiliates or through an operator acceptable to Company;

3. the transferee (together with its parents and affiliates) either (a) enjoys an Investment Grade Credit Rating or other creditworthiness satisfactory to Company, or (b) posts and maintains a Security Fund meeting the requirements of Article 11;

4. Seller has provided to Company at least [REDACTED] days' prior notice of the transaction; and

5. Seller pays or reimburses Company for the direct expenses (including the fees and expenses of counsel) incurred by Company in connection with the transaction.

(B) Any Change of Control or sale, transfer, or assignment of any interest in the Facility effected without fulfilling the requirements of this PPA shall be null, void and a breach of this PPA.

(C) Seller shall assign this PPA to any successor owner of the Facility, and shall cause such successor to assume all obligations of Seller (accrued and prospective) hereunder via a writing reasonably satisfactory to Company. Seller also may assign this PPA for collateral purposes to any Facility Lender, and may subcontract some or all of its duties under this PPA, upon notice to but without the consent of Company.

(D) Except as permitted in this Section 19.1, Seller may not assign this PPA or any portion hereof. No assignment shall relieve Seller of its obligations under this PPA, nor impair any security posted by Seller unless such security is replaced in accordance with Article 11. Before this PPA is assigned by Seller, the assignee must first obtain such approvals as may be required by all applicable Governmental Authorities.

19.2 Assignment by Company.

(A) Company may assign this PPA to any Affiliate, or to any successor that provides retail electric service in all or substantially all of Company's service territory and is subject to rate and quality service regulation under the jurisdiction of the MN PUC. Any other assignment of this PPA by Company shall require the prior written consent of Seller, not to be unreasonably withheld or delayed.

(B) If an assignee of Company enjoys a Credit Rating equal to or better than Investment Grade or Company's Credit Rating as of the date of assignment (whichever is higher), Seller shall release Company from its obligations hereunder if so requested by Company. Except for the foregoing, no assignment shall relieve Company of its obligations under this PPA.

(C) Any assignee of Company shall assume all obligations of Company (accrued and prospective) hereunder via a writing reasonably satisfactory to Seller. Before this PPA is assigned by Company, the assignee must first obtain such approvals as may be required by all applicable Governmental Authorities.

19.3 [RESERVED].

19.4 [RESERVED].

19.5 [RESERVED].

19.6 [RESERVED].

Article 20 - Miscellaneous

20.1 Notices.

(A) Notices required by this PPA shall be in writing and addressed to the other Party at the addresses noted in Exhibit D - Notices, as either Party updates such addresses from time to time by notice to the other Party. Notices shall be deemed effective when receipt is acknowledged in writing by the counterparty (or absent such acknowledgement, when delivered via third-party messenger or via FedEx or other reputable overnight courier service). Any notice shall be deemed to have been received by the close of the Business Day on which it was delivered. Real-time or routine communications concerning Facility operations shall be exempt from this Section 20.1(A).

(B) The Parties recognize the need for accurate communications between them. Each Party consents to the recording of telephone conversations between their employees and representatives, related to the performance and administration of this PPA.

20.2 Taxes.

(A) Company shall purchase all Renewable Energy on a wholesale basis, for resale to Company's wholesale and retail customers. Company 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 Renewable Energy hereunder are sales for resale.

(B) As between the Parties, Company shall be solely responsible for the payment of (1) any sales, use or equivalent taxes imposed by Governmental Authorities, whether now in existence or hereafter enacted, on the purchase of Renewable Energy hereunder at the Point of Delivery, and (2) any taxes imposed by Governmental Authorities, whether now in existence or hereafter enacted, on the transmission of Renewable Energy beyond the Point of Delivery.

(C) Subject to Section 20.2(B), Seller shall be solely responsible for any and all present and future taxes and other impositions of Governmental Authorities relating to the construction, ownership or leasing, operation or maintenance of the Facility and the Site (including *ad valorem* taxes on the Facility and the Site), and any taxes imposed prior to the Point of Delivery with respect to the products and services to be sold and delivered to Company hereunder, whether calculated based upon cost,

value, labor, capital, production, savings, green attributes or other parameters. Seller's prices under Article 8 are inclusive of such taxes and impositions during the Term, and Seller assumes the risk of changes in such taxes after the date hereof.

(D) The Parties shall cooperate to minimize tax exposure, *provided, however,* that neither Party shall be obligated to incur any financial burden to reduce taxes for which the other Party is responsible hereunder.

20.3 Applicable Laws. Each Party shall comply with all Applicable Laws (including the Transmission Authority Tariff), except for any non-compliance that (individually or in the aggregate) could not reasonably be expected to have a Material Adverse Effect on the other Party or on such Party's ability to perform this PPA.

(A) As applicable, each Party shall give all required notices, shall procure and maintain all Permits necessary for performance of this PPA, and shall pay its respective charges and fees in connection therewith.

(B) Each Party shall promptly disclose to the other Party, any violation of any Applicable Laws arising out of the Facility and/or performance of this PPA.

(C) Upon permanent cessation of generation from the Facility, Seller shall decommission and remove the Facility and remediate the Site as, if and when required by Applicable Laws.

(D) Seller acknowledges that as a government contractor Company is subject to Applicable Laws regarding equal employment opportunity and affirmative action, including 41 C.F.R. §60-1.4(a)(1-7). Such Applicable Laws may also be applicable to Seller as a subcontractor to Company. All such Applicable Laws shall be deemed to be incorporated herein as required by Applicable Law.

(E) Each Party assumes the risk of changes in Applicable Laws following the date hereof, that affect such Party's costs of ownership and operation of its assets, and its performance of this PPA, except as otherwise specifically set forth herein.

20.4 Fines and Penalties. Seller shall pay when due all fees, fines, penalties and costs incurred by Company, Seller and/or their agents, employees or contractors arising from noncompliance by Seller, its employees, or subcontractors with any provision of this PPA, or any contractual obligation, Permit or requirements of Applicable Law, except for such fines, penalties and costs that are being actively contested in good faith and with due diligence by Seller and for which adequate financial reserves have been set aside to pay such fines, penalties or costs in the event of an adverse determination.

20.5 Rate Changes.

(A) The terms and conditions and the rates for service specified in this PPA shall remain in effect for the Term hereof. Neither Party shall seek (nor support

any third party seeking) any prospective or retroactive change to the rates or terms of service under this PPA pursuant to Section 205, 206 or 306 of the Federal Power Act.

(B) The standard of review for changes to this PPA whether proposed by a Party, a non-party, or FERC 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) (aka the “Mobile-Sierra doctrine”), as interpreted in *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1*, 128 S. Ct. 2733 (2008).

20.6 Certifications. 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 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 administrative proceedings before the MN PUC.

20.7 Disclaimer of Third Party Beneficiaries. In executing this PPA, Company does not and does not intend to extend its credit or financial support for the benefit of any Facility Lender or any other third-party transacting 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.

20.8 Relationship of the Parties.

(A) 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 upon either Party. Except as specifically provided for in this PPA to the contrary, neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act 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 such services, 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 Company for any purpose; nor shall Seller represent to any person that he or she is or shall become a Company employee.

20.9 Survival of Obligations. Cancellation, expiration, or earlier termination of this PPA shall not relieve the Parties of obligations, including warranties, remedies, or indemnities, that by their nature should survive such cancellation, expiration, or termination, which obligations shall survive for the period of the applicable statute(s) of limitation.

20.10 Severability. In the event any of the terms, covenants, or conditions of this PPA, its Exhibits, 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 Company and Seller shall negotiate in good faith to attempt to implement an equitable adjustment in the provisions of this PPA with a view toward effecting the purposes of this PPA by replacing the provision that is held invalid, illegal, or unenforceable with a valid provision the economic effect of which comes as close as possible to that of the provision that has been found to be invalid, illegal or unenforceable.

20.11 Complete Agreement; Amendments. The terms and provisions contained in this PPA constitute the entire agreement between Company and Seller with respect to the Facility and shall supersede all previous communications, representations, or agreements, either verbal or written, between Company and Seller with respect to the sale of Renewable Energy from the Facility. Any amendment of this PPA, or any waiver of any provision hereof, shall be evidenced by a writing signed by the Party/ies to be bound thereby.

20.12 Waiver. 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 hereunder, 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.

20.13 Binding Effect. This PPA is binding upon and shall inure to the benefit of the Parties hereto and their respective successors, legal representatives, and assigns.

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

20.15 Counterparts. This PPA may be executed in counterparts, and each executed counterpart shall have the same force and effect as an original instrument.

20.16 Press Release. Upon the request of either Party, the Parties shall develop a mutually agreed joint press release to be issued describing the location, size and nature of the Facility, the term of this PPA, and other relevant factual information about the relationship.

20.17 Exhibits. Either Party may change the information in Exhibit D - Notices at any time by notice without the approval of the other Party. All other Exhibits may be changed to the extent allowed by specific provisions of this PPA or with the mutual consent of both Parties.

