

MINNESOTA POWER

AND

NOBLES 2 POWER PARTNERS, LLC

**AMENDED AND RESTATED WIND POWER PURCHASE AGREEMENT
FOR 250 MW OF RENEWABLE GENERATION**

DATED AUGUST __ 2018

MINNESOTA POWER
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- Exhibit A** **Facility Description, One-Line Diagram and Site Map**
- Exhibit B** **Contract Energy Price Schedule**
- Exhibit C** **Major Milestones**
- Exhibit D** **Seller's Required Governmental Authority, Permits, Consents, Approvals,
Licenses and Authorizations to Be Obtained**
- Exhibit E** **Notice Addresses**
- Exhibit F** **Purchase Option Terms**
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APPENDIX A

THIS AMENDED AND RESTATED POWER PURCHASE AGREEMENT (the “PPA” or the “Agreement”) is made as of the ____ day of August, 2018 (the “Effective Date”) by and between ALLETE, Inc. d/b/a/ Minnesota Power (“MP”), a Minnesota corporation with headquarters at 30 West Superior Street, Duluth, Minnesota 55802, and Nobles 2 Power Partners, LLC, a Minnesota limited liability company (“Seller”). Seller and MP are each referred to herein as a “Party” and collectively as the “Parties.”

WHEREAS, MP is a public utility, as defined in Minnesota Statutes Section 216B.1691, subdivision 1(b);

WHEREAS, MP and Seller are parties to that certain Power Purchase Agreement, dated May 10, 2017, as amended by that certain First Amendment to Power Purchase Agreement dated as of July 20, 2017 (as so amended, the “Existing PPA”) pursuant to which Seller will plan, design, finance, construct, own, operate and maintain a project consisting of a wind electric generating plant, which may be a phase or portion of a larger wind energy generation facility, to provide Accreditable Capacity and associated Contract Energy to MP, and which is further defined below as the “Facility”;

WHEREAS, Seller intends to locate the Facility in Nobles and Murray Counties, Minnesota and to interconnect the Facility with Interconnection Provider’s System (as hereinafter defined); and

WHEREAS, Seller will generate, sell and deliver MP’s Percentage (as hereinafter defined) of Accreditable Capacity, Contract Energy and any associated Green Tags produced by the Facility at the Point of Delivery to MP, and MP will receive and purchase the same all in accordance with the terms of this Agreement.

WHEREAS, MP and Seller wish to further amend the Existing PPA and in connection therewith wish to restate their agreement with respect to the subject matter thereof in its entirety.

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 amendment and restatement:

ARTICLE 1

TERM AND CONTINGENCIES TO EFFECTIVENESS

1.1 Term. The Term of this Agreement (the “Term”) shall commence on the Commencement Date and shall expire on the date that is twenty (20) years from the Commercial Operation Date with this Agreement remaining in full force and effect through the interim unless terminated or extended in accordance with the terms of this Agreement. Applicable provisions of this PPA shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination and, as applicable, to provide for: final billings and adjustments related to the period prior to termination, repayment of any money due and owing to either Party pursuant to this PPA, repayment of principal and interest associated with security funds, and the indemnifications specified in this PPA.

1.2 MP Contingencies.

1.2.1 (a) MP shall submit this PPA for MPUC Approval on or before August 22, 2018 (and MP acknowledges and agrees that MP’s obligation to so submit is, without limitation to its other obligations, a material obligation under this PPA, the failure of which would result in a material adverse impact on Seller), and obtaining MPUC Approval shall constitute a condition precedent to MP’s performance of its other obligations hereunder. MP shall use commercially reasonable efforts to obtain MPUC Approval within three hundred (300) days of when MP’s petition is filed with the MPUC (such 300th day, the “MPUC Approval Deadline Date”) . Seller agrees to provide reasonable assistance to MP, if requested, in order to assist MP in obtaining MPUC Approval.

(b) If the MPUC declines to approve this PPA or approves this PPA subject to material conditions that are unacceptable to MP or Seller, each in its sole discretion, then for a period of sixty (60) days from the date of the MPUC’s written order declining to approve this PPA or approving this PPA with such material unacceptable conditions, the Parties agree to negotiate in good faith to amend this PPA in a manner that will satisfactorily address the MPUC’s reason for disapproval of this Agreement or result in the modification of such material unacceptable conditions such that no material unacceptable conditions form part of the MPUC Approval, provided (i) a requirement that an Affiliate of MP have a minority ownership interest in Seller shall not be a material condition of the MPUC Approval that is unacceptable to either MP or Seller, (ii) the failure of the MPUC Approval to include a term requiring that an Affiliate of MP have a

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minority ownership interest in Seller and the failure of any such Affiliate to have acquired or contracted to acquire such a minority interest shall not form the basis for MP to conclude that the MPUC Approval is unacceptable to MP and (iii) that it shall not be a failure of good faith on the part of Seller if it is not willing to reduce the prices set forth in this Agreement for the Accreditable Capacity and Contract Energy generated from the Facility or to modify any term hereof that could have the result of increasing Seller's risks or potential liability. Any amendment agreed to by the Parties shall be subject to MPUC Approval, and MP shall submit this Agreement, as amended, for MPUC Approval as soon as practicable after the execution of this Agreement, as amended.

(c) If either (i) MPUC Approval, either with or without amendments to this PPA, if any, agreed to pursuant to paragraph (b) of this **Section 1.2.1**, is not obtained on or before the MPUC Approval Deadline Date, or (ii) the Parties cannot agree on mutually acceptable amendments by the end of the sixty (60) days or such longer period as the Parties may agree in writing as described in paragraph (b) of this **Section 1.2.1**, then either Party shall have the right to terminate this PPA upon written Notice to the other Party delivered, in the case of clause (i) above, within 15 days after the MPUC Approval Deadline Date or in the case of clause (ii) above, within fifteen (15) days after the end of the sixty (60) days or such longer period as the Parties have agreed, in each case with no further financial or other obligations under this Agreement. Failure of either Party to provide Notice of termination within the time period specified above shall be deemed a waiver of this condition, and neither Party shall thereafter have the right to terminate this Agreement on the basis of the failure of this condition to have been satisfied.

1.2.2 MP has submitted a 10 MW solar project (MPUC Docket No. E015/M-18-401 and a 250 MW share of a natural gas fired power plant (MPUC Docket No. E015/AI-17-568, OAH Docket No. 68-2500-34672) (collectively "IRP Compliance Filings") for MPUC Approval, and obtaining MPUC Approval of such IRP Compliance Filings shall constitute a condition precedent to MP's performance of its other obligations hereunder. MP shall use commercially reasonable efforts to obtain MPUC Approval of the IRP Compliance Filings by December 31, 2018 (the "IRP Compliance Filings Approval Deadline Date"). If (i) MPUC Approval is not obtained on or before the IRP Compliance Filings Approval Deadline Date, or (ii) the MPUC declines to approve the IRP Compliance Filings or approves the IRP Compliance Filings subject to material conditions that are unacceptable to MP in its sole discretion, then in the case of clause (i) above, Seller shall have the right to terminate this PPA upon written Notice to MP delivered on or before January 15, 2019 and in the case of clause (ii) above, MP shall have the right to terminate this PPA upon written Notice to Seller within sixty (60) days from the date of the MPUC's written order declining to approve the IRP Compliance Filings or approving the IRP

Compliance Filings with such material unacceptable conditions, provided that if Seller delivers a termination Notice pursuant to clause (i) above MP shall have the right, by delivery of written Notice to Seller on or before fifteen (15) days after receipt of Seller's termination Notice, to reject Seller's termination, which Notice by MP shall be deemed a waiver by MP of the condition described in this Section 1.2.2 and accordingly a waiver of MP's right to terminate pursuant to clause (ii) above. Failure of either Party to provide Notice of termination within the time period specified above shall be deemed a waiver of this condition, and neither Party shall thereafter have the right to terminate this Agreement on the basis of the failure of this condition to have been satisfied.

1.2.3 On or before [TRADE SECRET DATA EXCISED], Seller shall have obtained NRIS status for the Facility. If this condition is not satisfied by [TRADE SECRET DATA EXCISED], MP shall have the right to terminate this Agreement by delivering written Notice to Seller on or before January 15, 2020. Failure of MP to provide Notice of termination by January 15, 2020 shall be deemed a waiver of this condition, and MP shall not thereafter have the right to terminate this Agreement on the basis of the failure of this condition to have been satisfied.

1.2.4 If the maximum aggregate estimate for Required Network Upgrades exceeds [TRADE SECRET DATA EXCISED], ("Seller Network Upgrade Cost Cap") and Seller declines in its sole discretion to waive the purchase price adjustment under Section 3.3.2 for the amount of network upgrade costs for which it is responsible above the Seller Network Upgrade Cost Cap, MP shall have the right to terminate this Agreement by delivering written Notice to Seller after the tenth (10th) Day after the date on which either (i) the last of the MISO, SPP and PJM Interconnection Facilities Studies is released by MISO, SPP and PJM or (ii) if the MISO Interconnection Facility Study fully addresses SPP and PJM network upgrade costs, the date on which the MISO Interconnection Facility Study is released, which set(s) forth, individually or in the aggregate, an estimate for Required Network Upgrades but prior to the fifteenth (15th) Day after the date specified in clause (i) or (ii), as applicable. Failure of MP to provide Notice of termination within the time period specified above shall be deemed a waiver of this condition, and MP shall not thereafter have the right to terminate this Agreement on the basis of the failure of this condition to have been satisfied.

1.3 Seller Contingencies.

1.3.1 Seller shall have the right to terminate this PPA, without any further financial or other obligation to MP as a result of such termination, by Notice to MP if any of the following has not occurred by the date specified below:

(a) On or before **[TRADE SECRET DATA EXCISED]**, Seller has obtained all Permits which it is responsible to receive and which are necessary to own, construct, and operate the Facility or to sell the Contract Energy and Accreditable Capacity to MP as contemplated by this PPA and all such Permits are final and non-appealable. MP agrees to provide reasonable assistance to Seller, if requested, in order to assist Seller in obtaining any Permit.

(b) On or before **[TRADE SECRET DATA EXCISED]** an Interconnection Agreement for the Facility, having terms and conditions (other than network upgrade costs associated with the Facility for which Seller, as a generation resource, is responsible pursuant to the MISO, SPP or PJM tariff(s), which costs are addressed in **Section 3.3.2**), has been executed by all parties thereto.

1.3.2 Seller shall have the right to terminate this PPA, without any further financial or other obligation to MP as a result of such termination, by Notice to MP if at any time after the Effective Date but prior to the date on which Seller closes on its financing for construction of the Facility pursuant to Financing Documents, Buyer does not have an Investment Grade Credit Rating subject to Buyer being allowed a thirty (30) Day period after Notice from Seller in which to cure the failure to have an Investment Grade Credit Rating.

1.3.3 **[TRADE SECRET DATA EXCISED]**.

1.3.4 Seller has the right to terminate this Agreement, by payment to Buyer of Two Million Dollars (\$2,000,000), and shall thereafter have no further liability to Buyer, by Notice to MP as a result of the enactment into law of the Material Tax Legislation. Seller may deliver a Notice of termination to MP pursuant to this Section 1.3.4 at any time prior to fifteen (15) days after the Material Tax Legislation Deadline Date. A failure of Seller to deliver a Notice of termination prior to such date shall be deemed a waiver of the termination right described in this Section 1.3.4 and Seller shall not thereafter have the right to terminate this Agreement on the basis of the Material Tax Legislation.

1.4 Pre-COD Obligations.

Notwithstanding anything to the contrary in this Agreement, Seller's sole liability and Buyer's sole remedy upon the occurrence of an Event of Default by Seller, including for Abandonment of the Facility or anticipatory repudiation of performance of Seller's obligations, prior to the Commercial Operation Date shall be termination of this Agreement and an action for damages, and the maximum liability to Buyer for an Event of Default by Seller prior to the Commercial Operation Date shall be the amount posted as the Development Security.

ARTICLE 2

PURCHASE AND SALE

2.1 Sale and Purchase.

2.1.1 Beginning on the Commercial Operation Date, Seller shall generate from the Facility and sell Contract Energy and Accreditable Capacity attributable to MP's Percentage of the electric generating capacity of the Facility to MP. Beginning on the Commercial Operation Date, MP shall accept and purchase at the prices set forth in this Agreement MP's Percentage of the Accreditable Capacity and Contract Energy generated from the Facility and delivered by Seller to the Point of Delivery during the Term.

2.1.2 MP agrees to accept and purchase all Test Energy attributable to MP's Percentage of the electric generating capacity of the Facility and delivered to the Point of Delivery at a rate equal to [TRADE SECRET DATA EXCISED]. Seller shall notify MP, to the extent practicable, fifteen (15) Days prior to the initial delivery of Test Energy to MP. In no instance shall MP be obligated to purchase Test Energy in amounts in excess of that associated with MP's Percentage of the electric generating capacity of the Facility.

2.2 Title and Risk of Loss.

2.2.1 As between the Parties, Seller shall retain title to, and be deemed to be in control of, the Accreditable Capacity, Contract Energy and Test Energy attributable to MP's Percentage of the electric generating capacity of the Facility up to and until delivery to MP at the Point of Delivery.

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

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

2.3 Green Tags.

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

ARTICLE 3

CONTRACT CAPACITY AND CONTRACT ENERGY

3.1 Capacity. For purposes of this Agreement, "Installed Capacity" means an amount in MWs between 247 and 253 as specified in writing by Seller to MP not later than the date on which Seller closes on its construction financing for the Facility, subject to adjustment if Seller elects to make the Capacity Buy-Down Payment pursuant to **Section 4.6**.

3.2 Mechanical Availability.

3.2.1 Commencing with the first Measurement Period and for each Measurement Period thereafter, MP's Percentage of the Facility shall achieve a Mechanical Availability Percentage equal to or greater than **[TRADE SECRET DATA EXCISED]** or Seller shall pay liquidated damages as provided in **Section 3.2.1(a)**.

(a) If the Mechanical Availability Percentage for any Measurement Period is less than [TRADE SECRET DATA EXCISED], then Seller shall pay MP liquidated damages in an amount (if positive) equal to the product of (i) the Energy Deficit for such Measurement Period (expressed in MWh) and (ii) (x) the Facility generation weighted real time generator node Facility LMP over such Measurement Period at the Point of Delivery; *minus* (y) the price per MWh for Contract Energy for the relevant Contract Years comprising the Measurement Period (the “Availability Liquidated Damages”). Amounts payable pursuant to this **Section 3.2.1(a)** shall be subject to the Aggregate Damage Limitation.

3.3 Pricing for Accreditable Capacity and Contract Energy. Seller shall be entitled to payment for Accreditable Capacity, Zonal Resource Credits, Contract Energy and any associated Green Tags in accordance with this **Section 3.3**. MP’s payment under this PPA includes Accreditable Capacity, Zonal Resource Credits, Contract Energy, and any associated Green Tags. Seller shall have all right, title and interest in and to all Renewable Energy Incentives. MP acknowledges that any Renewable Energy Incentives belong to Seller.

3.3.1 MP shall pay Seller for each MWh of Contract Energy delivered to MP at the Point of Delivery an amount equal to the price per MWh for the relevant Contract Year specified in **Exhibit B**, *plus*, if applicable:

3.3.2 [TRADE SECRET DATA EXCISED].

3.3.3 Promptly after the cost of Required Network Upgrades is known, MP and Seller shall prepare and exchange a revised Exhibit B showing the sum of the amounts described in Section 3.3.1 and Section 3.3.2 for each Contract Year, which shall thereupon become the applicable Exhibit B.

3.4 House Power and Maintenance Power. This PPA does not provide for the supply of any electric service by MP to Seller or to the Facility, and nothing in this Agreement shall obligate MP to provide any electric service to Seller or to the Facility. Seller recognizes and acknowledges that it shall be solely responsible for obtaining electric service for the Facility in accordance with Applicable Law.

3.5 Ancillary Services. Any and all Ancillary Services (as that term is defined and implemented pursuant to the relevant Tariff and FERC Order No. 827) that the Facility is capable of providing associated with the Installed Capacity shall be deemed to have been purchased by MP

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hereunder at no additional charge. Upon achieving the Commercial Operation Date, Seller shall use all commercially reasonable efforts to maximize the Ancillary Services available to MP to the extent available from the Installed Capacity, consistent with and subject to Good Utility Practice, provided that Seller shall not be required to make any capital expenditures or incur any increased operating expenses in connection with such efforts other than what is already required to comply with the requirements of the Interconnection Agreement and any related instructions from MISO or the Interconnection Provider. Notwithstanding anything in this paragraph to the contrary, Seller shall not reduce, curtail or suspend production and delivery of Contract Energy to MP for the purpose of preserving or providing reactive power to itself or any other Person.

