

# WIND ENERGY PURCHASE AGREEMENT

BETWEEN

**NORTHERN STATES POWER COMPANY,  
A MINNESOTA CORPORATION**

AND



**PRAIRIE ROSE WIND, LLC**



**June 7, 2011**

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**WIND ENERGY PURCHASE AGREEMENT**  
**BETWEEN**  
**PRAIRIE ROSE WIND, LLC**  
**AND**  
**NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION**

This Wind Energy Purchase Agreement (this "PPA") is made this \_\_\_ day of June 2011 ("Effective Date"), by and between (i) Prairie Rose Wind, LLC ("Seller"), a Minnesota limited liability company with a principal place of business at 7650 Edinborough Way, Suite 725, Edina, Minnesota 55435 and (ii) Northern States Power Company ("Company"), a Minnesota corporation with headquarters in Minneapolis, Minnesota. Seller and Company are hereinafter referred to individually as a "Party" and collectively as the "Parties".

WHEREAS Seller desires to develop, design, construct, own and operate a renewable wind-energy conversion electric generating facility with an expected total Nameplate Capacity of approximately 200 MW, and which is further defined below as the "Facility"; and

WHEREAS Seller intends to locate the Facility in Rock and Pipestone counties and to interconnect the Facility with the Interconnection Provider's System; and

WHEREAS Seller desires to sell and deliver to Company at the Point of Delivery the Renewable Energy produced by the Facility and associated Renewable Energy Credits, and Company desires to buy the same from Seller in accordance with the terms and conditions set forth in this PPA; and

WHEREAS Geronimo Wind Energy, LLC, a Minnesota limited liability company and Affiliate of Seller (together with its wholly-owned subsidiary, Prairie Rose Wind 2, LLC, "PRW2"), and Company are negotiating the Option Agreement with respect to Company's option to purchase a project site adjacent to the Facility Site.

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

**Article 1 - Definitions and Rules of Interpretation**

1.1 Rules of Construction. The capitalized terms listed in this PPA 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 defined in this PPA shall have meanings as commonly used in the English language and, where such words have a generally accepted meaning in Good Utility Practice, such meaning shall apply. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings. In addition, the following rules of interpretation shall apply:

(A) The masculine shall include the feminine and neuter.

(B) References to "Articles," "Sections," or "Exhibits" shall be to articles, sections, or exhibits of this PPA.

(C) The Exhibits attached hereto are incorporated in and are intended to be a part of this PPA; provided, however, that in the event of a conflict between the terms of any Exhibit and the terms of this PPA, the terms of this PPA shall take precedence.

(D) This PPA was negotiated and prepared by both Parties with the advice and participation of counsel. The Parties have agreed to the wording of this PPA and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this PPA or any part hereof.

(E) The Parties shall act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this PPA. Unless expressly provided otherwise in this PPA, (a) when this PPA 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 this 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.

(F) Use of the words "include" or "including" or similar words shall be interpreted as "include without limitation" or "including, without limitation."

(G) Use of the words "tax" or "taxes" shall be interpreted to include taxes, fees, surcharges, and the like.

1.2 Interpretation with Interconnection Agreement. Each Party conducts its operations (i) in a manner intended to comply with FERC Order No. 717-A, Standards of Conduct for Transmission Providers, requiring the separation of its transmission and marketing functions. Moreover, the Parties acknowledge that Company's transmission function offers interconnection and transmission service on its system in a manner intended to comply with FERC policies and requirements relating to the provision of open-access transmission service. The Parties recognize that Seller will enter into a separate Interconnection Agreement with the Interconnection Provider.

(A) The Parties acknowledge and agree that the Interconnection Agreement shall be a separate and free-standing contract and that the terms of this PPA are not binding upon the Interconnection Provider.

(B) Notwithstanding any other provision in this PPA, nothing in the Interconnection Agreement shall alter or modify Seller's or Company's rights, duties and obligations under this PPA. This PPA shall not be construed to create any rights between Seller and the Interconnection Provider.

(C) In the event that the Interconnection Provider is Company or an Affiliate of Company, Seller expressly covenants that, for purposes of this PPA, 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 Company or an Affiliate of Company.

1.3 Interpretation of Arrangements for Electric Supply to the Facility. This PPA does not provide for the supply of retail power to the Facility, for purposes of turbine unit start-up or shut-down, or for any other purpose ("House Power"). Seller shall contract with the local utility in whose retail service territory the Facility is located ("Local Provider") for the supply of House Power.

(A) Seller's arrangements for the supply of House Power to the Facility shall be separate and free-standing arrangements. The terms of this PPA are not binding upon the Local Provider. For purposes of this PPA, the Local Provider shall be deemed to be a separate entity and separate contracting party, whether or not the Local Provider is Company or an Affiliate of Company.

(B) Notwithstanding any other provision in this PPA, nothing in Seller's arrangements for the supply of House Power to the Facility shall alter or modify Seller's or Company's rights, duties and obligations under this PPA. This PPA shall not be construed to create any rights between Seller and the Local Provider.

(C) Subject to Seller's right to self-generate and consume energy concurrently generated by the Facility, Seller may obtain House Power from the Local Provider. Seller may obtain House Power back through the Interconnection Facilities to the extent permitted by Applicable Laws, provided, however, that the amount of energy received by Seller through the Interconnection Facilities shall not be offset against the amount of Renewable Energy delivered to Company at the Point of Delivery for purposes of computing Company's obligation to purchase Renewable Energy and to receive RECs. Seller shall arrange at its own expense with the Interconnection Provider or applicable retail service provider to separately measure House Power received through the Interconnection Facilities.

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

"Abandonment" means (i) the complete relinquishment of all possession and control of the Facility by Seller, other than a transfer permitted under this PPA, or (ii) if prior to the Commercial Operation Date, complete cessation of the design, construction, testing and inspection of the Facility for sixty (60) consecutive Days by Seller and/or Seller's contractors, but only if such relinquishment or cessation is not caused by or attributable to an Event of Default of, or request by, Company, or an event of Force Majeure.

"Additional Offer" shall have the meaning set forth in Section 19.4(C).

"Affiliate" of any named person or entity means 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. Enel Green Power North America, Inc. shall be deemed an Affiliate of Seller.

“AGC Protocols” means the protocols attached hereto as Exhibit G, as modified in accordance with Section 10.5(C).

“AGC Remote/Local” means a handshake electronic signal sent from the Facility to the EMCC AGC system, and from the EMCC AGC system to the Facility, indicating the Facility is receiving AGC Set-Point locally (from the facility) or remotely (EMCC AGC system) and is following that AGC Set-Point.

“AGC Set-Point” means the Company-generated analog or digital signal sent by the SCADA System to the Facility, representing the maximum Renewable Energy output for the Facility. The AGC Set-Point is calculated by the EMCC AGC system and communicated electronically through the SCADA System as required by Section 3.3.

“Angus Anson Plant” shall have the meaning set forth in Section 5.1(A)(6).

“Applicable Law” means all applicable laws, statutes, treaties, codes, ordinances, regulations, certificates, orders, licenses and permits of any Governmental Authority, now in effect or hereafter enacted, amendments to any of the foregoing, interpretations of any of the foregoing by a Governmental Authority having jurisdiction, and all applicable judicial, administrative, arbitration and regulatory decrees, judgments, injunctions, writs, orders, awards or like actions (including those relating to human health, safety, the natural environment or otherwise).

“Applicable Permits” shall have the meaning set forth in Section 4.7.

“Automatic Generation Control” or “AGC” means energy management system equipment that automatically adjusts the generation quantity of individual generators within the applicable Balancing Authority with the purpose of interchange balancing. For a generator to be considered capable of AGC by Company the generator must be capable of accepting AGC Set-Point electronically and regulating the Facility’s energy production based on the AGC Set-Point via the Facility’s SCADA System in accordance with the AGC Protocol.

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

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

“Capacity” means the output potential a machine or system can produce or carry under specified conditions. The capacity of generating equipment is generally expressed in kilowatts or megawatts. Capacity is also referred to as “capability” in the electric power industry and for the purposes of this PPA the terms are synonymous.

“Capacity Resource” means the amount of net generating Capacity associated with the Facility for which Capacity credit may be obtained under applicable planning reserve procedures and requirements. Initially, such requirements are set forth in Module E of the MISO Tariff and MISO Business Practices Manual for Resource Adequacy.

“Change of Control” shall have the meaning set forth in Section 19.3(B).

“Close of the Business Day” means 5:00 PM on a non-holiday weekday prevailing time for the location of the Facility.

“Code” means the U.S. Internal Revenue Code of 1986, including applicable rules and regulations promulgated there under, as amended from time to time.

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

“Commercial Operation Date” or “COD” for the Facility means the date that Seller provides notification to Company, pursuant to Section 4.8, subject to timely confirmation by Company in accordance with Section 4.8, of Seller’s declaration that all of the Conditions specified in Section 4.8 have occurred or otherwise been satisfied, or such other date as is mutually agreed upon by the Parties.

“Commercial Operation Milestone” means the Construction Milestone for the Commercial Operation Date. The Commercial Operation Milestone is specified in Exhibit A as December 31, 2012.

“Commercial Operation Year” means any consecutive twelve (12) month period during the Term of this PPA, commencing with the Commercial Operation Date or any of its subsequent annual anniversary dates.

“Committed Renewable Energy” shall have the meaning set forth in Section 7.2.

“Company RoFO Offer” shall have the meaning set forth in Section 19.4(B).

“Conditions” shall have the meaning set forth in Section 4.8.

“Confidential Information” shall have the meaning set forth in Section 20.17(B).

“Construction Contract” means 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.

“Construction Milestone(s)” means the date(s) set forth in Exhibit A by which Seller agrees to achieve the corresponding result(s) specified for such date(s), including the Commercial Operation Milestone.

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

“Curtailed Energy” shall have the meaning set forth in Section 8.2(A).

“Damage Cap(s)” shall have the meaning set forth in Section 12.6.

“Day” means a calendar day.

“Delay Conditions” shall have the meaning set forth in Section 14.4(A).

“Delay Damages” shall have the meaning set forth in Section 12.4(A).

“Deliverability Study” means a test performed by MISO which analyzes the ability of groups of generation in small pockets throughout the MISO footprint to operate at their maximum capability without being “bottled up” by transmission constraints.

“Dispute” shall have the meaning set forth in Section 13.10(A).

“Dispute Notice” shall have the meaning set forth in Section 13.10(A).

“Effective Date” shall have the meaning set forth in the introductory paragraph.

“Electric Metering Devices” means the meters, metering equipment and data processing equipment used to measure, record or transmit data relating to the Renewable Energy output from the Facility. Electric Metering Devices include the metering current transformers and the metering voltage transformers.

“Eligible Energy Resource” means any resource that qualifies as a renewable energy resource eligible to be certified to receive, claim, own or use Renewable Energy Credits pursuant to the protocols and procedures developed and approved by the MPUC in the M-RETS Program.

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

“Emergency” means (A) any Emergency Condition (or similar successor term), as defined by the MISO Tariff or the Interconnection Agreement, or (B) a transmission system condition identified by MISO, including a system reliability condition related to endangering life, property or public safety, or the ability to maintain safe adequate continuous and reliable electric service, and that, in order to achieve same, a curtailment of the Facility or firm transmission service that reduces or precludes delivery of Renewable Energy to or from the Point of Delivery is required.

“Energy Resource” means the type of interconnection service which allows Seller to connect the Facility to the transmission or distribution system, as applicable, as an Energy Resource as defined by the MISO Tariff, and be eligible to deliver the Facility’s output using the existing firm or non-firm capacity on the transmission system on an as-available basis.

“Environmental Contamination” means the introduction or presence of Hazardous Materials at such levels, quantities or location, or of such form or character, as to constitute a violation of Applicable Law, and present a material risk under Applicable Laws that the Site will not be available or usable for the purposes contemplated by this PPA.

“ERIS” means interconnection service that allows Seller to connect the Facility and Seller’s System to the Interconnection Provider’s System as an “Energy Resource” as defined in the MISO Tariff and allows the Facility to deliver the Energy and Capacity produced by the Facility using existing firm or non-firm capacity on the transmission system on an as-available basis.

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

“Excess Energy” shall have the meaning set forth in Section 8.1(C).

“Facility” means Seller’s electric generating facility and Seller’s Interconnection Facilities, as identified and described in Article 3 and Exhibit B to this PPA, including all of the following, the purpose of which is to produce electricity and deliver such electricity to the Interconnection Point: Seller’s equipment, buildings, all of the generation facilities, including generators, Wind Turbines, step-up transformers, output breakers, facilities necessary to connect to the Interconnection Point, protective and associated equipment, improvements, and other tangible assets, contract rights, 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 electric generating facility that produces the Renewable Energy subject to this PPA.

“Facility Financing” means the obligations of Seller to any lender and/or equity investor pursuant to the Financing Documents, including principal of, premium and interest on indebtedness, fees, expenses or penalties, amounts due upon acceleration, prepayment or restructuring, swap or interest rate hedging breakage costs, any claims or interest due with respect to any of the foregoing and any amount of cash and tax attributes allocated to Facility Investor.

“Facility Investor” means, collectively, any lenders and/or equity investor providing any Facility Financing and any successors or assigns thereto.

“FCA” means a Facilities Construction Agreement as required by MISO pursuant to its MISO Tariff.

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

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

“Force Majeure” shall have the meaning set forth in Section 14.1(A).

“Forced Outage” means any condition that requires more than 10% of the total Facility’s Capacity to be immediately and completely shutdown from service, another outage state, or a reserve shutdown state. This type of outage results from immediate mechanical/electrical/hydraulic control system trips and operator-initiated trips in response to Facility conditions and/or alarms.

“Good Utility Practices” means the practices, methods, and acts (including, but not limited to, the practices, methods, and acts engaged in or approved by a significant portion of the wind-energy generation industry, MRO or NERC) that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with Applicable Law, permits, codes, standards, equipment manufacturer’s requirements and recommendations, reliability, safety, environmental protection, economy, and expedition. With respect to the Facility, Good Utility Practices includes, but not limited to, taking reasonable steps to ensure that:

(A) equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Facility’s needs;

(B) sufficient operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to operate the Facility properly, efficiently, and in coordination with Company and are capable of responding to reasonably foreseeable Emergency conditions whether caused by events on or off the Site;

(C) preventive, routine, and non-routine maintenance and repairs are performed in accordance with manufacturer’s recommendations and specifications on a basis that ensures reliable, long-term and safe operation, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;

(D) appropriate monitoring and testing are performed in accordance with manufacturer’s recommendations and specifications to ensure equipment is functioning as designed;

(E) equipment is not operated in a reckless manner, in violation of manufacturer's guidelines or in a manner unsafe to workers, the general public, or the interconnected system or contrary to Applicable Law, permits or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt-ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and/or control system limits;

(F) equipment and components meet or exceed the standard of durability that is generally used for electric generation operations in the region and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Site and under both normal and Emergency conditions; and

(G) equipment is operated and maintained in accordance with Wind Turbine manufacturer's recommendations and specifications and applicable permits, licenses and Applicable Laws.

"Governmental Authority" means any federal, state, local or municipal governmental body; any governmental, quasi-governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power; or any court or governmental tribunal.

"Hazardous Materials" means any substance, material, gas, or particulate matter that is regulated by any local Governmental Authority, any applicable State, or the United States of America, 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 any material or substance that is (i) defined as "toxic," "polluting," "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "solid waste" or "restricted hazardous waste" under any provision of local, state, or federal law; (ii) petroleum, including any fraction, derivative or additive; (iii) asbestos; (iv) polychlorinated biphenyls; (v) radioactive material; (vi) designated as a "hazardous substance" pursuant to the Clean Water Act, 33 U.S.C. §1251 *et seq.* (33 U.S.C. §1251); (vii) defined as a "hazardous waste" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* (42 U.S.C. §6901); (viii) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 *et seq.* (42 U.S.C. §9601); (ix) defined as a "chemical substance" under the Toxic Substances Control Act, 15 U.S.C. §2601 *et seq.* (15 U.S.C. §2601); or (x) defined as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 *et seq.* (7 U.S.C. §136).

"House Power" shall have the meaning set forth in Section 1.3.

"Indemnified Party" shall have the meaning set forth in Section 17.1.

"Indemnifying Party" shall have the meaning set forth in Section 17.1.

“Interconnection Agreement” means the separate Net Zero interconnection agreement among Seller, MISO and the Interconnection Provider for interconnection of the Facility to the Interconnection Provider’s System; as such agreement may be amended from time to time. For purposes of this PPA, the Interconnection Agreement shall be interpreted to include any FCA or other Agreement required by the Interconnection Provider to interconnect the Facility in accordance with the MISO Tariff. For the avoidance of doubt, “Interconnection Agreement” excludes any temporary interconnection agreement or any agreement where the Transmission Provider may limit the operational output of the Facility.

“Interconnection Facilities” means Interconnection Provider’s Interconnection Facilities and Seller’s Interconnection Facilities.

“Interconnection Point” means the physical point at which electrical interconnection is made between the Facility and the Interconnection Provider’s System. The Interconnection Point shall be the high side of the Split Rock 345kV substation.

“Interconnection Provider” means collectively (i) the entity that is responsible under the Interconnection Agreement for providing the transmission lines, Interconnection Provider’s Interconnection Facilities and other equipment and facilities with which the Facility interconnects at the Interconnection Point (known under the Interconnection Agreement as the “Transmission Owner”), and (ii) MISO (known under the Interconnection Agreement as the “Transmission Provider”).

“Interconnection Provider’s Interconnection Facilities” means the facilities necessary to connect Interconnection Provider’s existing electric system to the Interconnection Point, including breakers, bus work, bus relays, and associated equipment installed by the Interconnection Provider for the direct 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. Arrangements for the installation and operation of the Interconnection Provider’s Interconnection Facilities shall be governed by the Interconnection Agreement.

“Interconnection Provider’s System” means the contiguously interconnected electric transmission and sub-transmission facilities, including Interconnection Provider’s Interconnection Facilities, over which the Interconnection Provider has rights (by ownership or contract) to provide bulk transmission of capacity and energy from the Interconnection Point.

“Issuer” shall have the meaning set forth in Section 11.1(C).

“kW” means kilowatt.

“kWh” means kilowatt hour.

“Lender Consent” shall have the meaning set forth in Section 19.2.

“Local Provider” shall have the meaning set forth in Section 1.3.

“Locational Marginal Price” or “LMP” means the market clearing price for Renewable Energy at the applicable MISO commercial pricing node nearest the Interconnection Point as such may be modified from time to time by MISO or its successor. As of the Effective Date such nearest commercial pricing node is NSP Anson 2.

“MISO” means the Midwest Independent System Operator, Inc., a non-profit, Delaware corporation, or successor organization.

“MISO Tariff” means the MISO Open Access, Transmission, Energy and Operating Reserves Markets Tariff, as amended from time to time.

“MPUC” means the Minnesota Public Utilities Commission or any successor agency.

“MPUC Approval” shall have the meaning set forth in Section 6.1(A).

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

“MRO” means the Midwest Reliability Organization, a NERC regional reliability counsel, or any successor organization.

“MW” means megawatt or one thousand kW.

“MWh” means megawatt hours.

“Nameplate Capacity” means the designed maximum output of each Wind Turbine as designated by the Wind Turbine manufacturer or the sum of such output for the Facility.

**[BEGIN TRADE SECRET**

**END TRADE SECRET]**

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

“Net Zero” means transmission service reservation for the Facility that is combined and coordinated with the transmission service obtained by another electric generating facility, resulting in no net increase in the overall transmission service requirements of the transmission system.

“New Joint Transmission Authority” means any independent service organization or other Person that may be created or becomes operational subsequent to the Effective Date 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.

“Non-Compensable Curtailments” shall have the meaning set forth in Section 8.2(C).

“Offer Period” shall have the meaning set forth in Section 19.4(B).

“On-Peak Months” means the months of January, February, June, July, August, September and December.

“Operating Committee” means one representative each from Company and Seller pursuant to Section 10.5.

“Operating Procedures” means those procedures developed pursuant to Section 10.5, if any.

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

“Option Agreement” means the separate agreement currently being negotiated between PRW2 and Company for the purchase of development assets for a wind energy generation project of approximately 100 MW located at a site adjacent to the Site that is currently under development by Seller.

“Park Potential” means the number provided to the Company in real time through the Company’s SCADA System in accordance with the AGC Protocols, which depicts Seller’s real time calculation of the Potential Energy capable of being provided by the Facility to Company as measured at the Point of Delivery. Park Potential shall be calculated as the aggregate energy available in real time for delivery at the Point of Delivery using the best-available data obtained through commercially reasonable methods; and shall be dependent upon measured wind speeds, power curves, Wind Turbine availability, and derate(s) and transmission line losses, and any other adjustment necessary to accurately reflect the Potential Energy at the Point of Delivery.

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

“Party Representative” and “Parties’ Representatives” shall have the meanings set forth in Section 13.10(A).

“PI” shall have the meaning set forth in Section 13.6(B).

“Point of Delivery” means the electric system point at which Seller makes available to Company and delivers to Company the Renewable Energy being provided by Seller to Company under this PPA. The Point of Delivery shall be the same physical location as the Interconnection Point, as further described in Exhibit B to this PPA, subject to change as described in Section 8.1(E).

“PPA” means this Wind Energy Purchase Agreement between Seller and Company, including the Exhibits attached hereto.

“Potential Energy” means the quantity of the energy that Seller is capable of delivering at the Point of Delivery. In the event that Park Potential is not a reliable proxy for Potential Energy pursuant to Section 8.2(B), Potential Energy shall be calculated as the aggregate energy available for delivery at the Point of Delivery using the best-available data obtained through commercially reasonable methods; and shall be dependent upon measured wind speeds, power curves, Wind Turbine availability, and derate(s) and transmission line losses, and any other adjustment (including, as applicable, adjustments based upon time of day) necessary to accurately reflect the Facility’s capability to produce and deliver energy to the Point of Delivery.