20.18 Confidentiality.

(A) For purposes hereof, "Confidential Information" means all information, written or oral, which has been or is disclosed by a Party, or which otherwise becomes known to the other Party, and which (i) relates to matters such as patents, trade secrets, research and development activities, draft or final contracts or other business arrangements, books and records, wind data and analysis, generation

data and analysis, budgets, cost estimates, pro forma calculations, engineering work product, environmental compliance, vendor lists, suppliers, manufacturing processes, energy consumption, pricing information, private processes, and other similar information, as they may exist from time to time, (ii) relates to the existence or the terms, including pricing, of this PPA, or (ii) the Transferor expressly designates in writing to be confidential; *provided, however*, that "Confidential Information" shall not include information that

1. is publicly available as of the date hereof, or becomes publicly available during the Term through no fault of the recipient Party;
2. can be documented was independently developed by the recipient Party; and/or
3. is disclosed to the recipient Party from an ultimate source other than the protected Party, without breach of this PPA by the recipient Party.

(B) The recipient Party shall (i) maintain the confidentiality of all Confidential Information of the protected Party, using the same degree of care used by the recipient Party to protect its own Confidential Information (and in any event not less than a reasonable degree of care), and (ii) shall use Confidential Information only in connection with its performance of this PPA. Confidential Information may be disclosed by the recipient Party to its agents, employees, directors, officers, consultants, auditors, lenders and equity investors, and prospective lenders and equity investors, subject to their acceptance of the obligations of confidentiality imposed hereby and for whose violations of this Section 20.18 the recipient Party shall be responsible.

(C) In the event that Confidential Information is disclosed to a PUC, its staff, intervenors or consumer counsel in any regulatory or administrative proceedings before a PUC, the disclosing Party shall submit such Confidential information in accordance with applicable PUC confidentiality rules and procedures. In the event that Confidential Information must otherwise be disclosed by Applicable Law (e.g. pursuant to subpoena or civil discovery), the Party required to make disclosure shall notify the protected Party sufficiently in advance to allow the protected Party a reasonable opportunity to obtain a protective order or seek other remedies, prior to disclosure by the recipient Party.

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IN WITNESS WHEREOF, the Parties have executed this PPA as of the date first set forth above.

Seller:

Deuel Harvest Wind Energy LLC

By:  _____

James J. Shield

Its: _____
Vice President



Company:

**Northern States Power Company, a
Minnesota corporation**

By: _____

Robert C. Frenzel

Its: Executive Vice President, Chief
Financial Officer

IN WITNESS WHEREOF, the Parties have executed this PPA as of the date first set forth above.

Seller:

Deuel Harvest Wind Energy LLC

By: _____

Its: _____

Company:

**Northern States Power Company, a
Minnesota corporation**

By:  _____

Robert C. Frenzel

Its: Executive Vice President, Chief
Financial Officer

EXHIBIT A

DEFINITIONS

The following terms shall have the meanings set forth herein:

“Actual Damages” has the meaning set forth in Section 12.4(C).

“Affiliate” of any designated person or entity means any person or entity that directly or indirectly controls, is under the control of, or is under common control with, the designated person or entity by the power to direct or cause the direction of the management of the policies of designated person or entity, whether through ownership interest, by contract or otherwise.

“Applicable Law” means all laws, statutes, treaties, codes, ordinances, regulations, certificates, orders, licenses and permits of any Governmental Authority that are applicable to a Party, the business of a Party or the Facility, now in effect or hereafter enacted, including amendments to or interpretations of any of the foregoing by a Governmental Authority having jurisdiction, and all applicable judicial, administrative, arbitration and regulatory decrees, judgments, injunctions, writs, orders, awards and/or like actions.

“Arbitration Service” means Judicial Arbitration and Mediation Services, Inc. (aka JAMS).

“Availability Factor” shall have the meaning set forth in Exhibit M.

“Back-Up Metering” shall have the meaning set forth in Section 5.3(B).

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

“Buy-Down Payment” has the meaning set forth in Section 4.5(E)3.

“Change of Control” means

[REDACTED]

long-term issuer rating assigned to such person or entity by Standard & Poor's or Moody's.

"Damage Cap" shall have the meaning set forth in Section 12.4(A).

"Day" means a calendar day.

"Declared Capacity" has the meaning set forth in Section 4.5(E)3.

"Delivery Commencement Conditions" means all of the requirements that must be satisfied by Seller as a prerequisite to delivering the Renewable Energy to Company. The Delivery Commencement Date Conditions are set forth in Section 4.5(D).

"Delivery Commencement Date" shall have the meaning set forth in Section 4.5(D).

"Dispute" shall have the meaning set forth in Article 13.

"Electric Metering Devices" means revenue quality meters, metering equipment and data processing equipment used to measure, record and transmit data with respect to the output of Renewable Energy from the Facility, including metering current transformers and metering voltage transformers. The Electric Metering Devices must transmit to Company five-minute revenue quality meter data.

"Eligible Energy Resource" means any generation resource eligible to be certified to generate, claim, own or use Renewable Energy Credits and green tags pursuant to the protocols and procedures developed and approved by applicable Government Authorities for the REC Registration Program.

"Energy Markets Control Center" or "EMCC" means Company's merchant representatives responsible for dispatch of generating units, including the Facility.

"Energy Payment Rate" shall have the meaning set forth in Exhibit J.

"Energy Resource Interconnection Service" means the type of interconnection service which allows Seller to connect the Facility to the transmission or distribution system, as applicable, as an "Energy Resource" as defined by the Transmission Tariff, and 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" shall have the meaning set forth in Section 4.2.

"ERO" means the Electric Reliability Organization certified by FERC pursuant to Section 215 of the Federal Power Act or any successor organization. The certified ERO as of the date of this PPA is Midcontinent Independent System Operator, Inc. (MISO).

"Event of Default" shall have the meaning set forth in Article 12.

“Facility” means Seller’s electric generating facilities, associated balance of plant, parts, fixtures and equipment, and all equipment necessary to interconnect to the Transmission Authority’s System, all as further described in Exhibit C -- Facility/Full Project Description, including Seller’s rights to the Site and all of the following: buildings, Wind Turbines, generators, step-up transformers, output breakers, facilities necessary to connect to the Interconnection Point, protective and associated equipment, improvements, and other tangible and intangible assets, contract rights, Permits, easements, rights of way, surface use agreements and other interests or rights in real estate, owned or used for construction, operation, maintenance, generation and delivery of the capacity and energy subject to this PPA. When used in this PPA, “Facility” does not mean or refer to the Full Project, but instead represents a 100 MW portion (except as otherwise provided in Section 4.5(E)) of the Full Project described in Exhibit C.

“Facility Debt” means the obligations of Seller or its Affiliates to any lender or Tax Equity Investor pursuant to the Financing Documents, including principal of, premium and interest on indebtedness, fees, expenses or penalties, amounts due upon acceleration, prepayment or restructuring, swap or interest rate hedging breakage costs and any fees or interest due with respect to any of the foregoing.

“Facility Lender” means, collectively, any lenders or Tax Equity Investors providing Facility Debt, including any successors or assigns thereof.

“Federal Power Act” means the provisions of 16 U.S.C. §791(A) *et seq.* and amendments or supplements thereto.

“FERC” means the Federal Energy Regulatory Commission or any successor agency.

“Financing Documents” means the loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, mortgages, deeds of trust, interest rate exchanges, swap agreements and other documents relating to the development, bridge, construction or permanent debt financing and/or Tax Equity 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.

“Forced Outage” means any condition at the Facility that requires the immediate and unplanned removal of the Facility, or at least ten percent 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.

“Full Project” means, collectively, the Facility and, in addition to the Facility, Seller’s electric generating facilities, associated balance of plant, parts, fixtures and equipment, and all equipment necessary to interconnect to the Transmission Authority’s

System, all as further described in Exhibit C - Facility/Full Project Description, including Seller's rights to the Site and the additional real property upon which the Full Project is located, and all of the following (to the extent Seller has rights with respect thereto): buildings, generators, step-up transformers, output breakers, facilities necessary to connect to the Interconnection Point, protective and associated equipment, improvements, and other tangible and intangible assets, contract rights, Permits, easements, rights of way, surface use agreements and other interests or rights in real estate, owned or used for construction, operation, maintenance, generation and delivery of the capacity and energy subject to this PPA.

"Good Utility Practices" means the practices, methods, standards and acts engaged in or approved by a significant portion of the applicable segment of the electric power generation industry pertaining to facilities of the type, similar size and location to the Facility that, at a particular time, in the exercise of Commercially Reasonable judgment, in light of the facts that are known (or reasonably should have been known) at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with Applicable Law, Permits, codes, standards, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy, and expedition. Good Utility Practices is not limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods, standards and acts generally acceptable or approved by a significant portion of the applicable segment of the electric power generation industry in the relevant region, during the relevant period.

"Governmental Authority" means any federal, state, local or municipal governmental body; any governmental, quasi-governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power; and/or any court or governmental tribunal. By way of example only, "Governmental Authorities" include NERC, the ERO, the Market Operator (if any), an applicable PUC, the Transmission Authority and FERC, and successor organizations.