ARTICLE 4

FACILITY REQUIREMENTS

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

4.2 Site. Seller shall construct, own or lease, operate, and maintain the Facility, which, subject to Seller's right to make the Capacity Buy-Down Payment pursuant to **Section 4.6**, shall consist of Wind Turbines and associated equipment having a Rated Capacity not less than the Installed Capacity. **Exhibit A** contains a scaled map that identifies the Site; the expected, as of the Effective Date, location of the Facility at the Site; the equipment and components that as of the date of this Agreement are anticipated to make up the Facility; a one-line diagram; the approximate location of Electric Metering Devices; and the Point of Delivery. **Exhibit A** shall be amended by Seller prior to the Commercial Operation Date to reflect any material changes in siting of the generating facilities or related facilities during permitting and construction.

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

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date set forth such Major Milestone shall be limited to the remedy for failure to achieve the Commercial Operation Milestone as set forth in **Section 4.4**.

4.4 Milestones; Extensions. The Major Milestone dates listed in **Exhibit C** (including the Commercial Operation Milestone) may be extended upon the occurrence of Force Majeure; provided that in no event shall the total number of Days of all such extensions as a result of Force Majeure exceed three hundred sixty (360) Days in the aggregate; provided, further, that if Seller shall fail to achieve the Commercial Operation Date within three hundred sixty (360) Days after the Commercial Operation Milestone for any reason whatsoever, including Force Majeure but excluding any default under this Agreement by MP that results in a delay in achievement of the Commercial Operation Milestone, then such failure shall entitle MP to terminate this PPA without further obligation to Seller.

4.5 Conditions to Commercial Operation. All Contract Energy delivered by Seller prior to the Commercial Operation Date shall be Test Energy. Commercial Operation of the Facility shall commence the Day following MP's acceptance (which shall not be unreasonably withheld or delayed) of Seller's Notice that all conditions set forth in this **Section 4.5** have been successfully satisfied. An officer of Seller who has knowledge of the Facility must certify in written Notice to MP that all of the conditions set forth in this **Section 4.5** have been satisfied. Thereafter, MP shall have ten (10) Business Days to challenge the satisfaction of any condition set forth in this **Section 4.5** and if MP raises any such challenge, Seller shall provide MP with additional information establishing satisfaction of the condition. If the Parties are unable to agree upon satisfaction of the conditions to Commercial Operation, the matter shall be referred to dispute resolution in accordance with this Agreement. Seller must certify that:

4.5.1 Installation of Wind Turbines with an aggregate nameplate capacity equal to at least ninety-five percent (95%) of the Installed Capacity ("Minimum Capacity") have been completed. Seller is in full compliance with the terms of this Agreement, Seller is in material compliance with the Interconnection Agreement, and the Facility can be safely operated in conformance with this Agreement;

4.5.2 Seller has successfully completed testing of the Facility which is required by the Facility's Permits and the Interconnection Agreement;

4.5.3 Seller has executed all agreements and made all arrangements necessary to deliver the Contract Energy and Accreditable Capacity from the Facility to the Point of Delivery in compliance with the provisions of this PPA;

4.5.4 all Security arrangements in accordance with **Article 9** have been established in a form and in the amounts sufficient to meet the requirements of this Agreement and that Seller has provided MP with proof that such arrangements are in place;

4.5.5 certificates proving insurance coverages required by this Agreement have been submitted to MP; and

4.5.6 all Permits required to be obtained from any Governmental Authority to construct and/or operate the Facility in compliance with applicable Requirements of Law and this PPA have been obtained and are in full force and effect.

4.6 Buy-Down. If Seller established the Commercial Operation Date with less than the Installed Capacity but equal to or more than the Minimum Capacity, then Seller shall have an additional sixty (60) days after the Commercial Operation Date to complete construction and commissioning of Wind Turbines up to an aggregate nameplate capacity equal to at least one hundred percent (100%) of the Installed Capacity provided that Seller may, if it elects to do so in its sole and absolute discretion, pay to MP at any time on or before the sixtieth (60th) Day after the Commercial Operation Date a one-time capacity buy-down payment equal to (A) the number of MWs equal to the Installed Capacity less MP's Percentage of the Rated Capacity of the Wind Turbines and associated equipment that has been completed at the beginning of the Day the payment is made multiplied by (B) **[TRADE SECRET DATA EXCISED]** (the "Capacity Buy-Down Payment"), in which case the Installed Capacity shall for all purposes be equal to MP's Percentage of the Rated Capacity at the time of the Capacity Buy-Down Payment. The Capacity Buy-Down Payment shall not be subject to the Aggregate Damage Limitation under **Section 11.5**.

ARTICLE 5

INTERCONNECTION, DELIVERY AND METERING

5.1 Interconnection Service and Costs.

5.1.1 Seller shall apply for and use commercially reasonable efforts to obtain MISO (if applicable) or local utility interconnection service necessary to interconnect the Facility to the Electric Interconnection Point. If the interconnection is governed by MISO, Seller shall apply for Network Resource Interconnection Service as that term is defined in the MISO Tariff or comparably firm interconnection service sufficient to facilitate making the interconnected Facility available to MP's native load customers. Seller shall release deliverability study results to MP. Without limiting Buyer's right to terminate in accordance with **Section 1.2.2** and **Section 1.2.3** or

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Section 1.2.3 or Seller's right to terminate in accordance with **Section 1.3.1(b)** if the deliverability study findings determine that Network Resource status is not available, or is not available without substantial network upgrades for which Seller is unwilling to contribute in accordance with its respective obligation under any Tariff or for which Seller is compensated pursuant to the Contract Energy adjustment mechanism under **Section 3.3**, MP shall be responsible for and procure transmission service as described in **Section 5.4**, provided that except as provided under alternative arrangements and agreed to by the Parties, MP is not responsible for any restriction or reduction of the Facility's output pursuant to this Facility's Interconnection Agreement resulting from conditional interconnection service or any Annual ERIS Evaluation or any Annual Interim Deliverability Study as provided under MISO BPM-015, as in effect as of the Effective Date.

5.1.2 If the Interconnection Agreement does not require MISO approval, Seller shall provide MP with such data and information about the interconnection as is necessary for MP to arrange for transmission service and otherwise meet its obligations under **Sections 5.3** and **5.4**.

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

5.2.1 The Parties acknowledge and agree that the Interconnection Agreement shall be a separate and free-standing contract regardless of Seller's counterparties to such an agreement, that nothing in the Interconnection Agreement shall alter or modify Seller's or MP's rights or obligations under this Agreement, and that nothing in this Agreement shall alter or modify Seller's rights or obligations under the Interconnection Agreement.

5.2.2 Seller recognizes that, for purposes of this Agreement, the Interconnection Provider shall be deemed to be a separate entity and separate contracting party whether or not the Interconnection Agreement is entered into with MP or an Affiliate of MP.

5.3 Transmission.

5.3.1 Seller shall be responsible for all interconnection, electric losses, transmission and ancillary service arrangements and costs required to deliver the Accreditable Capacity and Contract Energy, including Test Energy, from the Facility to MP at the Point of Delivery. Seller shall also be responsible for paying any transmission service charges required or assessed to either MP or Seller by non-MISO entities in connection with this PPA in connection with Seller's requirement to deliver the Accreditable Capacity and Contract Energy, including Test Energy, from the Facility to MP at the Point of Delivery.

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5.3.2 MP shall be responsible for all electric losses, transmission and ancillary service arrangements and costs required to accept Contract Energy and Accreditable Capacity and shall arrange for transmission and delivery of the Contract Energy and Accreditable Capacity from the Point of Delivery to MP's customers or any other point and MP shall bear all transmission and scheduling costs associated with accepting and transmitting the Facility's Accreditable Capacity and Contract Energy at and from the Point of Delivery to MP's customers or any other point. MP shall be responsible for any scheduling of the Contract Energy from the Point of Delivery to MP's customers or any other Person, including, without limitation, arranging any Open Access Same Time Information Systems, tagging, transmission scheduling or similar protocols from MISO or any other Persons. If at any time during the Term, either MP or the entity owning the transmission facilities at the Point of Delivery ceases to be a member of MISO or the facilities at the Point of Delivery cease to be subject to the MISO Tariff, then the Parties shall cooperate in good faith to amend this PPA to mitigate the impact of such changes on the Parties and to facilitate the delivery of Contract Energy from the Point of Delivery to MP's customers at no cost to Seller and at the least possible incremental cost to MP.

5.3.3 The Parties acknowledge and agree that the metering of the Contract Energy to be delivered pursuant to this PPA shall occur at the Point of Delivery and Seller shall be generally responsible for electric losses from transmission from the Facility to the Point of Delivery but not from the Point of Delivery to MP's customers or any other point.

5.4 Transmission Arrangements.

5.4.1 Subject, as provided in **Section 5.1.1**, to MP not being responsible for any restriction or reduction of the Facility's output pursuant to the Facility's Interconnection Agreement resulting from conditional interconnection service or any Annual ERIS Evaluation or any Annual Interim Deliverability Study as provided under MISO BPM-015, as in effect as of the Effective Date, MP shall be responsible for all transmission service arrangements for the total output of the Facility from the Point of Delivery. This may include, but is not limited to, network or point-to-point transmission service, or Network Integration Transmission Service. Seller, at no cost to it, shall cooperate and support MP's efforts to procure and maintain such transmission service arrangements.

5.4.2 Seller shall utilize Good Utility Practices in operating the Facility in compliance with the MISO Tariff. Seller shall not be responsible for imbalance payments for energy output deviations that satisfy MISO's Failure to Follow Dispatch Flag business manual practice applicable to intermittent energy sources, and such imbalance payments and charges shall

be MP's responsibility as set forth in **Section 5.3.2**. The Parties recognize that (i) MISO or any New Joint Transmission Authority, or (ii) FERC and the applicable Electric Reliability Organization have established and approved electric market rules, including amendments thereto that apply to MP's system and which allocate responsibility for imbalance or other payments associated with imbalances.

5.5 Electric Metering Devices. The Facility shall be designed to accommodate metering, generator telemetering equipment, and communications equipment that meet the requirements of this **Section 5.5**. To the extent not otherwise set forth in the Interconnection Agreement, metering equipment necessary for determining the Contract Energy, Test Energy and Accreditable Capacity (real and reactive) for billing purposes shall comply with MP's metering requirements for this installation and Electric Metering Devices shall include, but not be limited to, kWh and kvar meters, metering cabinets, metering panels, conduits, cabling, metering units, current transformers and potential transformers directly or indirectly providing input to meters or transducers, meter recording devices, telephone circuits, signal or pulse dividers, transducers, pulse accumulators and any other equipment necessary to implement the provisions of this Agreement. All Electric Metering Devices for billing purposes will be revenue billing grade devices and have an accuracy of at least +/- 0.2%. All instrument transformers used for metering will be metering class devices. Current transformers will have an accuracy of at least +/- 0.15% and voltage transformers will have an accuracy of at least +/- 0.3%. Current transformer ratios will be chosen to measure minimum power within the device's accuracy range. A primary meter and associated recording device shall measure and record the flow of Energy and Capacity (real and reactive) associated with the Facility. The meter shall measure the bidirectional watt-hour and var-hour quantities (or other quantities required by MP) and shall be used to determine the amount of Energy and Capacity received by MP from Seller.

5.5.1 To the extent not otherwise provided in the Interconnection Agreement, MP shall design, install, own, and maintain all Electric Metering Devices used to measure the Contract Energy and Accreditable Capacity made available to MP by Seller under this PPA and to monitor and coordinate operation of the Facility. If Electric Metering Devices are not installed at the Point of Delivery, meters or meter readings will be adjusted to reflect losses from the Electric Metering Devices to the Point of Delivery. All Electric Metering Devices used to provide data for the computation of payments shall be sealed, and only MP shall break the seal when such Electric Metering Devices are to be inspected and tested or adjusted in accordance with this **Section 5.5**. MP shall specify the number, type, and location of such Electric Metering Devices.

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5.5.2 MP shall, at its own expense, inspect and test all Electric Metering Devices owned by MP, and Seller shall, at its own expense, inspect and test all Electric Metering Devices owned by Seller, upon installation and at least annually thereafter. Each Party will be provided with reasonable advance Notice of, and a representative of the other Party shall be permitted to witness and verify, such inspections and tests, provided that the requesting Party shall comply with all applicable safety standards and not unreasonably interfere with or disrupt the activities of the testing Party. Each Party shall, if reasonably requested, perform additional inspections or tests of any Electric Metering Device and shall permit a qualified representative of the other Party to inspect or witness the testing of any Electric Metering Device, provided further, that the requesting Party shall comply with all of the testing Party's safety standards and shall not unreasonably interfere with or disrupt the activities of the testing Party. The requesting Party shall bear the actual expense of any requested additional inspection or testing of the other Party's Electric Metering Device, unless upon such inspection or testing an Electric Metering Device is found to register inaccurately by more than the allowable limits established in this **Section 5.5**, in which event the expense of the requested additional inspection or testing shall be borne by the testing Party. The testing Party shall, if requested in writing, provide copies of any inspection or testing reports to the requesting Party.

In addition to the Electric Metering Devices, any Party may elect to install and maintain, at its own expense, backup metering devices ("Back-Up Metering"). This installation and maintenance shall be performed in accordance with Good Utility Practice and in a manner acceptable to MP. The installing Party, at its own expense, shall inspect and test Back-Up Metering upon installation and at least annually thereafter. The installing Party shall provide the other Party with reasonable advance Notice of, and permit a representative of the requesting Party to witness and verify, such inspections and tests, provided that the requesting Party shall comply with all applicable safety standards and shall not unreasonably interfere with or disrupt the activities of the installing Party. Upon request, the installing Party shall perform additional inspections or tests of Back-Up Metering and shall permit a qualified representative of the requesting Party to inspect or witness the testing of Back-Up Metering, provided that the requesting Party shall comply with all applicable safety standards and shall not unreasonably interfere with or disrupt the activities of the testing Party. The requesting Party shall bear the actual expense of any such requested additional inspection or testing, unless, upon such inspection or testing, Back-Up Metering is found to register inaccurately by more than the allowable limits established in this **Section 5.5**, in which event the expense of the requested additional inspection or testing shall be borne by the testing Party. The testing Party shall, if requested in writing, provide copies of any inspection or testing reports to the requesting Party.

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

5.6 Adjustment for Inaccurate Meters. If an Electric Metering Device, or Back-Up Metering, fails to register, or if the measurement made by an Electric Metering Device, or Back-Up Metering, is found upon testing to be inaccurate by more than one percent (1.0%), an adjustment shall be made correcting all measurements by the inaccurate or defective Electric Metering Device, or Back-Up Metering, for both the amount of the inaccuracy and the period of the inaccuracy, in the following manner:

5.6.1 If the Electric Metering Device is found to be inaccurate or defective, and Back-Up Metering has been tested and maintained in accordance with the provisions of this **Section 5.6**, the Parties shall use Back-Up Metering, if installed, to determine the amount of such inaccuracy. Back-Up Metering data shall be adjusted for losses if Back-up Metering is installed on the low side of Seller's step-up transformer. If Back-up Metering is also found to be inaccurate by more than one percent (1.0%) or no back-up metering was installed, the Parties shall use the SCADA data collected at each Wind Turbine in the Facility for the period of inaccuracy, adjusted as agreed by the Parties for losses occurring between each Wind Turbine and the Point of Delivery. If, and to the extent, such SCADA is incomplete or unavailable, the Parties shall estimate the amount of the necessary adjustment on the basis of deliveries of Contract Energy from the Facility during periods of similar operating conditions when the Electric Metering Device was registering accurately. The adjustment shall be made for the period during which inaccurate measurements were made.

5.6.2 If the Parties cannot agree on the actual period during which the inaccurate measurements were made, the period during which the measurements are to be adjusted shall be the shorter of (i) the one hundred eighty (180) Days immediately preceding the test that found the Electric Metering Device to be defective or inaccurate or (ii) the last one-half of the period from the last previous test of the Electric Metering Device to the test that found the Electric Metering Device to be defective or inaccurate.

5.6.3 MP shall use the corrected measurements as determined in accordance with this **Section 5.6** to recompute the amount due for the period of the inaccuracy to the extent that the adjustment period covers a period of deliveries for which payment has already been made by MP, and MP shall subtract the previous payments by MP for this period from such recomputed amount.

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

5.7 Refund of Network Upgrade Costs. **[TRADE SECRET DATA EXCISED]**

5.8 Parties Efforts to Reduce Network Upgrade Costs. Until the date on which the Interconnection Agreement is signed, each of Seller and MP will use commercially reasonable efforts and cooperate in seeking to have any network upgrade costs for which either Seller or MP are responsible reduced.

ARTICLE 6

FACILITY OPERATION AND MAINTENANCE

6.1 Facility Operations and Control. After the Commercial Operation Date, Seller shall staff, control, and operate the Facility consistent at all times with Good Utility Practice and according to the Operating Procedures developed pursuant to **Section 8.3**. Personnel capable of disconnecting the Facility shall be available twenty-four (24) hours per Day, three hundred and sixty-five (365) days per year, pursuant to such Notice as the Operating Committee shall decide. Seller shall ensure that personnel are available by telephone, email, fax and pager to ensure prompt response to contingencies.