“Price Adjustment A” means an **[BEGIN TRADE SECRET**

**END TRADE SECRET]** Such increase shall only be made if all applicable conditions have been met as enumerated in Section 5.1(E) **[BEGIN TRADE SECRET**

**END TRADE SECRET]**

“PRW2” shall have the meaning set forth in the Recitals of this PPA

“PTCs” means federal production tax credits applicable to electricity produced from certain renewable resources pursuant to 26 U.S.C. Section 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.

“Renewable Energy” means all electric energy exclusively generated by the Facility including any and all associated Renewable Energy Credits and delivered to the Point of Delivery as measured by the Electric Metering Devices installed pursuant to Section 5.3. Renewable Energy shall be of a power quality of 60 cycle, three-phase alternating current that is compliant with the Interconnection Agreement.

“Renewable Energy Credits” or “RECs” shall mean any contractual right to the full set of non-energy attributes, including any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, directly attributable to a specific amount of capacity and/or electric energy generated from an Eligible Energy Resource, including any and all environmental air quality credits, benefits, emissions reductions, off-sets, allowances, or other benefits as may be created or under any existing or future statutory or regulatory scheme (federal, state, or local) by virtue of or due to the

Facility's actual energy production or the Facility's energy production capability because of the Facility's environmental or renewable characteristics or attributes, including any Renewable Energy Credits or similar rights arising out of or eligible for consideration in the M-RETS Program. For the avoidance of doubt, RECs excludes (i) any local, state or federal depreciation deductions or other tax credits providing a tax benefit to Seller based on ownership of, or energy production from, any portion of the Facility, including the investment tax credit, Production Tax Credit and United States Treasury Cash Grant that may be available to Seller with respect to the Facility under Applicable Laws, and (ii) depreciation and other tax benefits arising from ownership or operation of the Facility unrelated to its status as a generator of renewable or environmentally clean energy.

"Renewable Energy Payment Rate" shall have the meaning set forth in Section 8.1(B).

"Replacement Energy Costs" means the costs that would be incurred by Company, after the Commercial Operation Date, for the Renewable Energy that is necessary to replace that which Seller, in accordance with this PPA, was required to have produced at the Facility and deliver to Company, but failed to so provide during an applicable period, less the sum of any payments from Company to Seller, under this PPA, that were eliminated as a result of such failure. Unless the Parties mutually agree to a different basis for reimbursement, Replacement Energy Costs shall be determined in accordance with the following formula:

Replacement Energy Costs = A + B – C, where

(i) "A" is the weighted average product of the MWh for which Replacement Energy Costs are owed and the price for energy at the MISO LMP node nearest to the Interconnection Point for such applicable period where such weighted average is computed based upon the Potential Energy that the Facility would be expected to produce during such applicable period.

(ii) "B" is the product of the actual cost of M-RETS certified RECs and the number of RECs equal to the number of MWh for which Replacement Energy Costs are owed; and

(iii) "C" is the product of the MWh for which Replacement Energy Costs are owed and the Renewable Energy Payment Rate.

"RoFO" shall have the meaning set forth in Section 19.4(A).

"RoFO Exercise Notice" shall have the meaning set forth in Section 19.4(B).

"RoFO Notice" shall have the meaning set forth in Section 19.4(A).

"SCADA" means supervisory control and data acquisition.

"Scheduled Outage/Derating" means a planned interruption/reduction of the Facility's generation that both (i) has been coordinated in advance with Company, with a

mutually agreed start date and duration, and (ii) is required for inspection or preventive or corrective maintenance.

“Security Fund” means the letter of credit, escrow fund, guaranty and/or other collateral that Seller is required to establish and maintain, pursuant to Section 11.1, as security for Seller’s performance under this PPA.

“Seller’s Interconnection Facilities” means the equipment between the high side disconnect of the step-up transformer and the Interconnection Point, including all related relaying protection and physical structures as well as all transmission facilities required to access the Interconnection Provider’s System at the Interconnection Point, along with any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the construction, operation and maintenance of such facilities. On the low side of the step-up transformer it includes Seller’s metering, relays, and load control equipment as provided for in the Interconnection Agreement. This equipment is located within the Facility and is conceptually depicted in Exhibit B to this PPA.

“Site” means 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 Section 3.2 and Exhibit B to this PPA.

“Surviving Entity” shall have the meaning set forth in Section 19.3(B).

“Tax Benefits” means an amount equal to: (i) the PTCs to which Seller (or its owners) would have been entitled with respect to Renewable Energy that could have been delivered but for Company’s Curtailment of Energy pursuant to Sections 7.4 or 8.2 of this PPA; plus (ii) a “gross up” dollar amount to take into account the federal, state and local income tax to Seller on such payments in lieu of PTCs so that the net amount retained by Seller, after payment of federal, state and local income taxes, is equal to the amount set forth in clause (i) of this definition. For purposes of determining the foregoing, Seller shall be deemed to be subject to tax at the highest statutory corporate income tax rates for the highest income bracket (federal, state or local, as applicable) for Seller or its parent, as appropriate, that are in effect or schedule to be in effect for the tax year in which the receipt of such Tax Benefits payment is taxed.

“Term” means the period of time during which this PPA shall remain in full force and effect, and which is further defined in Article 2.

“Test Energy” means that energy which is produced by the Facility prior to Commercial Operation, delivered to Company at the Point of Delivery, and purchased by Company, pursuant to Section 4.9, which is necessary in order to perform all testing of the Facility.

“Transmission Line” means the electric transmission facilities, extending from the Site and the adjacent 100 MW site (that Seller is currently developing and is subject to

the Option Agreement), connecting the Facility to the Interconnection Point that will be used to transmit energy from the Facility and such adjacent site to the Interconnection Point.

“Turbine Commitment” shall have the meaning set forth in Section 4.4(A).

“UCP” shall have the meaning set forth in Section 11.1(C)(1).

“Uncompensated Curtailment Allocation” shall have the meaning set forth in Section 8.2(C)(4).

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

## Article 2 - Term and Termination

This PPA shall become effective as of the date of its execution, and shall remain in full force and effect until the twentieth (20<sup>th</sup>) anniversary of the COD, subject to any early termination or extension provisions set forth herein. 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.

## Article 3 - Facility Description

3.1 Summary Description. Seller shall construct, own, operate, and maintain the Facility, which shall consist of not more than one hundred twenty-five (125) horizontal axis Wind Turbines, and associated equipment having a Facility Nameplate Capacity of approximately 200 MW. **[BEGIN TRADE SECRET**

**END TRADE SECRET]** Seller shall provide to Company a preliminary site plan that identifies the locations of the Wind Turbines that comprise the Facility and information to Exhibit B to this PPA, which includes a detailed description of the Facility, including identification of the equipment and components which make up the Facility. Seller shall use balance of plant parts and equipment that are consistent with and support the warranties for the Wind Turbines.

3.2 Location. The Facility shall be located on the Site and shall be identified as Seller’s Prairie Rose Wind Generation Facility. The address of the Facility will be in or about the Site. A scaled map that identifies the Site, the location of the Facility at the Site, the location of the Interconnection Point and the location of the important ancillary facilities and Interconnection Facilities, is included in Exhibit B to this PPA.

3.3 General Design of the Facility. Seller shall construct the Facility according to Good Utility Practice(s) and the Interconnection Agreement. During

Commercial Operation, Seller shall maintain the Facility according to Good Utility Practice(s) and the Interconnection Agreement. In addition to the requirements of the Interconnection Agreement, the Facility shall at all times:

(A) have the required panel space and 125VDC battery supplied voltage to accommodate Company's metering, generator telemetering equipment and communications equipment;

(B) use communication circuits from the Facility to Company's EMCC for the purpose of telemetering, supervisory control/data acquisition, and voice communications as required by Company;

(C) be capable of accepting a signal from the Company's SCADA System designed to limit Renewable Energy output to a level not to exceed the EMCC calculated AGC Set-Point, which AGC Set-Point may be increased or decreased in accordance with the AGC Protocols;

(D) have each Wind Turbine equipped with meteorological measurement equipment (e.g. anemometers) which are individually linked to Seller's plant information system;

(E) send the real time data specified on Exhibit I through an OPC interface to Company's plant information PI system;

(F) be capable of receiving and reacting to the SCADA AGC Set-Point signal; and

(G) be capable of AGC Remote/Local.

#### **Article 4 - Commercial Operation**

4.1 Commercial Operation. Subject to one or more extensions as specifically provided for herein, including Events of Default, delays by Company and Force Majeure, the Facility shall achieve the Commercial Operation Date, and shall be fully capable of reliably producing the Renewable Energy to be provided under this PPA and delivering such Renewable Energy to Company at the Point of Delivery, no later than the Commercial Operation Milestone; provided, however, that this PPA shall not be in effect for a duration longer than twenty (20) years following the COD for any reason.

4.2 Construction Milestones. In order to achieve the Commercial Operation Date by the Commercial Operation Milestone, subject to one or more extensions as specifically provided for herein, Seller agrees to meet the Construction Milestones set forth in Exhibit A to this PPA.

4.3 Site Report.

(A) Seller shall conduct a Phase I environmental investigation of the Site and shall provide Company, within sixty (60) Days following satisfaction (or waiver, if

applicable) of all conditions precedent set forth in Article 6, with a copy of the report summarizing the Phase 1 environmental investigation of the Site, together with any data or information generated pursuant to such investigation. Seller shall provide to Company, with such report, confirmation from an environmental engineer that the Site has been inspected for Environmental Contamination and that the Site does not materially impair Seller's operation of the Facility. Such report, or other written confirmation provided by Seller, shall include a confirmation that, based upon such investigation and to Seller's knowledge, no conditions involving Environmental Contamination exist at or under the Site, or if such condition does exist, such condition will not have a material adverse effect on the Facility.

(B) Seller agrees to defend, indemnify and hold Company and its officers, directors, employees, agents and representatives, and their respective successors and assigns, harmless from and against all claims, actions, demands, losses, liabilities, damages, judgments, penalties, injuries and expenses arising from or related to any environmental liability concerning Seller, the Facility or the Site, including but not limited to (a) any claim for personal injury or property damage by any Person arising out of, resulting from or caused by any violation of Applicable Laws by Seller or concerning the Facility or the Site; (b) any assessment, fine, penalty, lien or other imposition by any Governmental Authority; and (c) any liability, losses or remedial costs suffered because a Governmental Authority finds Company to be a responsible party, owner or operator of the Facility or Site, provided however, Seller shall not be obligated to indemnify losses arising from the Company's willful misconduct or gross negligence.

#### 4.4 Facility Contracts.

(A) Seller shall provide to Company, **[BEGIN TRADE SECRET**

**END TRADE SECRET]** either a fully-executed, binding and non-conditional commitment from an entity with actual access to Wind Turbines sufficient to satisfy Seller's obligations hereunder stating that sufficient Wind Turbines are available and will be supplied for installation as part of the Facility or a letter from a credit worthy party confirming that it has access to Wind Turbines to satisfy Seller's obligations in a timely fashion relative to the requirements of this PPA (the "Turbine Commitment").

(B) Seller shall provide to Company, within the time frames specified by the Construction Milestones, copies of the following major contracts which govern the design and construction of the Facility, and the ability of Seller to deliver Renewable Energy to Company at the Point(s) of Delivery: the Construction Contract or other general contractor, agreements; applicable operating agreements; applicable electric transmission agreement and/or interconnection agreements. Upon reasonable notice and request by Company, Seller shall provide Company with other Facility construction contracts and major engineering drawings. Seller shall also provide Company with reasonable evidence that it has the capability to finance construction of the Facility. Information that is commercially sensitive, confidential or proprietary may be redacted from the documents provided to Company pursuant to this paragraph. Seller shall provide sufficient information for Company to be reasonably assured that Seller has

contracted with financially responsible vendors as part of the Facility construction process.

4.5 Progress Reports. Following MPUC Approval, Seller shall submit to Company, on the first Business Day of each calendar month until the Commercial Operation Date is achieved, progress reports in a form reasonably satisfactory to Company. These progress reports shall notify Company of the current status of each Construction Milestone. Seller shall also hold monthly engineering and construction progress meetings once Facility engineering commences to review and discuss such progress reports; and make the contractor or anticipated contractor of the Construction Contract available in person or by telephone to discuss and answer reasonable questions of Company regarding the Facility and Construction Milestone progress in order to keep Company fully informed on the status of the Facility.

4.6 Company's Rights During Construction. Company shall have the right to monitor the construction, start-up and testing of the Facility, and Seller shall comply with all reasonable requests of Company with respect to the monitoring of these events. Seller shall cooperate in such physical inspections of the Facility as may be reasonably requested by Company during and after completion of construction. All persons visiting the Facility on behalf of Company shall comply with all of Seller's applicable safety and health rules and requirements. Company's technical review and inspection of the Facility shall not be construed as endorsing the design thereof nor as any warranty of safety, durability, or reliability of the Facility. Each Party shall pay its costs of performing its duties under this Section 4.6.

4.7 Permits. Seller shall use commercially reasonable efforts to obtain, and shall pay for, all applicable environmental and other permits, licenses and approvals from any Governmental Authority required under Applicable Laws for construction, ownership, operation and maintenance of the Facility ("Applicable Permits"). Company shall have the right to inspect and obtain copies of all Applicable Permits held by Seller. Seller will provide Company with a copy of any written notice of any inspections by any Governmental Authority relating to any Applicable Permit.

4.8 Conditions to Commercial Operation. Seller shall notify Company in writing when the Facility has achieved the Commercial Operation Date. This notification is contingent upon verification by Company, including Seller providing evidence reasonably acceptable to Company of the satisfaction or occurrence of all of the conditions set forth in this Section ("Conditions") *provided, however*, that such notification shall be deemed accepted and approved by Company in the event that Company has not delivered to Seller a complete initial response to such notification within five (5) Business Days of its delivery. The Parties agree that review and approval of such Conditions may occur on an ongoing and incremental basis, pending resolution of any dispute, as such Conditions are satisfied. The Conditions are:

(A) Seller has successfully completed all testing required by the Financing Documents to establish substantial completeness of at least ninety percent (90%) of the Wind Turbines, all permits and authorizations required by Applicable Laws are in force

and effect, and the Facility is available to commence Commercial Operation in accordance with Seller's operating agreements, Construction Contract, and applicable manufacturers' warranties;

(B) an officer of Seller, familiar with the Facility, has provided a list of the Facility's equipment, showing the make, model, serial number and designed Nameplate Capacity of each Wind Turbine that is then in operation and has certified the Nameplate Capacity of the entire Facility as 200 MW and that the Wind Turbines in operation comprise at least 90% of said 200 MW;

(C) the Facility is capable of receiving and reacting to the signal from the Company's SCADA System for the AGC Set-Point and all AGC equipment and programming is operational, the Facility has achieved initial synchronization with the Interconnection Provider's System, and has demonstrated the reliability of its communications systems and communications with Company's EMCC;

(D) an independent professional engineer's certification has been obtained by Seller stating that the Facility has been completed in all material respects (excepting punch list items that do not materially and adversely affect the ability of the Facility to operate as intended hereunder) in accordance with this PPA; provided that Seller may use the services of the same professional engineer who is providing review of the Facility as part of the commissioning process required by a Facility Investor;

(E) Seller has (i) received written confirmation from the Interconnection Provider that Seller is both obligated under and in compliance with the Interconnection Agreement, (ii) received written confirmation from the Interconnection Provider that the interconnection of the Facility to the Interconnection Provider's System has been completed in accordance with the Interconnection Agreement, including provisions implementing the Net Zero interconnection, (iii) provided to Company a complete copy of the Interconnection Agreement, including all appendices attached thereto; (iv) the Facility has been registered in the MISO network model as a Net Zero interconnection, and (v) operated the Facility at the Facility's full output capacity or at a generation level acceptable to the Interconnection Provider, without experiencing any abnormal or unsafe operating conditions on any interconnected system, and (vi) completed any other testing of the Facility and/or Seller's Interconnection Facilities required by the Interconnection Agreement;

(F) Seller has made all arrangements and executed all agreements required to deliver the Renewable Energy from the Facility to the Point of Delivery in accordance with the provisions of this PPA;

(G) all arrangements for the supply of required electric services to the Facility, including the supply of turbine unit start-up and shutdown power, House Power and maintenance power have been completed by Seller separate from this PPA, are in effect, and are available for the supply of such electric services to the Facility;

(H) the security arrangements meeting the requirements of Article 11 have been established;

(I) certificates of insurance evidencing the coverages required by Article 16 have been obtained and submitted to Company;

(J) Seller has submitted to Company a certificate of an officer of Seller familiar with the Facility after due inquiry stating that all permits, consents, licenses, approvals, and authorizations required to be obtained by Seller from any Governmental Authority to construct and/or operate the Facility in compliance with Applicable Laws and this PPA have been obtained and are in full force and effect, and that Seller is in compliance with the terms and conditions of this PPA in all material respects;

(K) Seller has made all necessary governmental filings and/or applications for Renewable Energy Credit accreditation; and

(L) Seller has provided real time communication contact information and the Facility address to complete Exhibit C.

#### 4.9 Test Energy.

(A) Seller shall provide Company and MISO with the information necessary to have the Facility registered in the MISO network model, sufficiently in advance to allow the Facility to be registered in such model prior to generating any Test Energy. Upon receipt of such information, Company will cooperate reasonably to assist in the registration of the Facility to allow generation of Test Energy.

(B) Seller shall coordinate the production and delivery of Test Energy with Company, with not less than five (5) Days written notice. Company shall cooperate in a timely manner with Seller to facilitate Seller's testing of the Facility necessary to satisfy the Conditions, and shall only be required to accept delivery of Test Energy required to satisfy the Conditions. Company shall purchase all Test Energy delivered to the Point of Delivery at a payment rate of seventy percent (70%) of the Renewable Energy Payment Rate applicable as of the Commercial Operation Date.

### **Article 5 - Delivery and Metering**

#### 5.1 Delivery Arrangements.

(A) The Interconnection Point shall be as specified in the Interconnection Agreement for the project designated as J183 in the MISO Queue, which shall be a point within the operational authority of MISO and is subject to the MISO Tariff.

1. Seller shall be responsible for making, maintaining and paying the costs associated with the Net Zero interconnection request with MISO for interconnecting the Facility to the Interconnection Provider's system. The Net Zero interconnection request shall specify that Seller is requesting that MISO undertake the analysis and study necessary to complete a stability and short circuit analysis.

2. Upon completion of the MISO Stability and short circuit analysis, Seller shall provide the results to Company. Seller shall complete its Interconnection Agreement in conformance with MISO Net Zero Interconnection Policy Statement.

3. Seller shall interconnect the Facility as an ERIS and in compliance with the MISO Net Zero Interconnection Policy Statement (as such policy statement exists as of the Effective Date), at no cost to Company and shall complete and pay for all construction required by the Interconnection Agreement and any FCA. In no event will Company be responsible under this PPA for reimbursement of costs incurred by Seller (or its Affiliates) under the Interconnection Agreement that (i) constitute costs for Interconnection Customer's Interconnection Facilities or Transmission Owner's Interconnection Facilities, or (ii) are otherwise reimbursed to Seller (or its Affiliate) from the Interconnection Provider under the Interconnection Agreement.

4. Seller shall post and maintain any and all security for payment and performance of its obligations hereunder, if, when and for so long as required under the Interconnection Agreement and any FCA. In the event the Interconnection Agreement is terminated as a result of Seller's default of the agreement, Seller shall be deemed to be in default pursuant to Section 12.1(B)(4) and (6) of this PPA.

5. Seller shall provide the MISO, the Interconnection Provider, and any applicable transmission owners written permission to release transmission study results and other information concerning the interconnection.

6. Company owns and operates three (3) gas peaking units located in Sioux Falls, South Dakota and referred to as the "Angus Anson Plant." The energy produced from the Angus Anson Plant is injected into the MISO transmission system at the Split Rock substation as the Interconnection Point. Pursuant to this PPA and consistent with the Interconnection Agreement, including provisions implementing the Net Zero interconnection, Company agrees to displace the energy produced by the Angus Anson Plant and injected at the Interconnection Point with the Renewable Energy produced by the Facility and delivered to Company at the Point of Delivery. Company shall accept delivery of all Renewable Energy delivered to Company at the Point of Delivery, subject to Company's rights to curtail receipt of the Renewable Energy under Sections 7.4 and 8.2 herein.

7. Seller and Company agree that the simultaneous sum of MWh from the Angus Anson Plant and the Facility shall not exceed the maximum amount of MWh for which Company has firm transmission delivery rights, as of the Effective Date, with respect to the Angus Anson Plant.

(B) The Interconnection Point shall be the high side of the Split Rock 345kV substation, which shall be a point within the operational authority of MISO and is subject

to the MISO Tariff. Subject to change as described in Section 8.1(E), the Point of Delivery shall be the same as the Interconnection Point.

(C) Subject to the potential adjustment outlined in Section 5.1(E), Seller shall be responsible for all interconnection, electric losses, transmission and ancillary service arrangements and costs required to deliver, on a firm transmission service basis, the Renewable Energy, including Excess Energy and Test Energy from the Facility to Company at the Point of Delivery.

(D) Subject to the potential adjustment outlined in Section 5.1(E), Company shall be responsible for all electric losses, transmission and ancillary service arrangements and costs required to receive the Renewable Energy and Test Energy beyond the Point of Delivery and deliver such energy to points beyond the Point of Delivery. If at any time during the Term, either Company or the entity owning the transmission facilities at the Point of Delivery ceases to be a member of MISO or the facilities at the Point of Delivery cease to be subject to the MISO Tariff, then the Parties shall cooperate in good faith to amend this PPA in a manner to facilitate the delivery of Renewable Energy from the Point of Delivery to Company's customers at no cost to Seller and at the least possible incremental cost to Company.

(E) The Parties acknowledge and agree that the metering of the Renewable 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. In the event **[BEGIN TRADE SECRET**

**END TRADE SECRET]** that the cumulative Transmission Line electric losses from the Facility to the Point of Delivery exceeded **[BEGIN TRADE SECRET**

**END TRADE SECRET]** then a price adjustment shall be made to the Renewable Energy Payment Rate as described in Price Adjustment A, **[BEGIN TRADE SECRET**

**END TRADE SECRET]** as provided on Exhibit J. **[BEGIN TRADE SECRET**

**END TRADE SECRET]**

5.2 Availability Reporting. Seller shall be responsible for providing accurate and timely forecasts on the current availability of the Facility to Company's EMCC consistent with Section 13.6 of this PPA.