"Interconnection Agreement" means the separate contract for interconnection of the Facility to the Transmission Authority's System, as such agreement may be amended from time to time. For purposes of this PPA, the Interconnection Agreement shall be interpreted to include any third party facility construction agreement or other agreement required by the Transmission Authority to interconnect the Facility in accordance with the Transmission Tariff. For the avoidance of doubt, "Interconnection Agreement" excludes any temporary or provisional interconnection agreement or any agreement where the Transmission Authority may limit the operational output of the Facility.

"Interconnection Facilities" means those facilities designated in the Interconnection Agreement for the direct purpose of interconnecting the Facility at the Interconnection Point, 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, whether owned by Seller, the

Transmission Authority or another entity. This equipment is conceptually depicted in Exhibit C - Facility/Full Project Description to this PPA.

“Interconnection Point” means the physical point within the operational authority of the Transmission Authority as specified in the Interconnection Agreement as being the 345 kV bus of the Full Project substation to be located on the 345 kV Big Stone to Brookings transmission line, at which electrical interconnection is made between the Facility and the Transmission Authority’s System in accordance with the Transmission Tariff and the Interconnection Agreement.

“Investment Grade” means a Credit Rating of both (a) Baa3 or higher by Moody’s, and (b) BBB- or higher by Standard & Poor’s.

“kW” means kilowatt, and “kWh” means kilowatt hour.

“Lender Consent” shall have the meaning set forth in Section 18.1.

“Market Operator” means the entity that instructs Market Participants and/or generators to regulate generation assets (including the Facility) within any energy market in which Company participates, based on price-based offer curves for the purpose of matching generation output to system load demand while maintaining bulk electric system reliability. If such entity is the Transmission Authority, then “Market Operator” shall mean such entity acting in its capacity as such. The Market Operator as of the date of this PPA is Midcontinent Independent System Operator, Inc. (MISO).

“Market Participant” means an entity that (i) has successfully completed the registration process with the Transmission Authority and is qualified by the Transmission Authority as a “Market Participant”, (ii) is financially responsible to the Transmission Authority for all of its Market Activities and obligations (as defined in the Transmission Tariff), and (iii) has demonstrated the capability to participate in its relevant Market Activities.

“Material Adverse Effect” means any effect (or effects taken together) that is materially adverse to the present or future business, operations, assets, liabilities, properties, results in operations or condition (financial or otherwise), prospects, or property of a Party, its business, or this PPA.

“MN PUC” means the Minnesota Public Utilities Commission.

“MW” means megawatt or one thousand kW, and “MWh” means megawatt hours.

“Nameplate Capacity” means the sum of the designed maximum outputs of each Wind Turbine, as designated by the manufacturer. The Nameplate Capacity of the Facility is 100 MW, +/- 5.00 MW; *provided, however* in the event of a Nameplate Buy-Down, references to “Nameplate Capacity” shall mean the MW comprising the Declared Capacity. The Nameplate Capacity of the Full Project is anticipated to be approximately 302 MW.

“NERC” means the North American Electric Reliability Council or any successor organization.

“Operating Committee” means one representative each from Company and Seller, pursuant to Section 10.7.

“Operating Procedures” means those procedures developed by the Operating Committee pursuant to Section 10.7, if any.

“Operating Records” means 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.

“Park Potential” means the number of MW that depicts Seller’s real time calculation of the Potential Energy capable of being provided by the Facility to Company at the Point of Delivery. Park Potential shall be calculated using the best-available data obtained through Commercially Reasonable methods; and shall be dependent upon measured wind speeds, power curves, Wind Turbine availability, and derate(s) and transmission line losses, and any other adjustment necessary to accurately reflect the Potential Energy at the Point of Delivery. Park Potential should be provided to Company in real time through the Company’s SCADA System in accordance with Exhibit B - Metering And Market Registration Protocols and Exhibit I - Real Time Communication & Generation Forecasting Protocols.

“Party” and “Parties” shall have the meanings set forth in the introductory paragraph.

“Permits” shall have the meaning set forth in Section 4.3.

“Permitted Transferee” means

[REDACTED]

“PI System” means the “plant information” system for the Facility, as described and implemented in Exhibit I - Real Time Communication & Generation Forecasting Protocols.

“Point of Delivery” means the physical point within the operational authority of Transmission Authority at which Seller makes available and delivers to Company the Renewable Energy being provided by Seller to Company under this PPA. The Point of Delivery is specified in Exhibit C - Facility/Full Project Description.

“Potential Energy” for any period of time means the MWh of energy that the Facility is actually capable of delivering to the Point of Delivery by virtue of the Park Potential during such period.

“PTCs” means Production Tax Credits applicable to electricity produced from certain wind energy resources pursuant to 26 U.S.C. §45, as in effect as of the date of this PPA and as administered and interpreted under Applicable Law as of the date of this PPA.

“PUC Approval” shall have the meaning set forth in Section 6.1(D).

“Quarterly Operating Limitations” means the maximum permissible output allowed for a Generating Facility that has gone into service prior to completion of the Network Upgrades necessary for the interconnection of the Generating Facility pursuant to the Generator Interconnection Agreement (“GIA”). The maximum permissible output of the Generating Facility will be updated on a quarterly basis and will end when all Network Upgrades necessary for the interconnection of the Generating Facility pursuant to the GIA are in service. For purposes of this definition, the capitalized terms not otherwise defined in this PPA have the meanings given under the Transmission Tariff and Transmission Authority’s operating protocols.

“REC Registration Program” means the applicable State, regional, or federal program established to register Eligible Energy Resources such as the Facility, and create and certify RECs arising from energy generated from such Resources, including any rights associated with any renewable energy information or tracking system that exists or may be established by Applicable Law with regard to monitoring, registering, tracking, certifying, or trading such credits. For purposes of this PPA, the REC Registration program shall mean the Midwest Renewable Energy Tracking System (M-RETS).

“Renewable Energy” means all electric energy generated by the Facility and delivered to Company at the Point of Delivery during the Term. “Renewable Energy” shall be deemed to include all RECs associated with such electric energy.

“Renewable Energy Credits” or “RECs” means the right to all non-energy and environmental attributes (including economic, carbon and pollutant-related tags and credits, benefits, avoided or reduced emissions reductions, offsets, emission rate reductions, tags and allowances, howsoever titled) attributable to the Facility, including environmental air quality credits, tags and allowances created by Applicable Law by virtue of the Facility’s environmentally favorable or renewable characteristics or attributes. “RECs” includes but is not necessarily limited to rights eligible for registration, trading and/or use under the REC Registration Program. In Minnesota and Wisconsin, “REC” shall include renewable energy credits (as used in §7835-5950 of the Minnesota Administrative Rules), and renewable energy certificates (as defined in PSC 118.02 of the Wisconsin Administrative Code) with respect to one MWh of Renewable Energy, as applicable.

“Replacement Power Costs” for any period mean the costs incurred by Company 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 Company 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 an hourly basis and shall equal the sum of the following for each hour during the period:

Hourly 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 Company from the amount of qualifying capacity associated with the entire Facility, and (y) the applicable market price for capacity made available to Company’s system, for such hour;

“B” = the price paid by Company for the MWh of energy purchased by Company to replace the Contract Energy that was not delivered under this PPA during such hour;

“C” = the product of (x) the number of MWh of energy purchased by Company with respect to such hour, to replace the Expected Facility Output that was not delivered under this PPA, and (y) the actual cost of registered RECs for that number of MWh, for such hour;

“D” = the actual cost of transmission, ancillary service, 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 Company in amounts equal to the number of MWh for which Replacement Power Costs are owed; and

“E” = the sum of all payments avoided by Company as a result of Seller’s breach, for such hour, including avoided payments under Article 8.

“SCADA” means supervisory control and data acquisition.

“Scheduled Termination Date” shall have the meaning set forth in Article 2.

“Security Fund” shall have the meaning set forth in Section 11.1.

“Seller Excuse Hours” means

[REDACTED]

“Site” means the parcel of real property on which the Facility will be located, including any easements, rights of way, surface use agreements and other interests or

rights in real estate necessary for the construction, operation and maintenance of the Facility. The Site is more specifically described in Exhibit C -- Facility/Full Project Description.

"Target Delivery Commencement Date" shall have the meaning set forth in Section 4.5(A).

"Tax Equity Financing" means any transaction or series of transactions pursuant to which one or more persons obtain(s) membership interest in Seller or a parent thereof in order to obtain the benefit of applicable tax credits, deductions and other benefits.

"Tax Equity Investor" means a person providing Tax Equity Financing, including any successors or assigns thereof.

"Term" means the period of time during which this PPA remains in full force and effect, as further defined in Article 2.

"Transformer Failure" means a failure for any cause to all or part of the Facility's high-voltage equipment including the transformer, the associated circuit breakers and/or any and all other high-voltage switchgear and associated equipment; provided, Seller Excuse Hours shall not include any portion of any such failure in excess one year in duration.

"Transmission Authority" means, as of the date of this PPA, Market Operator.