6.2 Facility Planned Outages/Maintenance.

6.2.1 The provisions of this **Section 6.2** are subject in all respects to planning and coordination of Scheduled Outages/Deratings for the Facility being conducted in accordance with MISO Outage Operations Business Practices Manual – 008.

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

6.2.3 Seller shall provide MP with an annual schedule of the expected Scheduled Outages/Deratings for the Facility ("Maintenance Schedule") on November 1 of each preceding year during the Term. Seller shall also provide no later than sixty (60) days before the end of each

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year during the Term, a Maintenance Schedule that describes expected maintenance activities for the following two (2) Commercial Operation Years. Seller will use commercially reasonable efforts to provide Notice to MP of Scheduled Outages/Deratings involving the Facility, other than as listed in the Maintenance Schedule, as soon as practicable.

6.2.4 Seller shall use commercially reasonable efforts to avoid or limit any Scheduled Outages/Deratings for the Facility, excluding outages associated with Emergencies and Forced Outages and any outages required consistent with Good Utility Practice, during any On-Peak Month. Seller shall use good-faith efforts to minimize such outages, to minimize the occurrence and duration of such outages during any On-Peak Month, and to schedule such outages after 9:00 p.m.

6.2.5 Not less than twenty-four (24) hours prior to commencement of any Scheduled Outage/Derating of the Facility, MP may request, by phone, fax or email, that Seller defer such scheduled maintenance. Subject to Good Utility Practice, Seller shall use commercially reasonable efforts to comply with any such request, including by requesting MISO's review and approval thereof pursuant to MISO's Outage Operations Business Practices Manual, Manual No. 008, or any successor manual or business practice (the "MISO Outage Manual") and seek to reschedule such deferred maintenance to a subsequent date mutually agreed upon between the Parties and by MISO, it being agreed that Seller shall have no obligation to reschedule any Scheduled Outage/Derating of the Facility absent approval thereof by MISO pursuant to the MISO Outage Manual. In connection with any such request by MP for deferral of scheduled maintenance, Seller shall provide to MP, in advance, a non-binding good-faith estimate of the incremental direct costs to be incurred by Seller in order to comply with such request. If MP desires Seller to incur such incremental costs at MP's expense, MP shall promptly advise Seller to that effect. Seller may then invoice MP for, and MP shall pay Seller for, all of the actual incremental direct costs incurred by Seller in connection with such deferral and rescheduling of maintenance. If MP does not agree in advance to reimburse Seller for such incremental costs, then it shall be reasonable for Seller to deny such rescheduling request of MP.

6.3 Forced Outages. Seller shall use commercially reasonable efforts to minimize the occurrence, scope and duration of Forced Outages at the Facility. During the Peak Hours of On-Peak Months, Seller shall use all commercially reasonable efforts to avoid or overcome any Forced Outages at the Facility. MP's exclusive remedy for breach of Seller of this **Section 6.3** shall be failure to achieve Mechanical Availability Percentage as set forth in **Section 3.2.1(a)**.

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

6.5 Capacity Accreditation. Seller recognizes that MP has certain planning, operating and reporting requirements with MRO and MISO. As between the Parties, MP is responsible for seeking MRO and MISO accreditation of the Installed Capacity, and Seller agrees to cooperate with MP, including the provision of data necessary for MP to calculate Accreditable Capacity. Currently, no generator tests are required by MISO or MRO for accreditation of renewable energy conversion facilities; to the extent such testing is required in the future, Seller shall be responsible for the costs associated with such testing.

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

ARTICLE 7

BILLING AND PAYMENT

7.1 Billing Statement and Invoices.

7.1.1 The monthly billing period shall be the calendar month. No later than twelve (12) Days after the close of the billing month, Seller shall provide to MP, by electronic mail or such other method of delivery as mutually agreed to by the Parties, an invoice for the amount due Seller by MP, under this PPA, for the billing period covered by the statement. The invoice will show Contract Energy delivered from the Facility during the applicable month, all billing parameters, rates and factors, and any other data reasonably pertinent to the calculation of monthly

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payments due to Seller, including any amounts owing to Seller as a result of Compensated Curtailments. Seller will send adjustment invoices to Buyer as soon as practicable if any changes or adjustments by MISO that affect payment occur after Seller has already invoiced MP. Payment for any such adjusted amounts will be made by Buyer on or before the twentieth (20th) Day following receipt of any such adjusted invoice

7.1.2 If MP disputes any amount in the invoice, MP shall describe items in dispute, as well as all supporting documentation upon which MP relies to dispute the invoice. Billing disputes shall be resolved in accordance with **Article 14**.

7.2 Payments. Payments due under this PPA shall be due and payable by electronic funds transfer in accordance with **Section 7.5**, as designated by the owed Party, on or before the twentieth (20th) Day following receipt of the billing invoice. Remittances received by first-class mail will be considered to have been paid when due if the postmark indicates the payment was mailed on or before the payment due date. If any amount due is not paid by the due date, the amount due shall bear interest on the unpaid balance at a rate equal to two percent (2%) plus the prime rate as determined by Wells Fargo, N.A. or its successor for the days of the late payment period multiplied by the number of days elapsed from and including the Day after the due date to and including the payment date.

7.3 Billing Disputes. Either Party may dispute invoiced amounts, but shall pay to the other Party at least the undisputed portion of invoiced amounts on or before the date on which payment is due. To resolve any billing dispute, the Parties shall use the dispute resolution procedures set forth in this Agreement. When the billing dispute is resolved, the Party owing shall pay the amount owed within five (5) Business Days of the date of such resolution, plus interest at the rate set forth in **Section 7.2**.

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

7.5 Wire Transfer. MP shall make payment of invoices via wire transfer, ACH or similar electronic means of immediately available funds to the Seller's account as instructed in writing from time to time by Seller to MP pursuant to the Notice provisions. MP shall be entitled to conclusively presume, without any liability whatsoever, that the payment information furnished

by Seller is accurate, and will not be required to pay any bill more than once where the invoice was first paid in accordance with Seller's payment instructions.

7.6 Curtailments.

7.6.1 Except as expressly provided for in this **Section 7.6** and in **Article 11**, Seller shall be entitled only to payment for Contract Energy actually delivered to the Point of Delivery.

7.6.2 No payment shall be due to Seller for curtailments of delivery of Contract Energy from the Point of Delivery resulting from any of the following (each an "Excused Curtailment"): **[TRADE SECRET DATA EXCISED]**

7.6.3 Seller shall be compensated in the event and to the extent production and delivery of Contract Energy is curtailed by **[TRADE SECRET DATA EXCISED]** its calculation of amounts due for Contract Energy curtailed by any Compensated Curtailment.

7.6.4 All Excused Curtailments and Compensated Curtailments shall be deemed to be delivered for purposes of calculating the Mechanical Availability Percentage in **Section 3.2**.

ARTICLE 8

INFORMATION AND IMPLEMENTATION

8.1 Pre-COD Reporting Obligations.

8.1.1 If it is required by any Governmental Authority, and within thirty (30) Days after completion, Seller shall provide MP with a copy of a report summarizing a Phase I environmental investigation conducted of the Site by an independent environmental engineer familiar with the Site.

8.1.2 At the times specified by the Major Milestones, Seller shall provide to MP copies of Permits governing the design and construction of the Facility, and redacted copies or summaries of major contracts affecting the Facility showing the identity of the contracting parties, their execution of the contract, a summary of services or work involved, and the date the contract was executed, so that MP may monitor Seller's progress in meeting its obligations under this Agreement.

8.1.3 On or about the first Day of each calendar month after execution of this PPA, and weekly after physical construction has commenced and until the Commercial Operation

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Date is achieved, Seller shall submit to MP a progress report, which shall notify MP in reasonable detail of the current status of each Major Milestone, Facility permitting, financing and construction, and any other information that will permit MP to assess the status of progress toward Commercial Operation.

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

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

8.2.1 Seller shall maintain an accurate and up-to-date operating log, in electronic format, at the Facility with records of real and reactive power production for each clock hour, energy production dedicated to this PPA and energy production generated for other purposes, changes in operating status, Scheduled Outage/Deratings and Forced Outages, number of generating unit starts, and any unusual conditions found during inspections. The operating log shall be made available to MP upon reasonable request and subject to **Section 17.19**. Seller shall provide the described information to the extent the SCADA, controller or similar equipment monitoring the Facility is capable of measuring and retaining the information.

8.2.2 Appropriate representatives of MP shall at all reasonable times and with reasonable prior Notice have access to the Facility to read meters and to perform all inspections, maintenance, service, and operational reviews as may be appropriate to facilitate the performance of this PPA. While at the Facility, such representatives shall observe such reasonable health and safety precautions as may be required by Seller and the requirements of any lease or Permit as to the Site and shall conduct themselves in a manner that will not interfere with the operation of the Facility.

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8.2.3 Each Party shall deliver or cause to be delivered to the other Party certificates of its officers, accountants, engineers or agents as to matters as may be reasonably requested, and shall make available, upon reasonable request, personnel and records relating to the Facility to the extent that the requesting Party requires the same in order to fulfill any regulatory reporting requirements, or to assist the requesting Party in litigation, including, but not limited to, administrative proceedings before utility regulatory commissions. Information provided to another party pursuant to this **Section 8.2.3** may be subject to **Section 17.19**.

8.3 Operating Committee and Operating Procedures.

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

8.3.2 In accordance with **Section 17.1.1**, MP and Seller shall each appoint one representative and one alternate representative to act in matters relating to the Parties' performance obligations under this PPA and to develop operating arrangements for the generation, delivery and receipt of power and energy hereunder. Such representatives shall constitute the Operating Committee. The Parties shall notify each other in writing of such appointments and any changes thereto. The Operating Committee may only take action that is agreed to by both Parties' Representatives.

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

8.3.4 The Operating Committee shall have the following additional functions, among all others specified elsewhere in this Agreement:

(a) To review and make recommendations regarding Seller's schedule for Scheduled Outages/Deratings and Facility maintenance;

(b) To review Seller's implementation of its obligations under this Agreement;

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(c) To establish, prepare and discuss the statistical and administrative reports, budgets, and information and other similar records, and the form thereof, to be kept by and furnished by Seller and MP as required by this Agreement;

(d) To perform such other functions and duties as it may undertake from time to time in connection herewith or as may be assigned to it by the Parties and to make any recommendations to either Party deemed appropriate or desirable.

8.4 Wind Data and Capacity.

(a) Seller shall install sufficient measuring equipment at the Facility to collect data necessary to reasonably determine the amount of Facility generation under various conditions, including conditions where production from the Facility has been curtailed. Seller shall install by no later than the Commercial Operation Date a permanent meteorological tower of least eighty (80) meter height at the Site to provide the capability of measuring and recording representative wind data twenty-four (24) hours per day, which wind data shall be used to calculate any amounts due Seller under this PPA for curtailed or lost production. The tower required by this PPA may be provided on a nearby or adjacent site and serve more than one facility and shall be at a location reasonably determined by Seller with input from the Operating Committee. After the Commercial Operation Date, MP shall have the right on a real-time basis to access wind data from the meteorological tower electronically and Seller shall cooperate reasonably in providing such access, provided that MP shall hold all such data confidential pursuant to the terms of this Agreement. The Parties shall develop protocols and procedures through the Operating Committee for the determination of potential production under particular circumstances.

(b) Seller shall cooperate reasonably to assist MP in maximizing (pursuant to the terms and conditions of this Agreement) and determining the amount of Accreditable Capacity. Seller shall collect data and perform tests and calculations in compliance with Module E of the Tariff and MISO Business Practices Manual for Resource Adequacy, as they change from time to time. All required testing shall be conducted at Seller's expense.

ARTICLE 9

SECURITY

9.1 Security Amount.

9.1.1 Not later than thirty (30) Days after the Effective Date, Seller shall provide MP security in the amount of [TRADE SECRET DATA EXCISED] consisting of either or a combination of a letter of credit and/or cash escrow as set forth under **Section 9.2** (“Initial Development Security”). Upon the earlier of (i) Seller’s delivery of the Stepped Up Development Security, or (ii) sixty (60) Days after termination of this Agreement, except as set forth in **Section 1.4**, Buyer shall promptly return the Initial Development Security to Seller.

9.1.2 Not later than thirty (30) Days after the date on which all MP contingencies under **Section 1.2.1** and all Seller contingencies under **Section 1.3.1** have been satisfied or waived as provided under those sections, Seller shall provide MP security in the amount of [TRADE SECRET DATA EXCISED] multiplied by the MP’s Commitment (“Stepped Up Development Security”) in a form acceptable under **Section 9.2**. Upon the earlier of (i) Seller’s delivery of the Performance Security, or (ii) sixty (60) Days after termination of this Agreement, Buyer shall promptly return the Stepped Up Development Security to Seller.

9.1.3 Not later than the Commercial Operation Date, and as a condition thereto, Seller shall provide MP security for performance of the Facility when and as required hereunder, and for performance of all of Seller’s other obligations hereunder to be performed over the Term of this Agreement following the Commercial Operation Date (the “Performance Security”). The Performance Security shall be available to pay any amount due MP pursuant to this PPA, and to provide MP security that Seller will properly operate and maintain the Facility and deliver Accreditable Capacity and Contract Energy to the Point of Delivery pursuant to this Agreement. The Performance Security shall also provide security to MP to cover damages, including, but not limited to, Availability Liquidated Damages, should the Facility fail to operate in accordance with this PPA. Seller shall establish the Performance Security at a level equal to [TRADE SECRET DATA EXCISED] multiplied by the Installed Capacity. Seller shall maintain the Performance Security at such required level, less the aggregate amount of any draws on such Performance Security, throughout the remainder of the Term.

9.2 Security Characteristics and Draw.

9.2.1 Except as set forth under **Section 9.1.1**, Security shall be composed of either a Guaranty, a letter of credit as described in **Section 9.2.3** or a cash escrow as described in **Section 9.2.2**, at Seller’s option, or a combination of these options as long as the total amount of Security is no less than the amount then required. Notwithstanding the foregoing, the Guaranty amount may not comprise more than fifty percent (50%) of the overall total amount of Security, provided that if Buyer has delivered a notice reducing the amount of Security required pursuant to

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Section 9.5, then the Guaranty may comprise up to 100% of the overall total amount of Security at the Guarantor's option. Seller shall be (i) permitted from time to time to change the form and combination of such posted Security provided that no Event of Default with respect to Seller then exists so long as MP is provided timely Notice of the change, and (ii) required, if Seller has provided Security, or any portion thereof, in the form of a Guaranty, if the entity or entities providing a Guaranty no longer qualify as a Guarantor, Seller shall within ten (10) Business Days of MP's Notice to do so: (A) replace such Guaranty with either a Guaranty from an entity or entities meeting the requirements as a Guarantor and/or (B) deliver a letter of credit or performance bond as described in **Section 9.2.2** and/or (C) supply a cash escrow as described in **Section 9.2.2**, at Seller's option, in any case, in the aggregate amount of the then applicable required Security, less the aggregate amount of any prior draws on such Security. Upon receipt of such substitute Security, any such Guaranty shall be deemed cancelled.

9.2.2 If Seller elects to utilize a cash escrow as Security, it shall establish an interest-bearing escrow account with a commercial bank or other mutually acceptable escrow agent as escrow agent, and the account shall name MP as the exclusive beneficiary for the duration of the existence of the escrow account. The escrow account shall be in United States currency, and funds in the account may be invested in a money-market fund, short-term treasury obligations, investment-grade commercial paper or other investment-grade investments with maturities of three (3) months or less. All income and interest earned on the accounts held in the escrow account shall accrue for the benefit of Seller, and Seller may withdraw the income and interest earned at any time as long as the balance in the account after the withdrawal meets the minimum funding requirements of this **Section 9.2**. The escrow agreement shall require the escrow agent to notify MP of the balance in the escrow account from time to time. The escrow agreement governing the account shall include terms that (i) prohibit termination of the account prior to establishment of alternative Security that satisfies all the requirements of this PPA; (ii) require Notice of no less than sixty (60) Days by the escrow agent to MP prior to any termination of the account; and (iii) allow MP to draw the entire balance in the escrow account up to the amount of the Security if Security has not been replaced in accordance with this Agreement at least five (5) Business Days prior to the expiration or termination of the escrow account, and MP shall hold such amounts in lieu of escrow until such time as the Security has been replaced, at which time the funds shall be returned to Seller. At the end of the Term, any balance remaining in the escrow account shall be returned or released to Seller.