5.3 Electric Metering Devices.

(A) The following provisions of this Section shall govern Electric Metering Devices except to the extent the Interconnection Agreement modifies or otherwise conflicts with these provisions.

(B) All Electric Metering Devices used to measure the Renewable Energy made available to Company by Seller under this PPA and to monitor and coordinate operation of the Facility shall be owned, installed, and maintained in accordance with the Interconnection Agreement at no cost to Company under this PPA. 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 based initially on the amount specified by the manufacturer for expected losses, *provided, however, that* the Operating Committee may revise this loss adjustment based on actual experience. Seller shall provide or arrange with the Interconnection Provider to provide Company access to all Electric Metering Devices for all purposes necessary to perform under this PPA and shall provide Company the reasonable opportunity to be present at any time when such Electric Metering Devices are to be inspected and tested or adjusted. Seller shall provide Company with all authorizations necessary to have access to the Electric Metering Devices, including obtaining any

consent or other agreement from the Interconnection Provider necessary to allow Company such access.

(C) Either Company or Seller may elect to install and maintain, at its own expense, backup metering devices ("Back-Up Metering") in addition to the Electric Metering Devices, which installation and maintenance shall be performed in a manner acceptable to Company. 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 other Party to witness and verify, such inspections and tests, provided, however, that such Party shall not unreasonably interfere with or disrupt the activities of the installing Party and shall comply with all applicable safety standards. Upon written 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, however, that the requesting Party shall not unreasonably interfere with or disrupt the activities of the installing Party and shall comply with all applicable safety standards. The actual expense of any such requested additional inspection or testing shall be borne by the Party requesting the test, unless, upon such inspection or testing, Back-Up Metering is found to register inaccurately by more than the allowable limits established in this Article, in which event the expense of the requested additional inspection or testing shall be borne by the installing Party. If requested in writing, the installing Party shall provide copies of any inspection or testing reports to the requesting Party.

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

5.4 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:

(A) In the event that the Electric Metering Device is found to be defective or inaccurate, the Parties shall use Back-up Metering, if installed, to determine the amount of such inaccuracy, provided, however, that Back-Up Metering has been tested and maintained in accordance with the provisions of this Article. If Back-Up Metering is installed on the low side of Seller's step-up transformer, the Back-Up metering data shall be adjusted for losses in the same manner as for the Electric Metering Devices. In the event that Back-Up Metering is not installed, or Back-Up Metering is also found to be inaccurate by more than one percent (1.0%), 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 Seller and the Point of

Delivery. If such SCADA data is incomplete or unavailable, the Parties shall estimate the amount of the necessary adjustment on the basis of deliveries of Renewable Energy from the Facility and to the Point of Delivery 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.

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

(C) To the extent that the adjustment period covers a period of deliveries for which payment has already been made by Company, Company shall use the corrected measurements as determined in accordance with this Article to recompute the amount due for the period of the inaccuracy and shall subtract the previous payments made by Company for this period from such re-computed amount. If the difference is a positive number, the difference shall be paid by Company to Seller; if the difference is a negative number, that difference shall be paid by Seller to Company, or at the discretion of Company, may take the form of an offset to payments due Seller by Company. 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, unless Company elects payment via an offset.

## **Article 6 - Conditions Precedent**

### **6.1 MPUC Approval.**

(A) No later than forty five (45) Days after the Parties' execution of this PPA and the Option Agreement, Company may request an affirmative determination from the MPUC that Company's execution of this PPA and the Option Agreement is reasonable, in the public interest, and all costs incurred under this PPA are recoverable from the retail customers pursuant to Minn. Stat. § 216B.1645; provided, however, that the MPUC approval shall not be deemed to fail to satisfy the requirement of this paragraph merely because it provides that the MPUC retains ongoing prudency review of Company's performance hereunder (generally, "MPUC Approval"). Company shall use commercially reasonable efforts to obtain MPUC Approval, and Seller shall cooperate reasonably with Company's efforts to seek MPUC Approval, if Company seeks MPUC Approval. If Company fails to apply for MPUC Approval within forty five (45) Days following the Effective Date of this PPA and the Option Agreement, Company shall be deemed to have waived its rights under this Section.

(B) In the event that Company applies for MPUC Approval timely under paragraph (A) of this Section, Company shall have the right to terminate this PPA,

without any further financial or other obligation to Seller as a result of such termination, by notice to Seller at any time after the earlier of (i) ten (10) Days following receipt of a written order from the MPUC, or (ii) one hundred twenty (120) Days following the filing of this PPA and the Option Agreement with the MPUC, stating that Company has been unable to obtain MPUC Approval without conditions unsatisfactory to Company, or that the MPUC has not yet issued a non-appealable order within one hundred twenty (120) Days following Company's filing of this PPA and the Option Agreement. Absent such notice of termination by Company on or before the referenced date, Company shall be deemed to have waived its rights under this Section, and this PPA shall remain in full force and effect thereafter.

6.2 Accounting Matters. Company must confirm (in consultation with its auditors) that this PPA will not be considered a capital lease under Accounting Standards Codification (ASC) 840, or require consolidation of Seller's financial information with Company's financial statements pursuant to ASC 810. If the Company is unable to confirm the forgoing matter, the Parties agree to use commercially reasonable efforts to negotiate changes to this PPA for up to ten (10) Business Days such that the PPA will not be considered a capital lease. If the Parties are unable to agree on the revised terms to this PPA, Company shall have the right to terminate this PPA, without any further financial or other obligation to Seller as a result of such termination, by notice to Seller at any time within forty-five (45) Days following the date of this PPA.

6.3 Seller's Conditions Precedent. Notwithstanding any provisions of this PPA to the contrary, Seller shall have the right, unless waived by Seller, to terminate this PPA, without any further financial or other obligations to Company as a result of such termination, by notice to Company on or before the earlier of (i) July 31, 2011 and (ii) 60 Days after MPUC Approval of this Agreement, in the event Seller fails to execute an Interconnection Agreement after exercising its commercially reasonable efforts to negotiate an Interconnection Agreement with Company. Absent timely notice of termination by Seller as called for in this Section 6.3, this contingency shall be deemed waived and this PPA shall remain in full force and effect thereafter.

## **Article 7 - Sale and Purchase of Renewable Energy**

7.1 Sale and Purchase. Beginning on the Commercial Operation Date, Seller shall generate from the Facility, deliver to the Point of Delivery, and sell to Company, at the applicable price set forth in Section 8.1, all Renewable Energy generated by the Facility. For the avoidance of doubt, except as otherwise expressly provided for herein, this PPA shall not be construed to constitute a 'take or pay' contract and, except as specifically provided otherwise herein, Company shall have no obligation to pay for any energy that has not actually been generated by the Facility, measured by the Electric Metering Device(s), and delivered to Company at the Point of Delivery.

7.2 Committed Renewable Energy. "Committed Renewable Energy" is seven hundred twenty-five thousand megawatt hours (725,000 MWh) of Renewable Energy delivered to Company in any Commercial Operation Year. Not more than thirty

(30) Days following the end of the first commercial operation year, Seller may revise the Committed Renewable Energy amount one time during the Term by no more than three percent (3%) above or below the Committed Renewable Energy herein based on actual operating experience of the Facility during the first Commercial Operation Year. For the avoidance of doubt, Seller shall not have the right to revise the Committed Renewable Energy hereunder following its opportunity to do so set forth in this Section 7.2. Seller's obligation to deliver the Committed Renewable Energy to the Company in any Commercial Operation year is subject to adjustment as provided for in Section 12.1(E).

7.3 Title and Risk of Loss. As between the Parties, Seller shall be deemed to be in control of the Renewable Energy and Test Energy output from the Facility up to and until delivery and receipt at the Point of Delivery and Company shall be deemed to be in control of such energy from and after delivery and receipt at the Point of Delivery. Title and risk of loss related to the Renewable Energy and Test Energy shall transfer from Seller to Company at the Point of Delivery.

7.4 AGC and Company's Right to Curtail Energy.

(A) Beginning on the Commercial Operation Date, Company shall dispatch Facility through the EMCC AGC system. Company shall compensate Seller as set forth in Section 8.2, for compensable Curtailment Energy.

(B) Company may notify Seller, by telephonic communication or through use of the AGC Set Point, to curtail the delivery of Renewable Energy to Company from the Facility and to the Point of Delivery, for any reason and in its sole discretion and Seller shall immediately comply with such notification; provided, however, that no Force Majeure event affecting Seller or Event of Default of Company has occurred and is continuing that prevents compliance with such Company directed curtailment.

(C) Seller shall ensure that, throughout the Term, the SCADA signal is capable of functioning on all AGC Set Points within the margin of error specified in the wind farm control system manufacturer's energy set point margin of error.

(D) Seller shall ensure that Facility AGC Remote/Local status is in "Remote" set-point control during normal operations.

## **Article 8 - Payment Calculations**

8.1 Energy Payment Rate; Adjustment for Option Exercise.

(A) Prior to the Commercial Operation Date, Company shall pay Seller for Test Energy delivered to the Company by Seller to the Point of Delivery at the rate set forth in Section 4.9. Seller shall not be entitled to any compensable Curtailment Energy payments in connection with Test Energy.

(B) Commencing on the Commercial Operation Date of the Facility, Company shall pay Seller for all Renewable Energy delivered to Company by Seller to the Point of Delivery in a Commercial Operation Year, net of energy self-generated and

concurrently consumed by the Facility, and net of losses prior to the Point of Delivery, for up to one hundred fifteen percent (115%) of the Committed Renewable Energy, at a price equal to the rate for the applicable period shown in Exhibit J (“Renewable Energy Payment Rate”); *provided that*, the Renewable Energy Payment Rate shall be subject to adjustment as described in Section 8.1(E) and Section 8.1(F) below. The Renewable Energy Payment Rate for a specific Commercial Operation Year shall be effective, as described in Exhibit J, on the first Day of the calendar month following the calendar month in which the applicable anniversary of COD occurs (for example, if COD occurs on August 10, 2012, the Renewable Energy Payment Rate for the second Commercial Operation Year as described in Exhibit J shall be effective as of September 1, 2013).

(C) In the event that the Renewable Energy delivered by Seller to Company at the Point of Delivery in any Commercial Operation Year (including any Curtailment Energy for which Seller is compensated) exceeds 115% of the Committed Renewable Energy, Company shall pay Seller **[BEGIN TRADE SECRET**

**END TRADE SECRET]** delivered by Seller to Company at the Point of Delivery in excess of 115% of the Committed Renewable Energy (“Excess Energy”) for such Commercial Operation Year. **[BEGIN TRADE SECRET**

**END TRADE SECRET]** After such Commercial Operation Year the Parties’ obligations shall resume pursuant to this PPA. Seller shall notify Company upon Seller’s delivery of Renewable Energy hereunder that exceeds 110% of the Committed Renewable Energy for a Commercial Operation Year.

(D) For avoidance of doubt, and except as specifically provided for under Section 8.2, Company shall not be obligated to make any payment to Seller for any energy which, regardless of reason or event of Force Majeure affecting either Party,

1. does not qualify as Renewable Energy;
2. is not delivered to Company at the Point of Delivery; or
3. does not constitute compensable Curtailment Energy.

(E) In the event that Company completes the purchase of the Transmission Line pursuant to the Option Agreement, then the following amendments and adjustments to this Renewable Energy Payment Rate and PPA terms shall be made, without any additional action or notice required of either Party hereunder, effective upon the closing date of the Company’s purchase of the Transmission Line:

1. the Renewable Energy Payment Rate under this PPA shall be adjusted prospectively as described in Exhibit K hereto, with such new rate effective upon the next immediately following Commercial Operation Year adjustment (as described in Section 8.1(B)) following the closing of the Company’s purchase of the Transmission Line; and

2. the Point of Delivery, as defined in Section 1.4, shall be changed from being at the Split Rock substation to being at the Facility busbar located at the Facility, and all references to the Point of Delivery herein shall thereafter refer to such Facility busbar and not the Split Rock substation.

(F) In the event that the conditions outlined in Section 5.1(E) with respect to Price Adjustment A have been met, then Price Adjustment A shall be **[BEGIN TRADE SECRET**

**. END TRADE SECRET]**

## 8.2 Curtailment Energy Payment Rate.

(A) If (i) delivery of Renewable Energy is curtailed by Company pursuant to Section 7.4, or (ii) Company elects to curtail Seller's delivery of Renewable Energy to Company for any reason that does not constitute a Non-Compensable Curtailment (as defined below), then

1. the Parties shall determine the quantity of Renewable Energy that would have been produced by the Facility and delivered to the Point of Delivery: (i) during those periods of time when the Facility is on AGC and the AGC Set-Point is set at a level that will not allow the entire installed capacity of the Facility to be deliverable by determining the difference between Potential Energy and the delivered Renewable Energy, and (ii) during those periods of time when the Facility is not on AGC or the AGC Set-Point is set at a level that will allow the entire installed capacity to be deliverable by determining the amount that would have been available for delivery had its generation not been so curtailed ("Curtailment Energy").

2. Curtailment Energy shall be the number of MWh represented by the Potential Energy less the Renewable Energy actually delivered and measured by the Electric Metering Devices (and excluding any Non-Compensable Curtailments) during the period of curtailment.

3. Company shall pay to Seller for such Curtailment Energy net of any Non-Compensable Curtailments, an amount equal to the sum of (i) all amounts that Seller would have received from Company under this PPA had such Curtailment Energy actually been delivered plus (ii) if the Facility has qualified for PTCs, the amount of any Tax Benefits that Seller would have been entitled to receive for production of Renewable Energy had such production not been so curtailed but that Seller did not receive.

(B) For purposes of determining Curtailment Energy, the amount of Potential Energy at any given time shall be calculated using the best-available data and methods to determine an accurate representation of the amount of Renewable Energy Seller could have delivered to the Point of Delivery during a curtailment.

1. To the extent available, Company agrees to use Seller's real time Park Potential communicated to Company through the SCADA System as the

proxy for Potential Energy, except to the extent that Park Potential is demonstrated not to accurately reflect the Potential Energy (plus or minus 2% over a period of one month).

2. During those periods of time when the Park Potential is unavailable or does not accurately represent Potential Energy, the Parties shall use the best available data obtained through commercially reasonable methods to determine the Potential Energy.

3. Seller shall be entitled to sell any Curtailment Energy to third parties to whom Seller is able successfully to transact and deliver; provided, however, that the net amount realized for such sale shall offset any amounts owed by Company for Curtailment Energy. Company shall reasonably cooperate with any such sales, and Seller accepts sole responsibility to obtain transmission rights to deliver such energy at no cost to Company. Seller accepts all risk of the unavailability of transmission rights during any curtailment.

(C) Notwithstanding anything in this Article to the contrary, curtailments or reductions of delivery for any of the following reasons shall constitute "Non-Compensable Curtailments", shall be excluded from "Curtailment Energy," and no payment shall be due Seller under paragraph (A) above for curtailments of delivery of Renewable Energy resulting from

1. an Emergency;
2. any curtailment arising out of maintenance outages of any part of the transmission system or any testing of the transmission system;
3. any curtailment arising from Seller's failure to maintain in full force and effect any permit, consent, license, approval, or authorization from any Governmental Authority required by Applicable Laws to construct and/or operate the Facility; or

4. **[BEGIN TRADE SECRET** **END TRADE**  
**SECRET]** of otherwise compensable Curtailment Energy ("Uncompensated Curtailment Allocation") in any Commercial Operation Year to be applied at the election of Company for any reason at any time during a Commercial Operation Year. Company may roll over to and add to the subsequent Commercial Operation Year's Uncompensated Curtailment Allocation the lesser of (i) the unused portion of the Uncompensated Curtailment Allocation for the prior Commercial Operation Year and (ii) twenty-five percent (25%) of the Uncompensated Curtailment Allocation; provided that in no circumstances shall the Company's allotment of MWh of Uncompensated Curtailment Allocation, following application of any such roll over amount(s), in any Commercial Operation Year exceed 125% of Uncompensated Curtailment Allocation nor will the aggregate, in any five (5) year period, exceed 550% of the Uncompensated Curtailment Allocation.

## Article 9 - Billing and Payment

### 9.1 Billing Invoices.

(A) The billing period under this PPA shall be the calendar month. No later than fifteen (15) Business Days after the end of each month, Company shall provide to Seller, by first-class mail, a statement showing the payment amount due Seller by Company for the power provided by Seller and purchased by Company, under this PPA, during the previous calendar month billing period. The statement will show metered energy from the Facility, all billing parameters, rates and factors, and any other data reasonably pertinent to the calculation of monthly payments due to Seller.

(B) After receiving the statement of payments due Seller provided by Company pursuant to Section 9.1(A), Seller shall provide to Company, by first-class mail, an invoice for the amount due Seller by Company, under this PPA, for the billing period covered by the statement. Seller's invoice shall be in such form as Company may reasonably request from time to time. If Seller disputes any amount in the statement provided by Company, Seller shall include with Seller's invoice an explanation of the items in dispute, as well as all supporting documentation upon which Seller relies to dispute the Company statement. Billing disputes shall be resolved in accordance with Section 9.5.

9.2 Metered Billing Data. All billing data based on metered deliveries to Company shall be collected by the Electric Metering Device(s) in accordance with Section 5.3.

9.3 Compensation for Ancillary Services. The Parties recognize that, although Seller's obligation to provide reactive power service from the Facility to Interconnection Provider's System and any compensation Seller receives for reactive power service are to be set forth in the Interconnection Agreement, the compensation that Seller receives from Company under this PPA includes full compensation for the fixed and variable costs associated with providing such reactive power service and all other ancillary services associated with the Facility. Therefore, Seller shall credit Company monthly, as a separate line item reduction to Seller's invoice, for any compensation that Seller receives, apart from that provided under this PPA, for the provision of operating reserve, reactive power and all other ancillary services from the Facility during the Term of this PPA; *provided, however*, that if a Governmental Authority or the Interconnection Provider implements new or revised requirements for generators to supply reactive power, and if Seller is required to install additional equipment after the Commercial Operation Date to meet such requirements, then Seller shall be allowed to reduce the amount of the credit to Company hereunder by an amount sufficient to recover the cost of such additional equipment; *provided, however*, that such reduction shall not reduce the amount of the credit below zero, and any excess of such cost over the amount of the credit in any year shall instead be carried forward as a reduction of the amount of the credit in subsequent years. Such credit shall differentiate, if possible, between compensation provided for the fixed costs and the variable costs of providing reactive power service.

9.4 Payments. Unless otherwise specified herein, payments due under this PPA shall be due and payable by check or by electronic funds transfer, as designated by the owed Party, on or before the fifteenth (15<sup>th</sup>) Business Day following receipt of the billing invoice. Remittances received by mail will be considered to have been paid when due if the postmark indicates the payment was mailed on or before the fifteenth (15<sup>th</sup>) Business Day following receipt of the billing invoice. If the amount due is not paid on or before the due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an annual interest rate equal to one hundred twenty-five percent (125%) of the LIBOR three-month rate published on the date of the invoice in *The Wall Street Journal* (or, if *The Wall Street Journal* is not published on that Day, the next succeeding date of publication). If the due date occurs on a Day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

9.5 Billing Disputes.

(A) 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 invoice due date. To resolve any billing dispute, the Parties shall use the procedures set forth in Section 13.10. 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, with late payment interest charges calculated on the amount owed in accordance with the provisions of Section 9.4.

9.6 Netting.

(A) Company at any time may offset against any and all amounts that may be due and owed to Seller under this PPA, any and all liquidated amounts, including damages and other payments, that are owed by Seller to Company pursuant to this PPA. Undisputed and non-offset portions of amounts invoiced under this PPA shall be paid on or before the due date or shall be subject to the late payment interest charges set forth in Section 9.4.

(B) Seller and Company shall net their obligations to each other under this PPA, then such amounts will be aggregated and Seller and Company will discharge their obligations to pay through netting of payments. If the amounts owed by Company or Seller to the other are equal, neither shall be required to make payment under this PPA.

## **Article 10 - Operations and Maintenance**

10.1 Maintenance Schedule. Maintenance schedule requirements for the Facility shall be conducted pursuant to operation and maintenance requirements of the Wind Turbine manufacturer, Good Utility Practices and, where such maintenance will involve more than 10% of the Facility's Wind Turbines being taken out of service at the

same time, shall be subject to Company's approval (not to be unreasonably withheld, conditioned or delayed).

10.2 Facility Operation. Within 60 Days after Seller has commissioned 100% of the Facility, an officer of Seller, shall provide an updated list of the Facility's equipment as provided in Section 4.8(B). Seller shall comply with all Applicable Laws and Good Utility Practices in the operation of the Facility as well as the requirements of MISO, MRO and any New Joint Transmission Authority. Seller shall staff, control and operate the Facility consistent at all times with Good Utility Practices and the Operating Procedures. Personnel capable of starting, operating and stopping the Facility shall be continuously available either at the Facility or capable of remotely starting, operating and stopping the Facility within ten (10) minutes, and capable of being at the Facility with no more than sixty (60) minutes notice. In all cases personnel capable of starting, operating and stopping the Facility shall be continuously reachable by phone or pager.

10.3 Capacity Resource Capability Verification. Seller shall cooperate reasonably to assist Company in maximizing (pursuant to the terms and conditions of this PPA) and determining the amount of Capacity Resource, if applicable for the purpose of this PPA. In addition, at Seller's expense, Seller shall collect data and perform tests and calculations in compliance with Module E of the MISO Tariff and MISO Business Practices Manual for Resource Adequacy, as they change from time to time.

10.4 Outage and Performance Reporting.

(A) Seller shall comply with all current Company, NERC, MRO, and MISO generating unit outage reporting requirements and reliability standards, as they may be revised from time to time, and as they apply to the Facility. Seller shall comply with applicable MISO reporting requirements unit availability, Wind Turbine locations, etc. as they may be revised from time to time.

(B) When Forced Outages occur, Seller shall notify Company's EMCC of the existence, nature, and expected duration of the Forced Outage as soon as practical, but in no event later than thirty (30) minutes after the Forced Outage occurs. Seller shall promptly inform Company's EMCC of changes in the expected duration of the Forced Outage unless relieved of this obligation by Company's EMCC for the duration of each Forced Outage.