"Transmission Authority's System" means the contiguously interconnected electric transmission and sub-transmission facilities, over which the Transmission Authority has rights (by ownership or contract) to provide bulk transmission of capacity and energy from the Interconnection Point.

"Transmission Tariff" means the applicable Open Access Transmission Tariff of the Transmission Authority, as amended from time to time.

"Wind Turbine(s)" means the wind-energy generating devices that are included in the Facility. The manufacturer and model number of the Wind Turbines is identified on Exhibit C - Facility/Full Project Description.

* * * * *

EXHIBIT B

METERING AND MARKET REGISTRATION PROTOCOLS

1) **Metering.** Below in Schedule 2 is a One Line Diagram showing the physical interconnection for the Facility and the Full Project. The Electric Metering Device will be installed at Seller's collection substation on the high side of the Seller's two GSUs and compensated back to the Interconnection Point. Seller shall operate the Electric Metering Device and report to the Transmission Authority through a remote terminal unit in the Seller's collection substation. Revenue metering will meet requirements of Transmission Authority, Market Operator, and Otter Tail Power Company (the local balancing authority as of the date of this PPA).

2) **Allocation of the Full Project.** [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

3) **Market Participant.** The Parties recognize that Seller, at its sole expense, has elected to perform all duties as Market Participant as required by Market Operator. Seller shall register the Facility as a resource with Market Operator. Seller shall

create a Financial Schedule, which includes CPNode, Sink Point, Source Point and Delivery Point. The Financial Schedule shall identify the Market as Day-Ahead. The Financial Schedule volume shall be entered in MWh for each hour using granularity of tenths of MWh. Seller shall submit the Financial Schedule not later than 1200 EST on the second day after each Operating Day (OD+2). Company shall confirm the Financial Schedule by 1200 EST on the sixth day after each Operating Day (OD+6). If and to the extent that changes to the rules of the Market Operator require Parties to change the manner in which they submit or confirm Financial Schedules, the Parties shall cooperate in good faith to remain consistent with this PPA to the extent possible.

As Market Participant, Seller shall submit supply offers for the Facility in accordance with Market Operator's market rules, requirements and protocols, as well as the applicable Transmission Tariff. Seller shall not offer the Facility at a value below (a) the product of negative-one times the value of the PTC associated with the production of one MWh of Renewable Energy or (b) if Seller is not entitled to the PTC value with respect to Renewable Energy delivered from Facility, zero dollars (\$0.00).

SCHEDULE 1
DEUEL HARVEST WIND FARM OUTPUT ALLOCATION METHODOLOGY

Invenergy – Deuel Harvest - Output and losses allocation calculations

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

**SCHEDULE 2
DEUEL HARVEST WIND FARM ONE LINE DIAGRAM**

**NOTE: THE BELOW IS ONLY TENTATIVE. SELLER TO PROVIDE FINAL
SCHEDULE 2 PRIOR TO THE DELIVERY COMMENCEMENT DATE**



EXHIBIT C

FACILITY/FULL PROJECT DESCRIPTION AND SITE MAPS

The Full Project is a proposed wind energy generation facility located entirely within Deuel County, North Dakota in the townships of Portland, Lowe, Altamont, Glenwood, and Herrick (see map below). The project area encompasses approximately 48,730 acres. A proposed map of the Full Project is shown below. The Full Project will interconnect to the Midcontinent Independent System Operator with an interconnection queue number of J526 and will have a nameplate capacity of at least 300 MW with an ability to generate up to 300 MW of electricity at rated capacity.

The Facility shall be located on the Site and shall be identified as part of Seller's Deuel Harvest North Wind Farm. A map of the Full Project, including the Facility and associated equipment, are included as part of this Exhibit. A one-line diagram of the Full Project, including the Facility, is included in Exhibit B.

The address of the Facility and the Full Project is 174 ST and 483 AVE, Gary, SD, 57237.

The Facility must include the following specific components:

- * have the panel space and 125VDC battery supplied voltage necessary to accommodate the metering, telemetering and communications equipment required by the PPA;
- * communication circuits from the Facility to the EMCC for the purpose of telemetering, supervisory control/data acquisition, and voice communications as required by Company;
- * equipment and software necessary to receive, accept and react to an AGC signal from the Company's SCADA System and to comply with the AGC Protocols as further specified on Exhibit I - Real Time Communication & Generation Forecasting Protocols;
- * Wind Turbines will be: GE 2.8-127 at 88.6m hub-height; GE 2.3-116 at 80m hub-height, or similar Tier 1 wind turbine generators;
- * each Wind Turbine equipped with meteorological measurement equipment (e.g. anemometers), individually linked to Seller's information system;
- * capability of sending real time data and OPC interface to Company's PI System;

PROPOSED MAP OF FULL PROJECT

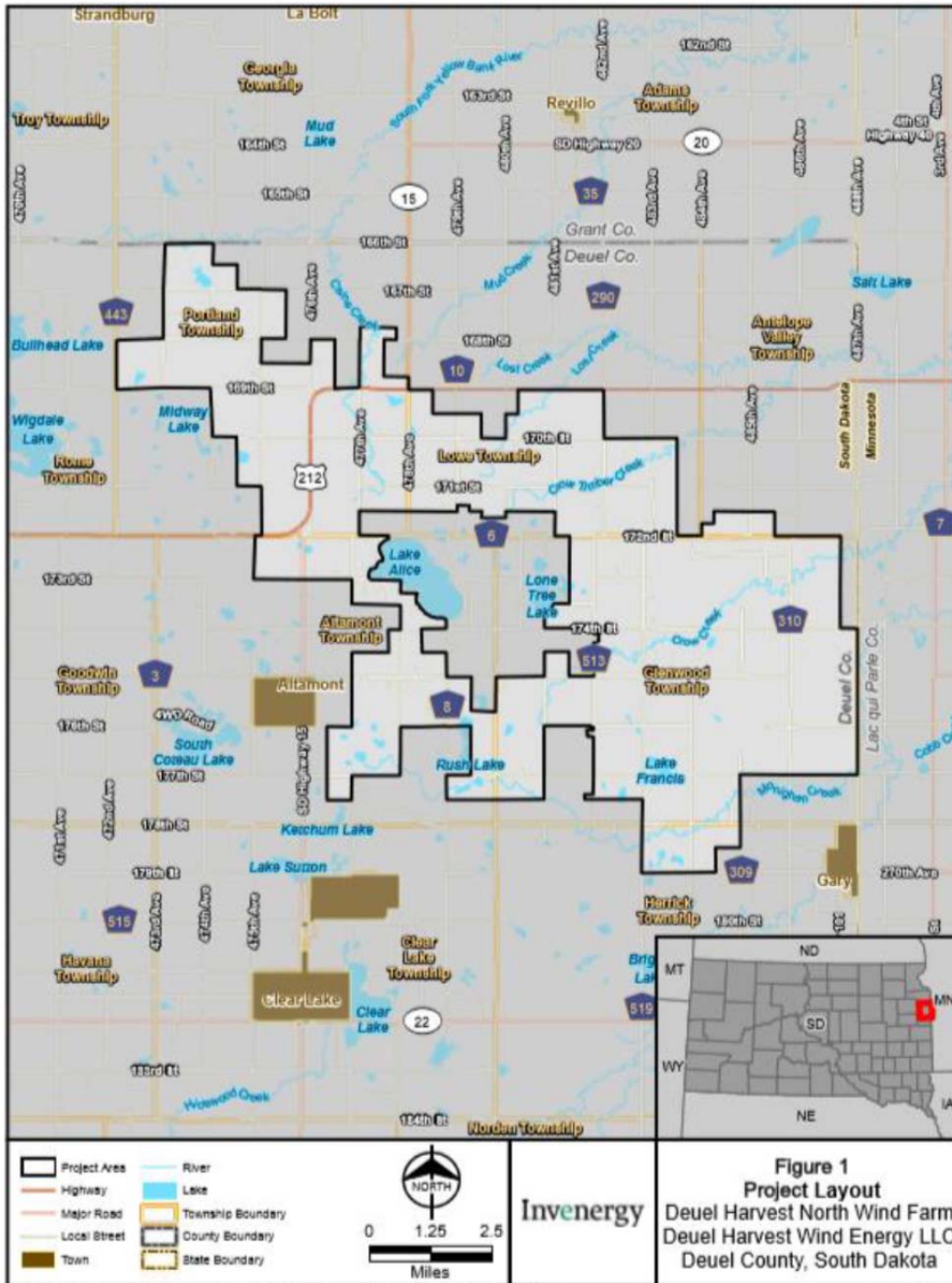


EXHIBIT D

NOTICES AND CONTACT INFORMATION

Company

Seller

<p>Notices: Renewable Purchased Power Manager Xcel Energy Services Inc. 1800 Larimer Street, Suite 1000 Denver, CO 80202</p> <p><i>with a cc to:</i> Purchased Power Analyst Xcel Energy Services Inc. 1800 Larimer Street, Suite 1000 Denver, CO 80202</p>	<p>Notices: Deuel Asset Manager Deuel Harvest Wind Energy LLC 1 S Wacker Drive, Suite 1800 Chicago, IL 60606</p> <p><i>with a cc to:</i> General Counsel Invenergy LLC 1 S Wacker Drive, Suite 1800 Chicago, IL 60606</p>
<p>Operating Committee Representative: Renewable Purchased Power Manager Xcel Energy Services Inc. 1800 Larimer Street, Suite 1000 Denver, CO 80202</p> <p>Alternate: Purchased Power Analyst Xcel Energy Services Inc. 1800 Larimer Street, Suite 1000 Denver, CO 80202</p>	<p>Operating Committee Representative: Deuel Asset Manager Deuel Harvest Wind Energy LLC 1 S Wacker Drive, Suite 1800 Chicago, IL 60606</p> <p>Alternate: VP, Wind Asset Management Invenergy LLC 1 S Wacker Drive, Suite 1800 Chicago, IL 60606</p>
<p>Real-Time Contact Information</p> <p><u>EMCC</u> (24 hour coverage): Phone: 303-571-7426 E-mail: dlrtelectricmarketersnsp@xcelenergy.com</p> <p><u>Transmission Ops:</u> Phone: 612-321-7431 E-mail: mdma@xcelenergy.com</p>	<p>Real-Time Contact Information</p> <p><u>Operations Command Center</u> (24 hour coverage): Phone: 312-582-1543 E-mail: powerscheduler@invenergyllc.com</p>