9.2.3 In conjunction with or instead of a Guaranty or cash security as provided in **Section 9.2.2**, Seller may provide Security in the form of an irrevocable letter of credit in a

commercially reasonable form and otherwise in compliance with the requirements of this **Section 9.2** and in form and substance acceptable to the Issuer (as defined below) (the “LOC”). **[TRADE SECRET DATA EXCISED]** The LOC must: (i) be issued for a minimum term of three hundred and sixty (360) Days, and, where permitted by the Issuer, shall be automatically extended for a period of one (1) year on each successive expiration date unless, at least ninety (90) Days before the current expiration date, the Issuer notifies Seller and MP by certified mail that the Issuer has decided not to extend the letter of credit; (ii) provide that draws shall be payable upon presentation of a sight draft executed by an officer of MP substantially in the form approved by MP; and (iii) expressly permit partial and multiple draws. Any unused portion of the letter of credit shall be available, regardless of renewal, through the then current expiration date. Seller may replace the letter of credit with another Issuer which includes a provision for at least ninety (90) Days advance Notice to MP and shall cause the renewal or extension of the LOC meeting the criteria set forth in this **Section 9.2.3** within thirty (30) days prior to the expiration or cancellation of the then current LOC, and failure to do so shall authorize MP to draw immediately upon the then current LOC. MP shall then, at Seller’s cost and with Seller’s funds, place the amounts so drawn in an interest bearing escrow account in accordance with **Section 9.2.2** above, until and unless Seller provides a substitute form of such security meeting the requirements of this **Section 9.2**. Security in the form of an irrevocable standby letter of credit shall be governed by the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Brochure No. 500 or as otherwise required by the Issuer of the LOC.

9.2.4 Seller shall provide Guarantor’s annual audited financial statements to MP within one hundred twenty (120) days after the end of each calendar year. MP shall have the right to monitor the financial condition of Seller, Guarantor, and the Issuer to the extent set forth herein, and Seller shall provide written Notice to MP within five (5) Business Days of becoming aware that (i) the Issuer does not satisfy the requirements of the second sentence of **Section 9.2.3**, (ii) **[TRADE SECRET DATA EXCISED]** or (iii) if the Guarantor is not Tenaska Energy, Inc. and Tenaska Energy Holdings, such Person does not have an Investment Grade Credit Rating, and in such event Seller shall provide alternative Security as soon as practicable that complies with this **Section 9.2.4** and in no event later than thirty (30) Days after becoming aware of the Issuer’s or a Guarantor’s failure to meet the requirements of this **Article 9**.

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

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

9.5 Reduction in Security. Buyer may, by Notice from time to time to Seller, waive or reduce the amount of security required to be posted hereunder in consideration of an Affiliate of MP having a minority ownership interest in Seller.

ARTICLE 10

FORCE MAJEURE

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

10.2 Force Majeure Procedures.

10.2.1 A Party delayed in performing or unable to perform any obligation hereunder by reason of Force Majeure shall give Notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as practicable after the occurrence of the cause relied upon.

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10.2.2 Telephone, facsimile or email Notices given pursuant to this **Section 10.2** shall be confirmed in writing as soon as reasonably possible and shall specifically state the full particulars of the Force Majeure, the time and date when such Force Majeure occurred and when the Force Majeure is reasonably expected to cease.

10.2.3 A Party's suspension of performance due to a Force Majeure shall be no longer or broader than necessary as a result of the Force Majeure, and the Party claiming Force Majeure shall resume full performance of its obligations as promptly as possible.

10.2.4 When the non-performing Party is able to resume performance of its obligations under this PPA, that Party shall give the other Party written Notice to that effect.

10.3 Limitations on Force Majeure. In no event will any delay or failure of performance caused by any conditions or Force Majeure extend this PPA beyond its stated Term. If any delay or failure of performance caused by Force Majeure continues for an uninterrupted period of three hundred sixty-five (365) Days from its inception, the Party not claiming Force Majeure may, at any time following the end of such three hundred sixty-five (365) Day period, terminate this PPA upon written Notice to the affected Party, without further obligation by either Party except as to costs and balances incurred prior to the effective date of such termination. The Party not claiming Force Majeure may, but shall not be obligated to, extend such three hundred sixty-five (365) Day period, for at least one hundred eighty (180) Days, and such additional time as it, at its sole discretion, deems appropriate, if the affected Party is exercising due diligence in its efforts to cure the Force Majeure.

ARTICLE 11

DEFAULT, TERMINATION, AND REMEDIES

11.1 Events of Default of Seller. Any of the following shall constitute an "Event of Default" of Seller:

11.1.1 Seller's Abandonment of the Facility;

11.1.2 Seller's failure to achieve the COD by the Commercial Operation Milestone and Seller has failed to cure such failure within one hundred eighty (180) Days after such Milestone for reasons other than Force Majeure or a delay or Event of Default by MP, provided that if during such one hundred (180) Day period Seller provides a written opinion from a mutually agreeable independent engineer that the COD can reasonably be achieved within an additional ninety (90)

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Day period, then Seller shall be allowed a total period not to exceed two hundred seventy (270) Days after the Commercial Operation Milestone to achieve the COD;

11.1.3 Seller's assignment of this PPA or any of its rights hereunder for the benefit of creditors (except for an assignment to Financier as security under the Financing Documents as permitted by this PPA);

11.1.4 Seller's filing of a petition in bankruptcy or insolvency for dissolution or liquidation under the bankruptcy laws of the United States or under any insolvency act of any state, or the filing of such a petition by another Person against Seller seeking dissolution or liquidation, and Seller's failure to obtain the dismissal of the petition within ninety (90) Days;

11.1.5 The sale by Seller to a third party, or diversion by Seller for any use by a third party, of Accreditable Capacity, Contract Energy, or any associated Green Tags to which MP is entitled under this PPA except as expressly allowed under this Agreement;

11.1.6 Seller's failure to establish and maintain the funding of the Security as and in the amounts required;

11.1.7 Seller's failure to make any payment required under this PPA unless such payment is subject to a good-faith dispute;

11.1.8 Seller's assignment of this PPA, or Seller's sale or transfer of its interest, or any part thereof, in the Facility, except as permitted by this Agreement to the extent such assignment is not deemed void;

11.1.9 Any representation or warranty made by Seller in this PPA shall prove to have been false or misleading in any material respect when made or any covenant made by Seller ceases to remain true during the Term if such cessation would reasonably be expected to result in a material adverse impact on MP, provided that Seller shall have a reasonable time not exceeding thirty (30) Days to correct the false or misleading condition; and/or

11.1.10 Seller's failure to comply with any other material obligation under this PPA, which would result in a material adverse impact on MP that does not constitute a separate event of default or provide for an exclusive remedy or liquidated damages.

11.2 Events of Default of MP. Any of the following shall constitute an "Event of Default" of MP:

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11.2.1 MP fails to make a payment due to Seller that is not subject to a good-faith dispute when such payment is due;

11.2.2 MP's dissolution or liquidation, provided that division of MP into multiple entities, or other corporate reorganization, shall not constitute dissolution or liquidation if, but only if, the legal entity remaining obligated hereunder, together with any guarantor of MP's obligations hereunder, meets the requirements of the second sentence of **Section 16.1.2**;

11.2.3 MP's assignment of this PPA or any of its rights hereunder for the benefit of creditors;

11.2.4 MP's filing of a petition in bankruptcy or insolvency for dissolution or liquidation under the bankruptcy laws of the United States or under any insolvency act of any state, or the filing of such a petition by another Person against MP seeking dissolution or liquidation, and MP's failure to obtain the dismissal of the petition within ninety (90) Days;

11.2.5 Any representation or warranty made by MP in this PPA shall prove to have been false or misleading in any material respect when made or ceases to remain true during the Term if such cessation would reasonably be expected to result in a material adverse impact on Seller;

11.2.6 MP's assignment of this PPA except as permitted by this Agreement to the extent such assignment is not deemed void;

11.2.7 MP's failure or refusal to accept delivery of Contract Energy at the Point of Delivery, or Seller's inability to generate and proffer Contract Energy at the Point of Delivery as a result of MP's act or omissions, for reasons other than an Excused Curtailment, Economic Curtailments, or a Compensated Curtailment where the applicable payment is made to Seller with respect to such curtailment pursuant to the terms of the PPA; or

11.2.8 MP's failure to comply with any other material obligation under this PPA, which would result in a material adverse impact on Seller.

11.3 Remedies. Upon the occurrence of any curable default, the non-defaulting Party shall provide the defaulting Party with Notice of the default and a reasonable opportunity to cure, such period not to exceed twenty (20) Days with respect to any failure to pay described in **Sections 11.1.7** and **11.2.1** or thirty (30) Days from such Notice with respect to any other default. For any

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default which has not been cured in the time required, the non-defaulting Party may, at its option, do any, some or all of the following:

11.3.1 Terminate this Agreement to the extent permitted by **Section 11.4**;

11.3.2 Offset from any payments due from the non-defaulting Party to the defaulting Party any amount otherwise due;

11.3.3 Seek damages in such amounts and on such bases for the default as authorized by this Agreement; and/or

11.3.4 In the case of a default by Seller, MP may draw on the Security as the case may be in the amount of any damages subject to the terms of **Article 9**.

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

11.4.1 Upon the termination of this PPA under this **Section 11.4** except with respect to a default of Seller under **Section 11.1.2**, the exclusive remedy for which is set forth in **Section 4.4**, the non-defaulting Party shall be entitled to receive from the defaulting Party all of the actual damages incurred by the defaulting Party to the extent allowed by law including, if Seller is the defaulting Party, Availability Liquidated Damages as and when allowed by this Agreement, up to the Aggregate Damage Limitation set forth in **Section 11.5**, and subject to the limitations of **Section 1.4**, **Section 11.10** and other provisions of this PPA, and if MP is the defaulting Party, damages equal to the present value (using an appropriate discount rate agreed to by Seller and MP or as determined pursuant to **Article 14**) of the estimated payments under this Agreement minus the net present value (using the same discount rate) of amounts payable by a substitute purchaser (but not less than zero) and the value of any PTC Benefit determined on an after-tax basis, that is lost by Seller or an Affiliate due to an Event of Default of MP that Seller has not been able to mitigate after use of commercially reasonable efforts, but in no event more than the sum of the net present value of the remaining estimated payments under this PPA plus the PTC Benefit determined on an after-tax basis, that is lost by Seller or an Affiliate due to an Event of Default of MP.

11.4.2 Applicable provisions of this PPA shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination and, as applicable, to provide for: final billings and adjustments related to the period prior to termination, repayment of any money due and owing to either Party pursuant to this PPA, repayment of principal and interest associated with Security, and the indemnifications specified in this PPA.

11.4.3 If the existence of an Event of Default or a Party's right to terminate this Agreement is disputed, and the dispute has been submitted to dispute resolution pursuant to **Article 14**, the Party claiming the right to terminate shall not be able to exercise that right until the conclusion of dispute resolution or any other applicable legal proceeding resolving the dispute.

11.5 Aggregate Damage Limitation. Subject to **Section 1.4** and except as otherwise provided in this **Section 11.5**, Seller's aggregate liability to MP for Availability Liquidated Damages and other damages prior to the Commercial Operation Date as set forth under **Section 4.5** shall not exceed **[TRADE SECRET DATA EXCISED]** multiplied by the MP's Commitment. After the Commercial Operation Date and except as otherwise provided in this **Section 11.5**, Seller's aggregate liability to MP for Availability Liquidated Damages and other damages shall not exceed **[TRADE SECRET DATA EXCISED]** times the Installed Capacity (the "Aggregate Damage Limitation"). If MP incurs such damages and after MP's application of (i) all Security available under this PPA, (ii) any amounts offset against obligations of MP to Seller and (iii) payments made by Seller, Financiers or other Persons toward such damages, there remains a balance due to MP which Seller fails to pay as required, then MP may terminate this Agreement pursuant to **Sections 11.1.7** and **11.4**. The Aggregate Damage Limitation shall not apply to damages caused by or arising out of any of the following events and any such damages shall be due and payable without regard to the Aggregate Damage Limitation:

11.5.1 material intentional misrepresentation or intentional misconduct sanctioned by, or at the direction of, Seller in connection with this PPA;

11.5.2 the sale or diversion by Seller to another Person of Accreditable Capacity or Contract Energy to which MP is entitled under this PPA except to the extent permitted by this Agreement;

11.5.3 Seller's failure to apply any insurance proceeds to reconstruction of the Facility following a casualty as required by **Section 6.7**;

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11.5.4 any claim for Indemnification arising under **Article 12** of this Agreement;

or

11.5.5 any Environmental Contamination caused by Seller.

11.6 Seller's Right to Mitigate Damages. If MP fails to accept delivery of any Contract Energy, except for curtailment as permitted by **Sections 6.6** and **7.6** of this Agreement, (i) for a period of five (5) or more continuous Days or (ii) for any period after the sum of the number of Days described in clause (i) of this **Section 11.6** exceeds fifteen (15), notwithstanding any provision herein to the contrary, Seller shall be entitled to sell the Energy, Capacity and associated Green Tags produced by the Facility to MISO or another Person until such time as MP provides Notice to Seller that MP will resume receipt of delivery of the Contract Energy, and the net income from any such third-party sales shall be in the nature of mitigation of Seller's damages arising from MP's breach of its obligation to accept delivery of Contract Energy.

11.7 Specific Performance. Each Party recognizes that MP is relying upon the availability of the Installed Capacity and Contract Energy provided from the Facility and that this Agreement is a significant asset of Seller. Subject to **Section 1.4**, each Party further agrees that, if it defaults under this Agreement, and if the other Party thereafter brings an action seeking specific performance of this Agreement, the defaulting Party shall not defend against such action on the basis of the non-defaulting Party having an adequate remedy at law, provided that if MP is successful in obtaining a remedy against Seller for specific performance of this Agreement, in no event shall Seller be obligated to incur costs or expend amounts in an amount greater than Seller's aggregate liability to MP as specified in **Section 11.5**. Without limiting the rights of either Party as otherwise set forth in this Agreement, each Party hereby waives any and all rights to invoke any defenses to its respective obligations to perform under this Agreement to the extent based on the doctrines of commercial impracticability, impossibility of performance or frustration of purpose.

11.8 Remedies Cumulative. Subject to **Section 1.4** and the Aggregate Damage Limitation, and provisions of **Section 11.10** and except where an exclusive remedy or liquidated damages are provided, each right or remedy of the Parties provided for in this PPA shall be cumulative of and shall be in addition to every other right or remedy provided for in this PPA, and the exercise, or the beginning of the exercise, by a Party of any one or more of the rights or remedies provided for herein shall not preclude the simultaneous or later exercise by such Party of any or all other rights or remedies provided for herein.

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

11.10 Payment of Amounts Due to MP. Without limiting any other provisions of this **Section 11.10** and at any time before or after termination of this PPA, MP may send Seller an invoice for such damages or other amounts as are due to MP at such time from Seller under this PPA and any invoiced amounts not subject to good-faith dispute shall be payable within thirty (30) Days. MP may offset all such undisputed amounts from any monthly invoice due and owing to Seller up to a maximum amount equal to thirty percent (30%) of the invoice, and MP may withdraw funds from the Security as needed to provide payment for such undisputed amounts to the extent any such amounts are not paid by Seller or offset by MP on or before the tenth (10th) Business Day following the invoice due date.

11.11 Duty to Mitigate. Each Party agrees that it has a duty to mitigate damages in accordance with Applicable Law.

ARTICLE 12

INDEMNITY

12.1 Indemnification. Each Party (the "Indemnifying Party") agrees to indemnify, defend and hold harmless the other Party and its directors, officers, employees, members or agents (the "Indemnified Party") from and against all third-party claims, demands, losses, liabilities,

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penalties, and expenses (including reasonable attorneys' fees) for personal injury or death to persons and damage to the Indemnified Party's real property and tangible property or facilities or the property of any other Person to the extent arising out of, resulting from, or caused by an Event of Default under this PPA, a violation of any applicable environmental laws, or the negligent or intentional tortious acts, errors, or omissions of the Indemnifying Party or its directors, officers, employees, or agents. Nothing in this **Section 12.1** shall enlarge or relieve Seller or MP of any liability to the other for any breach of this Agreement. This indemnification obligation shall apply notwithstanding any negligent or intentional acts, errors or omissions of the Indemnified Party, but the Indemnifying Party's liability to pay damages to the Indemnified Party shall be reduced in proportion to the percentage by which the Indemnified Party's negligent or intentional acts, errors or omissions caused the damages. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

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

12.3 Indemnifying Party. If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this **Article 12**, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual loss, net of any insurance or other recovery.

12.4 Indemnity Procedures. Promptly after receipt by an Indemnified Party of any claim or Notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in **Section 12.1** may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such Notice shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

12.4.1 The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the defendants in any such action include one or more Indemnified Parties and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be legal defenses available to it and/or other Indemnified Parties which are different from or

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

12.4.2 The Indemnified Party shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Party and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of interest between the Indemnified Party and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Party, which shall not be reasonably withheld, conditioned or delayed.