(C) Commencing upon COD and continuing through the Term, Seller shall electronically provide the energy production from the Facility in fifteen (15) minute intervals, 24x365 to Company and allow Company to disclose such data publicly.

10.5 Operating Committee and Operating Procedures.

(A) Company 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 Renewable Energy hereunder. Such representatives shall constitute the

Operating Committee, and shall be specified as Exhibit C. The Parties shall notify each other in writing of such appointments and any changes thereto. The Operating Committee shall have no authority to modify the terms or conditions of this PPA.

(B) Prior to the Commercial Operation Date, the Operating Committee may develop mutually agreeable written Operating Procedures which shall include methods of day-to-day communications; metering, telemetering, telecommunications, and data acquisition procedures; key personnel list for applicable Company and Seller operating centers; operations and maintenance scheduling and reporting; Renewable Energy reports; unit operations log; and such other matters as may be mutually agreed upon by the Parties.

(C) The Operating Committee shall review the AGC Protocols from time to time after the date hereof and may agree on modifications thereto to the extent necessary or convenient for operation of the Facility in accordance with this PPA. Upon any modification to the AGC Protocols, the Parties shall adopt such modified AGC Protocols and update Exhibit G.

10.6 Access to Facility. Appropriate representatives of Company shall at all reasonable times, including weekends and nights, 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 safety precautions as may be required by Seller and shall conduct themselves in a manner that will not interfere with the operation of the Facility.

10.7 Reliability Standards. Seller shall operate the Facility in a manner that complies with all national and regional reliability standards, including standards set by NERC, FERC, MRO and the MPUC, or any successor agencies setting reliability standards for the operation of generation facilities. To the extent that Seller or the Facility contributes in whole or in part to actions that result in monetary penalties being assessed to Company by NERC, the MRO, or any successor agency, for lack of compliance with reliability standards, Seller shall reimburse Company for its share of such monetary penalties.

10.8 Environmental Credits.

(A) The Parties acknowledge that Applicable Laws in Minnesota and elsewhere creates and future Applicable Laws may create value in the ownership, use or allocation of RECs. To the full extent allowed by such Applicable Law, Company shall own or be entitled to claim all RECs to the extent such credits may exist or be created during the Term (including RECs generated in connection with Test Energy).

(B) Seller hereby automatically and irrevocably assigns to Company all rights, title and authority for Company to register, own, hold and manage such RECs in Company's own name and to Company's account, including any rights associated with any renewable energy information or tracking system that exists or may be established

in Minnesota or other jurisdictions (including but not limited to participants in M-RETS and the United States government) with regard to monitoring, registering, tracking, certifying, or trading such credits only as long as this PPA is in effect and there is no uncured Event of Default of the Company. Seller hereby authorizes Company to act as its agent for the purposes of registering, tracking and certifying RECs and Company has full authority to hold, sell or trade such RECs to its own account of said renewable energy information or tracking systems. Upon the request of Company from time to time (i) Seller shall deliver or cause to be delivered to Company such attestations / certifications of all Renewable Energy Credits, and (ii) Seller shall provide full cooperation in connection with Company's registration and certification of Renewable Energy Credits. Company shall pay any registration costs in connection with the certification and establishment of Company's RECs in accordance with this provision, and each Party shall pay its own costs of performing the remaining obligations under this Section 10.8(B).

10.9 Availability Reporting. Seller shall be responsible for providing accurate and timely updates on the current availability of the Facility to the EMCC as requested.

10.10 Facility Availability. During any Business Day of an On-Peak Month, while complying with Good Utility Practices, Seller shall use commercially reasonable efforts to (i) maximize the amount of Renewable Energy produced by the Facility, and (ii) minimize the extent and duration of Forced Outages, provided that Seller may comply with scheduled and unscheduled maintenance requirements of its Wind Turbine supply, operation and maintenance and warranty agreements in cooperation with Company pursuant to this Article 10 and Article 13.

## **Article 11 - Security for Performance**

### 11.1 Security Fund.

(A) Seller shall establish, fund, and maintain a Security Fund, pursuant to the provisions of this Section, which shall be available, subject to the limitations with respect to damages provided for in Section 12.6 hereof as applicable in the circumstances, to pay any amount due Company pursuant to this PPA, and to provide Company security that Seller will construct the Facility to meet the Construction Milestones. The Security Fund shall also provide security to Company to cover damages, including Replacement Energy Costs, should the Facility fail to achieve the Commercial Operation Date or otherwise not operate in accordance with this PPA. Seller shall establish the Security Fund at a level of **[BEGIN TRADE SECRET END TRADE SECRET]** no later than thirty (30) Days following satisfaction (or if applicable, waiver by the applicable Party) of the conditions precedent set forth in Article 6 above, and shall maintain the Security Fund at such required level throughout the remainder of the Term. To the extent that the Security Fund is drawn in order to pay damages described in paragraphs (A) through (F) of Section 12.6 herein, Seller shall restore such drawn amount to the Security Fund within five (5) Business Days after such draw on the Security Fund by Company. To the extent the Security Fund is drawn for any other purpose, Seller shall have no obligation to replenish the Security Fund.

(B) In addition to any other remedy available to it, Company may, before or after termination of this PPA, draw from the Security Fund such amounts as are necessary to recover amounts owing to Company pursuant to this PPA, including any damages due to Company and any amounts for which Company is entitled to indemnification under this PPA. Company may, in its sole discretion, draw all or any part of such amounts due to it from any form of security to the extent available pursuant to this Section, and from all such forms, and in any sequence Company may select. Any failure to draw upon the Security Fund or other security for any damages or other amounts due to Company shall not prejudice Company's rights to recover such damages or amounts in any other manner.

(C) The Security Fund shall be maintained at Seller's expense, shall be originated by or deposited in a financial institution or company that is a major United States commercial bank or foreign bank with a United States branch office ("Issuer") acceptable to Company, and shall be in the form of one or more of the following instruments:

1. At any time during the Term, the Security Fund may be in the form of an irrevocable standby letter of credit in the form and substance of Exhibit F and acceptable to Company, from an Issuer with an unsecured bond rating (unenhanced by third-party support) equivalent to A-/A3 or better as determined by all rating agencies that have provided such a rating (and if ratings from both Standard & Poor's and Moody's are not available, equivalent ratings from alternate rating sources shall be subject to the review and approval of Company). In addition, if such unsecured bond rating (unenhanced by third-party support) of the Issuer is exactly equivalent to A-/A3; the Issuer must not be on credit watch or have a negative outlook by any rating agency. Security provided in this form shall be consistent with this PPA and include a provision for at least thirty (30) Days advance written notice to Company of any non-renewal, expiration or earlier termination of the security so as to allow Company sufficient time to exercise its rights under said security if Seller fails to extend or replace the security. The form of such security must meet Company's requirements to ensure that claims or draw-downs can be made unilaterally by Company in accordance with the terms of this PPA. Such security must be issued for a minimum term of three hundred and sixty (360) Days. Seller shall cause the renewal or extension of the security for additional consecutive terms of three hundred and sixty (360) Days or more (or, if shorter, for the remainder of the Term) no later than thirty (30) Days prior to each expiration date of the security. If the security is not renewed or extended as required herein, Company shall have the right to draw immediately upon the security and to place the amounts so drawn, at Seller's cost and with Seller's funds, in an interest bearing escrow account in accordance with sub-paragraph (2) below, until and unless Seller provides a substitute form of such security meeting the requirements of this Section. Security in the form of an irrevocable standby letter of credit shall be governed by the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600 (the "UCP"), except to the extent that the terms hereof are inconsistent with the provisions of the UCP, including Articles 14.B. and 36 of the UCP, in which case the terms of the Letter of Credit shall

govern. The following provisions shall be included in any letter of credit provided as or as part of the Security Fund:

“With respect to Article 14.B. of the UCP, the Issuing Bank shall have a reasonable amount of time, not to exceed three (3) banking Days following the date of its receipt of documents from the beneficiary, to examine the documents and determine whether to take up or refuse the documents and to inform the beneficiary accordingly.

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

2. At any time during the Term, the Security Fund may be in the form of United States currency, deposited with an Issuer, in which Company holds a first and exclusive perfected security interest, either: (i) in an interest bearing escrow account under which Company is designated as beneficiary with sole authority to withdraw cash from the account or otherwise access the security; or (ii) held by Issuer as escrow agent with instructions to pay claims made by Company pursuant to this PPA, such instructions to be in a form satisfactory to Company. Security provided in this form shall include a requirement for immediate notice to Company from Issuer and Seller in the event that the sums held as security in the account or trust do not at any time meet the required level for the Security Fund as set forth in this Section. Funds held in the account may be deposited in a money-market fund, short-term Treasury obligations, investment-grade commercial paper and other liquid investment-grade investments with maturities of three (3) months or less, with all investment income thereon to be taxable to, and to accrue for the benefit of, Seller. After the Commercial Operation Date is achieved, annual account sweeps for recovery of interest earned by the Security Fund shall be allowed by Seller. At such times as the balance in the escrow account exceeds the amount of Seller’s obligation to provide security hereunder, Company shall remit to Seller on demand any excess in the escrow account above Seller’s obligations.

3. Following COD, the Security Fund also may consist of a guaranty substantially in the form of Exhibit H, from a guarantor, of sufficient financial size that is acceptable to Company and with a senior unsecured bond rating (unenhanced by third-party support) equivalent to BBB+/Baa1 or better as determined by all rating agencies that have provided such a rating (and if ratings from both Standard & Poor’s and Moody’s are not available, equivalent ratings from alternate rating sources shall be subject to the review and approval of Company). In addition, if such senior unsecured credit rating of the Issuer is exactly equivalent to BBB+/Baa1, the Issuer must not be on credit watch or have a negative outlook by any rating agency. If the credit rating of the Issuer is downgraded or there has been a material adverse change in the creditworthiness of the Issuer, then Seller shall be required to convert the guarantee provided by such Issuer to a Security Fund instrument meeting the criteria set forth in either sub-paragraph (1) or sub-paragraph (2) above no later than thirty (30)

Days after receiving notice from Company that such conversion is required pursuant to this paragraph.

(D) Seller may change the form of the Security Fund at any time and from time to time upon reasonable prior notice to Company, but the Security Fund must at all times be consistent with the foregoing.

(E) Company may reevaluate from time to time the value of any security posted by Seller to determine, in a commercially reasonable manner, whether (i) it continues to satisfy the requirements in this PPA or (ii) there has been a material adverse change in the creditworthiness of the Issuer or guarantor, such that it will no longer satisfy the requirements of this PPA. If Company determines, in a commercially reasonable manner, that there has been an event that has caused Seller's security to no longer satisfy the requirements of this PPA, then Company shall provide prompt written notice to Seller of such event and after receipt of such notice, Seller shall be required to provide alternative security that satisfies the terms of this PPA.

(F) Promptly (i) following the end of the Term and the completion of all of Seller's obligations under this PPA, or (ii) upon Company's exercise of its right to terminate this PPA pursuant to Article 6, Company shall release the balance of the Security Fund (including any accumulated interest, if applicable) to Seller.

(G) Seller shall reimburse Company for the incremental direct expenses (including the reasonable fees and expenses of counsel) incurred by Company in connection with the preparation, negotiation, execution and/or release of any security instruments, and other related documents, used by Seller to establish and maintain the Security Fund pursuant to Seller's obligations under this Section.

## **Article 12 - Default and Remedies**

### **12.1 Events of Default of Seller.**

(A) Any of the following shall constitute an Event of Default of Seller upon its occurrence and no cure period shall be applicable:

1. Seller's dissolution or liquidation;
2. Seller's assignment of this PPA or any of its rights hereunder for the benefit of creditors (except for an assignment to the Facility Investor as security under the Financing Documents as permitted by this PPA);
3. Seller's filing of a petition in voluntary bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or Seller voluntarily taking advantage of any such law or act by answer or otherwise;

4. The sale by Seller to a third party, or diversion by Seller for any use, of energy committed to Company by Seller other than in mitigation of damages for any breach by Company of this PPA or as provided in Section 7.4 and Section 8.1;

5. Seller's actual fraud, waste, tampering with Company-owned facilities or other material intentional misrepresentation or misconduct in connection with this PPA or the operation of the Facility; and/or

6. Seller's failure to provide Company with the Turbine Commitment.

7. Seller's assignment of this PPA, or any Change of Control of Seller, or Seller's sale or transfer of the Facility, except as permitted in accordance with Article 19.

(B) Any of the following shall constitute an Event of Default of Seller upon its occurrence but shall be subject to cure within thirty (30) Days after the date of written notice from Company to Seller and the Facility Investor:

1. Seller's failure to meet any of the Construction Milestone(s), except the Commercial Operation Milestone;

2. Seller's failure to establish and maintain the funding of the Security Fund in accordance with Section 11.1;

3. Seller's Abandonment of construction or operation of the Facility;

4. Seller's failure to maintain in effect any agreements required to deliver energy to the Point of Delivery, including the Interconnection Agreement;

5. Seller's failure to make any payment due to Company under or in connection with this PPA; and/or

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

(C) Seller's failure to meet the Commercial Operation Milestone shall constitute an Event of Default of Seller upon its occurrence but shall be subject to cure within sixty (60) Days after the date of written notice from Company to Seller and the Facility Investor as provided for in Section 13.1; *provided, however*, that Seller shall have an additional sixty (60) Day period to achieve the Commercial Operation Date, *provided, however, that*, on or before the expiration of the initial sixty (60) Day period, an independent engineer, mutually agreed to by the Parties, retained by Company and paid for by Seller, provides a written opinion to Company stating that Seller's plan for achieving the Commercial Operation Date is reasonably achievable within such additional sixty (60) Day cure period. This provision would allow for a total cure period of one hundred twenty (120) Days if all conditions of this paragraph are met. Subject to

the limitation on damages set forth in Section 12.6, Delay Damages under Section 12.4(A) shall continue accruing until the Commercial Operation Date is achieved or this PPA is terminated.

(D) Any of the following shall constitute an Event of Default of Seller upon its occurrence but shall be subject to cure within sixty (60) Days after the date of written notice from Company to Seller and the Facility Investor:

1. Any representation or warranty made by Seller in this PPA shall prove to have been false or misleading in any material respect when made or ceases to remain true during the Term if such cessation would result in a material adverse impact on Company; and/or

2. The filing of an involuntary case in bankruptcy or any proceeding under any other insolvency law against Seller as debtor or its parent or any other Affiliate that would materially impact Seller's ability to perform its obligations hereunder; provided, however, that Seller does not obtain a stay or dismissal of the filing within the cure period.

(E) Seller's failure to deliver at least eighty-five percent (85%) of the Committed Renewable Energy from the Facility in any rolling twenty-four (24) month period beginning on or after the first anniversary of COD, shall constitute an Event of Default of Seller upon Seller's receipt of written notice by Company, *provided, however, that*

1. to the extent such failure is attributable to events such as the lack of wind resource, curtailment by Company under Sections 7.4 or 8.2, Company's Event of Default, or an event of Force Majeure, the contribution of such events shall be imputed into the calculation of Committed Renewable Energy for the purposes of, and only for the purposes of, establishing an Event of Default of Seller under this subsection (E), and

2. this Event of Default shall be curable and deemed cured if (i) within forty-five (45) Days following the end of period, Seller cures the reason(s) for such default (or, if such cure cannot reasonably be effected within forty-five (45) Days, Seller commences to cure such default within forty-five (45) Days and then diligently pursues such cure to completion as soon as practicable thereafter), and (ii) as a result of such efforts, during the twelve-month period subsequent to such period, the production of Renewable Energy by the Facility (adjusted as provided in paragraph (1)) meets or exceeds the Committed Renewable Energy for such twelve-month period. Seller shall be permitted to add and/or replace Wind Turbines on the Site if and to the extent reasonably required to cure Seller's default under this subsection (E). Seller shall provide Company monthly written notice of Seller's cure efforts under this paragraph.

3. Subject to the limitations of this paragraph, Seller may cure an Event of Default under this subsection (E) if Seller pays the Company an amount of

Replacement Energy Costs that when the MWh compensated in such manner are combined with the Renewable Energy actually delivered to Company, meets or exceeds 85% of the Committed Renewable Energy requirement of this subsection (E). Seller shall have five (5) Business Days after exhausting its remedy under paragraph 2 of this subsection (E) to elect to pay Replacement Energy Costs to cure the Event of Default under this subsection (E). Seller's right to cure a default under this subsection (E) shall be limited as follows:

(i) As provided in Section 12.6 hereof, Seller has the right to exceed the applicable Damage Cap in effecting such a cure, and the existence of such Damage Cap will not preclude or block Seller from availing itself of this cure (provided Seller continues to meet its obligations pursuant to Article 11) by paying such Replacement Energy Costs in excess of such Damage Cap; provided, however, that Company retains its rights under Section 12.6 to the extent Seller chooses not to exceed such Damage Cap.

(ii) In the event Seller fails to deliver to Company at least sixty-five percent (65%) of the Committed Renewable Energy from the Facility in any rolling twenty-four (24) month period pursuant to this PPA beginning on or after the first anniversary of COD, Seller's payment to Company of Replacement Energy Costs, as provided in this Section 12.1(E)(3), shall not constitute part of the cure.

(iii) Seller shall be allowed no more than three (3) occurrences during the Term in which Seller can provide Replacement Energy Costs as part of the cure for an Event of Default under this Section 12.1(E). In the event Seller encounters the fourth instance of such an Event of Default, Seller shall seek to cure such default solely by satisfying the requirements in Section 12.1(E)(2) above. Accordingly, in such fourth or subsequent incident, Seller's payment to Company of Replacement Energy Costs shall not be regarded hereunder as part of the cure.

(F) Notwithstanding any cure periods or extended cure periods as provided in this Section 12.1, Seller's failure to meet the Commercial Operation Milestone for any reason (including Force Majeure or the excuses set forth in this Section 12.1) shall not give rise to any change in the Renewable Energy Payment Rate, regardless of whether such failure results in the Facility not qualifying for PTCs.

12.2 Facility Investor's Right to Cure Default of Seller. Seller shall provide Company with a notice identifying the Facility Investor and providing appropriate contact information for the Facility Investor. Following receipt of such notice, Company shall provide notice of any Event of Default of Seller to the Facility Investor, and Company will accept a cure to an Event of Default of Seller performed by the Facility Investor, so long as the cure is accomplished within the applicable cure period set forth in this PPA.

12.3 Events of Default of Company.

(A) Any of the following shall constitute an Event of Default of Company upon its occurrence and no cure period shall be applicable:

1. Company's dissolution or liquidation, provided, however, that division of Company into multiple entities and the entity that owns Company's assets necessary to provide retail electric utility service to customers and has regulatory authority to seek rate recovery from the MPUC assumes the obligations of this PPA, shall not constitute dissolution or liquidation;

2. Company's assignment of this PPA or any of its rights hereunder for the benefit of creditors;

3. Company's filing of a voluntary petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any State, or Company voluntarily taking advantage of any such law or act by answer or otherwise; and/or

4. Company's assignment of this PPA, except as permitted in accordance with Section 19.1 herein.

(B) Any of the following shall constitute an Event of Default of Company upon its occurrence but shall be subject to cure within thirty (30) Days after the date of written notice from Seller to Company:

1. Company's failure to make any payment due hereunder (subject to Company's rights with respect to disputed payments under Section 9.5 and net of outstanding damages and any other rights of offset that Company may have pursuant to this PPA); and/or

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

(C) Any of the following shall constitute an Event of Default of Company upon its occurrence but shall be subject to cure within sixty (60) Days after the date of written notice from Seller to Company:

1. The filing of an involuntary case in bankruptcy or any proceeding under any other insolvency law against Company that would materially impact Company's ability to perform its obligations hereunder; provided, however, that Company does not obtain a stay or dismissal of the filing within the cure period; and/or

2. Any representation or warranty made by Company 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 result in a material adverse impact on Seller.

12.4 Damages Prior to Termination. Upon the occurrence of an Event of Default, and subject in each case to the Damage Caps set forth in Section 12.6, the non-defaulting Party shall have the right to collect damages accruing prior to the termination of this PPA from the defaulting Party as set forth below, and the payment of

any such damages accruing prior to the cure of an Event of Default shall constitute part of the cure.

(A) Delay Damages.

1. If Seller fails to meet any Construction Milestone set forth in Exhibit A, subject to extension for Force Majeure or Delay Conditions attributable to Company under Section 14.4, Seller shall pay damages to Company on account of such delay ("Delay Damages") in the amounts specified below.

| Delay  | Delay Damages                                       |
|--|---|
| Failure to meet any Construction Milestone set forth in <u>Exhibit A</u> , except for Commercial Operation Milestone | \$10 per MW of Facility Nameplate Capacity per Day  |
| Failure to meet the Commercial Operation Milestone set forth in <u>Exhibit A</u>                                     | \$125 per MW of Facility Nameplate Capacity per Day |

2. All Delay Damages shall begin to accrue on the Day after the applicable missed Construction Milestone and shall continue to accrue until the result specified for such Construction Milestone is achieved and the Company shall not be entitled to terminate this PPA for at least three hundred sixty-five (365) Days following the beginning of Seller's payment of such Delay Damages so long as such Delay Damages are being paid by Seller in accordance with the applicable provisions hereof. Except as otherwise provided below in Section 12.4(B) with respect to Seller's failure to meet the Commercial Operation Milestone, Delay Damages shall be payable in lieu of actual damages accrued for the period during which Delay Damages are assessed. All Delay Damages shall be cumulative.

3. Notwithstanding the foregoing, if Seller meets the Commercial Operation Milestone, all Delay Damages paid by Seller to Company based upon a failure to meet one or more earlier Construction Milestones, less any expense amounts incurred by Company pursuant to Section 12.7, shall be refunded to Seller, without interest, with payments due Seller for the first monthly billing period following the Commercial Operation Date.

4. The Parties specifically recognize that Company's damages associated with any delays in achieving Construction Milestones will be significant but that it will be difficult to quantify those damages. Delay Damages shall be deemed to constitute liquidated damages and do not constitute a penalty.