EXHIBIT E
INSURANCE COVERAGE

Type of Insurance	Minimum Limits of Coverage
Commercial General Liability (CGL) and commercial umbrella	\$11,000,000 combined single limit each occurrence and the aggregate, where applicable. 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 01 96 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products/completed operations, contracts, property damage, personal injury and advertising injury, 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 an 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 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 explosion, collapse, or underground property damage.

Company shall be included as an additional insured under the CGL policy, using ISO additional insured endorsement CG 20 10 (or a substitute providing equivalent coverage), and under the commercial umbrella insurance. The commercial umbrella insurance shall provide coverage over the top of the CGL insurance, the Business Automobile Liability insurance, and the Employers Liability insurance. The CGL and commercial umbrella 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 Company shall be primary as respects any claims, losses, damages, expenses, or liabilities arising out of this PPA, and insured hereunder, and any insurance carried by Company shall be excess of and noncontributing with insurance afforded by this policy.

Business Automobile Liability	\$2,000,000 combined single limit (each accident), including all Owned, Non-Owned, Hired and Leased Autos.
-------------------------------	--

Business Automobile Liability insurance shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute 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.

Workers Compensation	Statutory Requirements. Seller may comply with these requirements through the use of a qualified self-insurance plan.
----------------------	---

Type of Insurance	Minimum Limits of Coverage
-------------------	----------------------------

Employers Liability	\$2,000,000 each accident for bodily injury by accident, or \$2,000,000 each employee for bodily injury by disease.
---------------------	---

Any liability coverage requirement under this Section, may be satisfied through a combination of primary and excess insurance.

Builder's Risk	Replacement value of the Facility.
----------------	------------------------------------

Builder's Risk insurance, or an installation floater, shall include coverage for earthquake and flood, collapse, faulty workmanship, materials and design, testing of machinery or equipment, freezing or changes in temperature, debris removal, and partial occupancy. Such coverage shall be subject to standard industry deductibles, exclusions and sublimits.

Environmental Impairment Liability	\$5,000,000 each occurrence.
------------------------------------	------------------------------

All-Risk Property insurance covering physical loss or damage to the Facility	Full replacement value of the Facility. A deductible may be carried which deductible shall be the absolute responsibility of Seller.
--	--

All-Risk Property insurance shall include: (i) coverage for fire, flood, wind and storm, tornado and earthquake with respect to facilities similar in construction, location and occupancy to the Facility, with sublimits of no less than \$10,000,000 each for flood and earthquake; and (ii) Boiler and Machinery insurance covering all objects customarily subject to such insurance, including boilers and turbines, in an amount equal to their full replacement value. Such coverage shall be subject to standard industry deductibles, and exclusions.

Business Interruption insurance	Amount required to cover Seller's continuing or increased expenses, resulting from full interruption, for a period of 12 calendar months.
---------------------------------	---

Business Interruption insurance shall cover loss of revenues or the increased expense to resume operations 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 insurance as set forth above, to the extent available on Commercially Reasonable terms as determined by Company, subject to a Commercially Reasonable deductible that shall be the responsibility of Seller. Notwithstanding any other provision of this PPA, Seller shall not be required to have Business Interruption insurance until the Delivery Commencement Date.

EXHIBIT F
SELLER'S NEEDED PERMITS

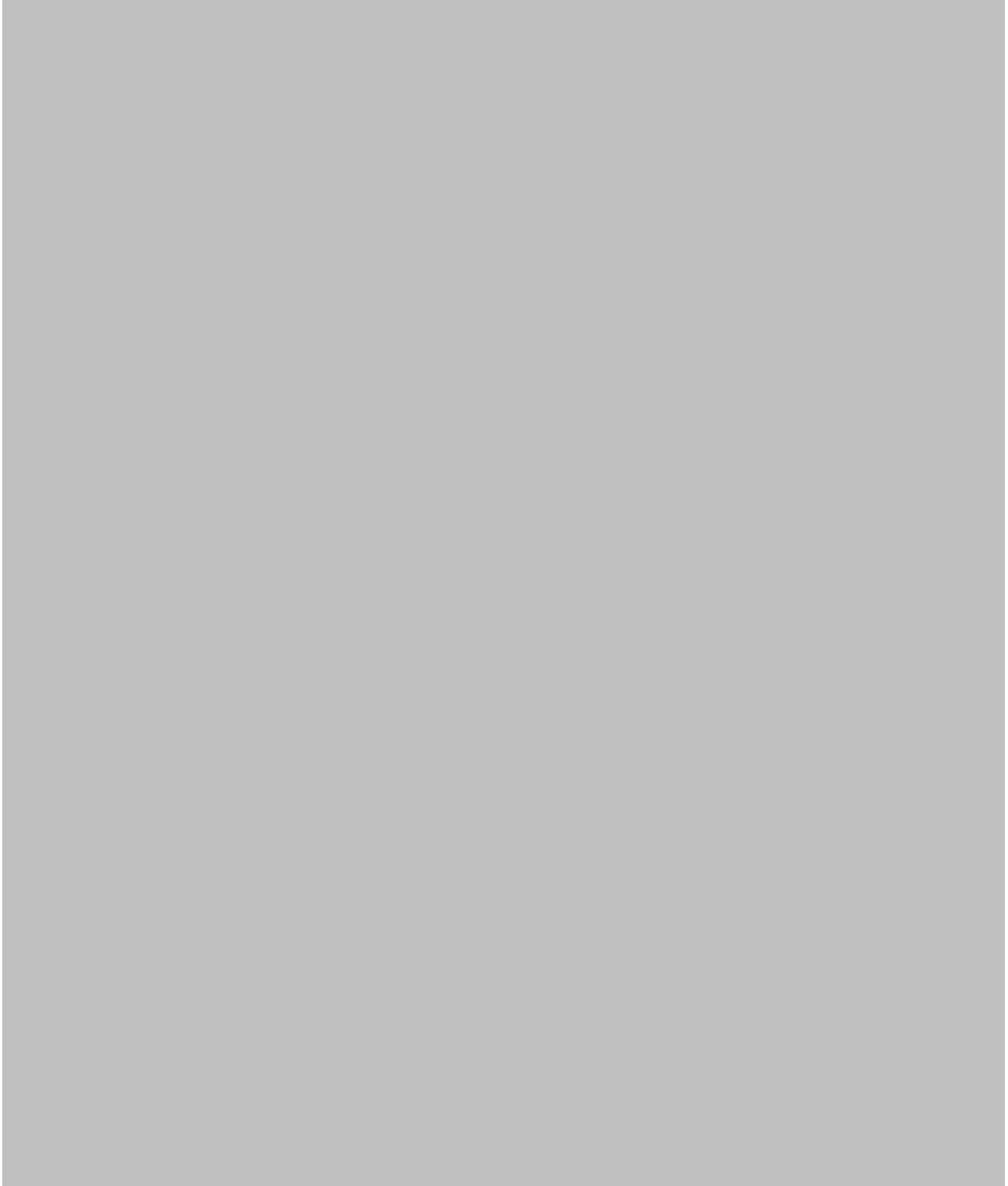


EXHIBIT G**FORM OF LETTER OF CREDIT**

[LETTERHEAD OF ISSUING BANK]

Irrevocable Standby Letter of Credit Date of Issuance: _____
 No: _____
 Beneficiary: Northern States Power Initial Expiration Date: [Must be at least
 Company one year after date of issuance]
 Applicant:

As the Issuing Bank ("Issuer"), we, [Name of Issuing Bank], hereby establish this irrevocable Standby Letter of Credit No. _____ (this "Letter of Credit") in favor of the above-named beneficiary ("Beneficiary") for the account of the above-named applicant ("Applicant") in the amount of US\$ _____ (_____ Million U.S. Dollars).