12.5 Damages. Except as otherwise provided in this **Article 12**, if a Party is obligated to indemnify and hold the an Indemnified Party harmless under this **Article 12**, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's actual loss net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 13

INSURANCE

13.1 Evidence of Insurance. Prior to the start of construction and annually thereafter on or prior to any policy renewal date, Seller shall provide MP with copies of insurance certificates acceptable to MP evidencing that insurance coverages for the Facility are in compliance with the specifications for insurance coverage set forth below in this **Article 13**. Such certificates shall (a) reflect MP as an additional insured (except workers' compensation, builder's risk and property insurance); (b) provide that MP shall receive thirty (30) Days' prior written Notice of cancellation of any of the corresponding policies (except that such Notice shall be ten (10) Days for non-payment of premiums); (c) provide a waiver of any rights of subrogation against MP and its affiliated entities and their officers, directors, agents, subcontractors, and employees; and (d) indicate that the Commercial General Liability and/or Umbrella/Excess Liability policy has been

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endorsed as described above. All policies shall be written with insurers licensed to provide insurance in Minnesota with a Best's rating of A- or better and a financial category of VIII or better. All policies shall be written on an occurrence basis or other basis acceptable to MP, except as provided in this **Article 13**. All policies shall contain an endorsement that Seller's policy shall be primary in all instances regardless of like coverages, if any, carried by MP. Seller's liability under this PPA is not limited to the amount of insurance coverage required herein.

13.2 General Liability and Umbrella/Excess Liability Insurance. Commercial General Liability ("CGL") or Commercial Umbrella/Excess Liability ("EL") insurance shall be procured at a minimum limit of coverage of Twenty Million Dollars (\$20,000,000) combined single limit each occurrence and the aggregate, where applicable. If such insurance contains a general aggregate limit, it shall apply separately to the Facility.

13.2.1 CGL insurance, if provided, shall be written on ISO occurrence form CG 00 01 10 01 (or a substitute form providing equivalent coverage and acceptable to MP) and shall cover liability arising from operations, products/completed operations, premises, independent contractors, property damage, personal injury and advertising injury, contracts, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract), all with limits as specified above. There shall be no endorsement or modification of the CGL insurance limiting the scope of coverage for liability arising from collapse, explosion, or underground property damage. EL coverage, if provided, may be provided on an AEGIS claims-made form.

13.2.2 MP shall be included as an additional insured under the CGL policy, using ISO additional insured endorsement CG 20 10 10 01 (or an updated substitute providing equivalent coverage), and shall be included under the Commercial Umbrella Liability insurance. The EL insurance shall provide coverage in excess of the CGL insurance, the Business Automobile Liability insurance, and the Employers Liability insurance. The EL insurance, in addition to the underlying coverages, will provide a minimum of Twenty Million Dollars (\$20,000,000) in limits. MP shall be included as an additional insured under the EL policy through a blanket additional insured endorsement.

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

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13.3 Business Automobile Liability Insurance. If applicable, Business Automobile Liability insurance shall be procured at a level of One Million Dollars (\$1,000,000) per accident combined single limit bodily injury and property damage 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 an updated form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

13.4 Workers' Compensation Insurance. Workers' Compensation insurance shall be procured at the level required by relevant state statutes. Seller may comply with these requirements through the use of a qualified self-insurance plan.

13.5 Employers Liability Insurance. Employers Liability insurance shall be procured at the level of One Million Dollars (\$1,000,000) each accident for bodily injury by accident, or One Million Dollars (\$1,000,000) per employee for bodily injury by disease.

13.6 Builder's Risk Insurance. If applicable, Builder's Risk insurance shall be procured with a limit equal to the replacement value of the Facility except for the perils of flood and earthquake which may have a sub-limit of no less than Twenty-Five Million Dollars (\$25,000,000). Builder's Risk insurance, or an installation floater, shall include coverage for earthquake and flood, resulting damage from faulty workmanship, collapse, materials and design, testing of machinery or equipment, and debris removal. There shall be no limitation of coverage for occupancy prior to full completion and acceptance. Such Builder's Risk policy may contain a series loss clause. Design defect language will be equal to LEG 2 or higher.

13.7 Property Insurance. Broad Form Property insurance, covering physical loss or damage to the Facility, shall be procured at the full replacement value of the Facility or with lower limits acceptable to MP. A deductible may be carried, which deductible shall be the responsibility of Seller. Property insurance shall include coverage for flood, fire, wind and storm, tornado and earthquake with respect to facilities similar in construction, location and occupancy to the Facility, with sub-limits of no less than Twenty-Five Million Dollars (\$25,000,000) annual aggregate each for flood and earthquake. The Broad Form Property policy may contain a serial-loss clause and design defect language equal to LEG2 or higher.

13.8 Term and Modification of Insurance.

13.8.1 All liability insurance(s) required under this PPA shall cover occurrences during the Term or occurrences which occur during the Term but are not reported for a period of

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up to two (2) years after the Term. If any insurance as required herein is commercially available only on a “claims-made” basis, such insurance shall provide for a retroactive date not later than the Commencement Date or the date that an occurrence-based form is no longer purchased and such insurance shall be maintained by Seller, with a retroactive date not later than the retroactive date required above, for a minimum of three (3) years after the Term.

13.8.2 If any insurance required to be maintained by Seller hereunder ceases to be reasonably available and commercially feasible in the commercial insurance market, Seller shall provide written Notice to MP, accompanied by a certificate from an independent insurance advisor of recognized national standing, certifying that such insurance is not reasonably available and commercially feasible in the commercial insurance market for electric generating plants of similar type, geographic location and capacity. Upon receipt of such Notice, Seller shall use commercially reasonable efforts to obtain other insurance which would provide comparable protection against the risk to be insured and MP shall not unreasonably withhold its consent to modify or waive such requirement.

ARTICLE 14

DISPUTE RESOLUTION

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

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

14.1.2 If the Parties’ Representatives cannot agree to a resolution of the dispute within thirty (30) Days after the commencement of negotiations, written Notice of the dispute (the “Dispute Notice”), together with a statement describing the issues or claims, shall be delivered, within seventy-two (72) hours after the expiration of such thirty (30) Day period, by each of the Parties’ Representatives to its respective senior officer or official (such senior officer or official to be selected by each of the Party Representatives in his or her sole discretion, provided that such senior officer or official has authority to bind the respective Party). Within three (3) Business Days

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after receipt of the Dispute Notice, the senior officers or officials for both Parties shall commence negotiating in good faith to resolve the dispute.

14.1.3 If the Parties are unable to resolve the dispute within fourteen (14) Days of receipt of the Dispute Notice by the senior officers or officials or a Party refuses to participate in such negotiations on the timelines provided herein, either Party may seek available legal remedies.

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

ARTICLE 15

REPRESENTATIONS, WARRANTIES AND COVENANTS

15.1 Seller's Representations, Warranties and Covenants. Seller hereby represents and warrants as of the Effective Date as follows:

15.1.1 Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Minnesota. Seller is qualified to do business in each other jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller, and Seller has all requisite power and authority to conduct its business, to own its properties, and to execute, deliver, and perform its obligations under this PPA.

15.1.2 The execution, delivery, and performance of its obligations under this PPA by Seller have been duly authorized by all necessary company action, and do not and will not:

(a) require any consent or approval by any governing body of Seller, other than that which has been obtained and is in full force and effect (evidence of which shall be delivered to MP upon its request);

(b) violate any provision of law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award currently in effect having applicability to Seller or

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violate any provision in any formation documents of Seller, the violation of which could have a material adverse effect on the ability of Seller to perform its obligations under this PPA;

(c) result in a breach or constitute a default under Seller's formation documents or bylaws, or under any agreement relating to the management or affairs of Seller or any indenture or loan or credit agreement, or any other agreement, lease, or instrument to which Seller is a party or by which Seller or its properties or assets may be bound or affected, the breach or default of which could reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligations under this PPA; or

(d) result in, or require the creation or imposition of any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature (other than as may be contemplated by this PPA) upon or with respect to any of the assets or properties of Seller now owned or hereafter acquired, the creation or imposition of which could reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligations under this PPA.

15.1.3 This PPA is a valid and binding obligation of Seller, subject to the contingencies identified in **Section 1.3**.

15.1.4 The execution and performance of this PPA will not conflict with or constitute a breach or default under any contract or agreement of any kind to which Seller is a party or any judgment, order, statute, or regulation that is applicable to Seller or the Facility.

15.1.5 To the best knowledge of Seller, and except for those Permits identified in **Exhibit D**, which Seller anticipates will be obtained by Seller in the ordinary course of business, all Permits required by any Governmental Authority to authorize Seller's execution, delivery and performance of this PPA have been duly obtained and are in full force and effect.

15.1.6 Seller intends to comply with all applicable local, state, and federal laws, regulations, and ordinances, including, but not limited to, any applicable equal opportunity and affirmative action requirements and all applicable federal, state, and local environmental laws and regulations presently in effect or which may be enacted during the Term of this PPA.

15.1.7 Seller shall disclose to MP, to the extent that, and as soon as it is known to Seller, any violation of any environmental laws or regulations arising out of the construction or operation of the Facility, or the presence of Environmental Contamination at the Facility or on the Site, alleged to exist by any Governmental Authority having jurisdiction over the Site, or the

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existence of any past or present enforcement, legal, or regulatory action or proceeding relating to such alleged violation or alleged presence of Environmental Contamination.

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

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

15.2.2 The execution, delivery, and performance of its obligations under this PPA by MP have been duly authorized by all necessary corporate action, and do not and will not:

(a) require any consent or approval of MP's Board of Directors, or shareholders, other than that which has been obtained and is in full force and effect (evidence of which shall be delivered to Seller upon its request);

(b) violate any provision of law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award currently in effect having applicability to MP or violate any provision in any corporate documents of MP, the violation of which could have a material adverse effect on the ability of MP to perform its obligations under this PPA;

(c) result in a breach or constitute a default under MP's corporate charter or bylaws, or under any agreement relating to the management or affairs of MP, or any indenture or loan or credit agreement, or any other agreement, lease, or instrument to which MP is a party or by which MP or its properties or assets may be bound or affected, the breach or default of which could reasonably be expected to have a material adverse effect on the ability of MP to perform its obligations under this PPA; or

(d) result in, or require the creation or imposition of any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature (other than as may be contemplated by this PPA) upon or with respect to any of the assets or properties of MP now owned or hereafter acquired, the creation or imposition of which could reasonably be expected to have a material adverse effect on the ability of MP to perform its obligations under this PPA.

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15.2.3 This PPA is a valid and binding obligation of MP, subject to the contingencies identified in **Section 1.2**.

15.2.4 The execution and performance of this PPA will not conflict with or constitute a breach or default under any contract or agreement of any kind to which MP is a party or any judgment, order, statute, or regulation that is applicable to MP.

15.2.5 To the best knowledge of MP, and except for the contingencies set forth in **Section 1.2**, all approvals, authorizations, consents, or other action required by any Governmental Authority to authorize MP's execution, delivery and performance of this PPA have been duly obtained and are in full force and effect.

ARTICLE 16

FINANCING PROVISIONS

16.1 No Assignment Without Consent.

16.1.1 Except as expressly permitted in this **Section 16.1**, neither Party shall assign this PPA or any portion thereof, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; provided that (i) at least thirty (30) Days' prior Notice of any such assignment shall be given to the other Party; (ii) any assignee shall expressly assume the assignor's obligations hereunder, unless otherwise agreed to by the other Party, and no assignment, whether or not consented to, shall relieve the assignor of its obligations hereunder in the event the assignee fails to perform, unless the other Party agrees in writing in advance to waive the assignor's continuing obligations pursuant to this PPA; (iii) any assignee of Seller shall provide required Security; (iv) before the PPA is assigned by a Party, the proposed assignee must first obtain such approvals as may be required by all applicable Governmental Authorities; and (v) the proposed assignee is acceptable to any Financier to Seller and provides MP with reasonable evidence that the assignee itself, or the operator it proposes to use at the Facility, has past operational experience of at least two (2) years at a renewable generation facility of equal or greater size than the Facility.

16.1.2 Notwithstanding the foregoing, Seller's consent shall not be required for MP to assign this PPA to an Affiliate of MP, provided that MP provides assurances and executes documents reasonably required by Seller and any Financiers regarding MP's continued liability for all of MP's obligations under this PPA in the event of any nonperformance on the part of such assignee. If the assignee (i) has or obtains a Credit Rating equivalent to or better than the Credit

Rating of MP as of the Effective Date (which is BBB+ from S&P and A3 from Moody's, and therefore, as a result of the application of the split rating portion of the definition of "Credit Rating," shall be deemed to be Baa1 from Moody's for purposes of ascertaining whether the assignee's Credit Rating is equivalent or better than MP's Credit Rating), (ii) has or achieves a tangible net worth of [TRADE SECRET DATA EXCISED] at the time of MP's assignment of this PPA, and (iii) has or obtains substantially the same operational expertise and skills as possessed by MP immediately prior to such assignment, then Seller agrees to relieve MP from its obligations under this PPA and any other assurances upon written request by MP.

16.1.3 MP's consent shall not be required for Seller to assign this PPA for collateral purposes to any Financier.

16.2 Accommodation of Financier. To facilitate Seller's obtaining of financing to construct and operate the Facility, MP shall provide such consents to assignments, certifications, representations, information or other documents as may be reasonably requested by Seller or any Financier in connection with the financing of the Facility; provided that in responding to any such request, MP shall have no obligation to provide any consent, or enter into any agreement, that materially adversely affects any of MP's rights, benefits, risks and/or obligations under this PPA. Seller shall reimburse, or shall cause any Financier to reimburse, MP for the incremental direct expenses (including, without limitation, the reasonable fees and expenses of counsel) incurred by MP in the preparation, negotiation, execution and/or delivery of any documents requested by Seller or any Financier, and provided by MP, pursuant to this **Section 16.2**.

16.3 Change of Control. Except as otherwise provided in this **Section 16.3**, any direct change of control of Seller shall require the prior written consent of MP, which shall not be unreasonably withheld, conditioned or delayed. For purposes of this **Section 16.3**, a direct change of control shall mean a transfer of at least fifty percent (50%) of the voting rights of Seller as a result of the transfer of membership interests in Seller unless notwithstanding such a transfer of fifty percent (50%) or more of the voting rights of Seller, the direct and indirect owners of Seller as of the Effective Date retain Management Control. MP's consent shall not be required for any change of control other than a direct change of control as described above, including any change of control which occurs by transfer of ownership of membership interest in entities that own membership interests in Seller or by operation of Seller's member control agreement and which merely results in a change of percentage ownership among Persons (including Financiers) who constitute Seller's members and which does not involve the addition of a new member or transfer of voting rights to any other Person.

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

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

ARTICLE 17

MISCELLANEOUS

17.1 Notices. Notices required by this PPA shall be in writing and addressed to the other Party, including the other Party's Representative on the Operating Committee, at the addresses noted in **Exhibit E** as either Party updates them from time to time by written Notice to the other Party. Any Notice under this PPA shall either be hand delivered or delivered by first-class mail, postage prepaid, to the applicable representative of said other Party. If mailed, the Notice shall be simultaneously sent by facsimile or email. Any such Notice shall be deemed to have been received by the close of the Business Day on which it was postmarked, hand delivered or transmitted electronically (unless hand delivered or transmitted after the close of regular business hours in which case it shall be deemed received at the close of the next Business Day). Real-time or routine communications concerning Facility operations shall be exempt from this **Section 17.1**.

17.1.1 Each Party shall, prior to the Commercial Operation Date, identify in writing a designated representative and an alternate representative to serve as that Party's Representative and alternate representative on the Operating Committee.

17.1.2 Either Party may change the information for their Notice addresses in **Exhibit E** at any time without the approval of the other Party by providing Notice to the other Party.

17.2 Taxes.

17.2.1 Seller shall be solely responsible for any and all present or future taxes relating to the construction, ownership or leasing, operation or maintenance of the Facility, or any components or appurtenances thereof, and all ad valorem taxes relating to the Facility, and all personal property or production taxes assessed against the Facility, whether based on value or production, and income taxes payable on income earned by Seller. MP shall be responsible for

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any taxes imposed on its purchase of the Contract Energy, Accreditable Capacity and Green Tags or any transmission, use or sale of Contract Energy, Accreditable Capacity or Green Tags after MP's receipt at the Point of Delivery.

17.2.2 The Parties shall cooperate to minimize tax exposure; provided that neither Party shall be obligated to incur any financial burden to reduce taxes for which the other Party is responsible hereunder. All electric energy delivered by Seller to MP hereunder shall be sales for resale, with MP reselling such electric energy. MP shall obtain and provide Seller with any certificates required by any Governmental Authority, or otherwise reasonably requested by Seller to evidence that the deliveries of electric energy hereunder are sales for resale.

17.2.3 Seller is entitled to receive any federal tax credits pursuant to 26 U.S.C. §45, as amended, and any other production tax credits or payments or other tax credits, grants or assistance available to Seller or the Facility from any Governmental Authority, and MP acknowledges that Seller is entitled to such credits.