(B) Actual Damages. For all Events of Default described in Section 12.1 and 12.3 (including failure to achieve the Commercial Operation Milestone, but excluding Seller's failure to meet other Construction Milestones, for which Company shall, subject to the limitation on damages set forth in this PPA, be entitled to collect

Delay Damages pursuant to Section 12.4(A), subject to Section 14.4), the non-defaulting Party shall be entitled to receive from the defaulting Party all of the damages incurred by the non-defaulting Party in connection with such Event of Default; *provided, however, that* if an Event of Default has occurred and has continued uncured for a period of three hundred sixty-five (365) Days, the non-defaulting Party shall be required to either waive its right to collect damages beyond such three hundred sixty-five (365) Day period on account of such Event of Default or elect to terminate this PPA as provided for in Section 12.5. If Seller is the defaulting Party, the Parties agree that the damages recoverable by Company hereunder on account of an uncured Event of Default of Seller shall include Replacement Energy Costs, subject to the terms and conditions of Section 12.6. Notwithstanding anything to the contrary in this PPA, in no event shall Company have an obligation to pay Seller Replacement Energy Costs irrespective of the result of Company's calculation of Replacement Energy Costs herein. In the event the calculation of Replacement Energy Costs results in an energy price per MWh (on a weighted-average basis) that is lower than the Renewable Energy Payment Rate, neither Party will have an obligation to pay the other Party Replacement Energy Costs.

12.5 Termination. Subject to the terms and conditions set forth in Section 12.4 of this PPA, upon the occurrence of an Event of Default which has not been cured within the applicable cure period, the non-defaulting Party shall have the right to declare a date, which shall be between fifteen (15) and thirty (30) Days after the notice thereof, upon which this PPA shall terminate. Neither Party shall have the right to terminate this PPA except as provided for upon the occurrence of an Event of Default and expiration of any applicable cure period as described above or as otherwise may be explicitly provided for in this PPA, including if a Condition Precedent under Article 6 is not satisfied. If a Party's Condition Precedent under Article 6 is not satisfied or are not waived by such Party, such Party may terminate this PPA upon written notice to the other Party, this PPA shall become null and void and neither Party shall pay damages to the other Party. Upon the termination of this PPA under this Section, the non-defaulting Party shall be entitled to receive from the defaulting Party, subject to the Damage Caps set forth in Section 12.6, all of the damages incurred by the non-defaulting Party in connection with such termination including, if Seller is the defaulting Party, the value of all future Replacement Energy Costs for the then remaining Term.

12.6 Limitation on Damages. Except as otherwise provided in this Section, (i) Seller's aggregate financial liability to Company for Delay Damages shall not exceed \$15,000,000 and (ii) Seller's aggregate financial liability to Company for Replacement Energy Costs and other damages, excluding Delay Damages, shall not exceed \$15,000,000, (each a "Damage Cap(s)"). If at any time during the Term, Company incurs damages in excess of a Damage Cap that Seller does not agree to pay when billed by Company in accordance with Section 12.11, Company shall have the right to declare a termination of this PPA under Section 12.5 following thirty (30) Days written notice to Seller. The Damage Caps set forth in this paragraph shall not apply to damages arising out of any of the following events:

(A) tampering with Company-owned facilities or material intentional misrepresentation or misconduct sanctioned by, or at the direction of, Seller in connection with this PPA or the operation of the Facility;

(B) the sale by Seller to a third party, or diversion by Seller for any use, of Capacity Resource or Committed Renewable Energy committed to Company under this PPA;

(C) Seller's failure to apply any insurance proceeds to restoration of damaged equipment of the Facility following a casualty;

(D) any claim for indemnification under Article 17;

(E) any Environmental Contamination caused by Seller; or

(F) the filing of an involuntary bankruptcy petition against Seller (other than by Company), which petition is not dismissed within sixty (60) Days of its filing, or the filing of a voluntary petition in bankruptcy by Seller.

12.7 Operation by Company Following Event of Default of Seller.

(A) Prior to any termination of this PPA due to an Event of Default of Seller, Company shall have the right, but not the obligation, to possess, assume control of, and operate the Facility as agent for Seller (in accordance with Seller's rights, obligations, and interest under this PPA) during the period provided for herein. Seller shall not grant any person, other than the Facility Investor, a right to possess, assume control of, and operate the Facility that is equal to or superior to Company's right under this Section.

(B) Company shall give Seller and the Facility Investor ten (10) Days notice in advance of the contemplated exercise of Company's rights under this Section. Upon such notice, Seller shall collect and have available at a convenient, central location at the Facility all documents, contracts, books, manuals, reports, and records required to construct, operate, and maintain the Facility in accordance with Good Utility Practice. Upon such notice, Company, its employees, contractors, or designated third parties shall have the unrestricted right to enter the Site and the Facility for the purpose of constructing and/or operating the Facility. Seller hereby irrevocably appoints Company as Seller's attorney-in-fact for the exclusive purpose of executing such documents and taking such other actions as Company may reasonably deem necessary or appropriate to exercise Company's step-in rights under this Section.

(C) To the extent Company is not fully compensated under subsection (D) of this Section, Company shall be entitled to immediately draw upon the Security Fund to cover any expenses incurred by Company in exercising its rights under this Section.

(D) During any period that Company is in possession of and constructing and/or operating the Facility pursuant to this Section, Company shall perform and comply with all of the obligations of Seller under this PPA and shall use the proceeds from the sale of electricity generated by the Facility to first, reimburse Company for any

and all expenses reasonably incurred by Company (including a return on capital at Company's authorized return on equity most recently determined by the MPUC) in taking possession of and operating the Facility, and to second, remit any remaining proceeds to Seller.

(E) During any period that Company is in possession of and operating the Facility, Seller shall retain legal title to and ownership of the Facility and Company shall assume possession, operation, and control solely as agent for Seller.

1. In the event that Company is in possession and control of the Facility for an interim period, Seller may resume operation and Company shall relinquish its right to operate when Seller demonstrates to Company's reasonable satisfaction that it will remove those grounds that originally gave rise to Company's right to operate the Facility, as provided above, in that Seller (i) will resume operation of the Facility in accordance with the provisions of this PPA, and (ii) has cured any Events of Default of Seller which allowed Company to exercise its rights under this Section (or, if the Event of Default is of such a nature that it cannot be cured by Seller without possession of the Facility, reasonable assurance that Seller will cure such Event of Default promptly following resumption of possession).

2. In the event that Company is in possession and control of the Facility for an interim period, the Facility Investor, or any nominee or transferee thereof, may foreclose and take possession of and operate the Facility and Company shall relinquish its right to operate when the Facility Investor or any nominee or transferee thereof, requests such relinquishment.

(F) Company's exercise of its rights hereunder to possess and operate the Facility shall not be deemed an assumption by Company of any liability attributable to Seller. If at any time after exercising its rights to take possession of and operate the Facility Company elects to return such possession and operation to Seller, Company shall provide Seller with at least fifteen (15) Days advance notice of the date Company intends to return such possession and operation, and upon Seller's receipt of such notice Seller shall take all measures necessary to resume possession and operation of the Facility on such date.

(G) In the event Company assumes operation of the Facility under this Section, Company shall operate the Facility in conformance with Good Utility Practices.

12.8 Specific Performance. In addition to the other remedies specified in this Article, following the Commercial Operation Date, in the event that any Event of Default of Seller is not cured within the applicable cure period set forth herein, Company may elect to treat this PPA as being in full force and effect and Company shall have the right to specific performance. If the breach by Seller arises from a failure by third party operating the Facility pursuant to an operating agreement entered into with Seller, and Seller fails or refuses to enforce its rights under the operating agreement which would result in the cure, or partial cure, of the Event of Default, Company's right to specific performance shall include the right to obtain an order compelling Seller to enforce its

rights under the operating agreement. If an Event of Default of Company is not cured within the applicable cure period, Seller may elect to treat this PPA in full force and effect and Seller shall have the right of specific performance.

12.9 Remedies Cumulative. Subject to the exclusivity of Delay Damages provided in Section 12.4(A) and the Damage Caps, 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.

12.10 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, special, equitable or indirect damages, lost profits or other business interruption damages by statute, in tort or contract (except to the extent expressly provided herein); *provided, however, that* if either Party is held liable to a third party for such damages and the Party held liable for such damages is entitled to indemnification from the other Party hereto, the indemnifying Party shall be liable for, and obligated to reimburse the indemnified Party for, 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.

12.11 Payment of Amounts Due to Company. Without limiting any other provisions of this Article and at any time before or after termination of this PPA, Company may send Seller an invoice for such damages (including Delay Damages) or other amounts as are due to Company at such time from Seller under this PPA and such invoice shall be payable in the manner, and in accordance with the applicable provisions, set forth in Article 9, including the provision for late payment charges. Company may withdraw funds from the Security Fund as needed to provide payment for such invoice if the invoice is not paid by Seller on or before the tenth (10th) Business Day following the invoice due date.

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

### **Article 13 - Contract Administration and Notices**

13.1 Notices in Writing. Notices required by this PPA shall be addressed to the other Party, including the other Party's representative on the Operating Committee,

at the addresses noted in Exhibit C as either Party updates them from time to time by written notice to the other Party. Any notice, request, consent, or other communication required or authorized under this PPA to be given by one Party to the other Party shall be in writing. It shall either be hand delivered or mailed, postage prepaid, to the representative of said other Party. If mailed, the notice, request, consent or other communication shall be simultaneously sent by facsimile or other electronic means. Any such notice, request, consent, or other communication shall be deemed to have been received by the close of the Business Day on which it was hand delivered or transmitted electronically (unless hand delivered or transmitted after such close 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.

13.2 Representative for Notices. Each Party shall maintain a designated representative to receive notices. Such representative may, at the option of each Party, be the same person as that Party's representative or alternate representative on the Operating Committee, or a different person. Either Party may, by written notice to the other Party, change the representative or the address to which such notices and communications are to be sent.

13.3 Authority of Representatives. The Parties' representatives designated above shall have authority to act for its respective principals in all technical matters relating to performance of this PPA and to attempt to resolve disputes or potential disputes. However, they, in their capacity as representatives, shall not have the authority to amend or modify any provision of this PPA.

13.4 Operating Records. Seller and Company shall each keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this PPA, including such records as may be required by Governmental Authorities, MISO, NERC or MRO as applicable.

13.5 Operating Log. Seller shall maintain an accurate and up-to-date operating log, in electronic format, at the Facility with records of production for each clock hour; changes in operating status; and Forced Outages for the purposes of proper administration of this PPA, including such records as may be required by state or federal regulatory authorities and MRO in the prescribed format.

13.6 Provision of Real Time Data.

(A) SCADA System Data. Seller shall communicate Park Potential and all data necessary for Company to integrate the Facility into Company's EMCC in real time through the Facility's SCADA System in accordance with the AGC Protocols. Seller shall maintain the Facility's SCADA System so that it is capable of interfacing with and reacting to Company's AGC Set-Point and responding to signals from the Company's EMCC in accordance with the AGC Protocols.

1. Seller shall use commercially reasonable efforts to adjust the real time Park Potential when Company communicates to Seller a measured difference of plus or minus two percent (2%) between the metered Renewable Energy, during a time where there was no AGC Set-Point, and Park Potential.

2. In the event that Company reasonably concludes that (i) Seller is not (i) providing the data required by this Section, (ii) interfacing with and reacting to Company's AGC Set-Point as required by this PPA, and/or (iii) providing Park Potential data within the required margin of error, then upon notice from Company, Seller shall, at Seller's expense, take those actions necessary to fully comply with this paragraph. Upon Seller's request, Company shall cooperate with Seller in taking any such actions.

3. Company shall have the right to audit and verify Seller's compliance with providing required data to the Company's SCADA System.

(B) PI Data. From and after the Commercial Operation Date, Seller shall provide Company, at Seller's expense, real time Wind Turbine performance and meteorological data for all Wind Turbines and meteorological towers at the Facility in accordance with Exhibit I for the Term of this PPA. Seller shall undertake to maintain Seller-owned data collection systems which are compatible with Company's plant-information system ("PI"). Seller shall ensure that real time communications capabilities are available and maintained for the transmission to Company's PI. Company shall be entitled to disclose data gathered through the Company's PI to third parties. Company shall have the right to disclose data gathered through the Company's PI system publicly *provided, however, that* such data is (i) masked to obscure the origin of the data and (ii) aggregated so that the data cannot be correlated and used by competitors of Seller and the supplier of the Wind Turbines.

(C) Availability Forecast. Seller shall provide to Company a day-ahead availability forecast on the following terms.

1. The forecast shall be submitted through an availability forecast system as specified by Company to Seller. Prior to the Commercial Operation Date, Company shall provide Seller with information necessary for Seller to access the chosen availability forecast system.

2. The forecast shall be posted by 5 a.m. central time every day and shall be applicable through the end of the next Day. For example, at 5 a.m. on Monday, an availability forecast is required for Tuesday (midnight to midnight). On Tuesday, the forecast for Wednesday, Wednesday for Thursday, and so on.

3. At any time after posting a forecast through the end of the next Day, any changes to real-time and forecasted availability greater than or equal to 10 MW or 10% of installed capacity (whichever is greater) shall be (1) communicated to the real-time operator via telephone with (2) immediate update to the availability forecast in the availability forecast system. For example:

(i) A disturbance at a 100.5 MW (67 x 1.5 MW wind turbines) wind plant causes 26 wind turbines (39 MW) to become unavailable. Only two turbines were forecast to be down for maintenance (3 MW). The expected change in the forecast is 36 MW (~36%); exceeding the 10 MW/10% requirement. A phone call to real-time operations with immediate update of the availability forecast is required. At the time of the outage, the estimated expected duration was thought to be six hours. Three hours into the outage, it became known that the 26 turbines would be available in an hour. A phone call notifying real-time of the change in availability is required with a coincident update in the availability forecast system.

(ii) A disturbance at a 10 MW (8 x 1.25 MW turbines) wind plant forces 4 turbines (5 MW) off-line. Because the disturbance did not equal or exceed 10 MW, no immediate action is necessary. If the disturbance is expected to persist into the next Day, then it is expected that the derated capacity is reflected in the next Day-ahead forecast submitted to the availability forecast system.

(iii) A 20 MW (20 x 1 MW turbines) wind plant is off-line for transmission maintenance. The maintenance work is completed 2 hours ahead of the projected completion. Because the change is greater than 10 MW, prior to coming on-line, a phone call is required coincident with an update to the availability forecast system to indicate the new availability.

4. Seller acknowledges that the forecasting required by this Section is consistent with the reporting requirements required for compliance with NERC standards intended to maintain reliability. Seller, as the generator, is primarily responsible for complying with the NERC standards and to report the information to MISO, MRO or other reliability coordinator. Company agrees to provide the forecasted information to the reliability coordinator on Seller's behalf, provided, however, that Seller shall remain responsible to ensure the reliability and accuracy of forecasts and any changes to the real-time or forecast availability of the Facility.

5. The Parties acknowledge, understand and agree that (i) forecasts, such as those described herein, are estimates prepared by Seller in good faith, based upon the data and information available to Seller as of the date such forecasts are made, (ii) such forecasts are subject to known and unknown risks, uncertainties and other factors that may cause the actual results or performance to be materially different than as expressed or implied in such forecasts and (iii) there can be no assurance that such forecasts will prove to be accurate, as actual results and future events could differ materially from those anticipated in such forecasts. Notwithstanding the prior sentence, nothing in this Section 13.6(C)(5) shall be deemed to limit Seller's requirement to comply with the regulatory standards described in Section 13.6(C)(4) above.

13.7 Billing and Payment Records. To facilitate payment and verification, Seller and Company shall keep all books and records necessary for billing and payments in accordance with the provisions of Article 9 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.

13.8 Examination of Records. Company may audit and examine Seller's financial, operating procedures, equipment manuals, Operating Records and data kept by Seller relating to transactions under and administration of this PPA, at any time during the period the records are required to be maintained, from time to time upon request and during normal business hours. By way of example only, Seller shall provide to Company upon request such financial information as Company and its auditors may need for analysis and compliance by Company's parent with any applicable Financial Accounting Standards, including FIN No. 46 related to variable interest entities.

13.9 Exhibits. Either Party may change the information for their notice addresses in Exhibit C at any time without the approval of the other Party. All other Exhibits may be changed to the extent allowed by specific provisions of this PPA or with the mutual consent of both Parties.

13.10 Dispute Resolution.

(A) In the event of any dispute arising under this PPA (a "Dispute"), within ten (10) Days following the delivered date of a written request by either Party (a "Dispute Notice"), (i) each Party shall appoint a representative (individually, a "Party Representative", together, the "Parties' Representatives"), and (ii) the Parties' Representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the Parties' Representatives cannot resolve the Dispute within thirty (30) Days after commencement of negotiations, within ten (10) Days following any request by either Party at any time thereafter, each Party Representative (I) shall independently prepare a written summary of the Dispute describing the issues and claims, (II) shall exchange its summary with the summary of the Dispute prepared by the other Party Representative, and (III) shall submit a copy of both summaries to a senior officer of the Party Representative's Party with authority to irrevocably bind the Party to a resolution of the Dispute. Within ten (10) Business Days after receipt of the Dispute summaries, the senior officers for both Parties shall negotiate in good faith to resolve the Dispute. If the Parties are unable to resolve the Dispute within ten (10) Business Days following receipt of the Dispute summaries by the senior officers, either Party may seek available legal remedies.

(B) Notwithstanding any provision in this PPA to the contrary, if no Dispute Notice has been issued within twenty-four (24) months following the occurrence of all events and the existence of all circumstances giving rise to the Dispute (regardless of the knowledge or potential knowledge of either Party of such events and circumstances), the Dispute and all claims related thereto shall be deemed waived and the aggrieved Party shall thereafter be barred from proceeding thereon.

(C) Seller and Company each hereby knowingly, voluntarily and intentionally waive any rights they may have to a trial by jury in respect of any litigation based

hereon, or arising out of, under, or in connection with, this PPA or any course of conduct, course of dealing, statements (whether oral or written) or actions of Seller and Company related hereto and expressly agree to have any disputes arising under or in connection with this PPA be adjudicated by a judge of the court having jurisdiction without a jury.

#### **Article 14 - Force Majeure**

##### **14.1 Definition of Force Majeure.**

(A) The term “Force Majeure”, as used in this PPA, means causes or events beyond the reasonable control of, and without the fault or negligence of the Party claiming Force Majeure, which by exercise of due diligence and reasonable foresight could not reasonably have been avoided, including, without limitation, (i) acts of God; (ii) sudden actions of the elements, such as floods, earthquakes, hurricanes or tornadoes, lightning, ice storms, high winds of sufficient strength or duration to materially damage a facility or significantly impair its operation for a period of time longer than normally encountered in similar businesses under comparable circumstances; (iii) serial manufacturing and/or design defects in the Wind 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 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; and (vi) actions or inactions by any Governmental Authority taken after the date hereof (including the adoption or change in any Applicable Laws imposed by such Governmental Authority), but only if such requirements, actions, or failures to act prevent or delay performance; and (vii) inability, despite due diligence, to obtain any licenses, permits, or approvals required by any Governmental Authority.

(B) 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 Renewable Energy to the Point of Delivery, unless such acts or omissions are themselves excused by reason of Force Majeure; (iii) any full or partial curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown or other mishaps, events or conditions attributable to normal wear and tear or flaws, unless such acts or omissions are themselves excused by reason of Force Majeure; (iv) failure to abide by Good Utility Practices; (v) changes in market conditions that affect the cost of Seller’s supplies, or that affect demand or price for power and/or RECs; strike; slow-down or labor disruptions against Seller or Seller’s contractors or subcontractors; or (vii) foreseeable disruptions to the Facility caused by weather events typically experienced in the region of the country where the facility is located, but excluding events and actions listed under Section 14.1(A)(ii) above.

#### 14.2 Applicability of Force Majeure.

(A) Neither Party shall be responsible or liable for any delay or failure in its performance under this PPA, nor shall any delay, failure, or other occurrence or event become an Event of Default, to the extent such delay, failure, occurrence or event is substantially caused by conditions or events of Force Majeure, *provided, however, that*:

1. the non-performing Party gives the other Party prompt written notice describing, in reasonable detail, the particulars of the occurrence of the Force Majeure and an estimate of its probable duration;

2. the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;

3. the non-performing Party proceeds with reasonable diligence to remedy its inability to perform and provides weekly progress reports to the other Party describing actions taken to end the Force Majeure; and

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.

(B) Except as otherwise expressly provided for in this PPA, the existence of a condition or event of Force Majeure shall not relieve the Parties of their obligations under this PPA (including payment obligations) to the extent that performance of such obligations is not precluded by the condition or event of Force Majeure.

14.3 Limitations on Effect of Force Majeure. In no event will any delay or failure of performance caused by any conditions or events of Force Majeure extend this PPA beyond its stated Term. In the event that any delay or failure of performance caused by conditions or events of Force Majeure affecting Seller continues for an uninterrupted period of ninety (90) Days from its inception (with respect to Force Majeure occurring prior to COD) or three hundred sixty-five (365) Days from its inception (with respect to Force Majeure occurring after COD), the Party not claiming Force Majeure may, at any time following the end of such 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.

#### 14.4 Delays Attributable to Company.

(A) Seller shall be excused from a failure to meet any specified Construction Milestone where Seller can establish that such a failure is principally attributable to any delay or failure by Company in obtaining any consents or approvals from Governmental Authorities or third parties required for Company to perform its obligations under this PPA, whether or not caused by any conditions or events of Force Majeure ("Delay Conditions"). In the event of such a failure, the Construction Milestone that is not met due to the Delay Condition(s), and any affected Construction Milestones that follow, shall be extended for a period of time equal to the period of time between (i) the

Construction Milestone that is not met due to the Delay Condition(s) and (ii) the Day that Company has corrected the Delay Condition(s).

(B) Seller's failure to meet the Commercial Operation Milestone for any reason, including Delay Condition(s), Force Majeure, the acts or inaction of the Interconnection Provider or of any third party, or any Event of Default, shall not give rise to any damages payable by Company (or an increase in the price for Renewable Energy) associated with or arising from such failure resulting in the Facility not qualifying for tax incentives, grants or credits, except in situations where Seller can establish that the failure to meet the Commercial Operation Milestone: (i) actually caused the Facility not to qualify for tax incentives, grants or credits, and (ii) was proximately caused by Company's willful misconduct or gross negligence in its performance of this PPA, or by an uncured Event of Default by Company of this PPA.