This Letter of Credit is issued pursuant to the provisions of that certain Wind Energy Purchase Agreement between Beneficiary and Applicant dated as of _____, 20__ (as the same may have been or may be amended from time to time, the "PPA"). Notwithstanding any reference in this Letter of Credit to the PPA or any other documents, instruments or agreements, or references in the PPA or any other documents, instruments or agreements to this Letter of Credit, this Letter of Credit contains the entire agreement between Beneficiary and Issuer relating to the obligations of Issuer hereunder.

Beneficiary may draw all or any portion of this Letter of Credit at any time and from time to time, and Issuer will make funds available to Beneficiary upon presentation of Beneficiary's draft(s) at sight in substantially the form attached hereto as Exhibit "A" ("Sight Draft"), drawn on Issuer and accompanied by this Letter of Credit. All Sight Drafts must be signed on behalf of Beneficiary, and the signatory must indicate his or her title or other official capacity. No other documents will be required to be presented. Issuer will effect payment under this Letter of Credit within forty-eight (48) hours after presentment of any complying Sight Draft. Payment shall be made in U.S. Dollars with Issuer's own funds in immediately available funds.

Issuer will honor any Sight Draft presented in substantial compliance with the terms of this Letter of Credit at the Issuer's office located at _____ on or before the above-stated expiration date, as such expiration date may be extended hereunder. Partial and multiple draws and presentations are permitted on any number of occasions. Following any partial draw, Issuer will endorse this Letter of Credit and return the original to Beneficiary.

This Letter of Credit will be automatically extended each year without amendment for a period of one (1) year from the expiration date hereof, as extended, unless at least thirty

(30) days prior to the expiration date, Issuer notifies Beneficiary by registered or certified mail that it elects not to extend this Letter of Credit for such additional period. Notice of non-extension will be given by Issuer to Beneficiary at Beneficiary's address set forth herein or at such other address as Beneficiary may designate to Issuer in writing at Issuer's letterhead address.

This Letter of Credit is freely transferable by Beneficiary in whole or in part, and the number of transfers is unlimited. Issuer shall effect any transfers upon presentation to Issuer of this Letter of Credit and a completed written transfer request substantially in the form attached hereto as Exhibit "B." Reasonable and customary transfer fees up to \$1,500 assessed by Issuer will be payable by the Beneficiary. Any transfer fees in excess of \$1,500 will be payable by the Applicant. The payment of any transfer fees will not be a condition to the validity or effectiveness of the transfer of this Letter of Credit.

Issuer waives any rights it may have, at law or otherwise, to subrogate to any claims which Beneficiary may have against Applicant or Applicant may have against Beneficiary.

This Letter of Credit is subject to the uniform customs and practice for documentary credits (2007 Revision), International Chamber of Commerce publication No. 600 (the "UCP"), except to the extent that the terms hereof are inconsistent with the provisions of the UCP, including but not limited to Articles 14(b) and 36 of the UCP, in which case the terms of this Letter of Credit shall govern. With respect to Article 14(b) of the UCP, Issuer shall have a reasonable amount of time, not to exceed three (3) banking days following the date of Issuer's receipt of documents from Beneficiary (to the extent required herein), to examine the documents and determine whether to take up or refuse the documents and to inform Beneficiary accordingly.

In the event of an act of God, riot, civil commotion, insurrection, war or any other cause beyond Issuer's control that interrupts Issuer's business and causes the place for presentation of this Letter of Credit to be closed for business on the last day for presentation, the expiry date of this Letter of Credit will be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business.

ISSUER:

By: _____
Authorized Signature

EXHIBIT "A"
TO LETTER OF CREDIT

SIGHT DRAFT

Draft Number _____

\$ _____

At sight, pay to the order of [Name of Beneficiary to be inserted], the amount of USD \$ _____ (_____ and 00/100ths U.S. Dollars).

Value received and charged to the account of: [Name of Issuer and address].
Drawn under [Name of Issuer to be inserted] Standby Letter of Credit No. _____.

Dated: _____

Northern States Power Company

By: _____
[name and title]

Account: [Applicant to be inserted]

EXHIBIT "B"
TO LETTER OF CREDIT

FORM OF TRANSFER REQUEST

Irrevocable Standby Letter of Credit No. _____

Current Beneficiary:

Applicant:

To: [Name of Issuer] ("Issuer")

The undersigned, as the current "Beneficiary" of the above-referenced Letter of Credit, hereby requests that you reissue the Letter of Credit in favor of the transferee named below [insert transferee name and address below]:

From and after the date this transfer request is delivered to Issuer, the transferee shall be the "Beneficiary" under the Letter of Credit for all purposes and shall be entitled to exercise and enjoy all of the rights, privileges and benefits thereof.

Dated: _____

Northern States Power Company

By: _____

Name: _____

Title: _____

[Notary Acknowledgement]

To be signed by a person purporting to be an authorized representative of Beneficiary and indicating his or her title or other official capacity, and acknowledged by a notary public.

EXHIBIT H
FORM OF GUARANTY
GUARANTY

This Guaranty (this "Guaranty") is executed and delivered as of this _____ day of _____, 20__ by _____, a _____ [corporation] ("Guarantor"), in favor of Northern States Power Company ("Company"), in connection with the performance by _____, a _____ [limited liability company] ("Seller") of a Wind Energy Purchase Agreement dated _____, 20____ between Seller and Company (the "PPA").

- RECITALS -

A. Seller owns and operates a wind power electric generation facility having total nameplate capacity of approximately _____ MW located in _____ County, _____ (the "Facility").

B. Seller and Company have entered into the PPA for the purchase and sale of capacity and electrical energy from the Facility on the terms and conditions set forth therein.

C. Seller is controlled by Guarantor. Guarantor expects to derive substantial benefits from the performance of the PPA by Seller and Company. To induce Company to enter into and continue the PPA and to consummate the purchase and sale of electrical energy contemplated by the PPA, Guarantor has agreed to guarantee the obligations of Seller as provided in this Guaranty.

NOW, THEREFORE, in consideration of the foregoing, Guarantor agrees as follows:

- AGREEMENT -

1. Guaranty. Subject to the provisions of this Guaranty (including but not limited to Sections 2 and 4 below), Guarantor hereby absolutely, irrevocably, unconditionally, and fully guarantees to Company the due, prompt, and complete observance, performance, and discharge of each and every payment obligation of Seller under the PPA, whether incurred before or after the date of delivery of this Guaranty (the "Obligations"). This is a guaranty of payment, not of collection, and as such, Company shall not be required to institute, pursue, or exhaust any remedies against Seller before instituting suit, obtaining judgment, and executing thereon against Guarantor under this Guaranty. This Guaranty shall survive termination of the PPA to the extent necessary to enforce and complete the rights, duties and obligations of Company and Seller thereunder.

2. Maximum Liability. Notwithstanding anything herein to the contrary, Guarantor's maximum liability under this Guaranty shall be limited to

_____ dollars (US\$_____) plus costs of collection under Section 10 below.

3. Rights of Company. Guarantor hereby grants to Company, in Company's discretion and without the need to notify or obtain any consent from Guarantor, and without termination, impairment, or any other effect upon Guarantor's duties hereunder, the power and authority from time to time:

(a) to renew, compromise, extend, accelerate, or otherwise change, substitute, supersede, or terminate the terms of performance of any of the Obligations, in each case in accordance with the PPA;

(b) to grant any indulgences, forbearances, and waivers, on one or more occasions, for any length of time, with respect to Seller's performance of any of the Obligations; and

(c) to accept collateral, further guaranties, and/or other security for the Obligations, and, if so accepted, then to impair, exhaust, exchange, enforce, waive, or release any such security.

4. Performance. Subject to Section 2 above, if any of the Obligations are not performed by Seller in accordance with the PPA, and any applicable notice and cure period provided by the PPA has expired ("Default"), Guarantor shall immediately upon receipt of written demand by Company (a) perform or cause Seller to perform the Obligation in Default, and (b) to the extent the same is due and payable as a result of an Event of Default in accordance with the terms of the PPA, pay, reimburse, and indemnify Company against any liabilities, damages, and related costs (including attorneys' fees) incurred by Company as a result thereof, all in such manner and at such times as Company may reasonably direct.

5. Satisfaction. Satisfaction by Guarantor of any duty hereunder incident to a particular Default or the occurrence of any other Default shall not discharge Guarantor except with respect to the Default satisfied, it being the intent of Guarantor that this Guaranty be continuing until such time as all of the Obligations have irrevocably been discharged in full, at which time this Guaranty shall automatically terminate. If at any time the performance of any Obligation by Seller or Guarantor is rescinded or voided under the federal Bankruptcy Code or otherwise, then Guarantor's duties hereunder shall continue and be deemed to have been automatically reinstated, restored, and continued with respect to that Obligation, as though the performance of that Obligation had never occurred, regardless of whether this Guaranty otherwise had terminated or would have been terminated following or as a result of that performance.