17.3 Fines and Penalties.

17.3.1 Any fines, penalties or other costs incurred by either Party or such Party's agents, employees or subcontractors for non-compliance by such Party or its agents, employees or subcontractors with the requirements of any Governmental Authority shall not be reimbursed by the other Party but shall be the sole responsibility of such non-complying Party.

17.3.2 If fines, penalties or other costs are assessed against a Party by any Governmental Authority or court of competent jurisdiction due to the wrongful or unlawful actions or inactions of the other Party, the Party causing the fine, penalty or other cost to be assessed shall indemnify and hold harmless the other Party against any and all losses, liabilities, damages and claims suffered or incurred thereby. The Indemnifying Party shall also reimburse the other Party for any and all legal or other expenses (including attorneys' fees) actually and reasonably incurred in connection with such losses, liabilities, damages and claims.

17.4 Rate Changes.

17.4.1 The terms and conditions and the rates for service specified in this Agreement shall remain in effect for the term of the transaction described herein. Absent the Parties' written agreement, this Agreement shall not be subject to change by application of either Party pursuant to Section 205 or 206 of the Federal Power Act.

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17.4.2 Absent the written agreement of all Parties to the proposed change, the standard of review for changes to this Agreement whether proposed by a Party, a non-party, or 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) (the “Mobile-Sierra doctrine”).

17.5 Buyer Purchase Option. Buyer shall have the option to purchase the Facility from Seller on the terms set forth in **Exhibit F**.

17.6 Relationship of the Parties.

17.6.1 The duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. This PPA shall not be interpreted to create an association, joint venture, or partnership between the Parties nor to impose any partnership obligation or liability or any trust or fiduciary obligation or relationship upon either Party. Except as specifically provided for in **Section 11.8**, 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.

17.6.2 Seller shall be solely liable for the payment of all wages, taxes, and other costs related to the employment of persons to perform Seller’s obligations under the PPA, including all federal, state, and local income, social security, payroll, and employment taxes and statutorily mandated workers’ compensation coverage. None of the persons employed by Seller shall be considered employees of MP for any purpose; nor shall Seller represent to any person that it is or shall become an MP agent.

17.6.3 In executing this PPA, MP does not, nor should it be construed to, extend its credit or financial support for the benefit of any third parties lending money to or having other transactions with Seller. Nothing in this PPA shall be construed to create any duty to, or standard of care with reference to, or any liability to, any Person not a party to this PPA.

17.6.4 The relationship between MP and Seller shall be that of contracting party to independent contractor. Accordingly, subject to the terms of this Agreement, MP shall have no general right to prescribe the means by which Seller shall meet its obligations under this Agreement.

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

17.8 Forward Contract. MP and Seller acknowledge and agree that this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code.

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

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

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

17.12 Binding Effect. This PPA, as it may be amended from time to time pursuant to this **Article 17**, shall be binding upon and inure to the benefit of the Parties hereto and their respective successors-in-interest and assigns permitted hereunder.

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

17.14 Waiver. Unless otherwise expressly set forth herein, the failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions of

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this PPA, or to take advantage of any of its rights thereunder, shall not constitute a waiver or relinquishment of any such terms, conditions, or rights, but the same shall be and remain at all times in full force and effect.

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

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

17.17 Publicity. The Parties will cooperate in good faith to agree upon press releases that can be issued following execution of the PPA, describing the location, size, type and timing of construction of the Facility; the long-term nature of the PPA; and other relevant factual information. Subject to the Parties' confidentiality obligation set forth in **Section 17.19**, nothing in this **Section 17.17** shall restrict the contacted Party from responding to any such media contact.

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

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

The Parties acknowledge and agree that during the course of the performance of their respective obligations under this Agreement, either Party may need to provide information to the other Party that the disclosing Party deems confidential, proprietary or trade secret. All documentation and data, including, but not limited to, contracts, special techniques, methods, computer programs and software, that the disclosing Party wants the receiving Party to maintain

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as confidential shall be designated as proprietary, confidential or trade secret (collectively “Proprietary Data”) and shall be treated as such by the receiving Party to be proprietary, confidential or trade secret. The disclosing Party hereby grants to the receiving Party authority to use Proprietary Data only for the purposes of this Agreement. The receiving Party agrees to keep such Proprietary Data confidential, to use it only for work necessary to the performance of this Agreement, and not to sell, transfer, sublicense, disclose or otherwise make available any such Proprietary Data to any other Persons, including any employees or agents of a Party (other than a Party’s counsel, consultants, accountants, lenders and prospective lenders, investors and prospective investors, and prospective purchasers, who agree to maintain the confidentiality of the information). If a Party is required by law or regulatory or judicial order to disclose Proprietary Information of the other Party, the receiving Party shall provide prompt Notice of the proposed disclosure in order that the disclosing Party may take such action as is appropriate to prevent, limit or condition such disclosure. In such an event, the receiving Party shall take all reasonable actions to prevent the disclosure, to limit the scope of the disclosure, or to condition the disclosure on the receipt of adequate protections. Without limiting the generality of the foregoing, each Party shall observe at least the same safeguards and precautions with regard to Proprietary Information of the other Party which such Party observes with respect to its own trade secret information. Each Party agrees that it will make Proprietary Information available to its own employees only on a need-to-know basis for purposes associated with approval or management of this Agreement, and that all Persons to whom such Proprietary Information is made available will be required to maintain the confidentiality of the information. MP specifically agrees that it shall not disclose any information or documents received from Seller to any MP agents, consultants, representatives, or contractors who are involved in the development, engineering, procurement, construction, operation, financing or otherwise with respect to energy conversion facilities to be owned or developed by MP, and MP employees shall not utilize any information or documents from Seller in the development, engineering, procurement, construction, operation, financing or otherwise with respect to energy conversion facilities to be owned or developed by MP. Notwithstanding the foregoing, either Party may disclose any Proprietary Information that becomes public information through no wrongful act of the receiving Party, or that is provided to the receiving Party by a third party without restriction known to the receiving Party and without breach of this Agreement. The obligations of the Parties under this **Section 17.19** shall remain in full force and effect for two (2) years following the termination of this Agreement.

Except as required by Applicable Law, regulation or securities exchange rule, any public announcement, press release or similar publicity with respect to this Agreement or the transaction

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contemplated hereby will be issued at such time, in such manner and with such content as the Parties mutually agree.

Notwithstanding the foregoing, the Parties will cooperate reasonably to prepare a “public version” of this PPA for inclusion in the public record at the MPUC. The Parties agree that the public version of this PPA will redact only such information that properly constitutes “trade secret” information.

ARTICLE 18

DEFINITIONS

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

“**Abandonment**” – (i) the sale of the Facility by Seller, other than a transfer permitted under this PPA, or (ii) prior to the Commercial Operation Date, complete cessation of all Facility-related activities and construction of the Facility for ninety (90) consecutive Days by Seller or Seller’s contractors, but only if such sale or cessation is not caused by or attributable to a default of, or request by, MP, or Force Majeure.

“**Accreditable Capacity**” – the amount of net generating capability associated with the Facility for which capacity credit has been obtained under applicable MISO rules at the time of execution and delivery of the Interconnection Agreement. Initially, such requirements are set forth in Module E of the MISO Tariff and MISO Business Practices Manual for Resource Adequacy and subject to delivery to Zone 1 as defined by MISO.

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

“**Aggregate Damage Limitation**” – shall have the meaning as set forth in **Section 11.5**.

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

“**Annual ERIS Evaluation**” – shall have the meaning set forth in the relevant Tariff or applicable MISO Business Practice Manuals – currently MISO BPM-015, Section 6.6 effective March 15, 2017.

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“**Annual Interim Deliverability Study**” – shall have the meaning set forth in the relevant Tariff or applicable MISO Business Practice Manuals – currently MISO BPM-015, Section 6.6 effective March 15, 2017.

“**Applicable Law**” – any statute, law, treaty, rule, regulation, ordinance, code, Governmental Approval, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, or any binding interpretation of the foregoing by a Governmental Authority, in each case applicable to MP, Seller or the Facility, as the case may be.

“**Available Hours**” for each Wind Turbine is the sum of the number of hours during a Measurement Period in which a Wind Turbine was available for energy production with Facility systems capable of delivering energy production to the Point of Delivery, as counted by a Wind Turbine’s programmable logic controller, *plus* without duplication, the number of hours during such Measurement Period in which a Wind Turbine was not available for energy production with Facility systems capable of delivering energy production to the Point of Delivery as a result of (i) Excused Curtailments, (ii) Compensated Curtailments, (iii) curtailment required in order to maintain compliance with environmental or regulatory obligations, (iv) Scheduled Outage/Deratings, (v) an Emergency (other than an Emergency caused by Seller’s breach of the PPA or the Interconnection Agreement), (vi) a Force Majeure event, (vii) the action or inaction of MP or any of its Affiliates or any of its or their agents, contractors, vendors or employees in breach of this Agreement, (viii) wind not being available at sufficient windspeed to operate the Wind Turbine below the Wind Turbine cut-in speed or wind being in excess of the Wind Turbine cut-out speed, or (ix) repowering activities on Wind Turbine(s) undertaken by Seller.

“**Availability Liquidated Damages**” – has the meaning set forth in **Section 3.2.1(a)**.

“**Back-Up Metering**” – has the meaning set forth in **Section 5.5.2**.

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

“**Buyer**” – ALLETE, Inc. d/b/a Minnesota Power, a Minnesota corporation, and its successors and permitted assignees.

“**Capacity**” – the output potential a machine or system can produce or carry under specified conditions. The capacity of generating equipment is generally expressed in MW. Capacity is also referred to as “capability” in the industry and for the purposes of this Agreement.

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“**CGL**” – has the meaning set forth in **Section 13.2**.

“**Capacity Buy-Down Payment**” – has the meaning set forth in **Section 4.6**.

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

“**Commercial Operation**” – the period beginning on the Commercial Operation Date and continuing through the Term.

“**Commercial Operation Date**” or “**COD**” – the date that Seller successfully satisfies the provisions of **Section 4.5** and all of the conditions specified in **Section 4.5** have occurred or otherwise been satisfied.

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

“**Commercial Operation Year**” – any consecutive twelve (12) month period, during the Term of this PPA, commencing with the Commercial Operation Date and including twelve (12) full months thereafter, and each twelve (12) month period thereafter.

“**Compensated Curtailment**” – has the meaning set forth in **Section 7.6.3**.

“**Construction Contract**” – the contract or contracts providing for the acquisition, manufacture, delivery and installation of the generating and step-up transformation equipment that is to be part of the Facility and the engineering, procurement and construction of the Facility. The Construction Contract may consist of a single engineering, procurement and construction contract, in which case such single engineering, procurement and construction contract shall constitute the Construction Contract, or it may consist of a series of contracts (such as a Wind Turbine supply and installation contract and a balance of plant contract), in which case such series of contracts shall collectively constitute the Construction Contract.

“**Contract Energy**” – for any relevant period of time, the amount of Energy generated by the Facility multiplied by MP’s Percentage, which amount is delivered to MP at the Point of Delivery, including Zonal Resource Credits in respect of such amount.

“**Contract Year**” – means a period starting at 12:01 a.m. on the Commercial Operation Date and ending at 11:59 p.m. on the last Day of the calendar month in which the first anniversary of the

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Commercial Operation Date occurs, and each successive “Contract Year” shall mean the twelve (12) month period following the prior Contract Year.

“**Control Area**” – the system of electrical generation, distribution, and transmission facilities within which generation is regulated in order to maintain interchange schedules with other such systems.

“**Credit Rating**” – with respect to any entity, the rating then assigned to such entity’s, unsecured, senior long-term debt obligations (not supported by third-party credit enhancements), or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating, with an outlook designation of “stable,” in either case by S&P or Moody’s. If rating by S&P and Moody’s are not equivalent, the lower rating shall apply.

“**Day**” – a calendar day.

“**Development Security**” – the Initial Development Security or the Stepped Up Development Security, as the case may be.

“**Dispute Notice**” – has the meaning set forth in **Section 14.1.2**.

“**Economic Curtailment**” – curtailments of delivery of Contract Energy that arise from MP’s scheduling and other market participation activities as may be required of MP as market participant for the Facility by the Market Operator, if any, including any such curtailment arising from any energy offer made by, or on behalf of, MP with respect to the Facility, including offers of price and quantity that result in curtailment. If Seller asserts that any curtailment was an Economic Curtailment and MP disputes that such curtailment arose from such scheduling or market participation activities of MP, MP shall furnish to Seller, subject to **Section 17.19**, copies of such records of MP relating to MP’s scheduling and market participation activities as Seller reasonably requests for purposes of resolving the dispute.

“**EL**” – has the meaning set forth in **Section 13.2**.

“**Electric Interconnection Point**” – the physical point identified and described in **Exhibit A** and which shall be the same location as the interconnection point under the Interconnection Agreement.

“**Electric Metering Device(s)**” – all meters, metering equipment, and data processing equipment used to measure, record, or transmit data relating to the electric power and energy output from the Facility.

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“**Eligible Energy Resource**” – any resource that qualifies as a renewable eligible energy technology under Minnesota Statutes Section 216B.1691, subdivision 1.

“**Emergency**” – an “Emergency” as defined in the Interconnection Agreement and the MISO Tariff.

“**Energy**” – the amount of electricity either used or generated over a period of time, expressed in terms of MWh.

“**Energy Deficit**” – for each Measurement Period, an amount (expressed in MWh) calculated as follows:

$$ED = [GA-MA] \times CE$$

where:

“ED” means the Energy Deficit for such Measurement Period;

“GA” means the minimum Mechanical Availability Percentage defined in **Section 3.2.1(a)**;

“MA” means the calculated Mechanical Availability Percentage for such Measurement Period; and

“CE” means the total Contract Energy delivered for such Measurement Period;

provided that, if such calculation results in a negative number, the Energy Deficit shall be deemed to be zero for such Measurement Period.

“**ERIS**” – Energy Resource Interconnection Service, as such term is defined in the MISO Tariff.

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

“**Event of Default**” – shall have the meaning set forth in **Sections 11.1** and **11.2** as applicable.

“**Excused Curtailment**” – shall have the meaning set forth in **Section 7.6.2**.

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“Facility” – Seller’s electric generating facility and all of Seller’s associated Interconnection Facilities, including, but not limited to, Seller’s equipment, buildings, generators, step-up transformers, output breakers, protective and associated equipment, improvements, and other tangible assets on the Site reasonably necessary for the construction, operation, and maintenance of the electric generating facility that produces the power and energy to be delivered to MP pursuant to this PPA and, if Seller elects but without modifying Seller’s obligation pursuant to this PPA, to other purchasers of power and energy.

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

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

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

“Financing Documents” – the loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, mortgages, interest rate exchanges, or swap agreements and other documents relating to the development, bridge, construction, tax equity financing, and/or the permanent financing or refinancing 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.

“Force Majeure” – causes or events beyond the reasonable control of, and without the fault or negligence of, the Party claiming Force Majeure, which by exercise of due diligence and reasonable foresight could not reasonably have been avoided, including, without limitation, (i) acts of God; (ii) sudden actions of the elements, such as floods, earthquakes, hurricanes or tornadoes, lightning, ice storms, high winds of sufficient strength or duration to materially damage a facility or significantly impair its operation for a period of time longer than normally encountered in similar businesses under comparable circumstances; (iii) serial manufacturing and/or design defects in the Wind Turbines or other major components comprising the Facility only in the event and to the extent that such occurrence is established to constitute a serial defect under Seller’s

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Wind Turbine supply agreement or Construction Contract; (iv) long-term material changes in renewable energy flows across the Facility caused by climactic change; (v) fire, sabotage, vandalism beyond that which could reasonably be prevented by Seller; terrorism; war; riots; fire; explosion; blockades; insurrection; (vi) actions or inactions by any Governmental Authority taken after the date hereof (including the adoption or change in any Applicable Laws imposed by such Governmental Authority); (vii) strikes, work stoppage or other labor disputes (in which case the affected Party shall have no obligation to settle the strike or labor dispute on terms it deems unreasonable) other than a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, or Seller's contractors, but only if such requirements, actions, or failures to act prevent or delay performance; and (viii) inability, despite due diligence, to obtain any Permits required by any Governmental Authority. Notwithstanding the foregoing, the term Force Majeure does not include (i) inability by Seller to procure Wind Turbines or any component parts, for any reason (the risk of which is assumed by Seller); (ii) any other acts or omissions of any third party, including any vendor, materialman, customer, or supplier of Seller, except failure of the Interconnection Provider (transmission owner) to complete all network upgrades (through no fault of Seller) necessary to deliver Contract Energy to the Point of Delivery, unless such acts or omissions are themselves excused by reason of Force Majeure; (iii) any full or partial curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishaps, events or conditions attributable to normal wear and tear or flaws, unless such acts or omissions are themselves excused by reason of Force Majeure; (iv) failure to abide by Good Utility Practices; (v) changes in market conditions that affect the cost of Seller's supplies, or that affect demand or price for power and/or Green Tags; strike; slow-down or labor disruptions against Seller or Seller's contractors or subcontractors; or (vi) foreseeable disruptions to the Facility caused by weather events typically experienced in the region of the country where the Facility is located, but excluding events and actions listed in this definition above.