### **Article 15 - Representations, Warranties and Covenants**

15.1 Seller's Representations, Warranties and Covenants. Seller hereby represents and warrants to Company as follows:

(A) 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.

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

1. 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 Company upon its request);

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

3. 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

4. result in, or require the creation or imposition of any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any

nature (other than as may be contemplated by this PPA) upon or with respect to any of the assets or properties of Seller now owned or hereafter acquired, the creation or imposition of which could reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligations under this PPA.

(C) This PPA is a valid and binding obligation of Seller, subject to the Condition Precedent identified in Article 6, except as enforcement may be limited by bankruptcy, insolvency or similar laws affecting the right of creditors generally or by general principles of equity.

(D) The execution and performance of this PPA will not conflict with or constitute a material breach or default under any contract or agreement of any kind to which Seller is a party or any judgment, order, or Applicable Law, that is applicable to Seller or the Facility.

(E) To the best knowledge of Seller, and except for those permits, consents, approvals, licenses and authorizations identified in Exhibit E, which Seller anticipates will be obtained by Seller in the ordinary course of business, all permits, consents, approvals, licenses, authorizations, or other action required by any Governmental Authority to authorize Seller's execution, delivery and performance of this PPA have been duly obtained and are in full force and effect.

(F) Seller shall comply with all Applicable Laws in effect or that may be enacted during the Term.

(G) Seller shall disclose to Company, the extent of, and as soon as it is known to Seller, any violation of any Applicable Laws arising out of the construction or operation of the Facility, or the presence of Environmental Contamination at the Facility or on the Site, alleged to exist by any Governmental Authority having jurisdiction over the Site, or the existence of any past or present enforcement, legal, or regulatory action or proceeding relating to such alleged violation or alleged presence of Environmental Contamination.

(H) To the full extent authorized by FERC regulations and the FERC standards of conduct, Seller hereby authorizes Company to contact and obtain information concerning the Facility and Interconnection Facilities directly from the Interconnection Provider and to the extent necessary Seller shall provide written notice to the Interconnection Provider confirming such authorization.

(I) As of the COD for the Facility, the Facility shall constitute an Eligible Energy Resource.

15.2 Company's Representations, Warranties and Covenants. Company hereby represents and warrants to Seller as follows:

(A) Company is 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 Company. Company has all requisite power and authority to conduct its business, to own its properties, and to execute, deliver, and perform its obligations under this PPA.

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

1. require any consent or approval of Company's shareholders;
2. violate any Applicable Law, or violate any provision in any corporate documents of Company, the violation of which could have a material adverse effect on the ability of Company to perform its obligations under this PPA;
3. result in a breach or constitute a default under Company's corporate charter or bylaws, or under any agreement relating to the management or affairs of Company, or any indenture or loan or credit agreement, or any other agreement, lease, or instrument to which Company is a party or by which Company 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 Company to perform its obligations under this PPA; or
4. result in, or require the creation or imposition of, any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature (other than as may be contemplated by this PPA) upon or with respect to any of the assets or properties of Company 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 Company to perform its obligations under this PPA.

(C) This PPA is a valid and binding obligation of Company, subject to the contingencies identified in Article 6, except as enforcement may be limited by bankruptcy, insolvency or similar laws affecting the right of creditors generally or by general principles of equity.

(D) The execution and performance of this PPA will not conflict with or constitute a material breach or default under any contract or agreement of any kind to which Company is a party or any judgment, order, or Applicable Laws that is applicable to Company.

(E) To the best knowledge of Company, and except for the MPUC approval(s) identified in Section 6.1, all approvals, authorizations, consents, or other action required by any Governmental Authority to authorize Company's execution, delivery and performance of this PPA, have been duly obtained and are in full force and effect.

## Article 16 - Insurance

16.1 Evidence of Insurance. Seller shall, on or before June 1 of each Commercial Operation Year and pursuant to the corresponding Construction Milestone, provide Company with two copies of insurance certificates acceptable to Company evidencing that insurance coverages for the Facility are in compliance with the specifications for insurance coverage set forth in Exhibit D to this PPA. Such certificates shall (a) name Company as an additional insured (except worker's compensation); (b) provide a waiver of any rights of subrogation against Company, its Affiliates and their officers, directors, agents, subcontractors, and employees; and (c) indicate that the Commercial General Liability policy has been endorsed as described above. Seller or Seller's broker shall provide Company with thirty (30) Days' prior written notice of non-renewal of, cancellation of, or significant modification to any of the corresponding policies (except that such notice shall be ten (10) Days for non payment of premiums). All policies shall be written with insurers that Company, in its reasonable discretion, deems acceptable. All policies shall contain an endorsement that Seller's policy shall be primary in all instances regardless of like coverages, if any, carried by Company. Seller's liability under this PPA is not limited to the amount of insurance coverage required herein.

### 16.2 Term and Modification of Insurance.

(A) In the event that any insurance as required herein is a "claims-made" basis, such insurance shall provide for a retroactive date not later than the Effective Date and such insurance shall be maintained by Seller, with a retroactive date not later than the retroactive date required above, for a minimum of five (5) years after the Term.

(B) Company shall have the right, at times deemed appropriate to Company during the Term, to request Seller to modify the insurance minimum limits specified in Exhibit D in order to maintain reasonable coverage amounts. Seller shall make all commercially reasonable efforts to comply with any such request.

(C) 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 Company, accompanied by a certificate from an independent insurance advisor of recognized national standing, certifying that such insurance is not reasonably available and commercially feasible in the commercial insurance market for electric generating plants of similar type, geographic location and capacity. Upon receipt of such notice, Seller shall attempt to obtain other insurance that would provide comparable protection against the risk to be insured.

## Article 17 - Indemnity

17.1 Indemnification. Each Party (the "Indemnifying Party") agrees to indemnify, defend and hold harmless the other Party (the "Indemnified Party") from and against all third party claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) for personal injury or death to persons and

damage to the Indemnified Party's real property and tangible personal property or facilities or the property of any other person or entity to the extent arising out of, resulting from, or caused by an Event of Default under this PPA, violation of any Applicable Laws, or by the negligent or tortious acts, errors, or omissions of the Indemnifying Party, its Affiliates, its directors, officers, employees, or agents. The indemnification of third party claims provided under this Section is not limited by the Damage Caps set forth in Section 12.6. Nothing in this Section shall enlarge or relieve Seller or Company of any liability to the other for any breach of this PPA. 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.

17.2 Notice of Claim. Promptly after receipt by a Party of any claim or notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by such Party and satisfactory to the Indemnified Party, provided, however, that if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs.

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

17.4 Amounts Owed. Except as otherwise provided in this Article, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's actual loss net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

## Article 18 - Legal and Regulatory Compliance

18.1 Compliance With Laws. Each Party shall at all times comply with all Applicable Laws, except for any non-compliance that, individually or in the aggregate, could not reasonably be expected to have a material effect on the business or financial condition of the Party or its ability to fulfill its commitments hereunder. As applicable, each Party shall give all required notices, shall procure and maintain all necessary governmental permits, licenses, and inspections necessary for performance of this PPA, and shall pay its respective charges and fees in connection therewith. Upon permanent cessation of generation of Renewable Energy from the Facility, Seller shall decommission the Facility, remove the Facility and remediate the Site as, if and when required by Applicable Laws.

18.2 Officer Certificates. Each Party shall deliver or cause to be delivered to the other Party certificates of its officers, accountants, engineers or agents as to matters as may be reasonably requested, and shall make available personnel and records relating to the Facility to the extent that the requesting Party requires the same in order to fulfill any regulatory reporting requirements, or to assist the requesting Party in litigation, including administrative proceedings before utility regulatory commissions.

## Article 19 - Assignment and Other Transfer Restrictions

19.1 No Assignment Without Consent. Except as permitted in this Article, 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 or delayed; *provided, however*, 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, (iii) no assignment shall relieve the assignor of its obligations hereunder in the event the assignee fails to perform, except as the other Party agrees in writing in advance to waive assignor's continuing obligations under this PPA or as otherwise provided in subsection (A) below; (iv) no assignment shall impair any security given by Seller hereunder; and (v) before the PPA is assigned by Seller, the assignee must first obtain such approvals as may be required by all applicable regulatory bodies.

(A) Seller's consent shall not be required for Company to assign this PPA to an Affiliate of Company. In the event that a permitted assignee of Company has or attains an investment grade unsecured bond rating, Seller shall release Company from its obligations under this PPA if Company requests to be so released by written notice to Seller.

(B) Company's consent shall not be required for Seller to assign this PPA for collateral purposes to a Facility Investor or assign this PPA to Enel Green Power North America, Inc. or its Affiliate if (i) in the case of Seller's assignment to an Affiliate of Enel Green Power North America, Inc. the resulting credit profile is no less favorable than Enel Green Power North America, Inc., which determination will be made by Company in its commercially reasonable judgment, and (ii) if Seller is not relieved of its

obligations under this PPA as the result of such assignment. Seller shall notify Company of any such assignment to the Facility Investor or to an Affiliate of Enel Green Power North America, Inc. no later than thirty (30) Days after the assignment.

19.2 Accommodation of Facility Investor. To facilitate Seller's obtaining of financing to construct and operate the Facility, Company shall make commercially reasonable efforts to provide such consents to collateral assignment, certifications, representations, information or other documents, as may be reasonably requested by Seller or the Facility Investor in connection with the financing of the Facility (generally, a "Lender Consent"), provided, however, that in providing a Lender Consent, Company shall have no obligation to alter or modify the terms of this PPA or provide any consent or enter into any agreement, that materially adversely affects any of Company's rights, benefits, risks, or obligations under this PPA. Seller shall reimburse, or shall cause the Facility Investor to reimburse, Company for the incremental direct expenses (including the reasonable fees and expenses of counsel) incurred by Company in the preparation, negotiation, execution and/or delivery of any documents requested by Seller or the Facility Investor, and provided by Company, pursuant to this Section.

19.3 Change of Control.

(A) Any direct or indirect Change of Control of Seller, whether voluntary or by operation of law, shall require the prior written consent of Company, which shall not be unreasonably withheld, conditioned or delayed; provided, however, that it shall not be unreasonable for Company to delay providing consent thereto prior to the delivery by Seller of a RoFO Notice pursuant to Section 19.4 below. No consent of Company and no issuance of a RoFO Notice by Seller shall be required, however, with respect to (i) transactions among Affiliates of Enel Green Power North America, Inc., except as otherwise provided in Section 19.1 of this PPA; provided, however, in the event there is a transaction among Affiliates of Seller, Seller shall not be required to issue Company a RoFO Notice, but shall seek Company's consent pursuant to the terms and conditions of this PPA, (ii) any exercise by the Facility Investor of its rights and remedies under the Financing Documents, (iii) a Change of Control of Enel Green Power North America, Inc., any of its parent entities, or its permitted successor; provided, however, in the event there is a Change of Control of Geronimo Wind Energy, LLC, any of its parent entities, or its permitted successor, Geronimo Wind Energy, LLC shall not be required to issue Company a RoFO Notice, but shall seek Company's consent pursuant to the terms and conditions of this PPA, (iv) any Facility Financing obtained by Seller or its Affiliates to construct and operate the Facility, (v) any change of economic and voting rights triggered in Seller's organization documents arising from the Facility Financing of the Facility and which does not result in the transfer of ownership, economic or voting rights in any entity that had no such rights immediately prior to the change, shall not constitute a Change of Control requiring consent; or (vi) a sale-leaseback transaction with a Facility Investor under which Seller, or a permitted successor, sells the Facility to a Facility Investor and such Facility Investor leases the Facility to Seller, or its permitted successor, pursuant to Financing Documents executed within ninety (90) Days of the Commercial Operation Date. For the avoidance of doubt, in the event that Facility Investor and Seller fail to execute the Financing Documents in connection with a sale-

leaseback transaction within ninety (90) Days of COD, Section 19.3(A)(vi) shall not apply and Seller shall be subject to the remaining terms and conditions of this PPA. For the avoidance of doubt, the Parties acknowledge and agree that Seller shall not be relieved of its obligations under this PPA as the result of any Change of Control unless Company agrees in writing in advance to waive Seller's continuing obligations under this PPA.

(B) For purposes of this PPA, "Change of Control" of Seller means any of the following occurrences:

(i) a merger or consolidation of Seller with any other entity, other than a merger or consolidation which would result in the voting securities of Seller outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or its parent company) more than fifty percent (50%) of the total voting power represented by the voting securities of Seller or such surviving entity, or its parent company, outstanding immediately after such merger or consolidation;

(ii) a sale or disposition by Seller of all or substantially all of Seller's assets (including a sale or disposition of the Facility); or

(iii) the acquisition by any person or entity as beneficial owner, directly or indirectly, of securities of Seller representing fifty percent (50%) or more of the total voting power represented by Seller's then outstanding voting securities.

Any other provision notwithstanding, the term Change in Control shall not include any of the following events undertaken at the election of Seller: (1) any change that does not require consent pursuant to Section 19.1(B); (2) any refinancing or replacing of the Facility Financing by Seller or any of its Affiliates; (3) the financing obtained to develop, construct and operate the Facility; (4) any transaction in which Seller offered to and Company declined to acquire the Facility or enter into a Change of Control; (5) any transaction, the sole purpose of which is to change the jurisdiction of Seller's organization; or (6) a transaction, the result of which is to sell all or substantially all of the assets of Seller (including the Facility) to another entity (the "Surviving Entity"); provided that the Surviving Entity is owned directly or indirectly by the members of Seller immediately following such transaction in substantially the same proportions as their ownership of Seller's equity securities immediately preceding such transaction; and provided, further, that the Surviving Entity expressly assumes all of Seller's obligations under this PPA; provided, however, except as otherwise provided in this Section 19.3(B)(iii)(6), Seller shall not be relieved of its obligations under this PPA as the result of any Change of Control unless Company agrees in writing in advance to waive Seller's continuing obligations under this PPA.

#### 19.4 Right of First Offer.

(A) In the event Seller proposes to engage in a Change of Control, Seller shall give to Company written notice (the "RoFO Notice") prior to the consummation

thereof stating (i) that Seller intends to enter into a Change of Control, (ii) if applicable, the material terms and conditions of any existing binding third-party offer with respect to the contemplated Change of Control that Seller is prepared to accept (provided, however, that the identity of the third-party need not be included in the RoFO Notice), and (iii) that Seller, by such notice, is providing Company an opportunity to make an offer to participate as the counterparty in such Change of Control transaction upon the terms and conditions described in the RoFO Notice (such offer, the "RoFO"). In the event that there is no third-party offer as described in clause (ii) above, then Seller shall include in the RoFO Notice a description of the contemplated Change of Control transaction and also may include the terms and conditions Seller is prepared to accept in connection therewith.

(B) Seller shall allow Company sixty (60) Days after the date of Company's receipt of the RoFO Notice (the "Offer Period") to investigate the proposed Change of Control transaction and conduct due diligence with respect thereto. Within such period, Company shall either (i) deliver to Seller a written acceptance of and agreement to the terms and conditions set forth in the RoFO Notice to the extent such have been included, whereby Company or its Affiliate intends to participate as the acquiring party in the Change of Control transaction (a "RoFO Exercise Notice"), (ii) make an offer to the Seller on terms and conditions acceptable to the Company (a "Company RoFO Offer"), or (iii) deliver to Seller a written notice waiving Company's RoFO rights in connection with such contemplated Change of Control. Failure of Company to deliver a RoFO Exercise Notice or the Company RoFO Offer within sixty (60) Days of Company's receipt of the RoFO Notice shall automatically terminate the Company's RoFO rights hereunder.

(C) During the Offer Period, Seller may freely solicit offers from third-parties to enter into a Change of Control transaction with Seller, subject to the conditions herein. In the event Seller receives any additional binding written offers to enter into a Change of Control transaction which offer Seller deems to be more favorable to Seller than any other prior binding offers Seller had provided to Company and where Seller is prepared to accept (to the exclusion of any other offers), Seller shall notify Company of such additional offer and its terms and conditions (each, an "Additional Offer"). Company shall have until the later of (i) the expiration of the Offer Period or (ii) the date forty-five (45) Days following Company's receipt of the notice of the latest Additional Offer to evaluate the proposed transaction and either provide a RoFO Exercise Notice (with respect to the terms and conditions of such Additional Offer), deliver to Seller a Company RoFO Offer, or deliver to Seller a written notice waiving its RoFO rights in connection with such transaction. Failure of Company to deliver a RoFO Exercise Notice by the later of the dates referenced in clause (i) and (ii) of the previous sentence shall automatically terminate the Company's RoFO rights.

(D) Within the period forty-five (45) Days following delivery of a RoFO Exercise Notice, Seller and Company shall, in good faith, seek to finalize and enter into definitive written agreements based upon the accepted terms and conditions of the corresponding proposed Change of Control transaction; *provided, however*, that in the event Seller and Company are unable to enter into such written agreements prior to the

expiration of such forty-five (45) Day period, Company's RoFO rights hereunder shall automatically terminate.

(E) In the event Company delivers to Seller a Company RoFO Offer, Seller shall review and evaluate such Company RoFO Offer and respond in writing to Company within ten (10) Days of the date such Company RoFO Offer is received by Seller, whether Seller accepts or declines such Company RoFO Offer.

(i) If Seller accepts such Company RoFO Offer then, within the period forty-five (45) Days following Seller's notice of acceptance to Company, Seller and Company shall, in good faith, seek to finalize and enter into definitive written agreements based upon the accepted terms and conditions of the corresponding proposed Change of Control transaction; provided, however, that in the event Seller and Company are unable to enter into such written agreements prior to the expiration of such forty-five (45) Day period, Company's RoFO rights hereunder shall automatically terminate.

(ii) If Seller declines or rejects such Company RoFO Offer, then Company shall be deemed to have waived any right to enter into that particular transaction with Seller, and Seller and its Affiliates shall be free thereafter to consummate a Change of Control transaction, subject to Section 19.4(G) below.

(F) Neither Seller nor Company shall have any obligation to consummate any Change of Control following a RoFO Notice, RoFO Exercise Notice or Company RoFO Offer, except to the extent agreed by Seller and Company pursuant to definitive written agreements entered into by Seller and Company with respect thereto. In the event Seller elects to terminate any proposed Change of Control prior to entering into written definitive agreements with any party, Seller shall provide Company with written notice of such termination.

(G) If Seller and Company do not reach written definitive agreement with respect to a Change of Control transaction following a RoFO Notice or, if applicable, a Company RoFO Offer, within the applicable specified period, Company shall be deemed to have waived any right to enter into that particular transaction with Seller, and Seller and its Affiliates shall be free, for a period of nine (9) months thereafter to consummate a Change of Control with any third-party on terms and conditions not materially less favorable to Company, taken as a whole, than those terms and conditions contained in (i) the RoFO Notice and any notices of Additional Offers, or (ii) if applicable, the declined, rejected or unconsummated Company RoFO Offer. If Seller and its Affiliates have not closed the proposed Change of Control transaction within such nine (9) month period, the requirements of this Section 19.4 shall again apply to any proposed Change of Control transaction.

19.5 Notice of Facility Investor Action. Within ten (10) Days following Seller's receipt of each written notice from the Facility Investor of an Event of Default, or Facility Investor's intent to exercise any remedies following an Event of Default and expiration

of applicable cure periods under the Financing Documents, Seller shall deliver a copy of such notice to Company.

19.6 Transfer Without Consent is Null and Void. Any Change of Control or sale, transfer, or assignment of any interest in the Facility or in this PPA made in breach of the terms and conditions of Article 19 shall be null and void and shall constitute an Event of Default pursuant to Article 12.

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

## Article 20 - Miscellaneous

20.1 Waiver. The failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions of this PPA, or to take advantage of any of its rights 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.

### 20.2 Taxes.

(A) Seller shall be solely responsible for (i) any and all present or future taxes and other impositions of Governmental Authorities relating to the construction, ownership or leasing, operation or maintenance of the Facility, or any components or appurtenances thereof, and (ii) all *ad valorem* taxes relating to the Facility. Seller's prices under Article 8 are inclusive of such taxes and impositions during the Term.

(B) The Parties shall cooperate to minimize tax exposure; however, 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 Company hereunder shall be sales for resale, with Company reselling such electric energy. Company shall obtain and provide Seller with any certificates required by any Governmental Authority, or otherwise reasonably requested by Seller to evidence that the deliveries of electric energy hereunder are sales for resale.

### 20.3 Fines and Penalties.

(A) Seller shall pay when due all fees, fines, penalties or costs incurred by Seller or its agents, employees or contractors for noncompliance by Seller, its employees, or subcontractors with any provision of this PPA, or any contractual obligation, permit or requirements of law except for such fines, penalties and costs that are being actively contested in good faith and with due diligence by Seller and for which adequate financial reserves have been set aside to pay such fines, penalties or costs in the event of an adverse determination.

(B) If fees, fines, penalties, or costs are claimed or assessed against Company by any Governmental Authority due to noncompliance by Seller with this PPA,

any requirements of law, any permit or contractual obligation, or, if the work of Seller or any of its contractors or subcontractors is delayed or stopped by order of any Governmental Authority due to Seller's noncompliance with any requirements of law, permit, or contractual obligation, Seller shall indemnify and hold Company harmless against any and all losses, liabilities, damages, and claims suffered or incurred by Company, including claims for indemnity or contribution made by third parties against Company, except to the extent Company recovers any such losses, liabilities or damages through other provisions of this PPA.

#### 20.4 Rate Changes.

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

(B) Absent the agreement of all Parties to the proposed change, the standard of review for changes to this PPA whether proposed by a Party, a non-party, or the Federal Energy Regulatory Commission acting *sua sponte* shall be the "public interest" standard of review set forth in United Gas Pipe Line v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) (aka the Mobile-Sierra doctrine), as interpreted in Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1, 128 S. Ct. 2733 (2008).

20.5 Disclaimer of Third Party Beneficiary Rights. In executing this PPA, Company 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.