6. Notice of Acceptance. Guarantor waives and acknowledges notice of acceptance of this Guaranty by Company.

7. Waivers by Guarantor. Guarantor hereby waives and agrees not to assert or take advantage of:

(a) all set-offs, counterclaims, and, subject to Section 4 above, all presentments, demands for performance, notices of non-performance, protests, and notices of every kind that may be required by Applicable Laws;

(b) any right to require Company to proceed against Seller or any other person, or to require Company first to exhaust any remedies against Seller or any other person, before proceeding against Guarantor hereunder;

(c) any defense based upon an election of remedies by Company;

(d) any duty of Company to protect or not impair any security for the Obligations;

(e) the benefit of any laws limiting the liability of a surety;

(f) any duty of Company to disclose to Guarantor any facts concerning Seller, the PPA or the Facility, or any other circumstances, that would or allegedly would increase the risk to Guarantor under this Guaranty, whether now known or hereafter learned by Company, it being understood that Guarantor is capable of and assumes the responsibility for being and remaining informed as to all such facts and circumstances; and

(g) until all Obligations in Default have been fully paid and/or performed, any rights of subrogation, contribution, reimbursement, indemnification, or other rights of payment or recovery for any payment or performance by it hereunder. For the avoidance of doubt, if any amount is paid to Guarantor in violation of this provision, such amount shall be held by Guarantor for the benefit of, and promptly paid to, Company.

8. Cumulative Remedies. The rights and remedies of Company hereunder shall be cumulative and not alternative to any other rights, powers, and remedies that Company may have at law, in equity, or under the PPA. The obligations of Guarantor hereunder are independent of those of Seller and shall survive unaffected by the bankruptcy of Seller. Company need not join Seller in any action against Guarantor to preserve its rights set forth herein.

9. Representations and Warranties. Guarantor represents and warrants to Company as follows:

(a) Guarantor is a corporation, duly organized, validly existing, and in good standing under the laws of the state of its formation. Seller is a direct or indirect wholly-owned subsidiary of Guarantor. Guarantor has all necessary limited liability company power and authority to execute and deliver this Guaranty and to perform its obligations hereunder.

(b) The execution, delivery and performance of this Guaranty has been duly and validly authorized by all limited liability company proceedings of Guarantor and is not in violation in any material respect of any law, judgment of court or government

agency . This Guaranty has been duly and validly executed and delivered by Guarantor and constitutes a legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms.

10. Collection Costs. Guarantor shall pay to Company, upon demand, and in addition to the maximum liability set forth in Section 2 hereof, all reasonable attorneys' fees and other expenses which Company may expend or incur in enforcing the Obligations against Seller and/or enforcing this Guaranty against Guarantor, whether or not suit is filed, including, without limitation, all attorneys' fees, and other expenses incurred by Company in connection with any insolvency, bankruptcy, reorganization, arrangement, or other similar proceedings involving Seller that in any way affect the exercise by Company of its rights and remedies hereunder.

11. Severability. Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions nevertheless shall be effective.

12. Waiver or Amendment. No provision of this Guaranty or right of Company hereunder can be waived, nor can Guarantor be released from Guarantor's duties hereunder, except by a writing duly executed by Company. This Guaranty may not be modified, amended, revised, revoked, terminated, changed, or varied in any way whatsoever except by the express terms of a writing duly executed by Guarantor and Company.

13. Successors and Assigns. This Guaranty shall inure to the benefit of and bind the successors and assigns of Company and Guarantor.

14. Governing Law. This Guaranty shall be governed by and construed in accordance with the law of the State of [insert home state of Company] without regard to the principles of conflicts of law thereof. Venue for any dispute hereunder shall be as set forth in Section 13.5 of the PPA.

15. Notices. All notices, requests, claims, demands, and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly given upon receipt) by delivery in the manner contemplated by the PPA, addressed as follows:

(a) if to Company: as provided in the PPA

(b) if to Guarantor: _____

Attn:

with a copy to: _____

Attn:

or to such other address (es) as the person to whom notice is given may have previously furnished to the others in writing in the manner set forth above.

IN WITNESS WHEREOF, Guarantor has caused this Guaranty to be duly executed and delivered to Company as of the day and year first above written.

[Name of Guarantor]

By: _____

Name:

Title:

EXHIBIT I**REAL TIME COMMUNICATION & GENERATION FORECASTING PROTOCOLS****Real Time Communication****1. Real Time Communications between Company and Seller**

Company will receive Real Time monitoring related data over an analog or digital line. The data points covered under this PPA, as described below, may overlap data requirements for the Transmission Authority or Company's applicable forecasting group.

2. Real Time Communication Data Points to be sent from Seller to Company via SCADA

The following data points will be transmitted via SCADA from Seller to Company and represent Facility level data:

<u>Description</u>	<u>Units</u>
Set-Point (echo)	MW
Actual power	MW
Park Potential	MW

Generation Forecasting Requirements

Seller shall provide for the Facility a generation forecast to Company by 4:00 AM (MPT) on each Day covering at least the following 168 hours. The generation forecast shall be inclusive of any forecasted reduction in Wind Turbine availability. The forecast shall be delivered by Seller to Company in a mutually acceptable format. Prior to the Delivery Commencement Date, Company and Seller shall cooperate in good faith to determine such format.

DATA COLLECTION**1. Data**

Seller shall install at least one meteorological tower(s). At least two months prior to the Commercial Operation Date, Seller will deliver to Company a report showing (i) manufacturer, model, and year of all Wind Turbines and meteorological instrumentation and (ii) the latitude, longitude and hub height at every Wind Turbine and meteorological tower.

Beginning upon COD, Seller shall transmit and provide to Company the real-time data set forth below, refreshed in approximately four-ten (4-10) second intervals with regard to its generation of Renewable Energy for the Full Project:

- a. Five data points from each Wind Turbine:
 1. Turbine generation (kW)
 2. Wind Speed (meters per second - mps)
 3. Turbine Status or Availability
 4. Turbine Direction (in degrees relative to true north)
 5. Temperature (Celsius)

- b. Five data points from each Meteorological Tower:
 1. Wind Speed** (mps)
 2. Wind Direction** (degrees relative to true north)
 3. Temperature (Celsius)
 4. Pressure (mb)
 5. Air Density (kg/m³)

** = at metered heights of majority of turbines.

c. In addition to the other requirements for data collection, Seller shall install, maintain and operate at least one meteorological tower that is installed at hub height. The data stream from this meteorological tower to the Company's PI System must be reliable during periods of transmission-related curtailments and must include battery back-up at the meteorological tower and a local source of electricity to power the PI System and interconnectivity between the Facility and Company during transmission outages.

d. Prior to the Delivery Commencement Date, Seller shall provide a map and key for each Wind Turbine sufficient to allow Company to correlate the data received through the PI System to each individual Wind Turbine for the Full Project. The map shall sufficiently distinguish the Wind Turbines assigned to the Facility from those not assigned to the Facility.

EXHIBIT J

ENERGY PAYMENT RATE

This entire Exhibit shall be deemed Confidential Information subject to Section 20.18.

Commercial Operation Year	Energy Payment Rate (\$/MWh)	Commercial Operation Year	Energy Payment Rate (\$/MWh)
1	[REDACTED]	14	[REDACTED]
2	[REDACTED]	15	[REDACTED]
3	[REDACTED]	---	---
4	[REDACTED]	---	---
5	[REDACTED]	---	---
6	[REDACTED]	---	---
7	[REDACTED]	---	---
8	[REDACTED]	---	---
9	[REDACTED]	---	---
10	[REDACTED]	---	---
11	[REDACTED]	---	---
12	[REDACTED]	---	---
13	[REDACTED]	---	---

EXHIBIT K**LENDER CONSENT PROVISIONS**

In the event Seller collaterally assigns its rights hereunder to a Facility Lender as security, any related Lender Consent will contain provisions substantially as follows:

1. Seller and Company will neither modify nor terminate the PPA in any material respect, without the prior written consent of the Facility Lender.
2. The Facility Lender shall have the right, but no obligation, to do any act required to be performed by Seller under the PPA, and any such act performed by the Facility Lender shall be as effective to prevent or cure a default as if done by Seller itself.
3. Company consents to the collateral assignment of the PPA to the Facility Lender and agrees that, if Company becomes entitled to terminate the PPA due to an Event of Default by Seller, Company shall not terminate the PPA unless it has first given notice of such Event of Default to the Facility Lender and has given the Facility Lender the same cure period afforded to Seller under Article 12 of the PPA, plus an additional [REDACTED] Days beyond Seller's cure period to cure such Event of Default; *provided, however,* that if the Facility Lender requires possession of the Facility in order to cure the Event of Default, and if the Facility Lender diligently seeks possession, the Facility Lender's additional [REDACTED]-Day cure period shall not begin until foreclosure is completed, a receiver is appointed, any bankruptcy stay is removed, or possession is otherwise obtained by or on behalf of the Facility Lender.
4. The Facility Lender shall provide to Company a copy of any notices of default and/or intent to exercise remedies delivered to Seller under the Financing Documents.
5. [REDACTED] Facility Lender shall require and cause such successor to cure any then-existing defaults by Seller that are capable of cure by performance or the payment of money damages. Except for the foregoing, the Facility Lender shall not be obligated to perform or be liable for any obligation of Seller under the PPA.
6. Upon any rejection or other termination of the PPA in connection with any bankruptcy or insolvency of Seller, the Facility Lender (or its successor) and Company shall enter into a new power purchase agreement on the same terms and conditions as the PPA and for the period that would have been remaining under the PPA but for such termination.

* * * * *

EXHIBIT L

[INTENTIONALLY OMITTED]

EXHIBIT M**AVAILABILITY GUARANTY CALCULATION**Section 1. Definitions.

Capitalized terms used in this Exhibit M and not defined herein shall have the meaning assigned in Exhibit A, Definitions of the PPA.

“Actual Availability Percentage” means, with respect to any given Availability Period, a percentage calculated as (a) 100, multiplied by (b) the result of (i) the sum of all Available Hours for all Wind Turbines that were part of the Facility at the beginning of such Availability Period, divided by (ii) the sum of all Period Hours in such Availability Period for all Wind Turbines that were part of the Facility at the beginning of the such Availability Period.

“Actual Facility Output” means the Energy (in MWh) generated by the Facility and delivered to the Point of Delivery.

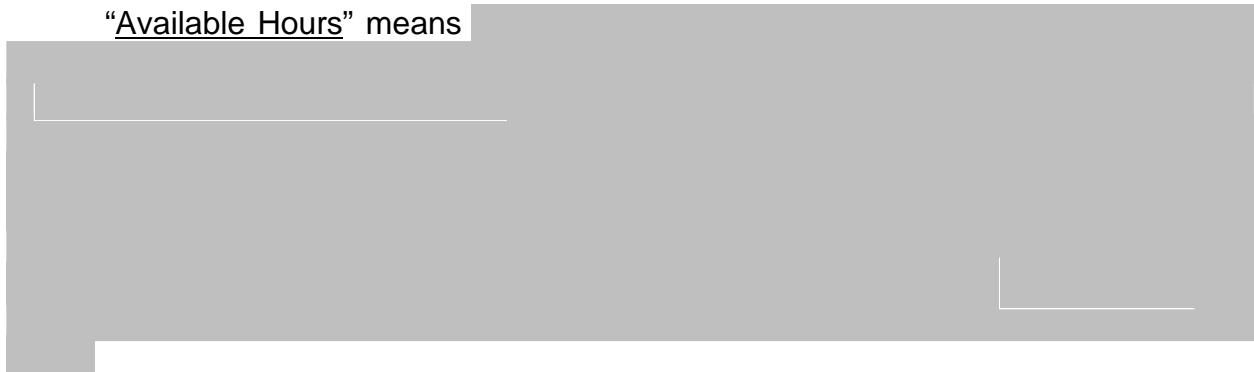
“Aggregate Availability Damages Cap” has the meaning set forth in Section 3 of this Exhibit.

“Annual Availability Damages Cap” has the meaning set forth in Section 3 of this Exhibit.

“Annual Report” has the meaning set forth in Section 4 of this Exhibit.

“Availability Damages” has the meaning set forth in Section 2(b) of this Exhibit.

“Available Hours” means



“Availability Period” means

“Expected Facility Output” means MWhs per Availability Period.

“Excused Hours” means



“Guaranteed Mechanical Availability Percentage” has the meaning set forth in Section 2(a) of this Exhibit.




“Period Hours” means the sum total of hours for any given Availability Period.

“Unavailable Hours” means



“Unexcused Hours” means the positive difference, if any, calculated by subtracting Excused Hours from Unavailable Hours (e.g., 5,000 Unavailable Hours - 3,000 Excused Hours = 2,000 Unexcused Hours).

Section 2. Availability Guarantee.

a. Availability Guarantee. Commencing on the first day of the  Commercial Operation Year and for the remainder of the Term, Seller guarantees that the Facility shall have achieved an Actual Availability Percentage during each Availability Period equal to or greater than  percent ( %) for the Term (a “Guaranteed Mechanical Availability Percentage”).

b. Availability Damages.



Section 3. Damages Cap. The total Availability Damages payable by Seller for failure to achieve the Guaranteed Mechanical Availability Percentage in any Availability Period

shall be capped annually at [REDACTED] ("Annual Availability Damages Cap") and in the aggregate at [REDACTED] ("Aggregate Availability Damages Cap") over the Term of the PPA.

Section 4. Annual Report. At the beginning of the second Availability Period and at the beginning of each Availability Period thereafter, no later than the [REDACTED] Business Day of such Availability Period, Seller shall deliver to Company a calculation showing Seller's computation of the Actual Availability Percentage of the Facility for the previous Availability Period and the Availability Damages, if any, due to Company (the "Annual Report"). Such Annual Report shall include PI tags for the various turbine states and a key for the turbine states. Such Annual Report shall also include the total amount of Availability Damages paid to Company and shall provide notice that the Aggregate Availability Damages Cap has been reached, if applicable. If Availability Damages are due from Seller, Seller shall pay such damages no later than the [REDACTED] Business Day after providing the Annual Report; *provided*, if the Availability Damages are a negative number, the Availability Damages will be deemed to be zero dollars.

Section 5. Disputes. Disputes as to any calculations under this Exhibit M shall be addressed as provided in Article 13 of the PPA.

**ATTACHMENT 1 TO EXHIBIT M
EXAMPLE CALCULATION OF AVAILABILITY DAMAGES**

I. Example of Availability Percentage Calculation (PASSED)

The sample calculation set forth below is based on the following assumed facts:



The Wind Turbines had the following operating characteristics:

	Hours	Wind Turbines Affected	Wind Turbine Hours
Period Hours ("PH")	[REDACTED]	[REDACTED]	[REDACTED]
Unavailable Hours ("FOH")			[REDACTED]
Excused Hours ("EH")			
Unexcused Hours ("UH")			[REDACTED]

FOH includes all hours for which the Wind Turbines were unavailable.

EH includes, for example, Seller Excuse Hours.

Given these assumed facts, the Available Hours for the Wind Turbines during the Availability Period would be calculated as follows:

UH = FOH - EH

[REDACTED] hours

Sum of Available Hours = PH - UH

[REDACTED] hours

Actual Facility Availability Percentage

Given these assumed facts, the Actual Availability Percentage for the Facility during the Availability Period in question would be calculated as follows:

- (a) Sum of Available Hours: [REDACTED] hours
- (b) Sum of Period Hours: [REDACTED] hours
- (c) Actual Availability Percentage: (Sum of Available Hours/Sum of Period Hours) x 100

= [REDACTED] %

II. Example of Availability Percentage Calculation (FAILED)

The sample calculation set forth below is based on the following assumed facts:

During the Availability Period in question, [REDACTED] had been completed and were part of the Facility, bringing the Facility Nameplate Capacity to [REDACTED] MW.

The Wind Turbines had the following operating characteristics:

	Hours	Wind Turbines Affected	Wind Turbine Hours
Period Hours ("PH")	[REDACTED]	[REDACTED]	[REDACTED]
Unavailable Hours ("FOH")	[REDACTED]	[REDACTED]	[REDACTED]
Excused Hours ("EH")	[REDACTED]	[REDACTED]	[REDACTED]
Unexcused Hours ("UH")	[REDACTED]	[REDACTED]	[REDACTED]

FOH includes all hours for which the Wind Turbines were unavailable.

EH includes, for example, Seller Excuse Hours.

Given these assumed facts, the Available Hours for the Wind Turbines during the Availability Period would be calculated as follows:

UH = FOH - EH

[REDACTED] hours

Sum of Available Hours = PH - UH

[REDACTED] hours

Actual Facility Availability Percentage

Given these assumed facts, the Actual Availability Percentage for the Facility during the Availability Period in question would be calculated as follows:

(a) Sum of Available Hours: [REDACTED] hours

(b) Sum of Period Hours: [REDACTED] hours

(c) Actual Availability Percentage: (Sum of Available Hours/Sum of Period Hours) x 100

= [REDACTED]

Example of Availability Damages

Example of Availability Damages based on the following assumed facts:

- (a) Seller’s Guaranteed Mechanical Percentage= █ %.
- (b) Seller’s Actual Availability Percentage= █ %.
- (c) Damages Rate = █ /MWh (example only)
- (d) Expected Facility Output = █ MWhs

Given these assumed facts, Seller calculates the Availability Damages due to Company as follows:

Damages Rate x ((Guaranteed Mechanical Availability Percentage - Actual Availability Percentage) x Expected Facility Output) = Availability Damages.

$$\begin{array}{cccccc}
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 & * & * & * & * & *
 \end{array}$$

CERTIFICATE OF SERVICE

I, Jim Erickson, hereby certify that I have this day served copies of the foregoing document on the attached list of persons.

xx by depositing a true and correct copy thereof, properly enveloped with postage paid in the United States mail at Minneapolis, Minnesota

xx electronic filing

Docket No. E002/M-19-268

Dated this 25th day of November 2019

/s/

Jim Erickson
Regulatory Administrator

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