"Forced Outage" – any condition that requires immediate removal of the Facility, or some part thereof, from service, another outage state, or a reserve shutdown state.

"GIA Agreements" – has the meaning set forth in **Section 1.2.4(b)**.

"GIA Agreements Deadline Date" – has the meaning set forth in **Section 1.2.4(b)**.

"Good Utility Practice(s)" – any of the practices, methods, and acts engaged in or approved by a significant portion of the electric or electric power generation industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in

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light of the facts known or reasonably should have known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

“Governmental Authority” – any nation, government, state or other political subdivision thereof, whether foreign or domestic, including, without limitation, any municipality, township and county, and any entity exercising executive, legislative, judicial, regulatory, or administrative functions of or pertaining to government, including, without limitation, any corporation or other entity owned or controlled by any of the foregoing.

“Green Tags” – any contractual right to the full set of non-energy attributes, including any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, directly attributable to a specific amount of capacity and/or electric energy generated from an Eligible Energy Resource, including any and all environmental air quality credits, benefits, emissions reductions, off-sets, allowances, or other benefits as may be created or under any existing or future statutory or regulatory scheme (federal, state, or local) by virtue of or due to the Facility’s actual energy production or the Facility’s energy production capability because of the Facility’s environmental or renewable characteristics or attributes, including any renewable energy credits or similar rights arising out of or eligible for consideration in the M-RETS Program, provided that Green Tags exclude any Renewable Energy Incentives.

“Guarantor” – (i) subject to clause (ii) of **Section 9.2.4**, Tenaska Energy, Inc. and Tenaska Energy Holdings, LLC, jointly and severally, or (ii) a Person with an Investment Grade Credit Rating, who is not an Affiliate of MP, and who has issued a Guaranty for the benefit of MP.

“Guaranty” – a guaranty for the benefit of MP issued by Guarantor, in the form attached hereto as **Exhibit G** or otherwise acceptable to MP.

“Hazardous Materials” – any substance, material, gas, or particulate matter that is regulated by any Governmental Authority as an environmental pollutant or dangerous to public health, public welfare, or the natural environment including, without limitation, protection of non-human forms of life, land, water, groundwater, and air, including, but not limited to, any material or substance that is (i) defined as “toxic,” “polluting,” “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” “solid waste” or “restricted hazardous waste” under any provision of local, state, or federal law; (ii) petroleum, including any fraction, derivative or

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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).

“**Indemnified Party**” – has the meaning set forth in **Section 12.1**.

“**Indemnifying Party**” – has the meaning set forth in **Section 12.1**.

“**Initial Development Security**” – shall have the meaning set forth in **Section 9.1.1**.

“**Installed Capacity**” – shall have the meaning set forth in **Section 3.1**.

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

“**Interconnection Facilities**” – all the facilities installed for the purpose of interconnecting the Interconnection Provider’s System and the Facility but not including any Interconnection Provider’s Interconnection Facilities prior to the Interconnection Provider’s System.

“**Interconnection Facilities Study**” – the MISO network upgrade facilities study to be issued at the conclusion of MISO’s definitive planning phase 3, the PJM affected system facilities study issued by PJM or a PJM transmission owner following determination of final PJM affected system impacts or the SPP affected system facilities study issued by SPP or an SPP transmission owner following determination of final SPP affected system impacts, in each case that evaluates the impact of the Facility’s proposed interconnection on the safety and reliability of Buyer’s transmission system and all other electric transmission or distribution systems or the electric system associated with an existing generating facility or of a generating facility higher in the interconnection queue than the Facility that are affected by the Facility’s interconnection.

“**Interconnection Provider**” – the Person that owns and operates the transmission lines, Interconnection Provider Interconnection Facilities and other equipment and facilities with which

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the Facility interconnects at the Electric Interconnection Point, and any successor(s) or permitted assignees thereto.

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

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

“Investment Grade Credit Rating” – with respect to (a) a corporation, limited liability company, partnership, or other entity other than a financial institution, a Credit Rating of BBB or above from Standard & Poor’s Corporation (“S&P”) or Baa2 or above from Moody’s Investors Service (“Moody’s”), in each case with a “stable” outlook, or (b) a financial institution, a rating on the senior long-term debt of such financial institution of BBB or above from S&P or Baa2 or above from Moody’s, in each case with a “stable” outlook, and provided in each case that if ratings by S&P and Moody’s are not equivalent, the lower rating shall apply.

“IRP Compliance Filings” – has the meaning set forth in **Section 1.2.2**.

“IRP Compliance Filings Approval Deadline Date” – has the meaning set forth in **Section 1.2.2**.

“Issuer” – has the meaning set forth in **Section 9.2.3**.

“kWh” – kilowatt-hour.

“kVar” – kilovar.

“LOC” – has the meaning set forth in **Section 9.2.3**.

“Maintenance Schedule” – has the meaning set forth in **Section 6.2.3**.

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

“**Management Control**” – the possession, direct or indirect, of the power to contractually exercise control over the day-to-day management, operations, affairs and business of Seller, provided that for the purposes of this definition, any requirement that consents or approvals from Governmental Authorities, independent managers or directors, creditors or other investors and holders of any equity interests in Seller be obtained in order to take specified actions by or on behalf of Seller shall not be deemed to constitute the failure to possess the power to contractually exercise control over the day-to-day management, operations, affairs and business of Seller.

“**Market Operator**” – the entity that instructs market participants and/or generators to regulate generation assets, including the Facility, within any energy market in which MP participates with respect to the Contract Energy or Accreditable Capacity and Ancillary Services 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 also the Transmission Provider, then “Market Operator” shall be construed to mean such entity acting in its capacity as the entity that instructs market participants and/or generators to regulate generation assets, including the Facility, within the energy market in which MP participates with respect to the Contract Energy or Accreditable Capacity and Ancillary Services based on price-based offer curves for the purpose of matching generation output to system load demand while maintaining bulk electric system reliability.

“**Material Tax Legislation**” –Public Law 115–97, an Act to Provide for Reconciliation pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018, also known as the Tax Cuts and Jobs Act.

“**Material Tax Legislation Deadline Date**” – the last Day on which the 115th United States Congress is in session.

“**Measurement Period**” – each twenty-four (24) consecutive calendar month period during the Term following the beginning of the second Contract Year (i.e., month 13 following the Commercial Operation Date), with the first such Measurement Period comprising full calendar months 13 through 36 following the Commercial Operation Date, the second such Measurement Period composed of calendar months 14 through 37 following the Commercial Operation Date, and so forth until the end of the Term.

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“**Mechanical Availability Percentage**” – a percentage calculated for each Measurement Period in accordance with the following formula:

$$\text{Mechanical Availability Percentage} = 100 \times \frac{\text{(sum of all Available Hours for all Turbines during the applicable Measurement Period)}}{\text{(sum of all Period Hours for all Turbines during the applicable Measurement Period)}}$$

“**MEMA**” – the Mid-Continent Energy Marketers Association, or any successor organization.

“**Minimum Capacity**” – shall have the meaning set forth in **Section 4.5.1**.

“**MISO**” – the Midcontinent Independent System Operator, Inc. and any successor organization.

“**MISO Outage Manual**” – shall have the meaning set forth in **Section 6.2.5**.

“**MP’s Commitment**” – an amount equal to the Installed Capacity.

“**MP’s Percentage**” – the quotient, expressed as a percentage, determined by dividing MP’s Commitment by the Rated Capacity; provided that if there is a curtailment of the Other Buyers’ respective shares of the Energy from the Facility, then MP’s Percentage shall mean the quotient expressed as a percentage, determined by dividing MP’s Commitment by the Rated Capacity minus the Other Buyers’ curtailed capacity (in MW).

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

“**MPUC Approval**” – receipt of a written final order from the MPUC approving this PPA as described in Section 1.2.1 or the IRP Compliance Filings as described in Section 1.2.2, or which otherwise approves this PPA as described in Section 1.2.1 or the IRP Compliance Filings as described in Section 1.2.2, and in the public interest, subject only, as to this PPA, to the MPUC’s ongoing jurisdiction to review the prudence of MP’s purchases of Contract Energy, Accreditable Capacity and Green Tags pursuant to the PPA.

“**MPUC Approval Deadline Date**” – has the meaning set forth in **Section 1.2.1(a)**.

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

“**MRO**” – the Midwest Reliability Organization and any successor organization.

“**MW**” – megawatt.

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“**MWh**” – megawatt-hour.

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

“**Network Integration Transmission Service**” – a transmission service pursuant to which firm transmission service is provided over the transmission system to a network customer for the delivery of capacity and energy from its designated Network Resources to service its Network Loads all as defined in the MISO Tariff.

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

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

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

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

“**On-Peak Months**” – the calendar months of January, February, June, July, August, and December.

“**Operating Committee**” – one representative each from MP and Seller as described in **Section 8.3**.

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

“**Other Buyers**” – any person other than Buyer with a contract to purchase Energy from the Facility.

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

“**Parties’ Representatives**” – has the meaning set forth in **Section 14.1.1**.

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

“**Party Representative**” – has the meaning set forth in **Section 14.1.1**.

“**Performance Security**” – has the meaning set forth in **Section 9.1.3**.

“**Period Hours**” – the total sum of hours for any given Measurement Period.

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

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

“**PJM**” - PJM Interconnection LLC and any successor organization.

“**Point of Delivery**” – the high-side of the step-up transformer at the Facility’s busbar at which Seller makes available to MP and delivers to MP the Contract Energy being sold by Seller to MP under this PPA.

“**Proprietary Data**” – has the meaning set forth in **Section 17.19**.

“**PTCs**” – federal production tax credits arising from electricity produced from certain renewable resources pursuant to 26 U.S.C. §45 as amended, or such substantially equivalent tax credit that provides Seller (or its owners) with a tax credit based on energy production from any portion of the Facility.

“**PTC Benefits**” – the value of PTCs derived from the delivery or deemed delivery of Contract Energy, such value equal to the then applicable PTC amount as published by the Internal Revenue Service divided by (1 – the sum of the then applicable highest applicable federal and applicable state marginal income tax rate, expressed as a decimal).

“**Rated Capacity**” – the sum of the capacity of the Wind Turbines comprising the Facility, calculated using the manufacturer’s nameplate capacity rating.

“**Renewable Energy Incentives**” – (a) all federal, state, or local tax credits or other tax benefits associated with the construction, ownership, or production of electricity from the Facility (including credits under Sections 38, 45, 46 and 48 of the Internal Revenue Code of 1986, as

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amended), including PTCs; (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility, including a cash grant available under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, provided in lieu of federal tax credits or any similar or substitute payment available under subsequently enacted federal legislation; (c) depreciation and other tax benefits arising from ownership or operation of the Facility unrelated to its status as a generator of renewable or environmentally clean energy; and (d) any other form of incentive relating in any way to the Facility that are not a Green Tags.

“Required Network Upgrades” – all facilities, other than Transmission Owner’s Interconnection Facilities, identified in all Interconnection Facilities Studies, including System Protection Facilities, Network Upgrades, Distribution Upgrades, Generator Upgrades, Common Use Upgrades, and upgrades on Affected Systems, for which Seller, as a generation resource, is responsible pursuant to the MISO, SPP or PJM tariff(s) and located at or beyond the Point of Interconnection. Capitalized terms used in this definition and not defined in this Agreement have the meanings given thereto in MISO FERC Electric Tariff Attachment X – Appendix 6 to GIP Generation Interconnection Agreement, as in effect on the Effective Date.

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

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

“Security” – the amount and type of Initial Development Security, Stepped Up Development Security or Performance Security, as applicable, that Seller is required to establish and maintain, pursuant to **Article 9**, as security for Seller’s performance under this PPA.

“Seller” – Nobles 2 Power Partners, LLC, a Minnesota limited liability company, and its successors and permitted assignees.

“Seller Network Upgrade Cost Cap” – has the meaning given thereto in **Section 1.2.3**.

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

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“**SPP**” - Southwest Power Pool, Inc. and any successor organization.

“**Stepped Up Development Security**” – has the meaning given thereto in **Section 9.1.2**.

“**Tariff**” – the MISO Open Access Transmission and Energy Markets Tariff in effect and as amended from time to time in accordance with applicable FERC regulations and applicable MISO Business Practice Manuals.

“**Term**” – the period of time during which this Agreement is in effect.

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

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

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

18.2 Rules of Construction. The capitalized terms in this Agreement shall have the meanings set forth herein whenever the terms appear in this PPA, whether in the singular or the plural or in the present or past tense. Other terms used in this PPA but not listed in **Section 18.1** shall have meanings as commonly used in the English language and the generally accepted technical or trade meanings for technical terms used herein. In addition, the following rules of interpretation shall apply:

18.2.1 (a) The masculine shall include the feminine and neuter, (b) the definitions of terms herein shall apply equally to the singular and plural forms of the terms defined, (c) the words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation,” and (d) the word “or” is not exclusive.

18.2.2 References to “**Articles**,” “**Sections**,” or “**Exhibits**” shall be to **Articles**, **Sections**, or exhibits of this PPA.

18.2.3 The Exhibits attached hereto are incorporated in and made a part of this PPA; provided that in the event of a conflict between the terms of any Exhibit and the terms set forth in the body of this PPA, the terms set forth in the body of this PPA shall take precedence.

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18.2.4 This PPA was negotiated and prepared by both Parties with advice of counsel to the extent deemed necessary by each Party. The Parties have agreed to the wording of this PPA, and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this PPA or any part hereof.

18.2.5 The Parties shall act in accordance with the principles of good faith and fair dealing in the performance of this PPA. Unless expressly provided otherwise in this PPA, (a) where the PPA requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned or delayed, and (b) wherever the PPA gives a Party a right to determine, require, specify or take similar action with respect to a matter, such determination, requirement, specification or similar action shall be reasonable.

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APPENDIX A

Signature page to Amended and Restated Power Purchase Agreement made as of the ___ day of August, 2018 by and between ALLETE, Inc. d/b/a/ Minnesota Power and Nobles 2 Power Partners, LLC

IN WITNESS WHEREOF, the Parties have executed this PPA.

Nobles 2 Power Partners, LLC:

By: _____

Its:

Name:

ALLETE, INC., d/b/a Minnesota Power:

By: _____

Its:

Name:

APPENDIX A

EXHIBIT A

FACILITY DESCRIPTION, ONE-LINE DIAGRAM, AND SITE MAP

The information on this Exhibit as of the Effective Date is subject to revision pursuant to Section 4.2.

The Facility will consist of one of the following two configurations.

Configuration 1 will consist of two turbine models as follows: (A) ten (10) to twenty-one (21) generators manufactured by Vestas and designated as its V110-2.0 model rated at 2.0 MW and (B) fifty-eight (58) to sixty-four (64) generators manufactured by Vestas and designated as its V136-3.6 model rated at 3.6 MW.

Configuration 2 will consist of two turbine models as follows: (A) ten (10) to twenty-one (21) generators manufactured by Vestas and designated as its V110-2.0 model rated at 2.0 MW and (B) one hundred four (104) to one hundred fifteen (115) generators manufactured by Vestas and designated as its V116-2.0 model rated at 2.0 MW.

The Facility will have a total Rated Capacity of not less than the Installed Capacity of between 247 MWs and 253 MWs as specified in writing by Seller to MP pursuant to Section 3.1, as may be adjusted pursuant to Section 4.6.