#### 20.6 Relationship of the Parties.

(A) This PPA shall not be interpreted to create an association, joint venture, or partnership between the Parties nor to impose any partnership obligation or liability upon either Party. Except as specifically provided for in Section 12.7, neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

(B) Seller shall be solely liable for the payment of all wages, taxes, and other costs related to the employment of persons to perform such services, including all federal, state, and local income, social security, payroll, and employment taxes and statutorily mandated workers' compensation coverage. None of the persons employed by Seller shall be considered employees of Company for any purpose; nor shall Seller represent to any person that he or she is or shall become a Company employee.

20.7 Equal Employment Opportunity Compliance Certification. Seller acknowledges that as a government contractor Company is subject to Applicable Laws regarding equal employment opportunity and affirmative action. Such Applicable Laws

may also be applicable to Seller as a subcontractor to Company. All such Applicable Laws shall be deemed to be incorporated herein as required by Applicable Law, including 41 C.F.R. §60-1.4(a)(1-7).

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

20.9 Severability. In the event any of the terms, covenants, or conditions of this PPA, its Exhibits, or the application of any such terms, covenants, or conditions, shall be held invalid, illegal, or unenforceable by any court or administrative body having jurisdiction, all other terms, covenants, and conditions of the PPA and their application not adversely affected thereby shall remain in force and effect; ***provided, however, that Company and Seller shall negotiate in good faith to attempt to implement an equitable adjustment in the provisions of this PPA with a view toward effecting the purposes of this PPA by replacing the provision that is held invalid, illegal, or unenforceable with a valid provision the economic effect of which comes as close as possible to that of the provision that has been found to be invalid, illegal or unenforceable.***

20.10 Complete Agreement; Amendments. The terms and provisions contained in this PPA constitute the entire agreement between Company and Seller with respect to the Facility and shall supersede all previous communications, representations, or agreements, either verbal or written, between Company and Seller with respect to the sale of Renewable Energy from the Facility. This PPA may be amended, changed, modified, or altered, *provided, however, that* such amendment, change, modification, or alteration shall be in writing and signed by both Parties hereto, and provided further, that the Exhibits attached hereto may be changed according to the provisions of Section 13.9.

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

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

20.13 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.

20.14 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. The Parties hereby submit to the exclusive jurisdiction of the

courts of the State of Minnesota, and venue is hereby stipulated as Minneapolis, Minnesota.

20.15 Press Releases and Media Contact. Upon the request of either Party, the Parties shall develop a mutually agreed joint press release to be issued describing the location, size, type and timing of the Facility, the long-term nature of this PPA, and other relevant factual information about the relationship. In the event during the Term, either Party is contacted by the media concerning this PPA or the Facility, the contacted Party shall inform the other Party of the existence of the inquiry, any questions asked, and the substance of any information provided to the media.

20.16 Forward Contract. The Parties acknowledge and agree that this PPA constitutes a “forward contract” within the meaning of the United States Bankruptcy Code.

20.17 Confidentiality.

(A) This PPA and all appendices and amendments hereto shall not be confidential. Notwithstanding anything to the contrary herein, Seller acknowledges that Company shall have the right at its sole discretion to file this PPA in its entirety and without redactions with relevant Governmental Authorities and provide a full and complete copy of this PPA for review by relevant Governmental Authorities. Company shall not be required to seek Seller’s consent or protection this PPA as a condition of making any filing authorized by this paragraph and Company shall have no responsibility for any public dissemination that occurs as a result of such filing.

(B) The Parties acknowledge and agree that during the course of the performance of their respective obligations under this PPA, either Party may need to provide information to the other Party, which the disclosing party deems confidential, proprietary or a trade secret (“Confidential Information”).

1. Confidential Information shall include all documentation and data, including special techniques, methods, computer programs and software, that the disclosing Party considers proprietary or trade secret and furnishes to the receiving Party and wants the receiving Party to maintain confidential may be designated as proprietary or trade secret by clear and distinct notation on such documentation or by equivalent method, and shall be treated as such by the receiving Party. Documentation and data not so designated need not be considered by the receiving Party to be proprietary or trade secret; provided, however, that any and all data and documentation regarding Facility output, performance, wind resource, outages and similar operational information shall be considered Confidential Information without the need for further designation if any disclosure thereof would be in a form or by a means that associates such data or documentation with the Facility or Seller or any of its Affiliates, or from which a reasonable person could make such an association. The disclosing Party hereby grants to the receiving Party authority to use Confidential Information for the purposes of this PPA, including keeping electronic copies of such Confidential Information. The receiving Party agrees to keep such Confidential Information

confidential, except as set forth in this Section, to use it for work necessary to the performance of this PPA, and not to sell, transfer, sublicense, disclose or otherwise make available any such Confidential Information to others; provided, that Confidential Information may be disclosed by the receiving Party to the agents, employees, advisors, consultants, or potential or actual debt or equity investors of the receiving Party, subject to their acceptance of the obligations of confidentiality imposed hereby and for whose violations of this requirement of confidentiality the receiving Party shall be responsible.

2. Confidential Information shall not include any data or information:

(i) Which can be documented was in the public domain as allowed by this Section, or through no fault or action of the receiving Party at the time it was disclosed by the disclosing Party to the receiving Party or at any time thereafter;

(ii) Which can be documented was independently developed by the receiving Party;

(iii) Which can be documented was known to the receiving Party from an ultimate source other than the disclosing Party without breach of this PPA by the receiving Party;

(iv) Which is disclosed by a Party, in connection with such Party's performance of its obligations under this PPA, to its consultants or contractors or other third parties who are in turn subject to a confidentiality agreement with the disclosing Party to treat the information at least with the care required by this PPA; or

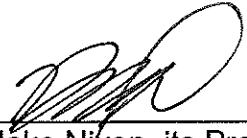
(v) Which is legally requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process or, in the opinion of its counsel, by Applicable Laws) to be disclosed, *provided, however*, that the Party requested or required to make a disclosure shall promptly notify the non-disclosing Party, no later than five (5) Days of such request or requirement and prior to disclosure so that the non-disclosing Party may seek an appropriate protective order and/or waive compliance with the terms of this Section.

*[remainder of this page intentionally left blank]*

IN WITNESS WHEREOF, the Parties have executed this PPA. \_\_\_\_\_

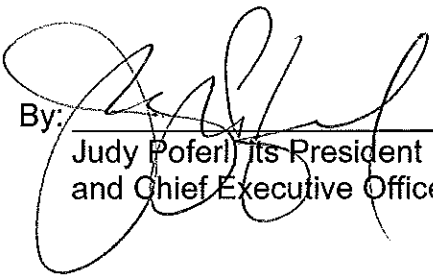
Seller:

**PRAIRIE ROSE WIND, LLC,  
a Minnesota limited liability company**

By:   
\_\_\_\_\_  
Blake Nixon, its President

Company:

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

By:   
\_\_\_\_\_  
Judy Pofert, its President  
and Chief Executive Officer

\_\_\_\_\_

**EXHIBIT A**  
(to PPA)

**CONSTRUCTION MILESTONES**

**Construction Milestone**

**Results Seller Must Achieve**

[BEGIN TRADE SECRET

END TRADE  
SECRET]

**EXHIBIT B**  
(to PPA)

**FACILITY DESCRIPTION AND SITE MAPS**

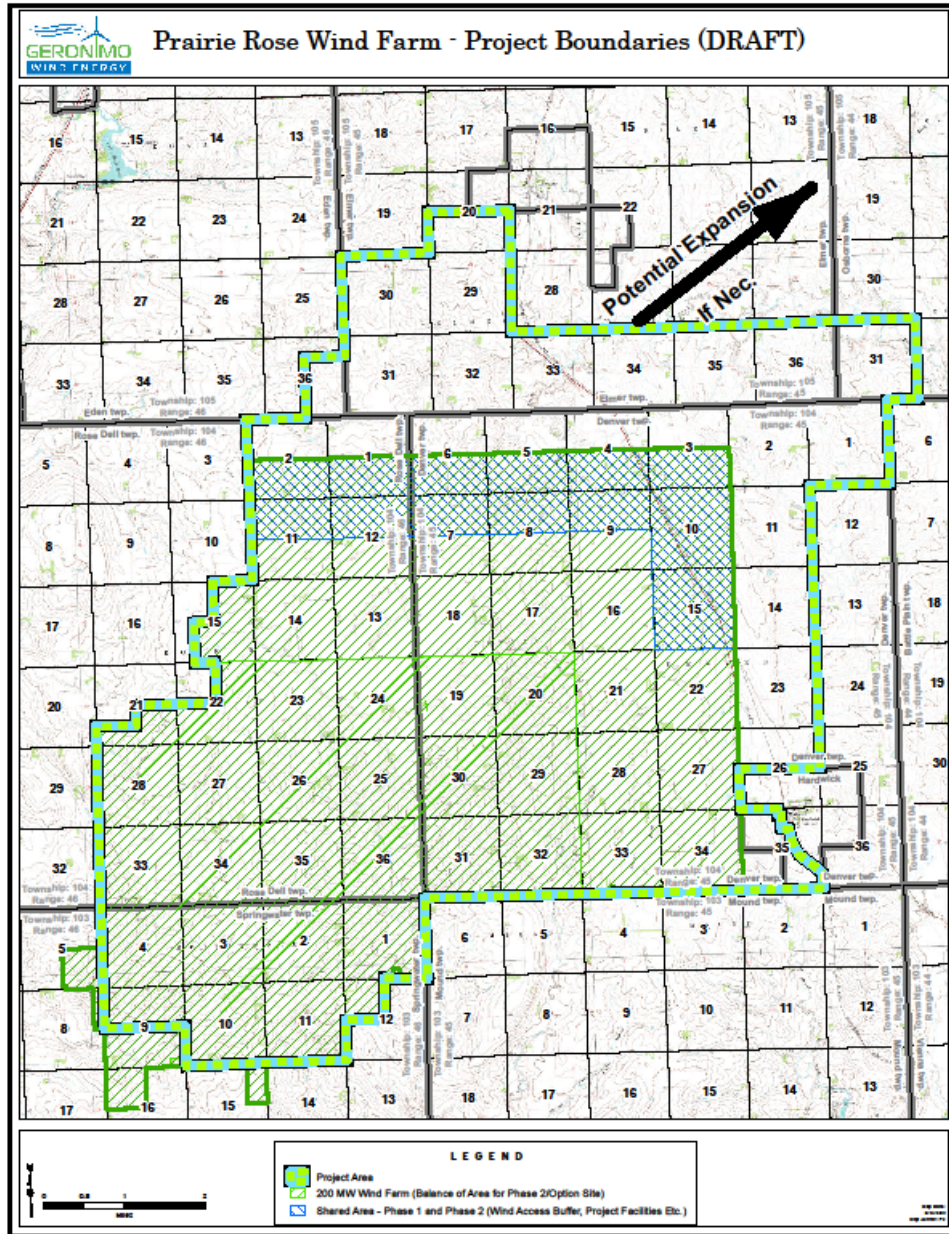
The Facility will be a nameplate 200 MW wind energy generating facility that is expected to be constructed within the boundaries identified on the attached Site map. In addition, the anticipated boundaries of a proposed 100 MW wind energy generation facility is identified on the Site map, the development assets of which may be sold to Company pursuant to the Option Agreement. The Facility is located in Southwest Minnesota in Rock and Pipestone Counties. More specifically, the Wind Turbines will be sited on roughly 30,000 acres of leased land in Rose Dell, Denver, Springwater, Eden and Elmer Townships.

While a final Wind Turbine model has not been selected, the Facility will consist of not more than 125 horizontal axis Wind Turbines and will be either GE 1.6 or Vestas V100 Wind Turbines. The Wind Turbines will be connected to a Seller owned step-up substation in the Southwestern region of the Site. From the Facility substation, a 115 kV transmission line will run west along County Highway 7 to the South Dakota state border. Once inside Minnehaha County, South Dakota, the line will continue west approximately 5.5 miles to the existing Xcel Split Rock – Pipestone 115 kV transmission line. At that point, the line will run south approximately 17.7 miles to connect into the Xcel Energy owned Split Rock Substation near Brandon, South Dakota, which is the Interconnection Point and, as of the Effective Date, the Point of Delivery (subject to change as described in Section 8.1(E) of the PPA). The entire Transmission Line from the Facility substation to Split Rock Substation will have a capacity of at least 300 MW.

Other facilities associated with the Facility after final construction will include gravel access roads, a step-up substation, a wind electrical collection system, an Operations and Maintenance (O&M) building, permanent meteorological towers, and a Sonic Detection and Ranging (SODAR) unit or Light Detection and Ranging (LIDAR) unit.

Pursuant to Section 3.1 of the PPA, **[BEGIN TRADE SECRET  
END TRADE SECRET]** after the MPUC Approval, Seller shall provide to Company a preliminary site plan that identifies the locations of the Wind Turbines that comprise the Facility and information to Exhibit B to this PPA, which includes a detailed description of the Facility, including identification of the equipment and components which make up the Facility.

### Site Map



**EXHIBIT C**  
(to PPA)

**Notices and Contact Information**

| <b>Company</b>  | <b>Seller</b>  |
|---|--|
| <p><b>Notices:</b><br/>Thomas A. Imbler, Vice President<br/>Commercial Operations<br/>Northern States Power Company<br/>1800 Larimer Street, Suite 1000<br/>Denver, CO 80202<br/>Phone: (303) 571-7414<br/>Fax: (303) 571-7021</p> <p>Dana Echter<br/>Manager, Renewable Purchases<br/>Northern States Power Company<br/>1800 Larimer Street, Suite 1000<br/>Denver, CO 80202<br/>Phone: (303) 571-7714<br/>Fax: (303) 571-7002</p>                               | <p><b>Notices:</b><br/>Blake E. Nixon, President<br/>Geronimo Wind Energy, LLC<br/>7650 Edinborough Way, Suite 725<br/>Edina, MN 55435<br/>Phone: (952) 988-9000<br/>Fax: (952) 988-9001</p>   |
| <p><b>Operating Committee Representative:</b><br/>Dana Echter<br/>Manager, Renewable Purchases<br/>Northern States Power Company<br/>1800 Larimer Street, Suite 1000<br/>Denver, CO 80202<br/>Phone: (303) 571-7714<br/>Fax: (303) 571-7002</p> <p><b>Alternate:</b><br/>Andy Sulkko<br/>Purchased Power Analyst<br/>Northern States Power Company<br/>1800 Larimer Street, Suite 1000<br/>Denver, CO 80202<br/>Phone: (303) 571-6529<br/>Fax: (303) 571-7002</p> | <p><b>Operating Committee Representative:</b><br/>Blake E. Nixon, President<br/>Geronimo Wind Energy, LLC<br/>7650 Edinborough Way, Suite 725<br/>Edina, MN 55435<br/>Phone: (952) 988-9000<br/>Fax: (952) 988-9001</p> <p><b>Alternate:</b><br/>Steve Mikel<br/>Geronimo Wind Energy, LLC<br/>7650 Edinborough Way, Suite 725<br/>Edina, MN 55435<br/>Phone: (952) 988-9000<br/>Fax: (952) 988-9001</p> |

| <b>Company</b>  | <b>Seller</b>  |
|---|--|
| <p data-bbox="235 247 703 279"><b>Real-Time Contact Information</b></p> <p data-bbox="235 338 751 453">Real-time Communications Contact<br/>Real-time Generation Dispatch desk<br/>(24 hour coverage)</p> <p data-bbox="235 464 647 495">Phone: 303-571-6280 *</p> <p data-bbox="235 506 631 537">Fax: 303-571-7305</p> <p data-bbox="235 596 712 667">Manager: Mike Boughner (normal<br/>business hours)</p> <p data-bbox="235 678 626 709">Phone: 303-571-2764</p> <p data-bbox="235 720 763 791">E-mail:<br/>michael.l.boughner@xcelenergy.com</p> <p data-bbox="235 850 712 963">Transmission Operation Contact<br/>Position: Real Time Transmission<br/>Operations</p> <p data-bbox="235 1022 781 1125">Transmission System Operator (TSO):<br/>612-321-7433 (For transmission<br/>switching issues)</p> <p data-bbox="235 1184 753 1287">Balancing Authority Operator (BAO):<br/>612-321-7432 (For day-to-day<br/>generator loading issues)</p> | <p data-bbox="823 247 1289 279"><b>Real-Time Contact Information</b></p> |

**EXHIBIT D**  
(to PPA)

**INSURANCE COVERAGE**

Type of Insurance

Minimum Limits of Coverage

**Commercial General Liability (CGL)** \$11,000,000 combined single limit each occurrence and commercial umbrella aggregate, where applicable. If CGL insurance contains a general aggregate limit, it shall apply separately to the Facility.

CGL insurance shall cover liability arising from premises, operations, independent contractors, products/completed operations, contracts, property damage, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract), all with limits as specified above. There shall be no endorsement or modification of the CGL insurance limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

Company shall be included as an insured under the CGL policy, using ISO additional insured endorsement CG 20 10 (or a substitute providing equivalent coverage), and under the commercial umbrella insurance. The commercial umbrella insurance shall provide coverage over the top of the CGL insurance, the Business Automobile Liability insurance, and the Employers Liability insurance.

The CGL and commercial umbrella insurance to be obtained by or on behalf of Seller shall be endorsed as follows:

Such insurance as afforded by this policy for the benefit of Company shall be primary as respects any claims, losses, damages, expenses, or liabilities arising out of this PPA, and insured hereunder, and any insurance carried by Company shall be excess of and noncontributing with insurance afforded by this policy.

**Business Automobile Liability** \$1,000,000 combined single limit (each accident), including all Owned, Non-Owned, Hired and Leased Autos

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

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

**Employers Liability** \$1,000,000 each accident for bodily injury by

accident,

or

\$1,000,000 each employee for bodily injury by disease.

**Builder's Risk**

Replacement value of the Facility.

Builder's Risk insurance, or an installation floater, shall include coverage for earthquake and flood, collapse, materials testing of machinery or equipment, debris removal, and partial occupancy.

**Environmental Impairment Liability** \$5,000,000 each occurrence for sudden and accidental discharge under GCL policy.

**All-Risk Property insurance**

Maximum probable estimated loss, subject to Company's review and approval, of the Facility. A deductible may cover physical loss or damage to be carried which deductible shall be the absolute the Facility responsibility of Seller.

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

**Business Interruption insurance**

Amount required to cover Seller's continuing or increased expenses, resulting from full interruption, for a period of twelve (12) calendar months

Business Interruption insurance shall cover loss of revenues and/or the increased expense to resume operations attributable to the Facility by reason of total or partial suspension or delay of, or interruption in, the operation of the Facility as a result of an insured peril covered under Property insurance as set forth above, to the extent available on commercially reasonable terms as determined by Company, subject to a reasonable deductible which shall be the responsibility of Seller. Notwithstanding any other provision of this PPA, Seller shall not be required to have Business Interruption insurance until the Commercial Operation Date.

**EXHIBIT E**  
(to PPA)

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

**Prairie Rose Wind, LLC Required Approvals**

| Regulatory Authority  | Permit/Approval  |
|---|--|
| <b>Federal Approvals</b>  |  |
| U.S. Army Corps of Engineers  | Wetland Delineation Approvals  |
|   | Jurisdictional Determination   |
|   | Federal Clean Water Act Section 404 Permit(s)  |
| U.S. Fish and Wildlife Service  | Review for Threatened and Endangered Species   |
| Environmental Protection Agency (Region 5) (EPA) in coordination with the Minnesota Pollution Control Agency (MPCA) | Spill Prevention Control and Countermeasure (SPCC) Plan                                |
| Lead Federal Agency   | Federal Section 106 Review   |
| Federal Aviation Administration   | Form 7460-1 Notice of Proposed Construction or Alteration (Determination of No Hazard) |
|   | Notice of Actual Construction or Alteration (Form 7460-2)                              |
| Federal Land Manager (BLM, USBR, Forest Service)  | Right-of-Way Grant over Federal Lands  |
| National Historic Preservation Act  | Class I Literature Review / Class III Cultural Field Survey                            |
| U.S. Department of Agriculture  | Form AD-1006   |
|   | Conservation / Grassland / Wetland Easement and Reserve Program releases and consents  |
|   | FSA Mortgage Subordination & Associated Environmental Review                           |
| Federal Communications Commission   | Non-Federally Licensed Microwave Study   |
| Federal Energy Regulatory Commission  | Exempt Wholesale Generator Cert. (EWG)   |
|   | Qualifying Facilities (QF) Certification   |
|   | Market-Based Rate Authorization  |
| Department of Transportation (FHWA)   | Utility Line Crossing License  |
| Federal Emergency Management Agency   | Flood Plain Designations   |

### Prairie Rose Wind, LLC Required Approvals

| Regulatory Authority                                     | Permit/Approval  |
|--|--|
| <b>State of Minnesota Approvals</b>                      |  |
| Minnesota Board of Water and Soil Resources              | Wetland Conservation Act Approval  |
| Minnesota Department of Labor and Industry               | Building Plan Review and Permits   |
| Minnesota Public Utilities Commission                    | Site Permit for Large Wind Energy Conversion System (LWECS)  |
|  | Certificate of Need (CON) for LWECS and Transmission Line  |
| Minnesota State Historic Preservation Office (SHPO)      | Cultural and Historic Resources Review and Review of State and National Register of Historic Sites and Archeological Survey                      |
| Minnesota Pollution Control Agency                       | Section 401 Water Quality Certification  |
|  | National Pollutant Discharge Elimination System Permit (NPDES) – MPCA General Storm water Permit for Construction Activity                       |
|  | Very Small Quantity Generator (VSQG) License – Hazardous Waste Collection Program  |
|  | Aboveground Storage Tank (AST) Notification Form   |
| Minnesota Department of Health                           | Environmental Bore Hole (EBH)  |
|  | Water Supply Well Notification   |
|  | Plumbing Plan Review   |
| Minnesota Department of Natural Resources                | License to Cross Public Land and Water   |
|  | Native Prairie Protection Plan   |
|  | Biological Preservation Survey   |
| Minnesota Department of Transportation                   | Utility Permits on Trunk Highway Right of Way  |
|  | Oversize/Overweight Permit for State Highways  |
|  | Access Driveway Permits for MNDot Roads  |
|  | Tall Structure Permit  |
| <b>Local Approvals</b>                                   |  |
| Rock and Pipestone Counties                              | Right-of-way permits, road access permits, driveway permits for access roads and electrical collection system, Wetland Conservation Act Approval |
| Denver, Rose Dell, Springwater, Eden and Elmer Townships | Right-of-way permits, crossing permits, road access permits, and driveway permits for access roads and electrical collection system              |

**Prairie Rose Transmission, LLC Required Approvals**

| Regulatory Authority                             | Permit/Approval  |
|--|--|
| <b>Federal Approvals</b>                         |  |
| U.S. Department of Agriculture                   | Form AD-1006   |
|  | Conversation/Grassland/Wetland Easement  |
| U.S. Fish and Wildlife Service                   | Review for Threatened and Endangered Species   |
| U.S. Army Corps of Engineers                     | Wetland Delineation Approvals  |
|  | Jurisdictional Determination   |
|  | Federal Clean Water Act Section 404 Permit(s)  |
|  | Rivers and Harbors Section 10 Permit(s)  |
| Lead Federal Agency                              | Federal Section 106 Review   |
| Federal Land Manager (BLM, USBR, Forest Service) | Right-of-Way Grant over Federal Lands  |
| National Historic Preservation Act               | Class I Literature Review / Class III Cultural Field Survey  |
| Federal Communications Commission                | Non-Federally Licensed Microwave Study   |
|  | NTIA Comm. Study   |
| Western Area Power Authority (WAPA)              | WAPA-Line Crossing Permit and associated review  |
| FHWA   | Utility Line Crossing License  |
| FEMA   | Flood Plain Designations   |
| <b>State of Minnesota Approvals</b>              |  |
| Minnesota Department of Transportation (MnDOT)   | Application for Utility Permit (long form)   |
|  | Access Driveway Permit for MnDOT Roads   |
|  | Utility Permit on Trunk Highway Right of Way   |
|  | Oversize and/or Overweight Permit  |
| Minnesota Pollution Control Agency               | NPDES – MPCA General Storm Water Permit for Construction Activity  |
|  | Section 401 Water Quality Certification  |
| Minnesota Department of Natural Resources        | Native Prairie Protection Plan   |
|  | Biological Preservation Survey   |
|  | Endangered Species Consultation  |
|  | License to Cross Public Land and Water   |
| Minnesota Public Utilities Commission            | Route Permit   |
|  | Certificate of Need for LWECS and Transmission Line  |
| Minnesota Department of Labor and Industry       | Building Plan Review and Permits   |
| Minnesota Board of Water and Soil Resources      | Wetland Conservation Act Approval  |
| Minnesota State Historic Preservation Office     | Cultural and Historic Resources Review and Review of State and National Register of Historic Sites and Archaeological Survey |
| Minnesota Department of Health                   | Environmental Bore Hole (EBH)  |
| <b>State of South Dakota Approvals</b>           |  |

**Prairie Rose Transmission, LLC Required Approvals**

| Regulatory Authority   | Permit/Approval   |
|--|---|
| South Dakota Department of Transportation (SDDOT)                      | Utility Permits   |
|  | Highway Access Permit   |
|  | Oversize & Overweight Permit  |
|  | Permit to Cross Railroad Property   |
| South Dakota Department of Environment and Natural Resources (SD DENR) | Section 401 Water Quality Certification   |
|  | NPDES – General Storm Water Permit for Construction Activity  |
| South Dakota State Historical Preservation Office                      | Cultural and Historic Resources Review and Review of State and National Register of Historic Sites and Archaeological Survey  |
| South Dakota Game, Fish & Parks  | Endangered Species Consultation   |
| <b>Local Approvals</b>   |   |
| Rock and Pipestone Counties, Minnesota                                 | Right-of-way permits, road access permits, driveway permits for access roads and electrical collection system, Wetland Conservation Act Approval  |
| Denver, Rose Dell, Springwater, Eden and Elmer Townships, Minnesota    | Right-of-way permits, road access permits, driveway permits for access roads and electrical collection system   |
| Minnehaha County, South Dakota   | Flood Plain Development Permit, Authorization to Construct Electric Transmission and Distribution Lines on the Public Highways of Minnehaha County, Road Crossing/ROW Permits, Over-width Loads Permits, Driveway/Access Permits. |
| Highland, Logan, Edison, and Brandon Townships, South Dakota           | Road Crossing/ROW Permits, Over-width Loads Permits, Driveway/Access Permits  |

**- EXHIBIT F -**  
(to PPA)

**FORM OF LETTER OF CREDIT**

[LETTERHEAD OF ISSUING BANK]

IRREVOCABLE STANDBY LETTER OF  
CREDIT NO: \_\_\_\_\_

DATE OF ISSUANCE:  
\_\_\_\_\_

BENEFICIARY:

NORTHERN STATES POWER  
COMPANY  
ATTN: \_\_\_\_\_  
1800 LARIMER STREET, 10TH FLOOR  
DENVER, CO 80202

INITIAL EXPIRATION DATE: [MUST BE AT  
LEAST ONE YEAR AFTER DATE OF  
ISSUANCE]

APPLICANT:

[INSERT NAME OF SELLER UNDER THE  
PPA]  
\_\_\_\_\_  
\_\_\_\_\_

AS THE ISSUING BANK ("ISSUER"), WE, [NAME OF ISSUING BANK], HEREBY ESTABLISH THIS IRREVOCABLE STANDBY LETTER OF CREDIT NO. \_\_\_\_\_ IN FAVOR OF THE ABOVE-NAMED BENEFICIARY ("BENEFICIARY") FOR THE ACCOUNT OF THE ABOVE-NAMED APPLICANT ("APPLICANT") IN THE AMOUNT OF USD \$ \_\_\_\_\_ ( \_\_\_\_\_ U.S. DOLLARS).

BENEFICIARY MAY DRAW ALL OR ANY PORTION OF THIS LETTER OF CREDIT AT ANY TIME AND FROM TIME TO TIME AND ISSUER WILL MAKE FUNDS IMMEDIATELY AVAILABLE TO BENEFICIARY UPON PRESENTATION OF BENEFICIARY'S DRAFT(S) AT SIGHT IN SUBSTANTIALLY THE FORM ATTACHED HERETO AS EXHIBIT "A" ("SIGHT DRAFT"), DRAWN ON ISSUER AND ACCOMPANIED BY THIS LETTER OF CREDIT. ALL SIGHT DRAFT(S) MUST BE SIGNED ON BEHALF OF BENEFICIARY AND SIGNATOR MUST INDICATE HIS OR HER TITLE OR OTHER OFFICIAL CAPACITY. NO OTHER DOCUMENTS WILL BE REQUIRED TO BE PRESENTED. THIS ISSUER WILL EFFECT PAYMENT UNDER THIS LETTER OF CREDIT WITHIN 24 HOURS AFTER PRESENTMENT OF THE SIGHT DRAFT(S). PAYMENT SHALL BE MADE IN U.S. DOLLARS WITH ISSUER'S OWN FUNDS IN IMMEDIATELY AVAILABLE FUNDS.

ISSUER WILL HONOR ANY SIGHT DRAFT(S) PRESENTED IN SUBSTANTIAL COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT AT THE ISSUER'S LETTERHEAD OFFICE, THE OFFICE LOCATED AT \_\_\_\_\_ OR ANY OTHER FULL SERVICE OFFICE OF THE ISSUER ON OR BEFORE THE ABOVE STATED EXPIRATION DATE, AS SUCH EXPIRATION DATE MAY BE EXTENDED HEREUNDER. PARTIAL AND MULTIPLE DRAWS AND PRESENTATIONS ARE PERMITTED ON ANY NUMBER OF OCCASIONS. FOLLOWING ANY PARTIAL DRAW, ISSUER WILL ENDORSE THIS LETTER OF CREDIT AND RETURN THE ORIGINAL TO BENEFICIARY.

ISSUER ACKNOWLEDGES THAT THIS LETTER OF CREDIT IS ISSUED PURSUANT TO THE PROVISIONS OF THAT CERTAIN WIND POWER PURCHASE AGREEMENT BETWEEN THE BENEFICIARY AND THE APPLICANT DATED AS OF \_\_\_\_\_, 20\_\_ (AS THE SAME MAY HAVE BEEN OR MAY BE AMENDED FROM TIME TO TIME, THE "PPA"). NOTWITHSTANDING ANY REFERENCE IN THIS LETTER OF CREDIT TO THE PPA OR ANY OTHER DOCUMENTS, INSTRUMENTS OR AGREEMENTS, OR REFERENCES IN THE PPA OR ANY OTHER DOCUMENTS, INSTRUMENTS OR AGREEMENTS TO THIS LETTER OF CREDIT, THIS LETTER OF CREDIT CONTAINS THE ENTIRE AGREEMENT BETWEEN BENEFICIARY AND ISSUER RELATING TO THE OBLIGATIONS OF ISSUER HEREUNDER.

THIS LETTER OF CREDIT WILL BE AUTOMATICALLY EXTENDED EACH YEAR WITHOUT AMENDMENT FOR A PERIOD OF ONE YEAR FROM THE EXPIRATION DATE HEREOF, AS EXTENDED, UNLESS AT LEAST THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE, ISSUER NOTIFIES BENEFICIARY BY REGISTERED MAIL THAT IT ELECTS NOT TO EXTEND THIS LETTER OF CREDIT FOR SUCH ADDITIONAL PERIOD. NOTICE OF NON-EXTENSION WILL BE GIVEN BY ISSUER TO BENEFICIARY AT BENEFICIARY'S ADDRESS SET FORTH HEREIN OR AT SUCH OTHER ADDRESS AS BENEFICIARY MAY DESIGNATE TO ISSUER IN WRITING AT ISSUER'S LETTERHEAD ADDRESS.

THIS LETTER OF CREDIT IS FREELY TRANSFERABLE IN WHOLE OR IN PART, AND THE NUMBER OF TRANSFERS IS UNLIMITED. ISSUER AGREES THAT IT WILL EFFECT ANY TRANSFERS IMMEDIATELY UPON PRESENTATION TO ISSUER OF THIS LETTER OF CREDIT AND A COMPLETED WRITTEN TRANSFER REQUEST SUBSTANTIALLY IN THE FORM ATTACHED HERETO AS EXHIBIT "B." SUCH TRANSFER WILL BE EFFECTED AT NO COST TO BENEFICIARY. ANY TRANSFER FEES ASSESSED BY ISSUER WILL BE PAYABLE SOLELY BY APPLICANT, AND THE PAYMENT OF ANY TRANSFER FEES WILL NOT BE A CONDITION TO THE VALIDITY OR EFFECTIVENESS OF THE TRANSFER OR THIS LETTER OF CREDIT.

ISSUER WAIVES ANY RIGHTS IT MAY HAVE, AT LAW OR OTHERWISE, TO SUBROGATE TO ANY CLAIMS BENEFICIARY MAY HAVE AGAINST APPLICANT OR APPLICANT MAY HAVE AGAINST BENEFICIARY.

THIS STANDBY LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION), INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 600 (THE "UCP"), EXCEPT TO THE EXTENT THAT THE TERMS HEREOF ARE INCONSISTENT WITH THE PROVISIONS OF THE UCP, INCLUDING BUT NOT LIMITED TO ARTICLES 13(B) AND 17 OF THE UCP, IN WHICH CASE THE TERMS OF THIS LETTER OF CREDIT SHALL GOVERN. WITH RESPECT TO ARTICLE 13(B) OF THE UCP, ISSUER SHALL HAVE A REASONABLE AMOUNT OF TIME, NOT TO EXCEED THREE (3) BANKING DAYS FOLLOWING THE DATE OF ISSUER'S RECEIPT OF DOCUMENTS FROM THE BENEFICIARIES (TO THE EXTENT REQUIRED HEREIN), TO EXAMINE THE DOCUMENTS AND DETERMINE WHETHER TO TAKE UP OR REFUSE THE DOCUMENTS AND TO INFORM BENEFICIARY ACCORDINGLY.

IN THE EVENT OF AN ACT OF GOD, RIOT, CIVIL COMMOTION, INSURRECTION, WAR OR ANY OTHER CAUSE BEYOND ISSUER'S CONTROL THAT INTERRUPTS ISSUER'S BUSINESS (COLLECTIVELY, AN "INTERRUPTION EVENT") AND CAUSES THE PLACE FOR PRESENTATION OF THIS LETTER OF CREDIT TO BE CLOSED FOR BUSINESS ON THE LAST DAY FOR PRESENTATION, THE EXPIRY DATE OF THIS LETTER OF CREDIT WILL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT TO A DATE THIRTY (30) CALENDAR DAYS AFTER THE PLACE FOR PRESENTATION REOPENS FOR BUSINESS.

ISSUER:

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

AUTHORIZED SIGNATURE

Its: \_\_\_\_\_

**EXHIBIT "A"**  
**(TO LETTER OF CREDIT)**

**SIGHT DRAFT**

\$ \_\_\_\_\_

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

Drawn under [Name of Issuer to be inserted] Standby Letter of Credit No. \_\_\_\_\_.

Dated: \_\_\_\_\_, 20\_\_

[Name of Beneficiary to be inserted]

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

It's Authorized Representative and [Title or  
Other Official Capacity to be inserted]

To: [Name and Address of Issuer to be inserted]

**EXHIBIT "B"**  
**(TO LETTER OF CREDIT)**

**FORM OF TRANSFER REQUEST**

IRREVOCABLE STANDBY LETTER OF CREDIT NO: \_\_\_\_\_

CURRENT BENEFICIARY:

APPLICANT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TO: [NAME OF ISSUING BANK]

The undersigned, as the current "Beneficiary" of the above referenced Letter of Credit, hereby requests that you reissue the Letter of Credit in favor of the transferee named below [INSERT TRANSFEREE NAME AND ADDRESS BELOW]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

**[NAME OF BENEFICIARY]**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[NOTARY ACKNOWLEDGMENT]

[TO BE SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE BENEFICIARY  
AND INDICATING THEIR TITLE OR OTHER OFFICIAL CAPACITY, AND  
ACKNOWLEDGED BY A NOTARY PUBLIC.]

**- EXHIBIT G -**  
(to PPA)  
AGC Protocols

These AGC protocols for the Facility will cover:

1. AGC Electronic Communications between Company and Seller
2. Data Points to be sent from Seller to Company via AGC
3. Response times and limitations of Facility in regards to AGC
4. Process for communications between Company and Seller in cases when AGC system is not functioning

**1. AGC Electronic Communications between Company and Seller**

Company will receive and send AGC Set-Point and related data over an analog or digital line. The data points covered under this PPA, as described below, may overlap data requirements for the Transmission Provider, Interconnection Provider or Company's Wind Forecasting group.

**2. Data Points to be sent from Seller to Company via AGC**

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

| Description                           | Units        |
|---------------------------------------|--------------|
| AGC Set-Point (echo)                  | MW           |
| Power demand                          | MW           |
| Actual power                          | MW           |
| Park Potential                        | MW           |
| Actual reactive power                 | Mvars        |
| Average Voltage                       | kV           |
| Number of turbines online and running | Integer      |
| AGC Status                            | Remote/Local |

### **3. Response times and limitations of Facility in regards to AGC**

The following protocols outline the expectations around responding to the AGC Set-Point. Except in the case of the Frequency of Changes, these protocols will be generally bound by the manufactures' specifications for the equipment that Seller has chosen for the Facility.

#### **a. Required Response Time**

The facility will respond to the AGC Set-Point within the maximum Wind Turbine manufactures' specifications. The response time will vary based on the mix of available Wind Turbines and the current level of output of the facility. The required response time will be subject to change based upon any change in the Wind Turbine manufacturers' specifications for ramp rate.

#### **b. Allowable Variances in Excess of AGC Set-Point**

Once the facility has reached the AGC Set-Point, there may be variances in excess of such set-point up to 2% on average as measured during a 10-minute period. This is due to changing wind conditions vs. the manufactures' specifications for responding to those new conditions.

#### **c. Frequency of Changes**

Company can send a new AGC Set-Point to the Facility as frequently as the Wind Turbine manufacturer specifications allows with the specification for the least frequent change to output allows. If however, the AGC Set-Point is below 10%, then Company will be restricted from changing the AGC Set-Point for 30 minutes to prevent the Wind Turbines from cycling on and off.

#### **d. Range of AGC Set-Point**

The range of set point values can be between 0% and 100% of Park Potential.

### **4. Backup Communications**

In the event of an AGC failure, the Company and Seller shall communicate via telephone in order to correct the failure.

**EXHIBIT H**  
(to PPA)

**FORM OF GUARANTY**

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

- RECITALS -

A. Seller is planning to construct, own, and operate a wind power electric generation facility having installed capacity of approximately \_\_\_\_ MW to be located in \_\_\_\_\_ County, Minnesota (the "Facility").

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

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

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

- AGREEMENT -

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

2. Maximum Liability. Notwithstanding anything herein to the contrary, Guarantor's maximum liability under this Guaranty shall be limited to (\$US\_\_\_\_\_), plus costs of collection with respect to any valid claim(s) made by Company hereunder that are incurred in the enforcement or protection of the rights of Company.

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

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

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

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

4. Performance. If any of the Obligations are not performed according to the tenor thereof, and any applicable notice and cure period provided by the PPA has expired ("Default"), Guarantor shall immediately upon receipt of written demand by Company (a) perform or cause Seller to perform the Obligation in Default, and (b) pay, reimburse, and indemnify Company against any liabilities, damages, and related costs (including attorneys' fees) incurred by Company as a result thereof, all in such manner and at such times as Company may reasonably direct.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The execution, delivery and performance of this Guaranty has been duly and validly authorized by all corporate proceedings of Guarantor and is not in violation of any law, judgment of court or government agency. This Guaranty has been duly and validly executed and delivered by Guarantor and constitutes a legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms.

10. Collection Costs. Guarantor hereby agrees to pay to Company, upon demand, and in addition to the maximum liability set forth in Section 3 hereof, all reasonable attorneys' fees and other expenses which Company may expend or incur in enforcing the Obligations against Seller and/or enforcing this Guaranty against Guarantor, whether or not suit is filed, including, without limitation, all attorneys' fees, and other expenses incurred by Company in connection with any insolvency, bankruptcy, reorganization, arrangement, or other similar proceedings involving Seller that in any way affect the exercise by Company of its rights and remedies hereunder.

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

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

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

14. Governing Law. This Guaranty shall be governed by and construed in accordance with the law of the State of \_\_\_\_\_ without regard to the principles of conflicts of law thereof.

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

(a) if to Company as provided in the PPA

(b) if to Guarantor: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
*Attn:*  
Phone: (\_\_\_\_) \_\_\_\_\_  
Fax: (\_\_\_\_) \_\_\_\_\_

*with a copy to:* \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
*Attn:*  
Phone: (\_\_\_\_) \_\_\_\_\_  
Fax: (\_\_\_\_) \_\_\_\_\_



**EXHIBIT I**  
(to PPA)

**DATA COLLECTION**

Concurrently with the Commercial Operation Date, Seller will deliver to Company a report showing (i) manufacturer, model, and year of all Wind Turbines and meteorological instrumentation and (ii) the latitude, longitude and hub height at every Wind Turbine and meteorological tower. Seller will also transmit and provide to Company the real-time data set forth below, refreshed in approximately four-ten (4-10) second intervals with regard to its generation of wind energy at its facilities:

A. Four (4) data points from each Wind Turbine:

1. Turbine generation (kW)
2. Wind Speed (mph)
3. Turbine Availability
4. Wind Direction (in degrees relative to true north)

B. Five (5) data points from each Meteorological Tower:

1. Wind Speed\*\* (mph)
2. Wind Direction\*\* (degrees relative to true north)
3. Temperature (F)
4. Pressure (mb)
5. Air Density (kg/m<sup>3</sup>)

\*\* = at all metered heights if available.

Seller shall provide a map and key for each Wind Turbine sufficient to allow Company to correlate the data received through the PI to each individual Wind Turbine.

**EXHIBIT J**  
(to PPA)

**Renewable Energy Payment Rate**

| Commercial<br>Operation Year | Renewable Energy<br>Payment Rate (\$/MWh)*<br><b>[BEGIN TRADE SECRET</b> | Renewable Energy<br>Payment Rate (\$/MWh)<br>after Price Adjustment A**<br><b>[BEGIN TRADE SECRET</b> |
|------------------------------|--|---|
| 1                            |  |   |
| 2                            |  |   |
| 3                            |  |   |
| 4                            |  |   |
| 5                            |  |   |
| 6                            |  |   |
| 7                            |  |   |
| 8                            |  |   |
| 9                            |  |   |
| 10                           |  |   |
| 11                           |  |   |
| 12                           |  |   |
| 13                           |  |   |
| 14                           |  |   |
| 15                           |  |   |
| 16                           |  |   |
| 17                           |  |   |
| 18                           |  |   |
| 19                           |  |   |
| 20                           |  |   |
|                              | <b>END TRADE SECRET]</b>   | <b>END TRADE SECRET]</b>  |

\* In the event that Company exercises its separate option to purchase and then purchases the Transmission Line pursuant to the Option Agreement, adjustments will be made to the escalation of the Renewable Energy Payment Rate under this PPA as described in Exhibit K.

\*\*Amounts shown are adjustments to the Renewable Energy Payment Rates as a result of Price Adjustment A being applicable and commencing at the start of the sixth (6<sup>th</sup>) Commercial Operation Year if the terms and conditions of Section 5.1(E) are applicable

**EXHIBIT K**  
(to PPA)

**Price Adjustments for Prairie Rose Transmission Line Purchase**

In the event that Company exercises its separate option to purchase and then purchases the Transmission Line pursuant to the Option Agreement, then **[BEGIN TRADE SECRET** **END TRADE SECRET]** of the Renewable Energy Payment Rate used to arrive at the rates shown in Exhibit J shall be adjusted as described below, effective upon the next immediately following Commercial Operation Year adjustment (as described in Section 8.1(B)) following the closing of the Company's purchase of the Transmission Line.

**[BEGIN TRADE SECRET**

**END TRADE SECRET]**