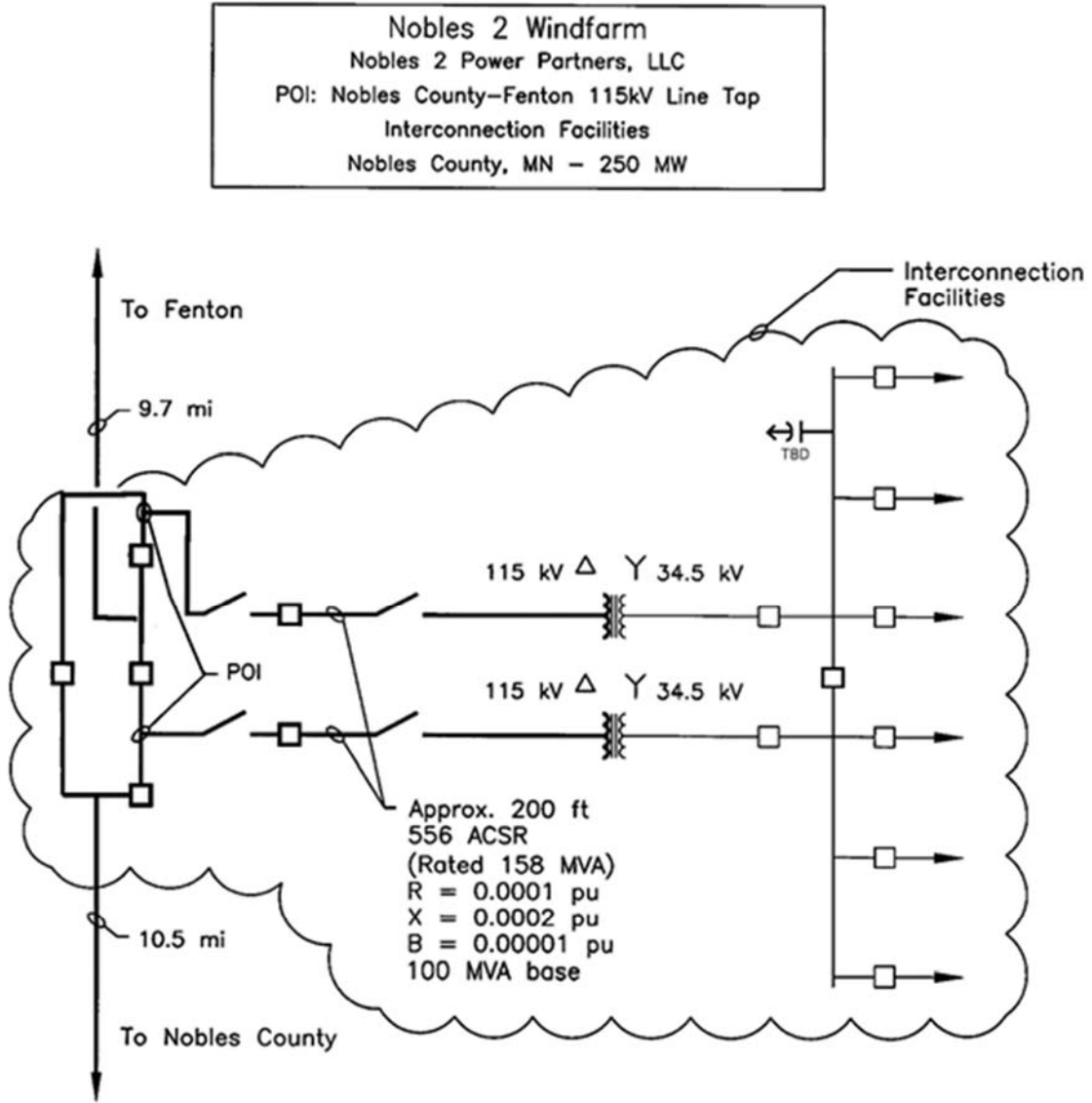
Access roads will be constructed to allow access by construction and delivery equipment and trucks, and reduced, as necessary, to appropriate size at the completion of construction.

The Facility will be located near Wilmont, Nobles County, Minnesota and interconnect with Xcel Energy.

Figure 1 is the Facility and interconnect one-line diagram taken from the interconnection request. Figure 2 is a Site map of the Facility.

(The remainder of this page is intentionally blank)

Figure 1: One-Line Diagram



NOTES:

- TWO 115/34.5 kV transformers are 150 MVA, with LTC, $X = 0.09$ pu, on 100 MVA base.

Figure 2: Site Map

As of the Effective Date the turbine layout on the Site is not yet determined and accordingly is not shown.

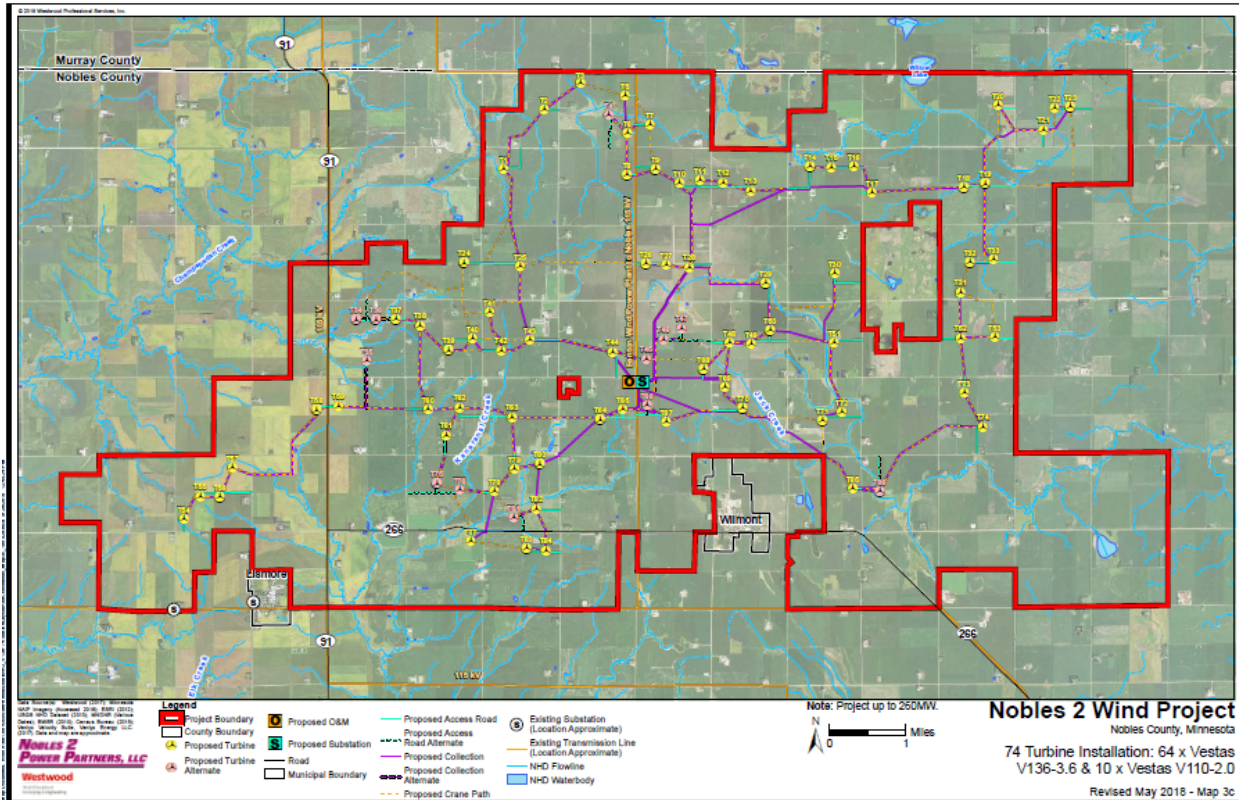


EXHIBIT B

CONTRACT ENERGY PRICE SCHEDULE 20 YEARS

Contract Year	Contract Energy Price (\$/MWh) [TRADE SECRET DATA EXCISED]
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	

Projected Contract Year 1 Starting Date: October 1, 2020
Commercial Operation Milestone: October 1, 2020

APPENDIX A

EXHIBIT C

MAJOR MILESTONES

Milestone	Estimated Date of Achievement
Receipt of Major Permits	December 31, 2018
Interconnection Agreement Signed by All Parties Thereeto	December 31, 2019
Specify Final Facility Configuration	December 1, 2019
Notice to Proceed Issued to Balance of Plant Contractor	January 1, 2020
Beginning of Erection of First Turbine	June 30, 2020
Delivery of Main Transformers to Site	July 31, 2020
Beginning of Commissioning of First Turbine	August 31, 2020
Commercial Operation Date	October 1, 2020

APPENDIX A

EXHIBIT D

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

Permit/ Approval	Issuing Agency
Site Permit for Large Wind Energy Conversion System	Minnesota Public Utilities Commission/Minnesota Department of Commerce
Determination of No Hazard to Air Navigation	Federal Aviation Administration
National Pollution Discharge Elimination System Permit – General Storm Water Permit for Construction Activity	Minnesota Department of Natural Resources
Federal Clean Water Action Section 404 Permit, if required (Wetlands)	U.S. Army Corps of Engineers
Section 401 Water Quality Certification	Minnesota Pollution Control Agency
Threatened and Endangered Species, Migratory Birds, Bald and Golden Eagle, Wildlife Consultation as required	U.S. Fish and Wildlife Service; Minnesota Department of Natural Resources
Utility Occupancy Permit(s)	Minnesota Department of Transportation/Minnesota Highway Patrol
Oversize/Overweight Permit(s) for State Highways	Minnesota Department of Transportation/Minnesota Highway Patrol
Access Driveway Permit(s) for Minnesota Department of Transportation Highways	Minnesota Department of Transportation/Minnesota Highway Patrol
Road Use and Maintenance Agreement(s)	Nobles County, MN
Building Permit(s)	Nobles County, MN
Utility Permit(s)	Nobles County, MN
Oversize/Overweight Permit(s) for County Roads	Nobles County, MN
Access Driveway/Approach Permit(s) for County Roads	Nobles County, MN
Exempt Wholesale Generator Certificate	Federal Energy Regulatory Commission
Market-Based Rate Authorization	Federal Energy Regulatory Commission
Additional federal or state permits as may be required depending on the types of activities during construction and operation	Relevant federal or state agency, as applicable
Additional municipal permits as may be required depending on exact final location of all assets comprising the Facility	Relevant municipal agency, as applicable

APPENDIX A

EXHIBIT E

NOTICE ADDRESSES

MP	SELLER
<p>Notices: Minnesota Power Vice President Strategy & Planning 30 W. Superior Street Duluth, MN 55802 Phone: (800) 228-4966 Fax: (218) 723-3915</p> <p>With a copy to:</p> <p>Chief Legal Officer Minnesota Power 30 W. Superior Street Duluth, MN 55802 Phone: (800) 228-4966 Fax: (218) 723-3955</p>	<p>Notices: Nobles 2 Power Partners, LLC 14302 FNB Parkway Omaha, NE 68154 Phone: (402) 691-9500 Fax: (402) 691-9719</p> <p>With a copy to:</p> <p>General Counsel Nobles 2 Power Partners 14302 FNB Parkway Omaha, NE 68154 Phone: (402) 691-9500 Fax: (402) 691-9723</p>
<p>Operating Committee Representative:</p> <p>To be specified in accordance with Section 17.1.1</p> <p>Alternate: To be specified in accordance with Section 17.1.1</p>	<p>Operating Committee Representative:</p> <p>To be specified in accordance with Section 17.1.1</p> <p>Alternate: To be specified in accordance with Section 17.1.1</p>

EXHIBIT F

TERMS OF BUYER PURCHASE OPTION

[TRADE SECRET DATA EXCISED]

EXHIBIT G

FORM OF GUARANTY

In consideration of Allete, Inc., d/b/a Minnesota Power (“Company”), entering into a power purchase agreement with Nobles 2 Power Partners, LLC (hereinafter referred to as “Applicant”), Tenaska Energy, Inc., a Delaware corporation, and Tenaska Energy Holdings, LLC, a Delaware limited liability company (hereinafter individually and collectively referred to together as “Guarantor”), agree with Company as follows:

1. The term “Obligations” shall mean all obligations, liabilities and indebtedness of any kind whatsoever arising in connection with the Amended and Restated Power Purchase Agreement, dated _____, 2018 between the Company and Applicant; provided that if an Affiliate of the Company has an ownership interest in the Applicant, the obligations shall be a percentage of the foregoing equal to the Guarantor’s direct or indirect ownership interest in the Applicant in the aggregate. The amount of Obligations existing from time to time shall be calculated after giving effect to all contractual netting arrangements between Applicant and the Company.

2. Guarantor unconditionally and irrevocably guarantees to Company the full, prompt and faithful payment and performance when due of each and all of the Obligations; provided, however, that Guarantor’s total liability hereunder shall not exceed [INSERT AMOUNT OF REQUIRED PERFORMANCE SECURITY]. The Obligations of the Guarantors in this Section 2 are joint and several.

3. This is a continuing guaranty relating to the Obligations.

4. Any of the Obligations may be amended, modified, waived, or increased (whether or not beyond any dollar limitation hereunder) from time to time by Applicant and without further authorization from or notice to Guarantor, and no such action shall terminate, release, impair, reduce, discharge, diminish or in any way affect any of the Obligations of Guarantor hereunder or any security furnished by Guarantor or give Guarantor any recourse or defense against Company. Company need not inquire into the power of Applicant or the authority of its officers, directors, partners or agents acting or purporting to act in its behalf.

5. With respect to all Obligations, this is a guaranty of payment and performance and not of collection, and Guarantor waives and agrees not to assert or take advantage of:

APPENDIX A

(a) any right to require Company to proceed against Applicant or any other person or to resort to, proceed against or exhaust any security held by it at any time or to pursue any other remedy in its power before proceeding against any Guarantor;

(b) demand, presentment, protest and notice of any kind including, without limiting the generality of the foregoing, notice of nonperformance, protest, dishonor and acceptance of this Guaranty, and notice of the existence, creation or incurring of any new or additional indebtedness or obligation or of any action or non-action on the part of Applicant, Company, a guarantor under this or any other instrument, or creditor of Applicant or any other person whomsoever, in connection with any of the Obligations or any collateral for any of the Obligations or in connection with any of the Obligations; and

(c) any suretyship defenses and suretyship rights of every nature otherwise available under Minnesota law and the laws of any other state or jurisdiction.

6. All existing and future indebtedness of Applicant to Guarantor (“Intercompany Obligations”) is subordinated to all Obligations hereby guaranteed. In the event of any default in the payment of any of the Obligations when due and until the Obligations guaranteed hereby have been paid in full, Guarantor shall pay to Company immediately any payments of such Intercompany Obligations received by Guarantor.

7. Guarantor agrees to pay all attorneys’ fees (including, without limitation, reasonably allocated fees of in-house counsel) and all other costs and expenses which may be incurred by Company in the enforcement of this Guaranty against Guarantor.

8. This Guaranty is not assignable by Guarantor without Company’s consent. This Guaranty shall inure to the benefit of Company and its successors and assigns, including the assignees of any Obligations, and bind the heirs, executors, administrators, successors and permitted (if any) assigns of Guarantor. This Guaranty is assignable by Company with respect to all or any portion of the Obligations, and when so assigned Guarantor shall be liable to the assignees under this Guaranty without in any manner affecting the liability of Guarantor hereunder with respect to any Obligations retained by Company.

9. This Guaranty shall be governed by and construed in accordance with the laws of the State of Minnesota, without reference to its choice of law provisions. Guarantor hereby irrevocably and unconditionally agrees that any legal action or proceeding against Guarantor or any of Guarantor’s property with respect to this Guaranty may be brought in the federal courts for the County of Hennepin, Minnesota, as Company may elect, and by executing and delivering this

APPENDIX A

Guaranty Guarantor hereby submits to and accepts with regard to any such action or proceeding for himself, herself or itself and in respect of his, her or its property, generally, irrevocably and unconditionally, the jurisdiction of the above mentioned courts.

10. Except as provided in any other written agreement now or at any time hereafter in force between Company and Guarantor, this Guaranty shall constitute the entire agreement of Guarantor with Company with respect to the subject matter hereof and no representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon Company unless expressed herein.

11. All notices, demands, requests and other communications required or permitted hereunder shall be in writing and shall be given personally, by certified or registered mail, postage prepaid, return receipt requested, or by reliable overnight courier to the address of the Company set forth below (or to such new address as Company may designate hereafter in a notice to Guarantor) in the case of a communication to the Company and to the address appearing next to Guarantor's signature on this Guaranty (or to such new address as Guarantor may designate hereafter in a notice to Company) in the case of a communication to Guarantor. Any notice served personally shall be deemed delivered upon receipt, and any notice served by certified or registered mail or by reliable overnight courier shall be deemed delivered on the date of receipt as shown on the addressee's registry or certification of receipt or on the date receipt is refused as shown on the records or manifest of the U.S. Postal Service or such courier.

12. Until all of the Obligations guaranteed hereby have been satisfied in full, Guarantor shall have no right of subrogation or reimbursement from Applicant which Guarantor may have as a result of any payment by Guarantor under this Guaranty, and waives any right to enforce any remedy which Company now has or may hereafter have against Applicant as a result of such payment by Guarantor under this Guaranty and any other benefit of or right to participate in any security now or hereafter held by Company.

13. All amounts payable by Guarantor hereunder shall be paid without set-off or counterclaim and without any deduction or withholding whatsoever unless and to the extent that Guarantor shall be prohibited by law from doing so, in which case Guarantor shall pay to Company such additional amount as shall be necessary to ensure that Company receives the full amount it would have received if no such deduction or withholding had been made.

14. If any portion of this Guaranty is held to be unenforceable by a court of competent jurisdiction, the remainder of this Guaranty shall remain in full force and effect.

APPENDIX A

IN WITNESS WHEREOF, the undersigned Guarantor has executed this Guaranty on [MONTH AND DAY], [YEAR].

GUARANTOR:

Tenaska Energy Holdings, LLC

By Tenaska Energy, Inc., its manager

By: _____

Name:

Title:

Address:

14302 FNB Parkway

Omaha, NE 68154

Attention:

Tenaska Energy, Inc.

By: _____

Name:

Title:

Address:

14302 FNB Parkway

Omaha, NE 68154

Attention: