

**PURCHASE AND SALE AGREEMENT
(BORDER WINDS)**

Dated as of July 31, 2013

by and between

NORTHERN STATES POWER COMPANY

as Buyer

and

RES AMERICA DEVELOPMENTS INC.

as Seller

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**PURCHASE AND SALE AGREEMENT
(BORDER WINDS)**

THIS PURCHASE AND SALE AGREEMENT (BORDER WINDS) (this “*Agreement*”) dated as of July 31, 2013 (the “*Signing Date*”), is made and entered into by and between Northern States Power Company, a Minnesota corporation (“*Buyer*”), and RES America Developments Inc., a Delaware corporation (“*Seller*”).

RECITALS

Sequoia Energy US Inc., a Delaware corporation (“*Sequoia*”), was the original developer of the Project and owns and holds certain rights and assets with respect to the Project.

Seller has formed Border Winds Energy, LLC, a Delaware limited liability company (the “*Company*”), wholly owned by Seller, which shall own all of the rights and assets with respect to the Project on or before the Effective Date.

Sequoia and the Company have entered into an Asset Purchase Agreement, dated of even date herewith (the “*Company-Sequoia Agreement*”) that provides for the purchase by the Company of all of Sequoia’s rights and assets with respect to the Project.

Buyer desires to purchase (or cause an Affiliate of Buyer to purchase) and Seller desires to sell one hundred percent (100%) of the membership interests of the Company pursuant to the terms and subject to the conditions of this Agreement.

This Agreement is intended to become effective on the Effective Date (as defined herein), except as expressly set forth in Section 3.1.

AGREEMENT

NOW THEREFORE, in consideration of the sums to be paid to Seller by Buyer hereunder and the covenants and agreements set forth herein, the Parties agree as follows:

**ARTICLE 1.
DEFINITIONS AND RULES OF INTERPRETATION**

1.1. Defined Terms. For purposes of this Agreement, the following capitalized terms shall have the following meanings:

“*Acquisition Proposal*” is defined in Section 8.11(a)(i).

“*Adjusted Purchase Price*” [BEGIN TRADE SECRET

SECRET]

END TRADE

“**Adverse Determination Tax Attorney**” means a regionally-recognized law firm that possesses substantial expertise with tax controversy matters, is engaged by Seller (at Seller’s sole expense) and is selected by Seller, subject to Buyer’s approval not to be unreasonably withheld, conditioned or delayed.

“**Affiliate**” means, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with that Person. The term “control” (including, with correlative meaning, the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or partnership interests, by contract or otherwise.

“**Agreement**” means this Purchase and Sale Agreement (Border Winds), including all Exhibits and Schedules hereto (as the Exhibits and Schedules hereto may be updated in accordance with Section 5.6 or delivered in accordance with Section 3.1.2), as the same may be modified, amended or supplemented from time to time in accordance with Section 12.7.

“**Alternate WTG Locations**” is defined in Section 8.12.

“**Ancillary Agreements**” means the Membership Interest Assignment, and any other agreement or instrument executed and delivered by the Parties or by either Party or any Affiliate of such Party to the other Party pursuant to this Agreement.

“**Applicable Standards**” means Prudent Industry Practices and Prudent Engineering Practices; *provided, however*, that if any portion of such standards conflicts with or is less stringent than any Laws applicable to the Parties, the Company or the Project, such conflicting or less stringent portions of such standards shall be deemed replaced by the conflicting or more stringent requirements of such Laws.

“**As Built Drawings**” means a complete set of as built drawings prepared by Contractor in accordance with the requirements set forth in the EPC Agreement and the NSP Drawing Standards, which accurately and completely represent the physical placement of all WTGs and Infrastructure Facilities as assembled, erected and installed.

“**Assumed Liabilities**” means:

- (a) the Permitted Encumbrances;
- (b) those obligations of the Company accruing or arising, or covenants or agreements of the Company to be performed (other than indemnification obligations for matters accruing or arising prior to the Closing Date), from and after the Closing Date under the Land Contracts, Permits, Permit Applications, Interconnection Agreement or any related agreements including Interconnection Study Agreements (as defined in the Interconnection Agreement) (except as set forth in clauses (d) and (vii) below), Interconnection Rights, the EPC Agreement (except as set forth in clause (vi) below) and other Contracts to which the

Company is a party at the time of the Closing (including any liability for Taxes for such Land Contracts, Permits, Permit Applications, Interconnection Agreement (except as set forth in clauses (d) and (vii) below), Interconnection Rights, the EPC Agreement (except as set forth in clause (vi) below) and other Contracts;

(c) other than as provided for in this Agreement, any Liability arising from and after the Closing Date with respect to the ownership or operation of the Project; and

(d) **[BEGIN TRADE SECRET**

END TRADE SECRET]

provided that, without in any way broadening the scope of Assumed Liabilities as described in the foregoing provisions of this definition, Assumed Liabilities shall not include:

(i) any Liability of the Company, Seller or its Affiliates for Taxes accruing or arising before the Closing Date with respect to Company Assets;

(ii) any Liability of the Company, Seller or its Affiliates for costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby;

(iii) any Liability under the Land Contracts, Permits, Permit Applications, Interconnection Rights or Contracts to which the Company is a party at Closing to the extent such Liability, but for a breach or default by Seller or any of its Affiliates or a waiver or extension given to or by Seller or any of its Affiliates, would have been paid, performed or otherwise discharged on or prior to the Closing Date or to the extent such Liability arises out of any such breach, default, waiver or extension given to or by Seller or any of its Affiliates;

(iv) any obligations or Liabilities prorated to Seller under Section 2.4.2;

(v) any Liability arising in respect of any portion of the Company Assets with respect to which Project Substantial Completion has not occurred unless and until Project Substantial Completion occurs with respect thereto;

(vi) any Liability of the Company under the EPC Agreement or the Turbine Supply Agreement (including any payment obligations thereunder whether such payments are due prior to or after the Closing)

other than non-monetary covenants and agreements of the Company thereunder to be performed after the Closing that are incidental to the ownership of the Project and approved by Buyer prior to the Effective Date in connection with its review and approval of the EPC Agreement and Turbine Supply Agreement; and

(vii) **[BEGIN TRADE SECRET**

END TRADE SECRET]

“**Authority**” means any federal, state, local or other governmental, judicial, public or statutory instrumentality, tribunal, agency, authority, body or entity, in each case, domestic or foreign, or any political subdivision thereof having legal jurisdiction over the matter or Person in question.

“**Bird and Bat Assessments**” means the bird and bat surveys and nest surveys conducted with respect to the Project prior to the Signing Date.

“**Bird and Bat Conservation Strategy**” means the strategy for bird and bat protection with respect to the development, construction, commissioning and operation of the Project developed by Seller, in consultation with the FWS and other applicable Authorities.

“**Balance of Plant Warranty**” means the warranty of the Contractor for a period of two (2) years from Closing that (a) all parts, materials, equipment and the like incorporated into the Project (other than the WTGs) shall be free of defects in material, workmanship and title, and shall be new, unused and undamaged and of suitable grade that is consistent with Prudent Industry Practices when installed, (b) the Construction Services (other than the Construction Services performed by the Turbine Supplier pursuant to the Turbine Supply Agreement) shall be performed with due care and skill and in a competent, diligent manner in accordance with Law and Applicable Standards and (c) the completed Work shall perform its intended functions as a complete, integrated wind energy generation operating system as explicitly described or implied in the EPC Agreement, and shall be fully in accordance with the Technical Specifications. The Balance of Plant Warranty shall include a serial defect provision mutually acceptable to Buyer and Seller applicable to the components acquired for the Project through the EPC Agreement, which provision shall include without limitation terms providing that failure of greater than 15% of any one component part during the applicable period shall constitute a serial defect and all such component parts used in the Project shall be replaced under warranty, at no cost to the Company or Buyer; *provided, however*, that no defect affecting a WTG or its component parts shall constitute a serial defect for purposes of the Balance of Plant Warranty.

“**Beam Path Study**” means a study of potential interference of the Project with microwave telecommunication facilities to be prepared by a qualified consultant acceptable to Buyer and delivered to Buyer in final form prior to the Effective Date.

“**Books and Records**” means any and all data; reports (including repairs, maintenance, testing and operational reports); external, non-attorney-privileged material correspondence; maps; surveys; and other business records necessary to the development of the Project that are generated or obtained by Company or Seller prior to the Closing Date with respect to the Company, the Company Assets or the Project.

“**Business Day**” means any day other than Saturday, a Sunday, or a holiday, on which banks are generally open for business in Minneapolis, Minnesota.

“**Buyer**” is defined in the introductory paragraph of this Agreement.

“**Buyer Affirmative Coverage**” is defined in Section 3.2.3(b).

“**Buyer Confidential Information**” is defined in Section 8.4.1.

“**Buyer Damages**” is defined in Section 9.3.1.

“**Buyer Documents**” is defined in Section 7.2.

“**Buyer Indemnified Parties**” is defined in Section 9.3.1.

“**Buyer Permits**” is defined in Section 6.13.

“**Buyer’s Knowledge**” means the actual and current knowledge of any of the Persons listed in Schedule 1.1(a), after reasonable inquiry by such Persons of those Representatives of or consultants to Buyer or Buyer’s Affiliates who are reasonably likely to have material knowledge of the relevant subject matter.

“**Buyer’s Schedules**” means the Schedules to any of the provisions of ARTICLE 7.

“**Closing**” is defined in Section 2.3.

“**Closing Date**” is defined in Section 2.3.

“**Closing Payment**” means the following amount payable on the Closing Date: an amount equal to the Adjusted Purchase Price, minus the sum of (i) the Deposit, plus (ii) the Holdback Amount, plus (iii) accrued and unpaid Delay Damages.

“**Code**” means the Internal Revenue Code of 1986, as amended.

“**Commission Approvals**” is defined in Section 5.13.

“**Commissioning**” means the start-up and commissioning activities to be conducted in accordance with the procedures set forth in the EPC Agreement and the Turbine Supply Agreement.

“**Commissioning and Turnover Certificate**” means a certificate in the form attached to the Turbine Supply Agreement issued by the Turbine Supplier certifying as to the completion of Commissioning and the readiness of a certain WTG for turnover to the Company.

“**Commissioning and Turnover of WTGs**” with respect to a fully-assembled WTG and the equipment associated therewith means the achievement of the following milestones:

(a) Mechanical Completion with respect to such WTG has occurred, as evidenced by the Company’s delivery to Contractor of a countersigned Mechanical Completion Certificate with respect thereto;

(b) Commissioning has been conducted and the WTG has met or exceeded the requirements pursuant to the procedures set forth in the EPC Agreement, the Turbine Supply Agreement and the other requirements and recommendations of the Turbine Supplier;

(c) all WTG equipment associated with such fully assembled WTG has been properly assembled, erected, installed, adjusted, tested and commissioned, is mechanically, electrically and structurally complete, in each case in accordance with the Technical Specifications, the Applicable Standards and the terms and conditions of the EPC Agreement and can be used safely and operated continuously;

(d) Contractor has coordinated erection of the tower portion of each WTG and has delivered and poured all grouting between the Tower flange of the bottom portion of such Tower and its Foundation; and

(e) the Company has accepted a Commissioning and Turnover Certificate with respect to such fully assembled WTG pursuant to the terms and conditions of the Turbine Supply Agreement.

“**Commissions**” is defined in Section 5.13.

“**Company**” is defined in the Recitals.

“**Company Assets**” means, unless otherwise provided herein, all properties, assets and rights of any kind, whether tangible or intangible, real or personal, that are necessary or appropriate to the construction, operation and maintenance of the Project including:

(a) the Wind Data (subject to licenses to Sequoia and Seller to use such data, with the form of such licenses to be mutually acceptable to Seller and Buyer and agreed to prior to the Effective Date);

- (b) the Facilities;
- (c) the Land Contracts;
- (d) the Contracts;
- (e) the Permit Applications and the Permits;
- (f) the Reports (subject to licenses to Sequoia and Seller to use the Reports, with the form of such licenses to be mutually acceptable to Seller and Buyer and agreed to prior to the Effective Date);
- (g) the Interconnection Rights;
- (h) the Books and Records;
- (i) the Real Property;
- (j) the design layout of the Facilities, including micro-siting; and
- (k) all emissions allowances or credits, renewable energy credits, green tags, or other environmental or financial attributes of the Facilities, if any.

Notwithstanding the foregoing, Seller may retain a copy of all Reports, which Seller may use solely for its internal purposes, subject to Section 8.4.

“Company-Sequoia Agreement” shall have the meaning set forth in the Recitals.

“Construction Services” means all actions and services required to construct a fully operational Project.

“Contract” means any of the agreements or contracts to which the Company, Seller or any of its other Affiliates is a party and includes all of the material Contracts that are described in Schedule 6.12.

“Contractor” means RES America Construction Inc., an Affiliate of Seller.

“Corporate Documents” means the articles or certificate of incorporation and bylaws of a corporation or the equivalent constitutive documents of a limited liability company, partnership, limited partnership or other entity.

“Cultural Resources Survey” means the cultural resources survey to be prepared by a qualified firm and delivered to Buyer in final form.

“Curative Documents” is defined in Section 3.2.3(b).

“Delay Damages” is defined in Section 10.1.

**“Deposit” [BEGIN TRADE SECRET
END TRADE SECRET]**

“Deposit Refund Letter of Credit” is defined in Section 10.4.2.

“DPPS” means the definitive planning process study to be performed by MISO, or a consultant acceptable to MISO, identifying the definitive scope and estimated cost of any upgrades that may be required with respect to the interconnection of the Project.

“Easement Agreement” means each agreement (together with any amendments thereto or replacements thereof) granting an easement to use the Real Property within the Site in connection with the construction, operation and maintenance of the Project and including the Easement Agreements listed on Schedule 6.11.

“Easement Amendment” means an amendment to an Easement in the form attached hereto as Exhibit D.

“Effective Date” means the date on which all of the conditions listed in Sections 3.2 and 4.1 have been satisfied and Buyer and Seller have executed the Effective Date Certificate.

“Effective Date Certificate” means a certificate in the form attached as Exhibit G certifying that the conditions set forth in Sections 3.2 and 4.1 have been satisfied and that the Parties intend the provisions of this Agreement (other than the provisions expressly identified in Section 3.1 as being effective as of the Signing Date) to be effective as of the Effective Date.

“Effective Date Conditions” is defined in Section 3.1.1.

“Electrical Substantial Completion Certificate” means a certificate in the form attached to the EPC Agreement issued by the Contractor certifying as to Electrical Works Substantial Completion as to the circuit on which a particular WTG is located.

“Electrical Works” means the facilities and equipment described in Schedule 1.1(c) relating to the collection system, the collector substation and the interconnection.

“Electrical Works Substantial Completion” means the substantial completion of the Electrical Works related to the circuit on which a particular WTG is located, as described more fully in clause (a) of the definition of WTG Substantial Completion and in the EPC Agreement.

“Encumbrances” means any claim, lien, pledge, mortgage, option, charge, easement, security interest, right-of-way, encumbrance, lease, interest, mineral reservations, covenant, conditional sales contract, title retention arrangement, adverse claim or restriction of any kind.

“Environmental Laws” means all Laws that regulate or relate to (a) the protection or clean-up of the environment; (b) the Handling of Hazardous Materials; (c) the preservation or protection of waterways, groundwater, drinking water, air, wildlife, plants or other natural resources; and (d) the health and safety of persons or property, including protection of the health and safety of employees. Environmental Laws shall include the Resource Conservation & Recovery Act, Clean Water Act, Safe Drinking Water Act, Occupational Safety and Health Act, Toxic Substances Control Act, Clean Air Act, Comprehensive Environmental Response, Compensation and Liability Act, Emergency Planning and Community Right-to-Know Act, Hazardous Materials Transportation Act, and Centers for Disease Control guidelines, policies and procedures, and all analogous or related Laws.

“EPC Agreement” means an engineering, procurement and construction contract to be entered into by and between the Company and the Contractor, in form and substance satisfactory to the Parties and the Contractor, for the construction of those portions of the Project not constructed or installed by the Turbine Supplier under the Turbine Supply Agreement.

“Estoppel Letter” is defined in Section 3.2.3(a)(iii).

“Excluded Liabilities” is defined in Section 2.2.2.

“Excused Interconnection Delay” shall mean any delay in Seller’s or the Company’s “critical path” construction schedule that is caused by the inability of the Project to achieve Interconnection when it would otherwise have been able to do so (in light of the actual construction schedule of the Project) that is due to (a) the actions or omissions of the Transmission Owner (including the failure of the Transmission Owner to meet one or more of its milestones under the Interconnection Agreement, whether or not such failure constitutes a breach of the Interconnection Agreement by the Transmission Owner), or (b) the breach of or noncompliance with Section 5.8 hereof by Buyer; *provided, however*, that (i) to the extent that any delay in achieving Interconnection arises from, in whole or in part, the failure of Seller or the Company to meet its milestones under the Interconnection Agreement, the breach of or noncompliance with the Interconnection Agreement or Section 5.8 hereof by Seller or the Company, then such delay shall not be an Excused Interconnection Delay, and (ii) if a Force Majeure Event and an Excused Interconnection Delay are in effect on the same day, then that day’s delay shall be attributed to the Force Majeure Event and not the Excused Interconnection Delay (e.g., such day shall not count as two days of delay).

“Exhibits” means the exhibits attached to, and expressly contemplated in, this Agreement, including those to be delivered at the Effective Date or at the Closing Date.

“Extreme Weather” means (a) weather conditions severe enough to prohibit use of road transportation systems such that a reasonable common carrier would not use such systems to transport equipment, material, supplies or labor provided that such prohibition continues for more than five (5) consecutive days or (b) other severe weather conditions that continue for more than five (5) consecutive days (excluding the matters described in

the definition of Weather Delays), and, in each case, that are unusual or could not reasonably be expected to be encountered in the affected area during the impacted period.

“*FAA*” means the U.S. Federal Aviation Administration.

“*FAA Determinations of No Hazard to Air Navigation*” means the FAA Determinations of No Hazard to Air Navigation issued by the FAA with respect to each Wind Turbine Generator in the Project.

“*FAA Screening Study*” means the screening study prepared to review potential impacts of the WTGs and Meteorological Stations to long range and weather radars, military training routes and special airspaces, and delivered to Buyer in final form prior to the Effective Date.

“*Facilities*” means the wind power generating facilities (including the foundations, towers, wind turbine generators, electrical collection system, collector substation, transmission line, access roads, operating and maintenance building and other equipment, materials, improvements and assets associated therewith), [BEGIN TRADE SECRET

END TRADE SECRET]

“*Fee Simple Amount*” [BEGIN TRADE SECRET
END TRADE SECRET]

“*FERC*” means the Federal Energy Regulatory Commission.

“*Final Adverse Under Construction Determination*” is defined in Section 2.2.3(b).

“*Final Completion*” means the satisfaction or achievement of the following:

(a) Project Substantial Completion has occurred, as evidenced by Company’s delivery to Contractor of a countersigned Project Substantial Completion Certificate;

(b) Contractor has performed all of the Work (including the clean-up and restoration of that portion of the Project Site where Contractor conducted the Work, the removal from the Project Site of all waste materials introduced or created by Contractor in the performance of the Work, the recycling and/or disposal of such waste material and the re-grading and/or re-seeding of disturbed areas where appropriate) to be performed by Contractor and Seller has performed or caused to be performed all other Work, such that, upon completion of the Work, the Project may be operated as a fully-integrated wind-powered electricity generating plant and all the tests, mechanical calibrations, electrical continuity and ground fault tests have been successfully completed and any defects found have been corrected;

(c) Company has received a Final Lien Waiver from Contractor, each Subcontractor, the Turbine Supplier and all other Persons performing any Work; or, if Contractor is unable to obtain all such waivers, a letter of credit or bond (approved by Buyer) to protect Company, Buyer, the Project and the Project Site from any and all claims made on account of such Liens;

(d) Contractor has delivered the Turnover Packages in accordance with the terms of the EPC Agreement;

(e) all As Built Drawings have been delivered to and accepted by Company in accordance with the terms of the EPC Agreement;

(f) all quality assurance documentation has been provided to and received by Company in accordance with the Project Quality Assurance Plan and all non-conforming quality assurance issues have been resolved in accordance with the Project Quality Assurance Plan;

(g) all of the supplies, personnel and waste of the Contractor or any other Person performing Work pursuant to a Contract have been removed from the Project Site;

(h) either (i) all Punch List Items have been corrected or performed to Buyer's reasonable satisfaction or (ii) Buyer has elected to not require completion of certain Punch List Items and Contractor or such other Person performing Work pursuant to a Contract has paid all amounts due to Company with respect thereto in accordance with the terms of the EPC Agreement or such Contract and all other Punch List Items have been completed;

(i) final grading of the area surrounding each foundation is complete and a rock ring around each tower base is in place; and

(j) Company has accepted a Final Completion Certificate.

“Final Completion Certificate” means a certificate in the form attached to the EPC Agreement issued by the Contractor certifying the satisfaction or achievement of each condition to Final Completion.

“Final Completion Date” means the Business Day mutually agreeable to Buyer and Seller, but occurring no later than five (5) Business Days after the satisfaction of all of the conditions set forth in the definition of Final Completion.

“Final Completion Payment” [BEGIN TRADE SECRET

END TRADE SECRET]

“**Final Determination**” means a decision, judgment, decree or other order by any administrative agency or court of competent jurisdiction, which decision, judgment, decree or order has become final (i.e., when all allowable appeals have been exhausted).

“**Final Layout Amendment**” is defined in Section 3.3.12(b).

“**Final Lien Waiver**” means a lien waiver properly completed and executed by Contractor, each Major Subcontractor, each Subcontractor performing work at the Project Site, and the Turbine Supplier, as applicable, which provides that such Person unconditionally waives and releases all mechanic’s or other Liens with respect to all Work for which Contractor requested final payment in the form specified in the EPC Agreement.

“**Final Order**” means an action by an Authority as to which (a) no request for stay of the action is pending, and no such stay is in effect; (b) no petition for rehearing, reconsideration or application for review of the action is pending; (c) such Authority does not have the action under reconsideration or subject to rehearing on its own motion or otherwise; and (d) no appeal to a court, or a request for stay by a court of the Authority’s action is pending or in effect.

“**Final Under Construction Certificate**” is defined in Section 3.3.9.

“**Final Under Construction Opinion**” is defined in Section 3.3.9.

“**Final Under Construction Plan IE Certificate**” is defined in Section 3.3.9.

“**Force Majeure Event**” means (a) prior to the Target Closing Date, any event that wholly or partly prevents or delays the achievement on or before the Target Closing Date of the requirements of clauses (a), (b), (d), (j), (k) or (l) of the definition of Project Substantial Completion; and (b) after the Target Closing Date, any event that wholly or partly prevents or delays the achievement of the requirements of clauses (a), (b), (d), (j), (k) or (l) of the definition of Project Substantial Completion, in each case, only if and to the extent:

- (a) such event is not within the reasonable control, directly or indirectly, of and not the fault of the affected Person;
- (b) despite the exercise of reasonable diligence, such event cannot be or be caused to be prevented, avoided or removed by the affected Person;
- (c) such event does not result from the affected Person’s negligence or fault or the negligence or fault of its agents, employees, suppliers, contractors or subcontractors of any tier; and
- (d) such event causes an actual delay in the Project’s “critical path” construction schedule.

A Force Majeure Event shall include an event that falls within one or more of the following categories (to the extent meeting the foregoing requirements contained in this definition): expropriation; invasion; plague; drought; landslide; tornado; hurricane; tsunami; flood; earthquake; fire; explosion; epidemic; quarantine; acts of terrorism, war (declared or undeclared) or other armed conflict; any subsurface condition not identified in the Reports; strikes and other labor disputes (including collective bargaining disputes and lockouts) of a national, regional or area-wide nature; riot, revolution, insurrection or similar civil disturbance or commotion; other acts of God, including Extreme Weather (but excluding Weather Delays); acts of the public enemy; perils of sea; blockade; port closure; sabotage or vandalism; embargoes; transportation accidents; except as provided below, delays in transportation due to closure of roads or other transportation route by Authorities or closure of roads otherwise due to an independent, identifiable Force Majeure Event individually in excess of five (5) days that is unusual or could not reasonably be expected to be encountered in the affected area during the impacted period; change in law; acts, omissions, decrees or injunctions of an Authority other than acts or omissions in response to acts or omissions of the affected Person.

Notwithstanding the provisions of the immediately preceding paragraph, a Force Majeure Event shall not include (A) lack of funds or finances or any obligation for the payment of money, (B) except as provided in Section 5.12, acts or omissions of an Authority regarding Permits (including delay in issuance of a permit, approval or required consultation with an Authority) or any delay in issuance of any Permit caused by any third party contest, or any action required by any Permit, or (C) Weather Delays.

“Foundation Completion” with respect to an individual WTG foundation, means the achievement of the following milestones:

- (a) such foundation is mechanically completed and installed in accordance with the Technical Specifications, the EPC Agreement and the Turbine Supply Agreement;
- (b) such foundation is structurally complete and contains all necessary embedded inserts;
- (c) the concrete portion of such foundation has cured so as to have achieved the minimum strength necessary to allow assembly, erection and installation of the WTG thereon in accordance with the EPC Agreement and the Turbine Supply Agreement;
- (d) backfilling of the area surrounding such foundation has been completed; and
- (e) the Company has accepted a Foundation Completion Certificate with respect to such foundation pursuant to the terms and conditions of the EPC Agreement.

“Foundation Completion Certificate” means a certificate, in the form attached to the EPC Agreement, issued by the Contractor certifying as to the Foundation Completion of a WTG foundation.

“Fully-Loaded Costs” is defined in Section 2.2.3(c)(iv).

“FWS” means the U.S. Fish and Wildlife Service.

“Geotechnical Report” means the report to be prepared by a qualified geotechnical engineering firm with respect to the geotechnical borings and analysis conducted for each WTG location and delivered to Buyer in final form prior to the Effective Date.

“Guaranteed Completion Date” [BEGIN TRADE SECRET

END TRADE

SECRET]

“Guarantor” [BEGIN TRADE SECRET
END TRADE SECRET]

“Guaranty” [BEGIN TRADE SECRET

END TRADE SECRET]

“Handling” means the production, use, treatment, storage, transportation, generation, manufacture, processing, distribution, disposal, emission, discharge, Release or threatened Release of any Hazardous Material.

“Hazardous Materials” means any chemical, material or substance in any form, whether solid, liquid, gaseous, semisolid, or any combination thereof, whether waste material, raw material, chemical, finished product, byproduct, or any other material or article, that is listed or regulated under applicable Environmental Laws as a “hazardous” or “toxic” substance or waste, or as a “contaminant,” or is otherwise listed or regulated under applicable Environmental Laws because it poses a hazard to human health or the environment, including petroleum products, asbestos, urea formaldehyde foam insulation, and lead-containing paints or coatings.

“Holdback Amount” [BEGIN TRADE SECRET **END TRADE**
SECRET]

“HSR Act” means the Hart-Scott Rodino Antitrust Improvements Act of 1976, as amended.

“IE Determined Holdback Amount” is defined in Section 3.3.2(c).

“Indebtedness” means, with respect to any Person, any indebtedness, whether or not contingent, in respect of borrowed money or evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof) or representing the deferred and unpaid balance of the purchase price of any property (including pursuant to capital leases), including any such balance that constitutes an accrued expense or a trade payable, and shall also include, to the extent not otherwise included, the guaranty of items which would be included within this definition.

“Independent Accountant” [BEGIN TRADE SECRET **END TRADE SECRET]** or, if such firm is unable or unwilling to act as the Independent Accountant under this Agreement, a nationally recognized firm of independent certified public accountants that is mutually acceptable to Seller and Buyer or selected as provided in Section 2.5.3.

“Independent Engineer” [BEGIN TRADE SECRET **END TRADE SECRET]** or, if such firm is unable or unwilling to act as the Independent Engineer under this Agreement or is not acceptable to the lenders for the financing described in Section 4.1.1, a nationally recognized engineering firm that is mutually acceptable to Seller and Buyer.

“Independent Tax Attorney” [BEGIN TRADE SECRET **END TRADE SECRET]** or, if such firm is unable or unwilling to act as the Independent Tax Attorney under this Agreement, a nationally-recognized law firm who possesses substantial expertise with wind energy projects and the application of Section 45 of the Code with respect thereto, is engaged by Buyer (at Seller’s sole expense) and is mutually acceptable to Seller and Buyer.

“Infrastructure Facilities” means all of the balance of plant Work, including buildings, roads, foundations, laydown areas, pad-mounted transformers, electrical works and other permanent fixtures as more fully described in the EPC Agreement.

“Initial Under Construction Certificate” is defined in Section 2.2.3(a).

“Initial Under Construction Opinion” is defined in Section 2.2.3(a).

“Insured Over Third Party Mineral Rights” is defined in Section 3.2.3(b).

“Interconnection” means the connection of the Project to Transmission Owner’s electrical transmission system as coordinated by Seller or the Company with the Transmission Owner and/or MISO.

“Interconnection Agreement” means a final Generator Interconnection Agreement to be entered into between the Company, MISO and the Transmission Owner with respect to the Interconnection following the Signing Date and the completion of the applicable interconnection studies, as such agreement may be amended to update the milestones thereunder.

“Interconnection Rights” means any and all of the Company’s (including rights as assignee of Sequoia), Seller’s or any of its other Affiliates’ rights and interests in the Project’s transmission and interconnection queue position for Project interconnection for 150 MW filed by Sequoia with MISO, with a queue number to be assigned by MISO (which will be assigned to the Company at the “Closing” under the Company-Sequoia Agreement), any studies, reports or other documents provided by MISO, and any and all other rights relating to the interconnection of the Project to the transmission system of MISO or Transmission Owner with respect to the Project, including the Interconnection Agreement.

“Interest Rate” means, for any date, a rate per annum equal to the sum of (i) the “Prime Rate” as published in *The Wall Street Journal* under “Money Rates” on such day (or if not published on such day, on the most recent preceding day on which published), plus (ii) two percent (2.0%).

“IRS” means the United States Internal Revenue Service.

“IRS PTC Publication” means that certain Notice 2013-29, published by the IRS on April 15, 2013, entitled “Beginning of Construction for Purposes of the Renewable Electricity Production Tax Credit and Energy Investment Tax Credit,” as modified by the IRS on April 25, 2013, as may be amended, modified, supplemented or restated.

“Land Acquisition Contracts” means all agreements providing for the acquisition of fee title to all or any portion of the O&M Facility Real Property, the Substation Real Property or any other Real Property.

“Land Contracts” means all Land Acquisition Contracts, Easement Agreements, lease agreements and all other agreements granting rights with respect to the use of the real property within the areas delineated on Exhibit A in connection with the construction, operation and maintenance of the Project. For the avoidance of doubt, Land Contracts shall also include any right-of-way or easement agreement that is required from Rolette County or any other Authority with respect to the use of public roads or right-of-way for the installation and use of electrical transmission lines, unless the Title Company will not insure such rights-of-way or easement agreements in which case they shall be treated as Permits.

“Law” means any law, statute, rule, regulation, ordinance, standard, code, order, judgment, decision, writ, injunction, decree, certificate of need, award or other

governmental restriction, including any published and publicly available policy or procedure (or any guidelines or recommendations with respect to human health or safety or the use, handling, disposal or release of Hazardous Materials) (except as provided in Section 5.13) issued or enforced by any Authority.

“*Liabilities*” means any and all direct or indirect liabilities, Indebtedness, obligations, commitments, losses, damages, expenses, claims, deficiencies, or guaranties of any type, whether accrued, absolute, contingent, matured, unmatured or other, or known or unknown.

“*Liquidated Damages*” means Delay Damages and Termination Damages.

“*Major Subcontractor*” means any Subcontractor with whom Contractor will enter (or has entered) into an agreement or agreements having an aggregate value in excess of [BEGIN TRADE SECRET
END TRADE SECRET] for performance of any part of the Work.

“*Material Adverse Effect*” means an event, change, occurrence, circumstance, development or effect, which, individually or when taken together with the effect of all other events or circumstances occurring since the Effective Date (a) has caused or could reasonably be expected to cause [BEGIN TRADE SECRET
END TRADE SECRET] of the Project that is capable of achieving Project Substantial Completion by the Guaranteed Completion Date [BEGIN TRADE SECRET
END TRADE SECRET] or (b) has had or could reasonably be expected to have a material adverse effect on the assets, properties, liabilities (other than the Retained Liabilities and the Assumed Liabilities as provided for in this Agreement) of the Company or the assets, properties or physical condition of the Project, which effect has a material adverse effect on the Company or the Project as a whole; *provided, however*, that the determination of whether a Material Adverse Effect has occurred shall exclude the following occurrences (i) any event or circumstance resulting from either changes in the international, national or regional electric industry in general or changes in general national or regional economic or financial conditions and that does not have a disproportionate impact on the Project, as compared to similar wind energy development projects in the U.S. and (ii) wholesale or retail prices for power, renewable power or RECs or changes in such prices, or the profitability or financial condition or results of operation of the Company, and (iii) [BEGIN TRADE SECRET

[END TRADE SECRET] No violation or noncompliance with Environmental Laws or other Laws assumed by Buyer under Section 5.12 shall be considered in determining whether a Material Adverse Effect has occurred.

“*Mechanical Completion*” with respect to an individual WTG means achievement of the following:

(a) Foundation Completion with respect to the foundation for such WTG has occurred and such WTG is designed, fabricated, assembled, erected and installed in accordance with the Technical Specifications, the Mechanical Completion Checklist and the other requirements of the EPC Agreement, and checked for adjustment;

(b) all materials and equipment associated with such WTG have been installed in accordance with the Technical Specifications, the Mechanical Completion Checklist, the applicable Project Quality Assurance Plan and the other requirements of the EPC Agreement, and checked for adjustment, rotation and lubrication;

(c) Contractor has prepared and submitted a list of Punch List Items with respect to such WTG;

(d) the WTG is ready to commence Commissioning and testing; and

(e) the Company has accepted a Mechanical Completion Certificate with respect to such WTG pursuant to the terms and conditions of the EPC Agreement.

“Mechanical Completion Certificate” means a certificate in the form attached to the EPC Agreement issued by the Contractor certifying as to the Mechanical Completion of a WTG.

“Mechanical Completion Checklist” means a checklist developed in connection with the EPC Agreement and attached as an exhibit thereto to provide for a thorough itemized review of all aspects of the erection and installation of a WTG.

“Membership Interest Assignment” is defined in Section 3.3.1(a).

“Meteorological Stations” means at least one (1) permanent wind and weather monitoring station to be installed by the Contractor pursuant to the EPC Agreement on the Property in accordance with wind energy industry practice and standards and the Technical Specifications, which includes, at a minimum, a wind anemometer, wind vanes, a free standing tower and a connection to the SCADA system.

“MISO” means the Midwest Independent Transmission System Operator, Inc. or its successors.

“MW” means megawatt.

“NCF” means net capacity factor.

“NDCC” is defined in Section 5.13.

“NERC” is defined in Section 5.8.1.

“*Noise Study*” means a study to be completed by a qualified consultant with respect to the compliance of the Project as designed with noise standards and delivered to Buyer in final form prior to the Effective Date.

“*Non-Disclosure Period*” is defined in Section 8.9.

“*Non-Disturbance Agreements*” is defined in Section 3.2.3(b).

“*NSP Corporate Approval*” is defined in Section 3.2.17.

“*NSP Drawing Standards*” means the drawing standards attached hereto as Schedule 1.1(b).

“*O&M Facility Real Property*” means the fee simple interests in the land described in Schedule 1.1(d) for the operating and maintenance facility and related improvements if the Company is able to acquire such fee simple interests pursuant to Section 5.10. If the Company is not able to acquire such fee simple interests pursuant to Section 5.10, references to the O&M Facility Real Property in this Agreement shall mean the rights of the Company under the applicable Land Contracts to locate such facility on such property.

“*O&M Manual*” means the complete system instructions and procedures for the operation and maintenance of the WTGs and the Infrastructure Facilities, including Contractor’s manufacturers’, vendors’, suppliers’, Subcontractors’ and Turbine Supplier’s recommended lists of Spare Parts, all safety information and any precautionary measures therefor.

“*Operating Permits*” is defined in Section 6.13.

“*Operational Date*” means the date upon which Seller (or the Company) begins selling electricity to one or more third parties from WTGs that have reached WTG Substantial Completion.

“*Option Period*” is defined in Section 11.2.

“*Optional Interconnection Study*” [BEGIN TRADE SECRET

END TRADE SECRET]

“*Partial Lien Waiver*” means a lien waiver properly completed and executed by the Contractor, the Turbine Supplier, a Major Subcontractor or a Subcontractor, as the case may be, in the form specified in the EPC Agreement, with respect to progress payments.

“*Party*” means Buyer or Seller individually; and “*Parties*” means Buyer and Seller collectively.

“**Permit**” means any license, consent, certificate (including permanent unconditional certificate of occupancy), approval, permit or authorization of any sort whatsoever by or from any Authority, including any certificate of needs, for the development, construction, ownership, operation or transfer of the Project as described on Schedule 6.13.

“**Permit Application**” means any application, petition or request made by Company, Seller or any other of its Affiliates to any Authority on or before the Closing Date in order to obtain a Permit.

“**Permitted Encumbrances**” means (a) Encumbrances for property taxes not yet due and payable, (b) utility easements, building restrictions and such other similar non-monetary Encumbrances incurred in the ordinary course of business that are of a nature generally existing with respect to properties of a similar character, which do not currently present any risk of sale of the property subject to the Encumbrance, which do not affect in any way (other than a *de minimis* effect) the marketability of the Company Assets, and which will not interfere in any material respect with the construction, or in any respect with operation or maintenance of the Project, (c) Encumbrances set forth on Schedule 6.11, (d) Encumbrances granted to lenders under the financing in respect of the development or construction of the Project (so long as such Encumbrances are released at or prior to the Closing), (d) any matter contained in an Updated Title Report that is not objected to by Buyer pursuant to Section 5.11, and (e) any other Encumbrances created or permitted with the written consent of Buyer in its sole discretion (including Encumbrances insured over by the Title Company in the Title Policy).

“**Permitted Title Exception**” is defined in Section 3.2.3(b).

“**Permitting Opinion**” means a permitting opinion acceptable to Buyer from legal counsel licensed to practice in the jurisdiction in which the Project is located, selected and paid by Seller and approved by Buyer (such approval not to be unreasonably withheld) that describes all material, discretionary Permits required to develop, construct and to commence operation of the Project, and, with respect to such Permits (other than any Operating Permits and the Buyer Permits) opines that with respect to each such material discretionary Permit it is legal, valid, binding and enforceable in accordance with its terms, and is in full force and effect and is not subject to any further appeal, except with respect to the operational matters and risks relating to the period following Closing assumed by Buyer in Section 5.12.

“**Person**” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, limited liability company, decedent’s estate, organization, entity, or unincorporated organization or any Authority.

“**Phase I Environmental Site Assessment**” means a Phase I Environmental Site Assessment prepared by a qualified environmental consulting firm and delivered to Buyer in final form prior to the Effective Date.

“**Post-Closing Adjustment**” is defined in Section 2.5.1.

“*Post-Closing PTC Adjustment Amount*” is defined in Section 2.2.3(b).

“*Post-Closing Statement*” is defined in Section 2.5.1.

“*Pre-Closing Period*” is defined in Section 8.6.4.

“*Pre-Closing Tax Returns*” is defined in Section 8.6.3.

“*Project*” means the complete, commercially operable, integrated wind-powered electricity generating plant (including the Facilities) with a nameplate capacity of [BEGIN TRADE SECRET **END** TRADE SECRET] located in Rolette County, North Dakota.

“*Project Quality Assurance Plan*” means the plan setting forth the quality assurance and quality control procedures for the Project attached hereto as Exhibit H.

“*Project Substantial Completion*” means that each of the following has been achieved:

(a) Electrical Works Substantial Completion with respect to the WTGs described in clause (b) below;

(b) WTG Substantial Completion with respect to WTGs with an aggregate nameplate capacity equaling [BEGIN TRADE SECRET **END** TRADE SECRET]

(c) the requirements set forth in the EPC Agreement for the Commissioning test and Inspection Procedures have been met or exceeded with respect to the WTGs described in clause (b) above and the other portions of the Project described in clauses (a) and (d) of this definition;

(d) Contractor has completed all of the Work for all of the Infrastructure Facilities necessary to interconnect and operate or otherwise associated with the WTGs described in clause (b) above, other than any Punch List Items and has delivered to the Company copies of the test reports and electrical schematics related to such Infrastructure Facilities, and Seller has delivered copies of all such documents to Buyer;

(e) Contractor has prepared and submitted to the Company the final and complete list of Punch List Items with respect to the WTGs described in clause (b) above and the other portions of the Project described in clauses (a) and (d) of this definition;

(f) Contractor has delivered draft copies of the Turnover Packages and O&M Manuals to the Company in accordance with the terms of the EPC Agreement, and Seller has delivered copies of all such documents to Buyer, with respect to the WTGs described in clause (b) above and the other portions of the Project described in clauses (a) and (d) of this definition;

(g) drafts of As Built Drawings with respect to the WTGs described in clause (b) above and the other portions of the Project described in clauses (a) and (d) of this definition shall have been delivered to, and accepted by, the Company and the Independent Engineer has determined that such As Built Drawings comply with the requirements of the EPC Agreement;

(h) Contractor has delivered to the Company all interim or progress payment Partial Lien Waivers or final payment Final Lien Waivers, as the case may be, from all Major Subcontractors and from Turbine Supplier for Work completed through such date with respect to the WTGs described in clause (b) above and the other portions of the Project described in clauses (a) and (d) of this definition and Seller has provided copies of all such documentation to Buyer;

(i) all quality assurance documentation has been provided to and received by the Company in accordance with the Project Quality Assurance Plan and all non-conforming quality assurance issues, other than those that have been accepted as Punch List Items, have been resolved in accordance with the Project Quality Assurance Plan and Seller has provided copies of all such documentation to Buyer, in each case, with respect to the WTGs described in clause (b) above and the other portions of the Project described in clause (a) above ;

(j) the Interconnection allows for the output of the Project, as proposed, to be delivered to the transmission system in accordance with the Interconnection Agreement and the standards of MISO and the Transmission Owner;

(k) the Company has accepted a Project Substantial Completion Certificate pursuant to the terms of the EPC Agreement and the Independent Engineer has determined that the Project Substantial Completion Certificate has been issued in accordance with the EPC Agreement with respect to the WTGs described in clause (b) above and the other portions of the Project described in clauses (a) and (d) of this definition; and

(l) all Warranty Parts Inventory and any other Spare Parts, to the extent required under the Turbine Warranty and O&M Agreement to be held by the Company as a condition to the effectiveness of the WTG Warranty, have been delivered by Contractor and/or Turbine Supplier to the Project Site, in each case, with respect to the WTGs described in clause (b) above.

The Parties acknowledge and agree that Seller's intent is to cause the Company to construct Facilities having a nameplate capacity of [BEGIN TRADE SECRET
END TRADE SECRET] and Buyer's intent is that the Company will have Facilities having a nameplate capacity of [BEGIN TRADE SECRET
END TRADE SECRET] and that therefore, the conditions set forth in clauses (b) and (c) of this definition of Project Substantial Completion shall not be deemed satisfied if [BEGIN TRADE SECRET
END TRADE SECRET] have been completed, even if *de minimis*.

“Project Substantial Completion Certificate” means a certificate in the form attached to the EPC Agreement issued by the Contractor certifying as to the satisfaction or achievement of each condition to Project Substantial Completion and accepted by Company.

“Project Warranty” means, collectively, the Balance of Plant Warranty, the Seller Project Warranty, the WTG Warranty, and each other warranty provided in respect of the Project pursuant to a Contract or this Agreement.

“Property” means all real property that is the subject of the Land Contracts as further described in Part A of Schedule 6.11, together with any Real Property.

“Prudent Engineering Practices” means those practices, methods, equipment, specifications and standards of safety and performance, as the same may change from time to time, as are commonly used by professional construction and engineering firms performing engineering, procurement and construction services on wind energy facilities of the type, size and location similar to the Project which, in the exercise of reasonable judgment and in the light of the facts known at the time the decision was made, are considered good, safe and prudent practice in connection with the design, construction and use of wind energy generating and operating, electrical and other equipment, facilities and improvements, with commensurate standards of safety, performance, dependability, efficiency and economy, and as are in accordance with generally accepted national standards of professional care, skill, diligence and competence applicable to design, engineering, construction and project management practices, including standards published by the Institute of Electrical and Electronics Engineers, the American National Standards Institute, the National Electrical Manufacturers Association or ASTM. Prudent Engineering Practices are not necessarily defined as the optimal standard practice method or act to the exclusion of others, but rather refer to a range of action reasonable under the circumstances.

“Prudent Industry Practices” means those practices, methods, standards and acts (including those engaged in or approved by a significant portion of the wind generated electric power industry for similar wind electric generation facilities in the United States) that at a particular time in the exercise of good judgment and in light of the facts known at the time the decision was made, would have been expected to accomplish the desired result in a manner consistent with applicable Laws, safety, environmental protection, economy and expedition. Prudent Industry Practices are not necessarily defined as the optimal standard practice method or act to the exclusion of others, but rather refer to a range of action reasonable under the circumstances.

“PTC” or **“PTCs”** means production tax credits under Section 45 of the Internal Revenue Code as in effect on the Effective Date or (a) any substantively equivalent (including as to the amount of tax credit provided) successor provision providing for a federal tax credit determined by reference to renewable electric energy produced from wind resources or (b) any replacement tax incentive renewable electric energy produced from wind resources, including an investment tax credit or cash grant in lieu of an investment tax credit, that provides a substantially equivalent financial value to Buyer.

“PTC Expiration Date” means December 31, 2013, or any later deadline for achieving the Under Construction requirement for the Project for purposes of Section 45 of the Code as a result of any change in law, including any retroactive change in law, or for qualification for (a) any substantively equivalent successor provision of the Code providing for a federal tax credit determined by reference to renewable electric energy produced from wind resources or (b) any replacement tax incentive available for renewable electric energy produced from wind resources, including an investment tax credit or cash grant in lieu of an investment tax credit, that provides a substantially equivalent financial value to Buyer.

“PTC Tax Loss” [BEGIN TRADE SECRET

END

TRADE SECRET]

“PUHCA” is defined in Section 4.1.6.

“Punch List Holdback Amount” means such amount sufficient to pay the costs of completing the Punch List Items, as agreed by the Parties, or, if the Parties are unable to agree upon such amount as determined by the Independent Engineer.

“Punch List Items” means each item of Work that:

- (a) Seller and Buyer agree remains to be performed following Project Substantial Completion;
- (b) does not in Seller’s and Buyer’s reasonable judgment, affect the ability of the Company to safely operate the Project in accordance with Applicable Standards and in compliance with all Laws;
- (c) does not in Seller’s and Buyer’s reasonable judgment, affect the operability (including capacity, efficiency, reliability, or cost effectiveness), safety or mechanical or electrical integrity or the safe, reliable or continuous commercial operation of the Project; and
- (d) does not in Seller’s and Buyer’s reasonable judgment, affect the ability to Commission and test the WTGs, Infrastructure Facilities or the other components of the Project.

If the Parties are unable to agree upon whether an item should be included in the Punch List Items, the Independent Engineer shall make such determination.

“Purchase Price” means an amount equal to [BEGIN TRADE SECRET

END TRADE SECRET]

“*Purchased Interests*” means one hundred percent (100%) of the membership interests of the Company.

“*Real Property*” means the O&M Facility Real Property, the Substation Real Property, the Facilities (to the extent the same are deemed to be real property) and any other real property interests necessary for the construction, maintenance and operation of the Project.

“*Release*” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment or the workplace of any Hazardous Materials, and otherwise as defined in any Environmental Law.

“*Replacement Turbine Supplier*” means [BEGIN TRADE SECRET
END TRADE
SECRET] or such other turbine manufacturer selected by Seller and approved by Buyer (such approval not to be unreasonably withheld, conditioned or delayed).

“*Reports*” means the Phase I Environmental Site Assessment, the Beam Path Study, the Bird and Bat Assessments, the Cultural Resources Survey, the Wetlands Assessment, the Permitting Opinion, the Standard Broadcast Site Review Study, the Title Reports, the Site Plan, the FAA Screening Study, the Geotechnical Report, the Noise Study, any additional study or report relating to the Project required to be delivered to Buyer as specified in Schedule 6.19 and any other Report necessary for the development, permitting, construction, operation or transfer of the Project or the Purchased Interests.

“*Representation Holdback Amount*” is defined in Section 3.3.2(b).

“*Representation Holdback Event*” is defined in Section 3.3.2(a).

“*Representative*” means, with respect to any Person, any officer, director, employee, principal, attorney-in-fact, agent, or other representative of such Person.

“*Schedules*” means Buyer’s Schedules, Seller’s Schedules and all other schedules expressly contemplated in this Agreement, including those to be delivered as of the Effective Date and those to be delivered as of the Closing Date.

“*Seller*” is defined in the introductory paragraph of this Agreement.

“*Seller Confidential Information*” is defined in Section 8.5.1.

“*Seller Damages*” is defined in Section 9.3.2.

“*Seller Documents*” is defined in Section 6.3.

“*Seller Indemnified Parties*” is defined in Section 9.3.2.

“*Seller Indemnity Cap*” shall mean [BEGIN TRADE SECRET
END TRADE SECRET]

“*Seller Project Warranty*” is defined in Section 6.26.

“*Seller Tax Returns*” is defined in Section 8.6.2.

“*Seller’s Absolute Representations*” means those representations and warranties of Seller set forth in Sections 6.1, 6.2, 6.3, 6.4, 6.5, 6.8(a), 6.9, 6.12 (except for the second sentence), 6.14, 6.16, 6.17, 6.19, 6.20, 6.24 and 6.25.

“*Seller’s Knowledge*” means the actual and current knowledge of any of the Persons listed in Schedule 1.1(e), after reasonable inquiry by such Persons of those Representatives of or consultants to Seller or Seller’s Affiliates who are reasonably likely to have material knowledge of the relevant subject matter.

“*Seller’s Material Representations*” the representations and warranties of Seller set forth in ARTICLE 6 other than the Seller’s Absolute Representations.

“*Seller’s Schedules*” means the Schedules to any of the provisions of ARTICLE 6.

“*Settlement Agreement*” is defined in Section 12.4.2.

“*Sequoia*” shall have the meaning set forth in the Recitals.

[BEGIN TRADE SECRET

END TRADE SECRET]

“*Signing Date*” is defined in the introductory paragraph of this Agreement.

“*Site*” means the site on which the Project will be constructed in Rolette County, North Dakota as more particularly described or depicted in, and which shall be within the geographic boundaries set forth in Exhibit A.

“*Site Plan*” means the site layout for the Project attached as Exhibit F, including the intended location of each of the turbines, the access roads, the electrical collector

system, the communication lines, and set-backs of the turbines from roads and other structures which such layout shall overlay the Property and show the location of existing roads, buildings, other structures, all wetlands (if any) as identified in the Wetlands Assessment, and areas of concern (if any) as identified in the Phase I Environmental Site Assessment.

“*Spare Parts*” means the spare parts to be provided by Turbine Supplier pursuant to the Turbine Warranty and O&M Agreement (or required to be purchased for the WTG Warranty to be effective) and the spare parts to be provided by Contactor pursuant to the EPC Agreement.

“*Standard Broadcast Site Review Study*” means the Standard Broadcast Site Review Study prepared by a qualified consultant and delivered to Buyer in final form prior to the Effective Date.

“*Strategy Effective Date*” is defined in Section 5.12(a).

“*Subcontractor*” means any vendor, supplier, consultant, or subcontractor, of any tier, materialman, professional, laborer or other Person providing materials, equipment or services, directly or indirectly, to Contractor in connection with the performance of the Work, including any Major Subcontractor.

“*Substation Real Property*” means the fee simple interests in the land described in Schedule 1.1(f) consisting of approximately [BEGIN TRADE SECRET END TRADE SECRET] and on which the collector substation for the Project is to be located if the Company is able to acquire such fee simple interests pursuant to Section 5.10. If the Company is not able to acquire such fee simple interests pursuant to Section 5.10, references to the Substation Real Property in this Agreement shall mean the rights of the Company under the applicable Land Contracts to locate such substation on such property.

“*Survey*” is defined in Section 3.2.3(c).

“*Target Closing Date*” means [BEGIN TRADE SECRET END TRADE SECRET] *provided, however*, that such date shall be extended on a day for day basis for each day following the Effective Date that the achievement of Project Substantial Completion is delayed due to (a) a Force Majeure Event, (b) an Excused Interconnection Delay or (c) a Turbine Supplier Change Delay.

“*Tax Authority*” means the Internal Revenue Service and any other domestic or foreign Authority responsible for the administration of any Taxes.

“*Taxes*” means all federal, state, local, foreign and other net income, gross income, estimated, gross receipts, sales, use, ad valorem, transfer, franchise, profits, license, lease, service, service use, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property taxes and levied and pending assessments, windfall profits, value added, commercial rent, customs duties, capital gain, social security, royalty, documentary or other taxes, fees, assessments, duties or charges of any

kind whatever, together with any interest and any penalties, additions to tax or additional amounts with respect thereto, and the term “Tax” means any one of the foregoing Taxes.

“**Technical Specifications**” means the description of the Work, Infrastructure Facilities and WTGs for the Project as set forth on Exhibit I.

“**Tentative Adverse Under Construction Determination**” is defined in Section 2.2.3(b).

“**Termination Damages**” is defined in Section 11.1.3.

“**Third Party Rights**” is defined in Section 3.2.3(a)(iii).

“**Title Company**” means a title company selected by Seller and approved by Buyer (such approval not to be unreasonably withheld).

“**Title Objection Letter**” is defined in Section 3.2.3(b).

“**Title Objections**” is defined in Section 3.2.3(b).

“**Title Policy**” is defined in Section 3.2.3(b).

“**Title Policy Endorsements**” is defined in Section 3.2.3(b).

“**Title Report**” means a preliminary title commitment or report of condition of title to be prepared by the Title Company for each parcel of the Property covered by the Land Contracts and the Real Property showing all Encumbrances disclosed in the official records of Rolette County, North Dakota (and that sets out the real estate legal description and the record title holder and also describes all mortgages, judgments, Tax liens and other liens, Taxes, estates, life estates and other reservations by will or conveyance, all Encumbrances of record as disclosed in the official records of Rolette County, North Dakota (including easements and government regulations), and other proceedings affecting title (together with a copy of all such underlying documents) that are contained in the official records of Rolette County, North Dakota). The Title Report will also contain proper searches covering Uniform Commercial Code financing statements, bankruptcies, and federal and state judgments and liens.

“**Transmission Owner**” means the entity party to and identified under the Interconnection Agreement as the owner of the electrical transmission system being utilized for Interconnection or its successors or assigns thereunder.

“**Turbine Supplier**” means [BEGIN TRADE SECRET
END TRADE SECRET]

“**Turbine Supplier Change Delay**” means any change or delay to the Project construction schedule resulting from a change in Turbine Supplier in accordance with Section 5.15.

“Turbine Supply Agreement” means the purchase agreement by and between Seller or the Company and Turbine Supplier for the supply of turbines for the Project, in form and substance satisfactory to Buyer.

“Turbine Warranty and O&M Agreement” means the warranty agreement between the Turbine Supplier and Seller or the Company regarding the WTG Warranty and pursuant to which the Turbine Supplier agrees to provide operation, maintenance or warranty work with respect to the Project.

“Turnover Package” means:

(a) the WTG Turnover Package; and

(b) all engineering, design, purchasing and other information relating to the Infrastructure Facilities, including: (i) a drawing index; (ii) a reference index; (iii) copies of Contractor’s and Subcontractors’ Permits; (iv) copies of all purchase orders on Major Subcontractor’s equipment (non-priced) with addenda; (v) Subcontractor information for equipment purchased (as received from vendors) including instruction and maintenance manuals from Subcontractors; (vi) one copy of the As Built Drawings and Documentation; (vii) training manuals; (viii) electrical 1-line diagrams for the Infrastructure Facilities; (ix) a cable and raceway schedule for the Infrastructure Facilities; (x) connection report/loop diagrams for the Infrastructure Facilities; and (xi) a final list and summary of the work performed by all Subcontractors and verification of the payment of all amounts due to Turbine Supplier or any Subcontractor.

“Under Construction” means that Seller or the Company can establish by facts and circumstances that construction of the Project has begun (and a continuous program of construction is being maintained or continuous efforts are being made to advance towards completion) as described in the IRS PTC Publication, such that the Project meets the definition of a “qualified facility,” as used in Section 45 of the Code or any substantively equivalent successor provision of the Code providing for a federal tax credit determined by reference to renewable electric energy produced from wind resources.

“Under Construction Certificates” means the Initial Under Construction Certificate and the Final Under Construction Certificate.

“Under Construction Plan” is defined in Section 11.1.1(a).

“Under Construction Opinions” means the Initial Under Construction Opinion and the Final Under Construction Opinion.

“Updated Title Objections” is defined in Section 5.11.

“Updated Title Report” is defined in Section 5.11.

“Updated Survey” is defined in Section 5.11.

“*Warranty Parts Inventory*” means the warranty parts inventory described in the Turbine Warranty and O&M Agreement and the EPC Agreement.

“*Weather Delays*” means any time during a scheduled day of work at the Project Site on which:

- (a) The erecting or commissioning of WTGs at the Project Site is scheduled to occur; and
 - (i) With respect to a day on which erection is scheduled to occur, the main erection crane or the blade erection crane is unable to operate due to actual winds with a speed at or in the vicinity of crane boom tip-height or neighboring erected WTG hub height that [BEGIN TRADE SECRET END TRADE SECRET] or
 - (ii) With respect to a day on which commissioning is scheduled to occur, the average wind speeds at hub-height of the relevant WTG are [BEGIN TRADE SECRET END TRADE SECRET] or
- (b) other inclement weather, including impaired visibility, wind shear, ice and ice storms, prevents or substantially hinders the safe performance of the Work but that does not rise to the level of Extreme Weather.

“*Wetlands Assessment*” means the wetlands study with respect to the Property prepared by a qualified consultant and delivered to Buyer in final form.

“*Wind Data*” means any and all wind speed data and other relevant wind characteristics data included, or included by reference, on Schedule 6.17, or obtained by or on behalf of Company, Seller or any other of its Affiliates or their Representatives in respect of the Project, along with all supporting documentation.

“*Wind Turbine Generator*” or “*WTG*” means [BEGIN TRADE SECRET

END TRADE SECRET] manufactured by the Turbine Supplier, to be supplied, delivered, assembled, erected and installed by the Turbine Supplier, each equipped with a rotor with a diameter of [BEGIN TRADE SECRET

END TRADE SECRET] including equipment, machinery, materials and consumable parts related thereto and the following components: a tower, a turbine nacelle, turbine blades, controller (including interconnecting cabling from the turbine nacelle to the ground controller), control panels, converters, Var control technology supplied by the Turbine Supplier, wind vanes, FAA lighting (if and as required), grounding, and anemometers, all as more particularly described in the Technical Specifications.

“*Work*” means all work for the management of the construction of the Project, the design, engineering, procurement, construction, Commissioning, start-up and turnover of the Infrastructure Facilities and the procurement, delivery, assembly, erection, installation, Commissioning, start-up and turnover of the WTGs, which work and services shall include all aspects of the work described in the Scope of Work set forth in the EPC Agreement, the Construction Services and the provision of all materials, equipment, machinery, tools, labor, transportation, administration and other services and items required to complete and deliver the fully integrated and operational Infrastructure Facilities, the fully assembled, installed, tested and operational WTGs and the Project, all in accordance with the Turbine Supply Agreement, the Turbine Warranty and O&M Agreement, the EPC Agreement and this Agreement.

“*WTG Price*” means [BEGIN TRADE SECRET] END
TRADE SECRET]

“*WTG Shortfall*” means a number equal to [BEGIN TRADE SECRET]
END TRADE SECRET]

“*WTG Substantial Completion*” means achievement of the following:

(a) Contractor has achieved Commissioning and turnover of the Electrical Works (including the installation of all grounding necessary to energize the WTGs connected to the relevant electrical collection system circuit in accordance with the requirements of the EPC Agreement), received a Commissioning and Turnover Certificate and issued an Electrical Substantial Completion Certificate to the Company with respect to such circuit that the Company has accepted, in each case pursuant to the terms of the EPC Agreement;

(i) Turbine Supplier has achieved Commissioning and Turnover of WTGs for each such WTG connected to the relevant electrical collection system circuit and received a Commissioning and Turnover Certificate with respect to each such WTG and issued a WTG Substantial Completion Certificate with respect to each such WTG to the Company that the Company has accepted, in each case pursuant to the terms of the Turbine Supply Agreement; and

(ii) in the event Seller or the Company has satisfied clauses (a) and (c) of the definition of Project Substantial Completion, with respect to any WTGs subject to Section 9.5.3, the conditions set forth in the other clauses of the definition of Project Substantial Completion shall have been achieved with respect to such WTGs.

“*WTG Substantial Completion Certificate*” means a certificate in the form attached to the EPC Agreement issued by the Contractor certifying as to the WTG Substantial Mechanical Completion of a WTG.

“**WTG Turnover Package**” means the (a) O&M manuals, (b) the erection and start-up manual including Turbine assembly drawings, erection diagrams, connection diagrams for the WTGs and the SCADA system, details of all interface points and connections and a cable schedule and (c) the SCADA system logic diagram.

“**WTG Warranty**” means the warranty of the WTGs provided by the Turbine Supplier pursuant to the Turbine Warranty and O&M Agreement. The WTG Warranty shall include a serial defect provision applicable to the components acquired for the Project through the Turbine Warranty and O&M Agreement mutually acceptable to the Turbine Supplier, Seller and Buyer.

1.2. Rules of Interpretation. Unless otherwise expressly provided or unless required by the context in which any term appears:

(a) the singular shall include the plural and the plural shall include the singular; references to “Articles,” “Sections,” “Schedules,” or “Exhibits” (if any) shall be to articles, sections, schedules or exhibits (if any) of this Agreement, as the same may be amended, modified, supplemented or replaced pursuant to the terms hereof from time to time;

(b) all references to a particular entity shall include a reference to such entity’s successors and permitted assigns;

(c) the words “herein,” “hereof and “hereunder” shall refer to this Agreement as a whole and not to any particular section or subsection of this Agreement;

(d) all accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles in the United States of America, consistently applied;

(e) references to this Agreement shall include a reference to all Schedules and Exhibits hereto, including those to be attached or updated pursuant to Section 3.1.2, as the same may be amended, modified, supplemented or replaced from time to time;

(f) references to any agreement, document or instrument shall mean a reference to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time;

(g) the use of the word “including” in this Agreement to refer to specific examples shall be construed to mean “including, without limitation” or “including but not limited to” and shall not be construed to mean that the examples given are an exclusive list of the topics covered;

(h) relative to the determination of any period of time, “from” means “including and after,” “to” means “to but excluding” and “through” means “through and including;”

(i) references to applicable Laws shall mean a reference to such applicable Laws as the same may be amended, modified, supplemented or restated and be in effect from time to time, including rules and regulations promulgated thereunder;

(j) unless otherwise specified to the contrary, the word “or” shall be inclusive and shall have the meaning conveyed by “and/or,” and

(k) references, directly or indirectly, to the WTGs or to the size of the Project in MW shall be based on the nameplate capacity of [BEGIN TRADE SECRET
END TRADE SECRET]

The Parties collectively have prepared this Agreement, and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

ARTICLE 2. PURCHASE AND SALE OF MEMBERSHIP INTERESTS

2.1. Purchase and Sale of Membership Interests. Upon the terms and subject to the conditions set forth in this Agreement, on the Closing Date, Seller shall sell, convey, transfer, assign, and deliver to Buyer, free and clear of all Encumbrances, and Buyer (or its designated Affiliate) shall purchase from Seller, all of the Purchased Interests, which Purchased Interests shall be sold, conveyed, transferred, assigned and delivered to Buyer for the consideration specified in Section 2.2.

2.2. Purchase Price; Assumption of Liabilities.

2.2.1 Purchase Price. Buyer shall pay to Seller pursuant to this Agreement the Adjusted Purchase Price for the Purchased Interests. The Adjusted Purchase Price shall be paid when due by wire transfer of immediately available funds to the account specified in writing by Seller for such purpose or, if so requested in writing by Seller, by such alternative means of delivery of immediately available funds or other method of payment as is reasonably acceptable to Buyer. The Adjusted Purchase Price shall be paid as follows:

(a) [BEGIN TRADE SECRET

END TRADE SECRET]

2.2.2 Excluded Liabilities. Except for Assumed Liabilities, as of the Closing Date, the Company shall not be obligated to pay, perform or otherwise discharge or be responsible or liable with respect to, (a) any Liabilities relating to the Project or any

present or former developer, owner or operator of the Project incurred prior to the Closing Date, whether or not associated with, or arising from, any of the Company Assets, and whether fixed, contingent or otherwise, known or unknown, or (b) any other Liabilities whenever incurred described in clauses (i) – (vii) of the definition of Assumed Liabilities (collectively, the “*Excluded Liabilities*”).

2.2.3 Under Construction Determination. **[BEGIN TRADE SECRET**

END TRADE**SECRET]**

2.3. Mechanics of Closing. The closing of the transactions contemplated by this Agreement (the “**Closing**”) will take place at the offices of Dorsey & Whitney, 50 South Sixth Street, Minneapolis, Minnesota at 9:00 a.m. on a mutually acceptable date within five (5) Business Days following the satisfaction (or waiver) of the conditions set forth in Sections 3.3 and 4.2, (other than those conditions that by their nature are to be satisfied at the Closing), or at such other place and on such other date as may be mutually agreed by Buyer and Seller (the date on which the Closing actually occurs being referred to as the “**Closing Date**”; *provided, however*, that if the satisfaction (or waiver) of the conditions set forth in Sections 3.3 and 4.2 (other than those conditions that by their nature are to be satisfied at the Closing) occurs within five (5) Business Days of the Guaranteed Completion Date, the Parties shall endeavor to cause the closing to take place on or before the Guaranteed Completion Date. Any Closing shall be effective as of 11:59 PM on the Closing Date.

2.4. Closing Costs.

2.4.1 Expenses. Except as otherwise specified herein, each Party hereto shall pay its own legal, accounting, out-of-pocket and other expenses incident to this Agreement and to any action taken by such Party in preparation, negotiation, execution and performance of this Agreement.

2.4.2 Prorations.

(a) All rent, insurance premiums and other costs and expenses of the Company relating to the ownership and operation of the Land Contracts relating solely to WTGs that achieved WTG Substantial Completion, and the other portions of the Project with respect to which Project Substantial Completion was achieved, as of the Closing Date and the Real Property shall be prorated between Seller and Buyer as of the Closing Date, so that Seller is responsible for the prorated amounts for the period of time prior to the Closing Date, and Buyer is responsible for the prorated amounts for the period of time from and after the Closing Date. Without limiting the generality of Section 2.2.2 and for purpose of clarity, Seller has the sole responsibility for making any option, construction or

other payments due to landowners pursuant to the Land Contracts which arise prior to the Closing Date or that relate to WTGs that did not achieve WTG Substantial Completion, and the other portions of the Project with respect to which Project Substantial Completion was not achieved, on or prior to the Closing Date.

(b) For the avoidance of doubt, Seller shall be responsible for crop damage payments due under any Land Contract for crop damages caused prior to the Closing Date or in connection with construction activities, regardless of when the claim for such damages is made and Buyer shall be responsible for crop damage payments due under any Land Contract relating solely to WTGs that achieved WTG Substantial Completion, or to the other portions of the Project with respect to which Project Substantial Completion was achieved, as of the Closing Date for crop damages caused on or after the Closing Date unless such damages are caused by construction activities.

(c) From and after the Guaranteed Completion Date, Seller shall have the right, upon sixty (60) days written notice to Buyer and the Company, to request Buyer to cause the termination of any Land Contracts for which Seller has sole continuing payment responsibility pursuant to Section 2.4.2(a). Within thirty (30) days following receipt of such written notice, Buyer shall either (i) release Seller from such continuing payment obligations (excluding any indemnity obligations arising or accruing prior to the date of such release), or (ii) cause such Land Contract to terminate.

2.4.3 Transfer Taxes. Seller shall be responsible for any transfer taxes and any sales, use or other taxes imposed by applicable Law by reason of (a) the transfer of the Purchased Interests to Buyer at the Closing; and (b) the purchase or other acquisition of any of the Company Assets by, on behalf of or for the benefit of the Company on or prior to the Closing, including in connection with the purchase of the Land Contracts or other Company Assets by the Company from Sequoia on or prior to the Effective Date, and including all state and county Taxes or fees that are payable in connection with the conveyance of the Real Property to the Company. Buyer shall be responsible for any such Taxes imposed by applicable Law by reason of the transfer of the Purchased Interests, the Land Contracts or other Company Assets by the Company to Buyer after the Closing.

2.4.4 Post-Closing Land Payments. On or prior to the Closing Date, Seller shall make all regularly scheduled rent payments under Land Contracts that will come due during the sixty (60) day period following the Closing Date; *provided, however*, that Buyer shall reimburse Seller for any such payments pursuant to Section 2.5.

2.4.5 Independent Accountant and Independent Engineer Costs. **[BEGIN
TRADE SECRET**

TRADE SECRET]

END

2.5. Post-Closing Statement.

2.5.1 Post-Closing Statement. Within sixty (60) days after the Closing Date, Buyer will prepare and deliver to Seller a closing statement (the “***Post-Closing Statement***”) of the Company as of the close of business on the Closing Date setting forth Buyer’s calculation of (a) revenues and other amounts paid to the Company following the Operational Date or that are payable to the Company in respect of power sold by the Company prior to the Closing Date, in each case, that are for the account of Seller pursuant to Section 5.1, (b) payments made by Seller pursuant to Section 2.4.4 (unless included in the calculation of clause (b) of the definition of the Adjusted Purchase Price) and (c) any Excluded Liabilities incurred by the Company following the Closing Date. Seller will provide Buyer such information as Buyer may reasonably request in connection with its preparation of the Post-Closing Statement. If the amounts payable to Seller exceed such Excluded Liabilities, then Buyer will pay to Seller an amount equal to the excess, and if such Excluded Liabilities exceed the amounts payable to Seller, then Seller will pay to Buyer an amount equal to the excess (in either case, the “***Post-Closing Adjustment***”).

2.5.2 Payment of Post-Closing Adjustment. Unless Seller objects to the amounts set forth in the Post-Closing Statement in accordance with Section 2.5.3, payment of the Post-Closing Adjustment will be made within thirty (30) days after Seller’s receipt of the Post-Closing Statement, together with interest at the Interest Rate from the Closing Date to the date of payment of the Post-Closing Adjustment.

2.5.3 Post-Closing Adjustment Disputes. Within fifteen (15) days after delivery of the Post-Closing Statement by Buyer to Seller, Seller may object in writing to the amounts set forth in the Post-Closing Statement, stating in reasonable detail its objections and providing its good-faith calculation of the objectionable amount or amounts. Buyer will provide Seller such information as Seller may reasonably request in connection with its review of the Post-Closing Statement. If Seller fails to deliver notice of its objections within the fifteen (15) day period, Seller will be deemed to have accepted Buyer’s calculation. If Seller objects to any amounts set forth in the Post-Closing Statement, the Parties will attempt to resolve the dispute by negotiation in good faith. If the Parties are unable to resolve the dispute within fifteen (15) days of the date of delivery of Seller’s objection in writing, then either Party may refer the dispute to an Independent Accountant mutually acceptable to the Parties, and the Independent Accountant will settle the dispute as soon as practicable. If Buyer and Seller are unable to agree on the choice of an Independent Accountant, they will select a nationally recognized accounting firm by lot (after excluding the regular outside accounting firms of Buyer, Seller and the Company). The determination of the Independent Accountant will be final and binding on the Parties, and the Parties will share equally the fees and disbursements of the Independent Accountant. The Independent Accountant will resolve any such objections and determine, in accordance with the criteria specified in the first sentence of Section 2.5.1, the amounts to be included in the Post-Closing Statement. The Parties will provide the Independent Accountant, within ten (10) days of its selection, with a definitive statement of the position of each Party with respect to each unresolved objection and will advise the accounting firm that the Parties accept the Independent Accountant as the appropriate

Person to interpret this Agreement for all purposes relevant to the resolution of the unresolved objections. Buyer will provide the Independent Accountant access to the Books and Records. The Independent Accountant will have fifteen (15) days to carry out a review of the unresolved objections and prepare a written statement of its determination regarding each unresolved objection. The determination of the Independent Accountant will be set forth in writing and will be conclusive and binding upon the Parties. Buyer will revise the Post-Closing Statement as appropriate to reflect the resolution of any objections to the Post-Closing Statement pursuant to this Section 2.5.3.

2.5.4 Final Payment. Once any disputes in accordance with Section 2.5.3 have been resolved between the Parties or determined by the Independent Accountant, then the Post-Closing Adjustment will be promptly paid to the Party entitled to receive it as part of the Final Completion Payment, together with interest at the Interest Rate from the Closing Date to the date of payment of the Post-Closing Adjustment.

2.5.5 Allocation. Within one hundred twenty (120) days after the Closing Date, Seller and Buyer shall agree upon the allocation of the Purchase Price to the Company Assets. The Purchase Price shall be allocated among the Company Assets by dollar amounts in accordance with (a) the categories set forth in Schedule 2.5.5 (the “*Allocation Categories*”) and (b) Section 1060 of the Code and any Treasury Regulations promulgated thereunder, or any successor provisions. Buyer and Seller agree that they shall each report the allocation of the Purchase Price in a manner entirely consistent with such allocation in all tax returns and forms (including, without limitation, Form 8594 which shall be filed with their respective federal income tax returns for the taxable year in which the Closing occurs) and in the course of any tax audit, tax review or tax litigation relating thereto.

ARTICLE 3.

EFFECTIVENESS; BUYER’S CONDITIONS PRECEDENT TO EFFECTIVENESS; BUYER’S CONDITIONS PRECEDENT TO THE CLOSING

3.1. Effectiveness.

3.1.1 Effective Date Conditions. The Parties agree and acknowledge that except for the rights and obligations of the Parties set forth in **[BEGIN TRADE SECRET**

END TRADE SECRET] each of which shall be effective as of the Signing Date, this Agreement shall not otherwise be effective until the conditions set forth in **[BEGIN TRADE SECRET**

END TRADE SECRET] (the “*Effective Date Conditions*”) have been satisfied (or waived in writing by the Party entitled to do so) and Buyer and Seller shall each have executed and delivered an Effective Date Certificate in accordance with this Section 3.1.1. Within three (3) Business Days following the satisfaction of the Effective Date Conditions each of Buyer and Seller shall deliver to the other a copy of the Effective Date Certificate duly signed by an authorized representative of such Party.

3.1.2 Effective Date Schedules and Exhibits. Without limiting the effect of Section 5.6, the Parties agree and acknowledge that the Effective Date Certificate shall include as an attachment the Schedules and Exhibits that are to be delivered as of the Effective Date (to the extent such Schedules and Exhibits are not delivered and attached hereto as of the Signing Date), in the final form as agreed to the Parties in accordance with the terms of this Agreement, as agreed to by the Parties pursuant to Section 5.6. Neither Party shall have an obligation to deliver its Effective Date Certificate unless all Schedules and Exhibits not agreed to as of the Signing Date have been agreed to by the Parties.

3.2. Buyer's Conditions Precedent to Effectiveness. The obligation of Buyer to execute the Effective Date Certificate shall be subject to fulfillment at or prior to such date of each of the following conditions, except to the extent Buyer waives such fulfillment in writing. The provision by Buyer to Seller of the Effective Date Certificate in accordance with Section 3.1.1 shall evidence completion to the satisfaction of Buyer or waiver by Buyer of completion of each of the Effective Date Conditions set forth in this Section 3.2.

3.2.1 Permits. Except as provided in Section 5.12, Seller or the Company shall have obtained all Permits required for the construction and commercial operation of the Project in the name of the Company other than (a) any Permits that are of a type that are routinely granted on application and would not normally be obtained before the commencement of construction and which are listed on Part B of Schedule 6.13, and (b) any Operating Permits. Each Permit set forth on Part F of Schedule 6.13, to the extent any such Permit has been obtained, replaced, amended or modified since the Signing Date, shall be in form and substance reasonably acceptable to Buyer.

3.2.2 Permitting Opinion. Seller shall have delivered to Buyer the Permitting Opinion with respect to the Project.

3.2.3 Real Estate.

(a) Land Contracts.

(i) All of the Land Contracts shall be in full force and effect. The Company shall have obtained and hold an IRS Form W-9 properly completed and executed by each grantor under each of the respective Land Contracts.

(ii) **[BEGIN TRADE SECRET**

END TRADE

SECRET]

(iii) All third party occupancy rights, whether written or oral, in or affecting the Property or any Land Contract, including farming and hunting rights (but not including any Insured Over Third Party Mineral Rights) (“***Third Party Rights***”), must be identified and subordinated to the applicable Land Contracts, or a nondisturbance or non-interference agreement in form and substance reasonably acceptable to Buyer shall have been executed by each Person holding such Third Party Rights.

[BEGIN TRADE SECRET

END TRADE SECRET]

(b) Title Reports; Title Insurance Policy. Seller shall have delivered or caused to be delivered to Buyer the Title Reports issued by the Title Company as soon as practicable after the Signing Date. Within thirty (30) days after Seller has delivered to Buyer the last of all of such Title Reports and the Surveys required to be delivered pursuant to Section 3.2.3(c), Buyer shall provide Seller with a title objection letter (the “***Title Objection Letter***”) setting forth (i) Buyer’s objections to items identified in the Title Reports and the Surveys (collectively, the “***Title Objections***”), (ii) a list of the required Buyer Affirmative Coverage, (iii) a list of the mortgagees and other third parties from whom Buyer requires Seller

to obtain non-disturbance and attornment agreements substantially in the form of Exhibit E hereto (collectively, the “***Non-Disturbance Agreements***”) or otherwise sufficient to enable the Title Company to remove the related exceptions from Schedule B of the Title Reports or to issue endorsements to the Title Policy affirmatively insuring the Company against loss arising out of the mortgages or other Encumbrances disclosed in those Schedule B exceptions addressed by such Non-Disturbance Agreements, and (iv) a list of third parties from whom Buyer requires Seller to obtain estoppel certificates, affidavits or consents, including any required Estoppel Letters pursuant to Section 3.2.3(a)(iii) (collectively, the “***Curative Documents***”) in a form sufficient to cause the Title Company to remove or to issue an affirmative endorsement against loss arising out of any exception from Schedule B that is not a Permitted Encumbrance and to satisfy Seller’s obligations in respect of Section 3.2.3(a). To assist Seller with expediting its curative efforts required to address the Title Objections, Buyer will, as promptly as practicable after the Signing Date and after the delivery by Seller to Buyer of the Title Reports and the Surveys, notify Seller from time to time in good faith of exceptions to title that Buyer reasonably believes will be Title Objections or are likely to require Non-Disturbance Agreements or Curative Documents. Notwithstanding the foregoing, Seller shall not be required to obtain a Non-Disturbance Agreement from any oil and gas lessee where the term of the lease has expired and Seller obtains an affidavit of non-production or otherwise causes the Title Company to insure over the oil and gas lease in the Title Policy. Seller will use its commercially reasonable efforts to cure each Title Objection and take all commercially reasonable steps required by the Title Company to eliminate each Title Objection as an exception to the Title Reports, or to issue an endorsement to the Title Policy providing affirmative coverage to such exceptions that are the basis for such Title Objection. Any Title Objection that the Title Company is willing to insure over on terms acceptable to Buyer is referred to as a “***Permitted Title Exception***.” Any Permitted Title Exception, and any matter contained in the Title Reports that is not objected to by Buyer in the manner aforesaid, will be deemed to be acceptable to Buyer and shall constitute a Permitted Encumbrance. Except for any such Permitted Title Exception or Permitted Encumbrance, prior to the Effective Date (and as a condition to Buyer’s obligation to Closing), all Title Objections shall have been eliminated as an exception to the Title Reports and all such Non-Disturbance Agreements and Curative Documents, each in form and substance reasonably acceptable to Buyer, shall have been executed and delivered and true, correct and complete copies thereof shall have been delivered to Buyer. Seller shall have caused the Title Company to issue to the Company an American Land Title Association (ALTA) Form B 2006 Owner’s Title Insurance Policy (the “***Title Policy***”) (deleting the arbitration clause) for the property covered by the Land Contracts and the Real Property which policy (A) will be issued in an amount consistent with the requirements imposed by Seller’s lenders under the financing described in Section 4.1.1, but in no case less than the assessed value of the Land Contracts (or the Company’s interest in the real property subject thereof, as applicable) and the Real Property, (B) shall be subject only to the Permitted Encumbrances, (C) shall

show the Company as fee owner of the Real Property and as the sole holder of all rights, title and interest granted under the Land Contracts (excluding the Land Acquisition Contracts), (D) provide for full extended coverage over all general title exceptions contained in such policies, and (E) include the following special endorsements if required by Buyer and available for issuance in the State of North Dakota: zoning, access, restrictions, utility, comprehensive, survey, tax parcel, contiguity, subdivision, successor-in-interest and Sears endorsement, and location (each of which shall be in the forms attached hereto in Schedule 3.2.3(b)) and such other endorsements available in North Dakota as Buyer may request (the “**Title Policy Endorsements**”) and such additional affirmative coverage as Buyer may reasonably request (collectively, the “**Buyer Affirmative Coverage**”). Notwithstanding anything to the contrary herein, if the Title Policy includes a non-disturbance endorsement in form and substance satisfactory to Buyer insuring over the exercise of any Third Party Rights with respect to mineral interests, such interests shall be deemed not to constitute Encumbrances for any purpose in this Agreement (“**Insured Over Third Party Mineral Rights**”). Seller shall pay for all Title Reports (and any amendments, updates and supplements thereto) and all recording charges and expenses incurred in connection with recording any Land Contracts (or amendments or memoranda thereof), any Non-Disturbance Agreements, any Curative Documents and any Assignment and Assumption Agreements and all premiums, fees and related charges incurred for the Title Policy.

(c) Surveys. With respect to each parcel of the Property that will be insured by the Title Policy pursuant to Section 3.2.3(b), Seller, at its sole cost, will, as soon as practicable after the date of the Agreement, have furnished to Buyer a current survey of the real property covered by the Land Contracts and the Real Property in form reasonably acceptable to Buyer and certified to Buyer, Company, the Title Company and Buyer’s lender, if any, prepared by a licensed surveyor in the State of North Dakota and conforming to 2011 ALTA/ACSM Minimum Detail Requirements for Land Title Surveys (including items 1, 2 through 6, 7(a), 7(b), 8, 11(b), 13, 14 and 16 through 19 of Table A) and disclosing the location of all existing improvements, plottable easements, encroachments, roadways, utility lines, set back lines (including setbacks required for compliance with noise limitations) and other matters shown customarily on such windpark surveys, and showing access affirmatively to public streets and roads (the “**Survey**”). The Survey shall include an overlay of the proposed Facilities to be installed on the Property as indicated by the Site Plan.

(d) Reinsurance. Within five (5) Business Days of Seller’s delivery of the Title Reports, Seller shall cause to be delivered to Buyer a reinsurance proposal containing reinsurers and reinsurance amounts acceptable to Buyer, which reinsurance shall be issued pursuant to a facultative reinsurance agreement acceptable to Buyer.

(e) Real Property Interests. The Land Contracts and the Real Property owned by the Company on such date shall:

(i) comprise all of the real property interests and other rights in the Property that are necessary in connection with the acquisition, development, construction, installation, interconnection, completion, operation and to the extent reasonably foreseeable, the maintenance of the Project, as applicable, in accordance with all Laws; and

(ii) be sufficient to enable the Project to be located, constructed, interconnected, and operated as contemplated hereunder; and provide legal and physical ingress and egress rights to and from a public right-of-way for the construction, operation and maintenance of the Project.

3.2.4 Environmental.

(a) None of Company, Seller or Seller's other Affiliates shall have any Liability for prior non-compliance with Environmental Laws related to the Project and shall be in full compliance with all Environmental Laws relating to the Project, including with respect to impacts to wildlife (except as provided in Section 5.12).

(b) Buyer shall have accepted the Bird and Bat Conservation Strategy pursuant to Section 5.12.

3.2.5 Reports. Seller shall have delivered to Buyer a copy of the Reports (which shall be issued by qualified firms reasonably acceptable to Buyer) in final form and that are reasonably satisfactory to Buyer.

3.2.6 Representations and Warranties. The representations and warranties of Seller set forth in ARTICLE 6 (other than those which are only given on the Closing Date) shall be true and correct as of the Effective Date. Buyer shall be satisfied in all respects with Seller's Schedules that are not attached in final form to this Agreement upon execution of this Agreement.

3.2.7 Buyer Approvals.

(a) Seller has delivered to Buyer and Buyer has approved (such approval not to be unreasonably withheld) the EPC Agreement (including the construction schedule), the Turbine Supply Agreement and the Turbine Warranty and the O&M Agreement.

(b) **[BEGIN TRADE SECRET**

END TRADE SECRET]

3.2.8 Delivery of Letter of Credit. **[BEGIN TRADE SECRET**
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3.2.9 Commission Approvals. The Commission Approvals shall have been obtained or waived by Buyer as provided in Section 5.13.

3.2.10 FERC Approval. The transactions contemplated by this Agreement shall have been approved by a Final Order by FERC under section 203 of the Federal Power Act.

3.2.11 HSR Approval. All applicable waiting periods (and any extensions thereof) under the HSR Act shall have expired or otherwise been terminated if the lenders under the financing described in Section 4.1.1 require that (a) the required filings under the HSR Act have been made and (b) the applicable waiting period shall have expired or otherwise been terminated as a condition to advancing funds for construction of the Project.

3.2.12 **[BEGIN TRADE SECRET**

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3.2.13 Guaranty. **[BEGIN TRADE SECRET**

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3.2.14 Company-Sequoia Agreement. The Company and Sequoia shall have closed the sale and purchase of the assets as contemplated by the Company-Sequoia Agreement.

3.2.15 Covenants. Seller shall have performed and complied in all material respects with the agreements, covenants and obligations required by this Agreement to be performed or complied with by Seller at or before the Effective Date.

3.2.16 Certain Third Parties. Buyer and Seller shall have agreed upon the Independent Engineer and the Independent Tax Attorney (if the firm designated in the definition of Independent Tax Attorney is unable or unwilling to act in such capacity).

3.2.17 NSP Corporate Approval. Buyer shall have received approval from (a) its board of directors and (b) Xcel Energy Inc., its sole shareholder, in each case, to consummate the transactions contemplated by the terms of this Agreement (the “*NSP Corporate Approval*”).

3.3. Buyer’s Conditions Precedent to Closing. The obligation of Buyer to consummate the transactions contemplated by this Agreement shall be subject to fulfillment at or

prior to the Closing of each of the following conditions, except to the extent Buyer waives such fulfillment in writing:

3.3.1 Deliveries by Seller at Closing. Upon the terms and subject to the conditions set forth in this Section 3.3, on or before the Closing Date Seller shall deliver, or shall cause to be delivered, to Buyer the following:

(a) Assignment of Purchased Interests. Two (2) original counterparts of the Assignment in substantially the form of Exhibit C hereto (the “**Membership Interest Assignment**”), conveying to Buyer (or its designated Affiliate) of all of Seller’s right, title and interest in the Company, including the Purchased Interests.

(b) Consents. Seller shall deliver to Buyer original executed copies of the Project-related consents that may be reasonably requested by Buyer to be provided by Seller in accordance with Section 8.3, each in a form reasonably satisfactory to Buyer.

(c) Certificates. Seller shall furnish Buyer with the following certificates:

(i) A certificate executed by the Secretary or an Assistant Secretary of Seller, certifying as of the Closing Date (A) a true and correct copy of the corporate action of Seller authorizing the execution, delivery and performance of this Agreement and the other Seller Documents to be executed by it, and the consummation of the transactions contemplated hereby and thereby and (B) incumbency matters.

(ii) An affidavit from Seller, stating, under penalty of perjury, Seller’s United States taxpayer identification number and that Seller is not a foreign person, for purposes of Section 1445(b)(2) of the Code and Treasury Regulation § 1.1445-2(b)(2)(iv)(B).

(iii) A certificate executed by an officer of Seller, certifying as of the Closing Date that, other than any of Seller’s representations and warranties set forth in ARTICLE 6 which by their terms speak only as to the Effective Date, (A) Seller’s Absolute Representations are true and correct in all respects, and Seller’s Material Representations are true and correct in all material respects.

3.3.2 Representations and Warranties.

(a) Other than any of Seller’s representations and warranties set forth in ARTICLE 6 which by their terms speak only as to the Effective Date: (i) Seller’s Absolute Representations shall be true and correct in all respects as of the Closing Date and (ii) Seller’s Material Representations shall be true and correct in all material respects as of the Closing Date; *provided, however*, that, if on the Closing Date any of Seller’s Material Representations are (A) true and correct in all material respects but are not true and correct in all respects or (B) any of

Seller's Material Representations are not true and correct in all material respects but the cost to cure all such breaches in the aggregate does not exceed [BEGIN TRADE SECRET END TRADE SECRET] and (1) no Material Adverse Effect has occurred, (2) such breach of Seller's Material Representations can reasonably be cured within six (6) months following the Closing Date, and (3) Seller provides notice in writing to Buyer that it intends to cure such breach within six (6) months following the Closing Date, (such event a "*Representation Holdback Event*") then:

- (i) this condition shall be deemed to be satisfied for the purposes of whether the Closing shall be required to occur;
- (ii) Buyer may withhold the Representation Holdback Amount until such breach has been cured; and
- (iii) Seller shall use commercially reasonable efforts to cure such breach as soon as practicable but in no event later than six (6) months after the Closing Date.

If such breach is cured within six (6) months after the Closing Date, Buyer shall pay to Seller the Representation Holdback Amount within five (5) Business Days of such breach being cured. If Seller fails to cure such breach within six (6) months after the Closing Date, Buyer's sole remedy hereunder shall be to retain the Representation Holdback Amount.

(b) The "*Representation Holdback Amount*" [BEGIN TRADE SECRET

END**TRADE SECRET]**

3.3.3 Permits. Seller shall have obtained all Operating Permits in the name of the Company. Each Permit set forth on Parts A and F of Schedule 6.13, to the extent any such Permit has been obtained, replaced, amended or modified since the Effective Date, shall be in form and substance reasonably acceptable to Buyer.

3.3.4 Completion Certificates.

(a) Seller shall furnish Buyer with true and complete copies of the Project Substantial Completion Certificate, the WTG Substantial Completion Certificate for each WTG, the Commissioning and Turnover Certificate for each WTG, the Electrical Substantial Completion Certificate, the Mechanical Completion Certificate and the Foundation Completion Certificate.

(b) As of and following the Guaranteed Completion Date, if Buyer or an Affiliate of Buyer is the Transmission Owner and, but for Excused Interconnection Delays, (i) the conditions set forth in this Section 3.3 would have been fulfilled or satisfied, (ii) WTG Substantial Completion would have occurred as to any WTG or (iii) Project Substantial Completion would have occurred, Seller shall have the right, but not the obligation, to elect upon notice to Buyer to deem that (1) the conditions set forth in this Section 3.3 have been satisfied, (2) WTG Substantial Completion has occurred as to the applicable WTGs, or (3) Project Substantial Completion has occurred, as the case may be, solely for purposes of this Section 3.3 and subject to Section 9.5.3. Such notice shall include all supporting documentation and a certificate from the Independent Engineer that the conditions set forth in Section 3.3 have been, or would have been, satisfied but for the Excused Interconnection Delays.

3.3.5 No Material Adverse Effect. There shall be no Material Adverse Effect existing as of the Closing Date. For the avoidance of doubt, any Material Adverse Effect occurring between the Effective Date and the Closing Date, and any breach of any representation or warranty, which has been cured prior to the Closing Date shall not be deemed to be a Material Adverse Effect, or breach, as the case may be, which exists as of the Closing Date.

3.3.6 HSR Approval. All applicable waiting periods (and any extensions thereof) under the HSR Act shall have expired or otherwise been terminated.

3.3.7 Company Assets. As of the Closing Date, (a) the Company has acquired the Company Assets and neither Seller nor the Company shall have sold, assigned, transferred or otherwise disposed of any of the Company Assets; (b) the Company owns

all of the Company Assets and the Company has not suffered any theft, damage, removal, destruction or casualty loss of any of the Company Assets (except, in the case of (a) or (b), assets that have been repaired or replaced with equivalent assets); and (c) the Company Assets are not subject to any Encumbrance, except for Permitted Encumbrances.

3.3.8 Project Warranties. As of the Closing Date each Project Warranty shall (a) be in full force and effect for the benefit of the Company, (b) provide that it may be subsequently assigned to Buyer, at Buyer's discretion, and (c) continue for a period of two (2) years from the Closing Date. Buyer acknowledges and agrees that the Turbine Warranty and O&M Agreement may require that the Turbine Supplier provide operation and maintenance services to the Company during the warranty period and that Buyer shall be responsible for the costs of such services.

3.3.9 **[BEGIN TRADE SECRET_**

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3.3.10 Bring-Down of Permitting Opinion. Seller shall have delivered to Buyer a "bring-down" version of the Permitting Opinion showing no material changes to the Permitting Opinion.

3.3.11 Guaranty. The Guaranty shall be in full force and effect and shall not have been modified, rescinded or revoked.

3.3.12 Real Estate.

(a) All of the Land Contracts shall be in full force and effect.

(b) If required pursuant to the Easement Agreement or reasonably requested by Buyer, Seller shall have caused each Easement Agreement to have been amended in accordance with its terms to show the exact location of all wind farm improvements located on the real property subject to each respective Easement Agreement (the "*Final Layout Amendment*").

(c) Seller shall have delivered to Buyer, in a form reasonably acceptable to Buyer and agreed upon by Buyer and Seller prior to the Effective Date, an updated Estoppel Letter from each Person that is a party to the Land Contracts which shall be dated not more than forty-five (45) days prior to the Closing Date.

(d) Except for any Permitted Encumbrances, all Updated Title Objections shall have been eliminated as an exception to the Updated Title Reports and all Non-Disturbance Agreements and Curative Documents required pursuant to Section 5.11, each in form and substance reasonably acceptable to Buyer, shall have been executed and delivered and true, correct and complete copies thereof shall have been delivered to Buyer.

(e) Seller shall have caused the Title Company to issue to the Company an American Land Title Association (ALTA) Form B 2006 Owner's Title Insurance Policy (deleting the arbitration clause) for the property covered by the Land Contracts and the Real Property which policy will be (i) issued in an amount equal to [**BEGIN TRADE SECRET** **END TRADE SECRET**] or a lesser amount as may be mutually agreed between the Parties and (ii) otherwise substantially equivalent to the Title Policy.

3.3.13 Covenants. Seller shall have performed and complied in all material respects with the agreements, covenants and obligations required by this Agreement to be performed or complied with by Seller at or before the Closing Date.

ARTICLE 4.

SELLER'S CONDITIONS PRECEDENT TO EFFECTIVENESS; SELLER'S CONDITIONS PRECEDENT TO THE CLOSING

4.1. Seller's Conditions Precedent to Effectiveness. The obligation of Seller to execute the Effective Date Certificate shall be subject to fulfillment at or prior to such date of each of the following conditions, except to the extent Seller waives such fulfillment in writing. The provision by Seller to Buyer of the Effective Date Certificate in accordance with Section 3.1.1 shall evidence completion to the satisfaction of Seller or waiver by it of completion of each of the Effective Date Conditions set forth in Section 4.1.

4.1.1 Financing. The Company shall have entered into binding documents for the provision of debt and/or equity financing to the Company on terms and conditions satisfactory to Seller in an amount sufficient for the Company to construct the Project and perform its obligations to achieve Project Substantial Completion under this Agreement for an aggregate nameplate capacity of 150 MW, including its obligations under the EPC Agreement and the Turbine Supply Agreement.

4.1.2 Representations and Warranties. The representations and warranties of Buyer set forth in ARTICLE 7 (other than those which are only given on the Closing Date) shall be true and correct as of the Effective Date. Seller shall be satisfied in all

respects with Buyer's Schedules that are not attached in final form to this Agreement upon execution of this Agreement.

4.1.3 Commission Approvals. Buyer has obtained the Commission Approvals or Buyer has waived obtaining Commission Approvals, and delivered to Seller the opinions, as provided in the last sentence of Section 5.13.

4.1.4 FERC Approval. The transactions contemplated by this Agreement shall have been approved by a Final Order by FERC under section 203 of the Federal Power Act.

4.1.5 HSR Approval. All applicable waiting periods (and any extensions thereof) under the HSR Act shall have expired or otherwise been terminated if the lenders under the financing described in Section 4.1.1 require that (a) the required filings under the HSR Act have been made and (b) the applicable waiting period shall have expired or otherwise been terminated as a condition to advancing funds for construction of the Project.

4.1.6 Market Based Rate Authority and EWG Status. The Company shall have (i) received a Final Order from the FERC (or from the FERC's staff, pursuant to delegated authority) authorizing the Company to sell electricity at market-based rates, and (ii) have filed a notice of self-certification that it qualifies as an "exempt wholesale generator" within the meaning of the Public Utility Holding Company Act of 2005 ("PUHCA"), and deemed granted by operation of law because FERC took no action within sixty days after the notice of self-certification was filed pursuant to Section 366.7 of FERC's regulations implementing PUHCA, or the Company shall have otherwise received a Final Order from FERC determining that the Company qualifies as an exempt wholesale generator within the meaning of PUHCA.

4.1.7 Company-Sequoia Agreement. The Company and Sequoia shall have entered into the Company-Sequoia Agreement and shall have closed the sale and purchase of assets as contemplated by the Company-Sequoia Agreement.

4.1.8 Covenants. Buyer shall have performed and complied in all material respects with the agreements, covenants and obligations required by this Agreement to be performed or complied with by Buyer at or before the Effective Date.

4.1.9 Certain Third Parties. Buyer and Seller shall have agreed upon the Independent Engineer and the Independent Tax Attorney (if the firm designated in the definition of Independent Tax Attorney is unable or unwilling to act in such capacity).

4.1.10 NSP Corporate Approval. Buyer shall have received the NSP Corporate Approval.

4.2. Seller's Conditions Precedent to Closing. The obligation of Seller to consummate the transactions contemplated by this Agreement shall be subject to fulfillment at or prior to the Closing of each of the following conditions, except to the extent Seller waives such fulfillment in writing:

4.2.1 Deliveries by Buyer Prior to the Project Closing. Upon the terms and subject to the conditions set forth in this Section 4.2, on or before the Closing Date, Buyer shall deliver, or shall cause to be delivered to Seller, the following:

(a) Consideration. Buyer shall have delivered to Seller the Closing Payment in accordance with Section 2.2.1(a).

(b) Certificates. Buyer shall have furnished Seller with the following certificates executed by the Secretary or Assistant Secretary of Buyer:

(i) A certificate certifying as of the Closing Date (A) a true and correct copy of the corporate action of Buyer authorizing the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby and thereby as of the Closing, and (B) incumbency matters.

(ii) Such other certificates, documents and instruments that Seller reasonably requests for the purpose of (A) evidencing the accuracy of Buyer's representations and warranties, (B) evidencing the performance and compliance by Buyer with the agreements contained in this Agreement, (C) evidencing the satisfaction of any condition referred to in this Section 4.2 or (D) otherwise facilitating the consummation of the transactions contemplated by this Agreement.

4.2.2 Representations, Warranties and Covenants of Buyer. Buyer shall have performed all agreements and covenants required hereby to be performed by it prior to, on or as of the Closing Date and the representations and warranties of Buyer set forth in ARTICLE 7 shall be true and correct as of the Closing Date.

4.2.3 HSR Approval. All applicable waiting periods (and any extensions thereof) under the HSR Act shall have expired or otherwise been terminated.

4.2.4 Covenants. Buyer shall have performed and complied in all material respects with the agreements, covenants and obligations required by this Agreement to be performed or complied with by Buyer at or before the Closing Date.

ARTICLE 5. PRE-CLOSING COVENANTS

5.1. Seller Pre-Closing Actions. Seller shall cause the Company to, develop and complete the Project and cause the Project to be engineered, designed, constructed, commissioned, tested, operated and maintained in accordance with the Site Plan, Applicable Standards, the Turbine Supplier's specifications and recommendations pursuant to the Turbine Supply Agreement, the Turbine Warranty and O&M Agreement, the Technical Specifications, the EPC Agreement, the Project Quality Assurance Plan and this Agreement. Neither Seller nor the Company shall amend, modify or supplement, or waive any provision or consent to any variance in the terms thereof, any of the Turbine Supply Agreement, Turbine Warranty and O&M Agreement, EPC Agreement, Interconnection Agreement, the Technical Specifications,

the Project Quality Assurance Plan, following the Effective Date, any Permit set forth on Part A of Schedule 6.13 or, after the Signing Date and prior to the Effective Date, any Permit set forth on Part F of Schedule 6.13 without the prior written consent of Buyer, other than price increases that are borne by Seller. In designing and constructing the Project, Seller shall cause the Company to ensure that each WTG is either in a location designated as a turbine location on the Site Plan or in a location otherwise agreed between Buyer and Seller (such agreement by Buyer not to be unreasonably withheld), provided that Seller shall have the right to cause the Company to relocate a WTG without the agreement of Buyer if such WTG will be located within the location identified in the FAA Determination of No Hazard to Air Navigation and in any event less than twenty-five (25) feet from the location shown on the Site Plan and such location is permitted by the respective Easement Agreement. For the avoidance of doubt, nothing in this Section 5.1 shall be construed as modifying Seller's obligation under this Agreement to cause the Company to achieve Project Substantial Completion on or before the Guaranteed Completion Date. Seller shall cause any temporary meteorological towers (but not the Meteorological Stations) to be removed from the site prior to the Final Closing Date. Seller shall be responsible for all costs associated with developing, engineering, designing, constructing and commissioning the Project and all costs of operating and maintaining the Project prior to the Closing Date and Seller shall be entitled to receive and retain all revenues and other amounts received in respect of power sold by the Company prior to the Closing and all emissions allowances or credits, renewable energy credits, green tags, or other environmental or financial attributes of the Facilities, if any, accruing prior to the Closing.

5.2. Notification of Status of Pre-Closing Actions. Seller shall regularly communicate and consult with Buyer regarding the continuing development, design, engineering, construction and commissioning of the Project, and Seller shall in good faith consider Buyer's input and comment with respect to any matters that may arise in respect of such continued development, provided that Seller shall have no obligation to perform in accordance with such input or comment if it increases in any manner Seller's express performance obligations under this Agreement. Without limiting the generality of the foregoing, Seller shall keep Buyer reasonably apprised with respect to the status of each of the actions taken or required to be taken by Seller pursuant to Section 5.1 or Section 5.3, including (a) providing Buyer with a weekly tracking sheet to show Seller's progress in (i) the acquisition of Land Contracts, Easement Amendments, Final Layout Amendments, Estoppel Letters, Non-Disturbance Agreements, Curative Documents, Real Estate and Permits, (ii) the clearance of Title Objections and Updated Title Objections and (iii) the construction and commissioning of the Project and (b) participating in a weekly Project status call with Buyer and its representatives at times that are mutually approved by Seller and Buyer. Seller also agrees to provide Buyer with any additional information and access to Seller's employees or any Person performing Seller's obligations under Section 5.1 or Section 5.3 for Seller as may be reasonably requested by Buyer in connection with the completion of the tasks set forth in or performance of Seller's obligations under this ARTICLE 5.

5.3. Other Seller Actions. Throughout the period prior to the Closing Date, Seller shall continue to pursue diligently Project activities including those necessary to satisfy all Project-related conditions to the Closing. Seller shall provide to Buyer, as promptly as practicable after receipt thereof, copies of any documents that are obtained, produced, generated or entered into by Seller or any of its Affiliates in connection with the Project (other than

attorney-client communications or work product), to the extent not furnished to Buyer prior to the Effective Date, including the following:

5.3.1 Reports, Etc. Any testing or investigative results, audit reports, assessments, analyses, Permits, applications, studies, wind, geo-technical or other data or reports that relate to the Project prepared for or received by and in the possession and control of Seller or its Affiliates, including supplements to any of the Reports, and any notices or other written communications received from the FAA or any other Authority relating to the subject matter of any of the Reports;

5.3.2 Design Documents. Any drawings or other design documents generated by or otherwise obtained by Seller, Company, Contractor or any of their Affiliates;

5.3.3 Land Contracts. Any Land Contracts or other Contracts obtained by Seller in connection with the development, construction or operation of the Project, and copies of any notices or other communications delivered to or received from the other parties to, or that affect, any such Land Contracts or other Contracts, including notice of any Third Party Rights; and

5.3.4 Permits. Any Permits obtained by the Company or Seller that pertain to the development, design, engineering, construction, commissioning, ownership or operation of the Project.

5.3.5 Anticipation of Advance Closing. Seller shall promptly notify Buyer in the event Seller anticipates the conditions to Closing set forth in Section 3.3 will be satisfied prior to the Target Closing Date, provided that such notice shall occur at least 60 days prior to date upon which Seller anticipates such conditions shall be satisfied.

5.4. Notification of Completion or Failure of Conditions. Each Party to this Agreement will promptly notify the other Party of any satisfaction or failure of conditions under this Agreement; and each Party shall keep the other Party reasonably apprised with respect to the status of satisfaction of the notifying Party's obligations hereunder.

5.5. Inspection Rights; O&M Building.

5.5.1 Inspection Rights. Buyer or Buyer's authorized representative may, but shall not be obligated to, observe and inspect all aspects of the Work, and Seller hereby authorizes Buyer and Buyer's authorized representatives to maintain personnel at the Site, continuously, at any time or from time to time, for such purposes. No observation or inspection by Buyer or Buyer's representatives, nor any election to not observe or inspect, nor any acceptance or approval of the Work, in whole or in part, shall relieve Seller of its obligations under this Agreement.

5.5.2 O&M Building.

(a) Prior to completion of the construction of the operations and maintenance building for the Project, Seller shall provide, or cause Contractor to provide, temporary facilities at the on-site construction office complex for

Buyer's use. Such facilities shall be a furnished, heated, air-conditioned doublewide construction trailer with electricity, phone system/phone lines, fax line, hard wired high speed internet service (if available), potable water, sewer and sanitary facilities. Such trailer shall be in close proximity to Contractor's temporary site office facilities.

(b) Upon completion of the construction of the operations and maintenance building for the Project, Seller will provide Buyer and Buyer's authorized representatives access thereto and use thereof prior to the Closing Date, and Seller hereby authorizes such access and use; *provided, however*, that (i) Buyer and its representatives shall only be permitted to enter and use such operations and maintenance building to the extent that such entry and use does not interfere with Seller's ability to complete any of the Work, (ii) Buyer's or Buyer's representatives access to or use of the operations and maintenance building shall not relieve Seller of its obligations under this Agreement, and (iii) Buyer's right to access or use such building pursuant to the terms of this Section 5.5.2 shall terminate on the Guaranteed Completion Date if the Closing has not occurred by such date.

5.5.3 Safety; Compliance with Law. In connection with Buyer's rights under Section 5.5.1 and Section 5.5.2, Buyer and Buyer's authorized representatives (a) shall comply with all Laws and all Site safety rules of which Seller has made Buyer or Buyer's authorized representative aware and (b) shall not interfere with Seller's or any Contractors' or Subcontractors' performance of the Work.

5.6. Cooperation Prior to Effective Date. The Parties acknowledge that **[BEGIN TRADE SECRET**

END TRADE SECRET] depending on the final terms of the EPC Agreement and Turbine Supply Agreement, it may be desirable in order to avoid confusion to conform certain defined terms in this Agreement to the definitions of equivalent terms in the EPC Agreement and Turbine Supply Agreement, as applicable. **[BEGIN TRADE SECRET**

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Any changes in the Exhibits or Schedules, or the form and content of any Exhibits and Schedules not attached to this Agreement, or any changes to any defined terms in this Agreement, shall be subject to the approval of each Party, which approval shall be in the sole discretion of the Party giving the approval.

5.7. Additional Reports. Seller shall deliver to Buyer no later than ten (10) Business Days prior to the Effective Date true, correct and complete copies of the final form of any Reports designated on Schedule 6.19 as preliminary, as pending a final determination of necessity and which has been determined as necessary, or as otherwise not capable of being prepared until a later stage of the Project. In the event a wetlands delineation is determined necessary for inclusion in the Wetlands Assessment, a letter of concurrence with the wetlands delineation from the Army Corps of Engineers shall be delivered to Buyer prior to the Closing

Date. In the event there is a change in any findings or conclusions of a Report delivered and accepted as satisfactory by Buyer prior to the Effective Date, Seller shall redeliver to Buyer no later than ten (10) Business Days prior to the Closing Date true, correct and complete copies of the final form such Report as revised to address such changes (any such redelivered Reports, together with all other Reports delivered to Buyer pursuant to this Section 5.7, the “***Additional Reports***”). Buyer shall notify Seller prior to the Closing Date if, in the exercise of Buyer’s reasonable discretion, Buyer believes the facts disclosed in the Additional Reports constitute a Material Adverse Effect. If Seller disagrees with such determination by Buyer, the Independent Engineer will make such determination and the decision of the Independent Engineer shall be conclusive and binding upon the Parties.

5.8. Registrations and Qualifications. Seller shall give Buyer written notice of the anticipated date of Interconnection not later than ninety (90) days and not sooner than one hundred twenty (120) days prior to such date. Until Buyer receives such notice, it shall have no obligations under this Section 5.8.

5.8.1 NERC Registrations and Qualifications. Buyer agrees to prepare reliability protocols and standards for the operation of the Project in accordance with the requirements of the North American Electric Reliability Corporation (“***NERC***”) for utilization during the period from the date of Interconnection until the Guaranteed Completion Date (or earlier termination of this Agreement). Buyer also agrees to assume the responsibility for compliance with the requirements applicable to the NERC “Generator Owner” and “Generator Operator” functions for the Project and to take the steps necessary, if any, to register itself as the “Generator Owner” and “Generator Operator” of the Project during the period from the date of Interconnection until the Guaranteed Completion Date (or earlier termination of this Agreement). Seller and the Company shall (a) cooperate in the preparation of such protocols, standards, filings and applications, including, if requested by Buyer, entering into a joint registration organization agreement or other similar agreement relating to Buyer’s obligations under this Section 5.8.1, (b) comply with and implement in all respects with such protocols and standards and (c) reimburse Buyer for its reasonable out-of-pocket costs and expenses incurred in connection with Buyer’s obligations under this Section 5.8.1. Seller and the Company shall be liable for any penalties assessed for violations of NERC requirements applicable to the “Generator Owner” and “Generator Operator” functions for the Project that occur prior to the Closing Date and until the Guaranteed Completion Date (or earlier termination of this Agreement).

5.8.2 MISO Registrations and Qualifications. To the extent permitted by MISO and its processes, Buyer agrees to act as agent for the Company to file and diligently prosecute all necessary applications to register the Company with, and allow the Company to sell power generated by the Project through, MISO for the period from the date of Interconnection and until the Guaranteed Completion Date (or earlier termination of this Agreement). Buyer’s obligations under this Section 5.8.2 shall be conditioned upon Seller’s satisfaction of the condition set forth in Section 4.1.6 and, further, Buyer shall have no obligation or authority to schedule or sell power during such period except at the direction of the Company. Seller and the Company shall (a) cooperate in the preparation of such filings, applications and registrations, including, if requested by

Buyer, entering into an agency agreement or other similar agreement relating to Buyer's obligations under this Section 5.8.2, and (b) reimburse Buyer for its reasonable out-of-pocket costs and expenses incurred in connection with Buyer's obligations under this Section 5.8.2.

5.9. Notification of Force Majeure Event; Efforts to Mitigate.

5.9.1 Notification of Force Majeure Event. Seller shall give Buyer notice describing the particulars of the occurrence of any Force Majeure Event promptly after Seller has actual knowledge of the event and that it results in a Force Majeure Event, and in no event more than ten (10) days thereafter, and such notice shall estimate the expected duration and probable impact on the performance of Seller's obligations hereunder (and Contractor's obligations under the EPC Agreement or the Turbine Supplier's obligations under the Turbine Supply Agreement, as applicable), and Seller shall continue to furnish timely regular reports with respect thereto during the continuation of the delay in Seller's, Contractor's or the Turbine Supplier's performance; *provided, however*, that for all purposes hereunder, a Force Majeure Event shall be deemed to begin on the latest to occur of (i) the date such event occurs, (ii) the date Seller obtains actual knowledge of such event and that it results in a Force Majeure Event and (iii) the date ten (10) days prior to the date Buyer receives the notice required pursuant to this Section 5.9.1.

5.9.2 Mitigation. Seller shall use commercially reasonable efforts to mitigate the impact of any Force Majeure Event and the period of the Force Majeure Event shall be no longer than the period in which Seller could reasonably overcome the Force Majeure Event using its commercially reasonable efforts.

5.10. **[BEGIN TRADE SECRET]**

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5.11. Updated Title and Survey. From the Effective Date until and including the Closing Date, Buyer has the on-going right to continue its due diligence activities with respect to title to, and survey of, each parcel of the Property covered by the Land Contracts and the Real Property, and to undertake new, and update existing, real property due diligence activities. On or before twenty (20) Business Days prior to the Closing Date, Seller shall have delivered to Buyer (i) an update of the Title Report ("**Updated Title Report**") and, except for Permitted Encumbrances, such Updated Title Report shall not reflect any Encumbrance not reflected on the Title Report accepted by Buyer as a condition to the Effective Date, and (ii) an updated survey ("**Updated Survey**") of, each parcel of the Property covered by the Land Contracts and the Real

Property at Seller’s cost. To the extent that the Updated Title Report identifies (x) one or more Encumbrances, other than Permitted Encumbrances, that were not reflected on the Title Report, or (y) one or more previously undisclosed third parties that have not executed the Non-Disturbance Agreements described in Section 3.2.3(b) or Curative Documents, Buyer shall identify the same (collectively, “*Updated Title Objections*”) in an updated Title Objection Letter delivered to Seller within ten (10) Business Days after Buyer’s receipt of the Updated Title Report. Seller will use its commercially reasonable efforts to cure each Updated Title Objection and take all commercially reasonable steps required by the Title Company to eliminate each Updated Title Objection as an exception to the Updated Title Reports. Any matter contained in the Updated Title Reports that is not objected to by Buyer in the manner aforesaid, will be deemed to be acceptable to Buyer and shall constitute a Permitted Encumbrance.

5.12. Bird and Bat Conservation Strategy.

(a) Seller has delivered the Bird and Bat Assessments to Buyer prior to the execution of this Agreement. Seller shall develop, in consultation with Buyer, the FWS and other applicable Authorities, and deliver to Buyer and the FWS within [BEGIN TRADE SECRET END TRADE SECRET] after the execution of this Agreement, a plan for avian and bat protection with respect to the development, construction, commissioning and operation of the Project (the “*Bird and Bat Conservation Strategy*”); *provided, however,* that Seller shall ensure that the FWS has a reasonable opportunity [BEGIN TRADE SECRET END TRADE SECRET] to review and respond to such strategy prior to the Strategy Effective Date. [BEGIN TRADE SECRET

END

TRADE SECRET]

(b) [BEGIN TRADE SECRET

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5.13. Regulatory Approval. Buyer shall utilize diligent and commercially reasonable efforts to obtain all necessary approvals (the “*Commission Approvals*”) for the Project and the acquisition of the Company from the Minnesota Public Utilities Commission and the North Dakota Public Service Commission (the “*Commissions*”) required to be obtained by Buyer pursuant to this Agreement and applicable Law, including (a) approval of the Project as an eligible technology resource for purposes of full cost recovery under the Renewable Energy Standard Cost Recovery Rider pursuant to Minn. Stat. § 216B.1645 which includes a return on rate base associated with the actual purchase price of the Purchased Interests (inclusive of applicable income tax impacts), Buyer’s internal capitalized costs for the Project, its normal operations costs and the actual level of PTCs generated, (b) an advance determination of prudence pursuant to Section 49-05-16 of the North Dakota Century Code (the “*NDCC*”), and (c) a certificate of public convenience and necessity pursuant to Section 49-03-01.1 of the NDCC. Buyer shall provide a copy of all correspondence relating to and all applications and other documents sent to the Commission related to the foregoing within three (3) Business Days of transmittal of such items to the Commission. All such Commission Approvals shall have been obtained by Buyer on terms reasonably satisfactory to Buyer. On or before the fourteenth (14th) Business Day after the Signing Date, Buyer shall make a filing with the Commissions seeking the necessary Commission Approvals within one hundred and twenty (120) days. On or before the date that is one hundred and thirty five (135) days after the Signing Date, Buyer shall either (i) notify Seller that it has obtained the Commission Approvals on terms reasonably satisfactory to Buyer, or (ii) notify Seller that Buyer has not obtained the Commission Approvals on terms reasonably satisfactory to Buyer. If Buyer does not provide such notice to Seller on or before the date that is one hundred and thirty five (135) days after the Signing Date, or if Buyer notifies Seller it has not obtained the Commission Approvals on terms reasonably satisfactory to Buyer, either Party shall have the right to terminate this Agreement by giving notice of termination to the other Party within five (5) Business Days after the earlier of such date or such notice from Buyer that it has not obtained the Commission Approvals on terms reasonably satisfactory to Buyer; *provided, however*, that such notice of termination given by Seller shall have no effect if, within three (3) Business Days after receiving it, Buyer (x) gives notice to Seller irrevocably waiving receipt of the Commission Approvals as a condition to the Effective Date under this Section 5.13 and (y) furnishes to Seller a legal opinion of its outside regulatory counsel in Minnesota and North Dakota that it is legally able to close the transactions contemplated hereby in accordance with this Agreement without the Commission Approvals.

5.14. Other Filings.

5.14.1 HSR Filings. Seller and Buyer shall each make an appropriate filing of a notification and report form pursuant to the HSR Act with respect to the transactions provided for in this Agreement on or before March 15, 2015, unless earlier filings and expiration of waiting periods is required by the lenders under the financing described in Section 4.1.1 as provided in Section 3.2.11 and Section 4.1.5, in which event Seller and Buyer shall make (a) such filings on or before March 14, 2014, and (b) all appropriate filings under the HSR Act after such date and on or before March 15, 2015, in order to seek new, renewed or extended HSR Act clearance for the transactions provided for in this Agreement. Seller and Buyer will each bear the costs and expense of their respective filings under such act; *provided, however*, that (x) Buyer shall pay 50% and Seller shall pay 50% of the filing fees incurred in connection with the initial round of such filings, and (y) Seller shall pay 100% of the filing fees incurred in connection with the second round of such filings if earlier filings and expiration periods are required by the lenders under the financing described in Section 4.1.1 as provided in Section 3.2.11 and Section 4.1.5.

5.14.2 FERC 203 Application. Seller and Buyer shall cooperate to prepare and file, on or before January 30, 2014, with the FERC a joint application for authorization of the transactions provided for in this Agreement under section 203 of the Federal Power Act. Seller and Buyer will each bear the costs and expense of their respective filings under such act; *provided, however*, that Buyer shall pay 50% and Seller shall pay 50% of any filing fees incurred in connection with such application.

5.14.3 EWG and Market Based Rate Application. The Company shall, on or before January 30, 2014, file (a) for an Order from the FERC authorizing the Company to sell electricity at market-based rates, and (b) a notice of self-certification that the Company qualifies as an “exempt wholesale generator” within the meaning of PUHCA, or, at the Company’s sole discretion, a petition for declaratory order from FERC finding that the Company is an exempt wholesale generation within the meaning of PUHCA.

5.15. Turbine Supplier Change. If, based upon Seller’s commercially reasonable judgment, Seller believes that **[BEGIN TRADE SECRET**
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the Turbine Supplier will not be able to perform under the Turbine Supply Agreement or the Turbine Warranty and O&M Agreement, or any part thereof, Seller shall have the option to change the Turbine Supplier to a Replacement Turbine Supplier and the model of WTGs for use at the Facilities to a model manufactured by the Replacement Turbine Supplier that is of a performance and reliability level substantially similar to the **[BEGIN TRADE SECRET**
END TRADE SECRET] wind turbines. Seller shall provide prompt notice to Buyer that it desires to make a change in Turbine Supplier pursuant to this Section 5.15, and provide Buyer with reasonable supporting documentation including, without limitation, **[BEGIN TRADE SECRET**
END TRADE SECRET] and Seller’s ability to procure the replacement WTGs from the Replacement Turbine Supplier. The Parties shall promptly cooperate in making any modifications to the Agreement necessitated by the change in Turbine Supplier; *provided, however*, that the overall economic benefit to Buyer of the transactions contemplated by the Agreement shall be substantially

equivalent following any such modification including, without limitation, the Project's eligibility to qualify for PTCs.

ARTICLE 6. REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer, as of the Signing Date to the extent indicated in Section 3.1, as of the Effective Date and as of the Closing Date, as follows; *provided, however*, that to the extent any representation and warranty is specified as being given at the Signing Date, Effective Date or Closing Date, such representation and warranty shall be deemed to be made only as of such date:

6.1. Corporate Existence and Powers. Seller is a corporation validly existing and in good standing under the Laws of the State of Delaware, and has all the requisite power and authority to conduct its business as it is now being conducted and to own, lease and operate its assets. Seller's Corporate Documents are in full force and effect. Seller is not in violation of its Corporate Documents in any manner that would have a Material Adverse Effect on the Project or on the completion of the transactions contemplated by this Agreement or by the Seller Documents.

6.2. Company Existence and Powers. The Company is a limited liability company duly formed, validly existing and in good standing under the Laws of the State of Delaware, and has all the requisite power and authority to conduct its business as it is now being conducted and to develop, engineer, design, construct, commission, own and operate the Project. The Company has been engaged in no other business since its formation other than the development of the Project. Seller has made available to Buyer true and complete copies of the Company's Corporate Documents and such Corporate Documents are in full force and effect. The Company is not in violation of any Law or of its Corporate Documents.

6.3. Authority. Seller has all requisite power and authority to execute and deliver this Agreement, each Ancillary Agreement and each other agreement, document or instrument to be executed by it in connection herewith (collectively, the "***Seller Documents***") and to perform the obligations hereunder and thereunder. Neither Seller's interest in any of the Purchased Interests, nor Seller's performance of its obligations under the Seller Documents requires any qualification, licensing or approval by any foreign jurisdiction. Seller has taken all action necessary to execute and deliver this Agreement and the other Seller Documents, as applicable, to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder, and no other action or proceeding on the part of Seller is necessary to authorize this Agreement and the other Seller Documents and the transactions contemplated hereby and thereby. This Agreement and the other Seller Documents have been duly executed and delivered by Seller. Assuming the due authorization, execution and delivery by Buyer of this Agreement and of the Seller Documents, this Agreement and the other Seller Documents constitute legally valid and binding obligations of Seller, enforceable against Seller in accordance with their terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting the enforcement of creditors' rights generally and equitable principles. Seller owns all of the outstanding membership interests in the Company and Seller has all requisite power and authority to cause

the Company to develop, engineer, design, construct, commission, own and operate the Project and to otherwise do all such things as are necessary to effect the transaction contemplated by this Agreement and no other Person has any option or other enforceable right to acquire, and Seller shall not permit any other Person to acquire any option or other enforceable right to acquire, any membership interest or other equity interest in the Company.

6.4. Consents and Approvals. Other than as set out in Schedule 6.4, no consent, approval or authorization of, permit from, declaration, filing or registration with, or notice to, any Authority, any third-party payor or any other Person, is required to be made or obtained by Seller or the Company in connection with the execution, delivery, performance and validity of this Agreement and the other Seller Documents and the consummation of the transactions contemplated hereby and thereby.

6.5. No Conflicts. Neither the execution, delivery and performance by Seller of this Agreement or the other Seller Documents nor the transfer of rights and consummation of the transactions contemplated hereby or thereby will result in (a) a violation of or a conflict with any provision of Seller's or the Company's Corporate Documents; (b) a breach or violation of, a conflict with or a default under, or the creation of any right of any Person to accelerate, terminate or cancel, any Contract, whether oral or written, express or implied; (c) a violation by the Company or Seller of any Laws, or (d) an imposition of any Encumbrance on (i) the Company Assets (other than Permitted Encumbrances) or (ii) the Purchased Interests.

6.6. Legal Proceedings. Other than as described in Schedule 6.6 and subject to Section 6.8, there are no actions, suits or proceedings pending or, to Seller's Knowledge, threatened in writing, against or affecting the Project, the Company, the Company Assets or the Purchased Interests or Seller's transfer of the Purchased Interests and consummation of the transactions contemplated hereby, at law or in equity, or before or by any Authority or instrumentality or before any arbitrator of any kind, and, to Seller's Knowledge, there is no valid basis for any such action, proceeding or investigation.

6.7. Compliance with Law. Other than as set forth on Schedule 6.7, Company, Seller and its other Affiliates have not received any notification indicating any violation of, and, to Seller's Knowledge, there is no violation of, or non-compliance with, any applicable Law, license, franchise, permit, authorization or concession, as such would apply to the Project, the Company, the Company Assets, the Purchased Interests or the transactions contemplated hereby.

6.8. Environmental Matters.

(a) The Bird and Bat Conservation Strategy deemed acceptable by Buyer as provided in Section 5.12 has not been amended, modified or otherwise changed (except for such amendments, modifications or other changes approved by Buyer) since the Effective Date, and Seller and Company have complied with all of the requirements, recommendations, conditions and other terms set forth therein. **[BEGIN TRADE SECRET**

END TRADE SECRET] The facts set forth in the Bird and Bat Conservation Strategy were true and correct in all material respects as of the Effective Date.

(b) Other than as set out in Schedule 6.8 and as provided in Section 5.12: (i) the Company, Seller and its other Affiliates have no Liabilities and are not subject to any judgment, decree or judicial order under Environmental Laws relating to the Company Assets and are in compliance with all Environmental Laws applicable to the Project and the Company Assets; (ii) the Company, Seller and its other Affiliates have not received any request for information relating to, or notice of, an alleged violation of Environmental Laws pertaining to the Project or the Company Assets from any Authority; (iii) there are no pending claims, enforcement matters, investigations, or notice of intent to sue and, to Seller's Knowledge, there are no facts, circumstances, conditions or occurrences relating to the Project or the Company Assets that would be expected to form the basis of any such claims, enforcement matters, investigations, or notice of intent to sue by any Authority under any Environmental Law against the Company, Seller or its other Affiliates; (iv) to Seller's Knowledge, there has not been a Release of Hazardous Materials on or otherwise affecting the Property or the Real Property; (v) to Seller's Knowledge, the Property and the Real Property are not subject to any Encumbrance imposed by any Authority in connection with the presence on or off such property of any Hazardous Material; and (vi) to Seller's Knowledge, no portion of the Property or the Real Property contains or has ever contained any (A) underground storage tank, surface impoundment or similar device used for the management of wastewater or any Hazardous Material, or (B) other waste management unit dedicated to the disposal, treatment, or long-term storage (greater than thirty (30) days) of waste materials or Hazardous Materials.

6.9. Right and Title to Purchased Interests. On the Effective Date and on the Closing Date, Seller will have good and marketable title to all of the Purchased Interests. Seller has not done or suffered to be done anything whereby the Purchased Interests are or may be in any manner encumbered or charged by, through or under Seller or an Affiliate of Seller. As of the Effective Date and the Closing Date, there are no rights or interests of any third party relating to the Purchased Interests and Seller has the full right, power and authority to transfer and deliver to Buyer all right, title and interest in the Purchased Interests.

6.10. Right and Title to Company Assets. As of the Effective Date and the Closing Date, the Company owns all right, title and interest in, to and under the Company Assets, subject only to the Permitted Encumbrances.

6.11. Land Contracts; Real Property.

6.11.1 Delivery of Land Contracts. For all Land Contracts assigned to, to be assigned to, or entered into by the Company, Seller has previously delivered, or will promptly after such Land Contracts shall be obtained by Seller or the Company deliver, to Buyer true, correct and complete copies of the Land Contract and with respect thereto:

- (a) each Land Contract is legal, valid, binding and in full force and effect;
- (b) each Land Contract will continue to be legal, valid, binding and in full force and effect on identical terms immediately following the consummation of the transactions contemplated hereby (including any assignments and assumptions referred to in ARTICLE 3 and ARTICLE 4);
- (c) neither Seller nor the Company is in breach or default under any Land Contract and, to Seller's Knowledge, no other party to any Land Contract will be in breach or default, and no event will have occurred which, with notice or lapse of time and without a cure being completed, would constitute a breach or default thereunder or permit termination, modification or acceleration thereof;
- (d) neither Seller nor the Company has repudiated any provision of any Land Contract and neither Seller nor the Company will have received oral or written notice from any party to any Land Contract that such other party has repudiated any provision thereof;
- (e) neither Seller nor the Company has received written notice of any disputes in effect as to any Land Contract, except as set forth on Part B of Schedule 6.11;
- (f) there are no oral agreements or oral forbearance programs made by Seller or the Company in effect for any Land Contract, except as set forth on Part C of Schedule 6.11;
- (g) no Land Contract has been mortgaged, deeded in trust, or encumbered by Seller or the Company except for Permitted Encumbrances and Encumbrances released on or prior to the Closing; and
- (h) no Land Contract has been (i) transferred, (ii) amended, modified or supplemented except as set forth on Part A of Schedule 6.11 and except for the Easement Amendments or (iii) subjected to any Encumbrance, including any Third Party Right, except for Permitted Encumbrances.

6.11.2 Land Contracts; Real Property. Part A of Schedule 6.11 contains a true and complete list of all Land Contracts (and any amendments thereto) that will be included in the Company Assets. The condition set forth in Section 3.2.3(e) shall be satisfied as of the Closing Date.

6.11.3 Third Party Rights. Except for Insured Over Third Party Mineral Rights, Part D of Schedule 6.11 identifies all Third Party Rights in the Property or that affect any Land Contract, and a correct and complete copy of any written Third Party Rights have been delivered to Buyer.

6.11.4 Real Property. Except as set forth on Part E of Schedule 6.11, the zoning, or land use approvals from applicable Authorities, for each parcel of Property permits the

development, construction, and operation of the Project thereon. There is no action before any Authority pending to change the applicable zoning or building ordinances or any other Laws or applicable land use approvals affecting the Property that could reasonably be expected to have an adverse effect on the Project.

6.12. Contracts. Schedule 6.12 contains a true and complete list of each material Contract (other than the Land Contracts and the Permits) that is or shall be included in the Company Assets. Seller has delivered to Buyer a correct and complete copy of each Contract, to the extent such Contract was entered into prior to the Effective Date, as of the Effective Date, and, to the extent such Contract is entered into after the Effective Date, as of the Closing Date. With respect to each Contract not identified on Schedule 6.12, no such Contract, either individually or in the aggregate, has or could reasonably be expected to have liability to the Company in excess of Ten Thousand Dollars (\$10,000). With respect to each Contract identified on Schedule 6.12, as of the Effective Date with respect to each Contract entered into prior to the Effective Date, as of the date entered into with respect to each Contract entered into after the Effective Date, and as of the Closing Date with respect to all Contracts:

6.12.1 Valid and Enforceable. As of the Effective Date and the Closing Date, each Contract is legal, valid, binding, and enforceable in accordance with its terms, and in full force and effect, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting the enforcement of creditors' rights generally and equitable principles;

6.12.2 Consummation of Transactions. The consummation of the transactions contemplated by this Agreement (including the assignments and assumptions referred to in ARTICLE 3 and ARTICLE 4) will not affect the legality, validity, binding nature, enforceability or force and effect of any Contract except with respect to the identity of the parties thereto as a result of the assignments and assumptions referred to in ARTICLE 3 and ARTICLE 4;

6.12.3 No Breach. As of the Effective Date and the Closing Date, there is no breach, anticipated breach or default by Seller, the Company or, to Seller's Knowledge, any other party to any Contract, and no event has occurred which with notice or lapse of time would constitute a breach or default, or permit termination, modification, or acceleration, under any Contract; and

6.12.4 No Repudiation. As of the Effective Date and the Closing Date, neither Seller nor the Company has repudiated any provision of any Contract and neither Seller nor the Company has received written notice that any other party has repudiated any provision of any Contract.

6.13. Permits. Schedule 6.13 is a true and complete list of all Permits needed to develop, engineer, construct, commission, own and operate the Project (other than Permits which Buyer may need by nature of Buyer being a public utility or which may be obtained only by Buyer for itself or for the Company with respect to the operation of the Company after the Closing (the "**Buyer Permits**")). Part A of Schedule 6.13 is a true and complete list of all Permits needed to develop, engineer, construct and commission the Project other than the Buyer

Permits and the Permits listed in Part B of Schedule 6.13. Part B of Schedule 6.13 is a true and complete list of all Permits needed to develop, engineer, construct and commission the Project which are of a type that are routinely granted on application and would not normally be obtained before the commencement of construction other than the Buyer Permits. Part C of Schedule 6.13 is a true and complete list of all Permits other than the Buyer Permits (the “*Operating Permits*”) that the Company must hold as of the Closing Date for the ongoing ownership and operation of the Project. As of the Signing Date, Seller or the Company has obtained all Permits listed on Part F of Schedule 6.13, such Permits may be assigned by Seller to the Company in accordance with the terms of such Permit or applicable Law, and Seller shall have delivered to Buyer a correct and complete copy of each such Permit. As of the Effective Date, Seller or the Company has obtained all Permits listed on Part A of Schedule 6.13, such Permits may be assigned by Seller to the Company in accordance with the terms of such Permit or applicable Law, and Seller shall have delivered to Buyer a correct and complete copy of each such Permit. As of the Closing Date, the Company has obtained (or Seller has obtained and transferred to the Company) all Permits listed on Schedule 6.13 except for such Permits which would be obtained by the Contractor or Subcontractor in the ordinary course or Permits which Buyer may need to obtain by nature of it being a public utility and Seller has delivered to Buyer a correct and complete copy of all Permits. Except as set forth in Part C of Schedule 6.13, all Operating Permits either run with the underlying land or are otherwise freely assignable by the Company without consent or other action required by the applicable Authority. As of the Effective Date, no Permit listed on Part F of Schedule 6.13 has been replaced, amended or modified since the Signing Date without the approval of Buyer in accordance with Section 5.1. As of the Closing Date, with respect to each Permit listed on Schedule 6.13:

6.13.1 Valid and Binding. Each (a) Operating Permit is legal, valid, binding and enforceable in accordance with its terms, and in full force and effect, and (b) Permit listed on Part A of Schedule 6.13 has not been replaced, amended or modified since the Effective Date without the approval of Buyer in accordance with Section 5.1;

6.13.2 No Impact from Transaction. The consummation of the transactions contemplated by this Agreement (including the assignments and assumptions referred to in ARTICLE 3 and ARTICLE 4) do not affect the legality, validity, binding nature, enforceability or force and effect of any Permit except with respect to the identity of the parties thereto as a result of the assignments and assumptions referred to in ARTICLE 3 and ARTICLE 4;

6.13.3 Compliance. Seller, Company, EPC Contractor and the Project are in compliance with the terms and conditions of each Permit, and, to Seller’s Knowledge, all other parties to each Permit are in compliance with the terms and conditions of such Permit, and, to Seller’s Knowledge, no event has occurred which with notice or lapse of time would constitute non-compliance with such terms and conditions; and

6.13.4 No Action. No action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand is pending or, to Seller’s Knowledge, threatened, which challenges the legality, validity, or enforceability of any Permit.

6.14. Finders. Other than Persons arranging any financing of the Project, (a) Seller has not engaged any finder, broker or other intermediary in connection with the transactions contemplated by this Agreement, and (b) neither Seller nor any of its Affiliates or representatives or representatives has incurred any obligation or Liability, contingent or otherwise, for any brokerage, agent's or finder's commissions, fees or similar payments in connection with the Project, this Agreement or the transactions contemplated hereby for which Buyer or any of its Affiliates could become liable or obligated or which could result in an Encumbrance on the Company Assets on or after the Closing Date.

6.15. Intellectual Property. The Company owns or possesses sufficient rights (such as through a license) to use all intellectual property used in connection with the development of the Project and neither Seller nor the Company has received notice that the utilization of such intellectual property infringes upon or violates the intellectual property rights of any other person. Other than as set forth in Schedule 6.15, all assets of the Company are free of any third party rights relating to intellectual or proprietary property or agreements, and the utilization by the Company does not infringe upon or violate the intellectual property rights of any other person.

6.16. No Other Agreements to Sell the Company Assets. Except for the agreements and arrangements that Seller has or may enter into pursuant to the proviso contained at the end of Section 8.11(a), Seller has no legal obligation, absolute or contingent, to any other Person or any nonbinding agreement in principle, letter of intent or similar understanding with any Person to sell or effect a sale of all or any portion of the Company Assets or to enter into any agreement or cause the entering into of any agreement with respect to the foregoing. The copy of the Company-Sequoia Agreement, as provided to Buyer on or prior to the Signing Date, is a true and complete copy of such agreement and remains in full force in effect as of the Signing Date.

6.17. Wind Data. Seller delivered to Buyer true, correct and complete copies of all Wind Data and any other information listed on Schedule 6.17. The Wind Data contained in the documents set forth on Schedule 6.17 were collected at the locations and during the times set forth in such documents.

6.18. Insurance. Schedule 6.18 sets forth all policies of fire, liability and other forms of insurance insuring Seller (with respect to the Company or the Project), the Company or the Company Assets. Such policies are in full force and effect, all premiums with respect thereto covering all periods up to and including the date as of which this representation is being made have been paid (other than retroactive premiums which may be payable with respect to comprehensive general liability insurance policies), and no notice of cancellation or termination has been received by the owner or holder of any such policy with respect to any such policy which was not replaced on substantially similar terms prior to the date of such cancellation. No pending claims exist under any such policies of insurance covering the Company Assets.

6.19. Reports. As of the Effective Date, except as provided in Section 5.12 and except for changes in or updates to Reports as described in Section 5.7, Seller has delivered to Buyer true, correct and complete copies of the Reports, which Reports do not indicate any issues, circumstances or conditions that have had or could be reasonably likely to have a Material Adverse Effect on the Project. As of the Closing Date, except as provided in Section 5.12 and

except as set forth in the Schedules hereto, to Seller's Knowledge, there has been no change in circumstances in any material matters described in a Report.

6.20. Tax Matters.

(a) There are no Encumbrances for Taxes on the Purchased Interests or the Company Assets other than, with respect to Company Assets, Permitted Encumbrances. No proceedings are pending, and to Seller's Knowledge, there are no threatened proceedings with respect to Taxes relating to the Purchased Interests, the Company Assets or, except as have not had and could not reasonably be expected to have a Material Adverse Effect and do not and could not reasonably be expected to materially impair Seller's authority, right or ability to perform its obligations hereunder and consummate the transactions contemplated hereby, relating to Seller. There are no matters under discussion between Seller and any Authority with respect to Taxes relating to the Purchased Interests or the Company Assets, and no extensions of the statute of limitations have either been requested or granted with respect to Taxes relating to the Purchased Interests, the Company Assets or, except as have not had and could not reasonably be expected to have a Material Adverse Effect and do not and could not reasonably be expected to materially impair Seller's authority, right or ability to perform its obligations hereunder and consummate the transactions contemplated hereby, relating to Seller.

(b) All applicable Tax returns involving the Company or the Project have been filed when due. Income Taxes and property Taxes relating to the Company or the Project arising or accruing prior to the Closing Date have been timely paid by the Company or Seller or have been or will be prorated for the account of Seller pursuant to Section 2.4.2. Seller is not a foreign person (as that term is defined in Section 1445 of the Code and the Treasury Regulations promulgated thereunder). No election has been filed to treat the Company as an association taxable as a corporation for U.S. federal, state or local tax purposes.

6.21. Completed Project. As of the Closing Date, except as provided in Section 5.12, the Company Assets shall constitute all of the contracts, equipment, spare parts, buildings, facilities, licenses, permits, approvals, land rights and other assets necessary and sufficient for the Company to own and operate that portion of the Project as to which Project Substantial Completion has occurred as of the Closing Date, and no other equipment, buildings, facilities, contracts, licenses, permits, approvals, land rights or other assets will be required in order to own and operate such portion of the Project, except to the extent replacement equipment, including spare parts, are not required to be provided under the EPC Agreement, the Turbine Supply Agreement or the Turbine Warranty and O&M Agreement and except for the Buyer Permits.

6.22. Liabilities. Except for Liabilities (i) set forth in Schedule 6.22, or (ii) Assumed Liabilities, the Company has no Liabilities as of the Closing Date.

6.23. Consents. As of the Closing Date, except as provided in Section 5.12, there are no outstanding third party consents which have not been previously obtained and delivered to

Company or Buyer, including those involving Real Property, Land Contracts or Permits, which are required for the commercial operation of the Project, the completion of the transaction or the subsequent transfer of any portion of the Project from the Company to Buyer.

6.24. Sufficient Funds. Seller (a) has and at all times prior to the Effective Date will continuously have sufficient funds available, or will maintain sources for sufficient funding capacity, to meet the financial requirements from time to time required to continue the development of the Project to meet the conditions to the Effective Date set forth in Section 3.2 and (b) after completion of the financing contemplated in Section 4.1.1, at all times prior to the Closing Date will continuously have sufficient funds available, or will maintain sources for sufficient funding capacity, to meet the financial requirements from time to time required to continue the development and construction of the Project to completion pursuant to this Agreement and consummate the transactions contemplated by this Agreement.

6.25. FAA Determinations of No Hazard to Air Navigation.

6.25.1 Effective Date. As of the Effective Date, the Company has obtained true, correct and complete copies of a FAA Determination of No Hazard to Air Navigation for each location where it plans to erect a WTG as part of the Project.

6.25.2 Closing Date. As of the Closing Date, the Company has obtained and continues to hold true, correct and complete copies of a FAA Determination of No Hazard to Air Navigation for each WTG erected as a part of the Project and such WTG shall have been erected at the location depicted in such FAA Determination of No Hazard to Air Navigation and thereafter or in connection with the issuance thereof neither the Project, the Company nor Seller has received any communication from the FAA that objects to the construction of any of the Facilities, asserts that any of the Facilities could present a hazard to air navigation or that has had or is reasonably likely to have a Material Adverse Effect.

6.26. Seller Project Warranty. Seller warrants that (a) all parts, materials and equipment and the like incorporated into the Project shall be free of defects in material, workmanship and title and shall be new, unused and undamaged and of suitable grade consistent with Prudent Industry Practices when installed, (b) the Work shall be performed with due care, skill, and in a manner consistent with applicable Laws (except as provided in Section 5.12) and Applicable Standards and (c) the completed Work and all equipment shall perform its intended design function as a complete integrated wind energy generation system as described in this Agreement and in full accordance with the Technical Specifications (all of the foregoing, collectively, the “**Seller Project Warranty**”), provided that, (a) Buyer agrees that it shall not assert any claim against Seller for indemnification or otherwise in respect of the Seller Project Warranty until it has first tendered such claim against the Contractor, the Turbine Supplier, or both and Contractor and/or Turbine Supplier (as applicable) have denied responsibility for such claim, and (b) to the extent Seller pays any Buyer claim in respect of the Seller Project Warranty, Buyer shall cause the Company to grant Seller any and all rights of subrogation under the EPC Agreement or the Turbine Warranty and O&M Agreement with respect to such claim to recover the amounts in respect of such claim from Contractor or Turbine Supplier (as applicable) and hereby agrees to assign any and all rights with respect to such claim which Buyer may have

under the EPC Agreement and the Turbine Warranty and O&M Agreement necessary to enable Seller to pursue such claim against Contractor and/or Turbine Supplier (as applicable). Insofar as the Seller Project Warranty relates to the WTGs, the parts, materials and equipment incorporated therein, or the installation or performance thereof, the Seller Project Warranty shall be deemed not to be any broader or more extensive than the warranty from the Turbine Supplier under the Turbine Warranty and O&M Agreement and the survival period with respect to such portion of the Seller Project Warranty shall be limited to the warranty period under the Turbine Warranty and O&M Agreement.

ARTICLE 7. REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller, as of the Signing Date, as of the Effective Date and as of the Closing Date, as follows:

7.1. Corporate Existence and Powers. Buyer is a corporation validly existing and in good standing under the Laws of the State of Minnesota, and has all the requisite power and authority to conduct its business as it is now being conducted and to own, lease and operate its assets. Buyer's Corporate Documents are in full force and effect. Buyer is not in violation of its Corporate Documents in any manner that would have a Material Adverse Effect on the completion of the transactions contemplated by this Agreement or by the Buyer Documents.

7.2. Authority. Subject to obtaining the NSP Corporate Approval, Buyer has all requisite power and authority to execute and deliver this Agreement, each Ancillary Agreement and each other agreement, document or instrument to be executed by it in connection herewith (collectively, the "**Buyer Documents**") and to perform its obligations hereunder and thereunder. Buyer's performance of its obligations under the Buyer Documents does not require any qualification, licensing or approval by any foreign jurisdiction, except as set forth in Schedule 7.4. Subject to obtaining the NSP Corporate Approval, Buyer has taken all action necessary to execute and deliver this Agreement and the other Buyer Documents, as applicable, to consummate the transactions contemplated hereby and thereby and to perform its obligations hereunder and thereunder, and no other action or proceeding on the part of Buyer is necessary to authorize this Agreement and the other Buyer Documents and the transactions contemplated hereby and thereby. This Agreement and the other Buyer Documents have been duly executed and delivered by Buyer. Assuming the due authorization, execution and delivery by Seller of this Agreement and of the Buyer Documents, this Agreement and the other Buyer Documents constitute legally valid and binding obligations of Buyer, enforceable against it in accordance with the respective terms thereof, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting the enforcement of creditors' rights generally and equitable principles.

7.3. No Conflicts. Neither the execution, delivery and performance by Buyer of this Agreement or the other Buyer Documents nor the transfer of rights and consummation of the transactions contemplated hereby or thereby will result in (a) a violation of or a conflict with any provision of Buyer's Corporate Documents or (b) a violation by Buyer of any Laws.

7.4. Consents and Approvals. Other than as set out in Schedule 7.4, no consent, approval or authorization of, permit from, declaration, filing or registration with, or notice to, any Authority, any third-party payor or any other Person, is required to be made or obtained by Buyer in connection with the execution, delivery, performance and validity of this Agreement and the other Buyer Documents and the consummation of the transactions contemplated hereby and thereby.

7.5. Legal Proceedings. Other than as described in Schedule 7.5, there are no actions, suits or proceedings pending or, to Buyer's Knowledge, threatened in writing, against or affecting the acquisition of the Purchased Interests by Buyer or the consummation of the transactions contemplated hereby, at law or in equity, or before or by any Authority or instrumentality or before any arbitrator of any kind, and, to Buyer's Knowledge, there is no valid basis for any such action, proceeding or investigation.

7.6. Finders. Buyer has not engaged any finder, broker or other intermediary in connection with the transactions contemplated by this Agreement. Neither Buyer nor any of its Affiliates or representatives has incurred any obligation or Liability, contingent or otherwise, for any brokerage, agent's or finder's commissions, fees or similar payments in connection with the Project, this Agreement or the transactions contemplated hereby for which Seller or any of its Affiliates could be liable or obligated or which could result in an Encumbrance on the Project or any of the Purchased Interests.

7.7. Sufficient Funds. Buyer has and at Closing will have sufficient funds available, or will have sources for sufficient funding capacity, to consummate the transactions contemplated hereby, including to purchase the Purchased Interests and to pay the Purchase Price.

7.8. Compliance With Laws. Buyer is not in violation of any Law, except for violations that would not, in the aggregate, have a Material Adverse Effect on Buyer's ability to perform its obligations hereunder.

ARTICLE 8. CERTAIN COVENANTS

8.1. No Breach of Representations and Warranties by Seller. Seller shall not, and shall not permit the Company to, engage in any practice, take any action, embark on any course of inaction or enter into any transaction or agreement that would violate any provision of this Agreement or any of the other Seller Documents or that causes or results in, or could reasonably be expected to cause or result in, any of the representations and warranties set forth in ARTICLE 6 to be untrue as of the Closing Date or after giving effect to any such practice, action, course of inaction, transaction or agreement, nor take any action which could hinder the transactions contemplated by this Agreement or the other Seller Documents, as applicable, provided that, this Section 8.1 shall not affect the Buyer conditions precedent to Closing set forth in Section 3.3 and, the Parties agree that if such conditions precedent are met, Closing shall occur and Buyer shall pay the Adjusted Purchase Price.

8.2. No Breach of Representations and Warranties by Buyer. Buyer shall not engage in any practice, take any action, embark on any course of inaction or enter into any transaction or agreement that would violate any provision of this Agreement or any of the other Buyer Documents or that causes or results in, or could reasonably be expected to cause or result in, any of the representations and warranties set forth in ARTICLE 7 to be untrue as of the Closing Date or after giving effect to any such practice, action, course of inaction, transaction or agreement, nor take any action which could hinder the transactions contemplated by this Agreement or the other Buyer Documents or render such transactions less desirable to Seller.

8.3. Consents and Reasonable Efforts. Buyer and Seller shall use their respective reasonable efforts to obtain, or to assist in obtaining, all consents, approvals, transfers, permissions, waivers, orders, reissuances and authorizations of (and make all necessary filings or registrations with) all Authorities and other third parties which are required to be obtained or made by them in connection with the consummation of the transactions contemplated by this Agreement or in connection with the Project. At the request of either Party, the other Party shall promptly execute and deliver, or cause to be executed and delivered as applicable, such other documents, instruments of transfer or assignment, estoppels, files, books and records and do all such further acts and things as may be reasonably requested by such Party to carry out or evidence the terms and provisions of this Agreement.

8.4. Buyer Confidential Information.

8.4.1 Buyer Confidential Information. Seller acknowledges that Buyer Confidential Information is valuable and proprietary to the Project and Seller agrees not to, directly or indirectly, use, publish, disseminate, describe or otherwise disclose any Buyer Confidential Information in respect of the Project without the prior written consent of Buyer. For purposes of this Agreement, “**Buyer Confidential Information**” shall mean (a) any and all information provided by Buyer to Seller and identified by Buyer as confidential and (b) any and all information provided by Buyer to Seller with respect to the Project, or the transactions contemplated hereby. Information shall not be deemed to be Buyer Confidential Information if (i) it has become generally known or available within the industry or the public through no act or omission of Seller; (ii) Seller can demonstrate that, prior to disclosure in connection with the transactions contemplated hereby, such information was already in the possession of Seller; (iii) it was rightfully received by Seller from a third party who became aware of it through no act or omission of Seller and who is not under an obligation of confidentiality to Buyer, or (iv) Seller can demonstrate it was independently developed by employees or consultants of Seller.

8.4.2 Duty to Maintain Confidentiality. Seller shall maintain any Buyer Confidential Information which has been or will be disclosed directly or indirectly to Seller by or on behalf of Buyer or its Affiliates in confidence and shall not disclose or cause to be disclosed by them or any third party without Buyer’s prior express written consent; *provided, however*, that Seller may disclose Buyer Confidential Information to Sequoia (solely to the extent necessary to negotiate, enter into and consummate the Company-Sequoia Agreement) and Persons who provide financial analysis, banking, legal, accounting, or other services to Seller in connection with Seller’s evaluation or implementation of the transactions contemplated by this Agreement, so long as such

Persons (including Sequoia) have first been provided with a copy of Section 8.4 of this Agreement and have been informed of the duties required hereby. If Buyer Confidential Information is disclosed under the provisions of this Section 8.4.2, Seller shall notify Buyer of the same in writing not later than five (5) Business Days following the disclosure.

8.4.3 Permitted Disclosure. Notwithstanding Section 8.4.2, Buyer Confidential Information may be disclosed if required by any Authority or otherwise by applicable Law or stock exchange rule; *provided, however*, that (a) such Buyer Confidential Information is submitted under any and all applicable provisions for confidential treatment and (b) if Seller is permitted to do so, Buyer is given written notice of the requirement for disclosure promptly after such disclosure is requested, so that it may take whatever action it deems appropriate, including intervention in any proceeding and seeking a protective order or an injunction, to prohibit such disclosure. If Buyer Confidential Information is disclosed under the provisions of this Section 8.4.3, Seller shall notify Buyer of the same in writing not later than five (5) Business Days following the disclosure.

8.4.4 Limited Use. Seller agrees that it will not make any use of any Buyer Confidential Information received pursuant to this Agreement except in connection with the transactions contemplated by this Agreement, unless specifically authorized to do so in writing, and this Agreement shall not be construed as a license or authorization to Seller to utilize Buyer Confidential Information except for such purpose.

8.4.5 Return or Destruction. Upon Buyer's request, Seller shall return to Buyer or destroy as promptly as practicable, but in a period not to exceed ten (10) days, (a) all Buyer Confidential Information provided to Seller, including all copies of such Buyer Confidential Information, and (b) all notes or other documents in digital or other format in its possession or in the possession of other Persons to whom Buyer Confidential Information was properly provided by Seller. Non-destruction of electronic copies of materials or summaries containing or reflecting Buyer Confidential Information that are automatically generated through data backup and/or archiving systems and which are not readily accessible by a Party's business personnel shall not be deemed to violate this Agreement, so long as Buyer Confidential Information contained in or reflected in such electronic backup records is not disclosed or used in violation of the other terms of this Agreement.

8.4.6 Specific Performance. Seller acknowledges that a breach of the covenants contained in this Section 8.4 will cause irreparable damage to Buyer, the exact amount of which will be difficult to ascertain, and that the remedies at law for any such breach will be inadequate. Accordingly, Seller agrees that if Seller breaches any of the covenants contained in this Section 8.4, in addition to any other remedy that may be available at law or in equity, Buyer shall be entitled to specific performance and injunctive relief, without posting bond or other security.

8.5. Seller Confidential Information.

8.5.1 Seller's Confidential Information. Buyer acknowledges that Seller Confidential Information is valuable and proprietary to Seller and Buyer agrees not to, directly or indirectly, use, publish, disseminate, describe or otherwise disclose any Seller Confidential Information in respect of the Project without the prior written consent of Seller. For purposes of this Agreement, "***Seller Confidential Information***" shall mean (a) any and all information provided by Seller to Buyer and identified by Seller as confidential and (b) any and all information provided by Seller to Buyer with respect to the Project or the transactions contemplated hereby. Information shall not be deemed to be Seller Confidential Information if (i) the Project Closing has occurred and such information is also a Company Asset under this Agreement; (ii) it has become generally known or available within the industry or the public through no act or omission of Buyer; (iii) Buyer can demonstrate that, prior to disclosure in connection with the transactions contemplated hereby, such information was already in the possession of Buyer; (iv) it was rightfully received by Buyer from a third party who became aware of it through no act or omission of Buyer and who is not under an obligation of confidentiality to Seller; or (v) Buyer can demonstrate it was independently developed by employees or consultants of Buyer.

8.5.2 Duty to Maintain Confidentiality. Buyer shall maintain any Seller Confidential Information which has been or will be disclosed directly or indirectly to Buyer by or on behalf of Seller or its Affiliates in confidence and shall not disclose or cause to be disclosed by Buyer or any third party without Seller's prior express written consent; *provided, however*, that Buyer may disclose Seller Confidential Information to Persons who provide financial analysis, banking, legal, accounting, or other services to Buyer or any potential lenders to Buyer in connection with Buyer's evaluation or implementation of the transactions contemplated by this Agreement, so long as such Persons have first been provided with a copy of Section 8.5 of this Agreement and have been informed of the duties required hereby. If Seller Confidential Information is disclosed under the provisions of this Section 8.5.2, Buyer shall notify Seller of the same in writing not later than five (5) Business Days following the disclosure.

8.5.3 Permitted Disclosure. Notwithstanding Section 8.5.2, Seller Confidential Information may be disclosed if required by any Authority or otherwise by applicable Law or stock exchange rule; *provided, however*, that: (a) such Seller Confidential Information is submitted under any and all applicable provisions for confidential treatment and (b) if Buyer is permitted to do so, Seller is given written notice of the requirement for disclosure promptly after such disclosure is requested, so that it may take whatever action it deems appropriate, including intervention in any proceeding and seeking a protective order or an injunction, to prohibit such disclosure. If Seller Confidential Information is disclosed under the provisions of this Section 8.5.3, Buyer shall notify Seller of the same in writing not later than five (5) Business Days following the disclosure.

8.5.4 Limited Use. Buyer agrees that it will not make any use of any Seller Confidential Information received pursuant to this Agreement except in connection with the transactions contemplated by this Agreement, unless specifically authorized to do so

in writing, and this Agreement shall not be construed as a license or authorization to Buyer to utilize Seller Confidential Information except for such purpose.

8.5.5 Return or Destruction. Upon Seller's request, Buyer shall return or destroy as promptly as practicable, but in a period not to exceed ten (10) days, (a) all Seller Confidential Information provided to Buyer, including all copies of such Seller Confidential Information, and (b) all notes or other documents in digital or other format in its possession or in the possession of other Persons to whom Seller Confidential Information was properly provided by Buyer. Non-destruction of electronic copies of materials or summaries containing or reflecting Seller Confidential Information that are automatically generated through data backup and/or archiving systems and which are not readily accessible by a Party's business personnel shall not be deemed to violate this Agreement, so long as the Seller Confidential Information contained in or reflected in such electronic backup records is not disclosed or used in violation of the other terms of this Agreement.

8.5.6 Specific Performance. Buyer acknowledges that a breach of the covenants contained in this Section 8.5 will cause irreparable damage to Seller, the exact amount of which will be difficult to ascertain, and that the remedies at law for any such breach will be inadequate. Accordingly, Buyer agrees that if Buyer breaches any of the covenants contained in this Section 8.5, in addition to any other remedy that may be available at law or in equity, Seller shall be entitled to specific performance and injunctive relief, without posting bond or other security.

8.6. Tax Matters.

8.6.1 Prior to the Closing, neither Party shall negotiate with any Tax Authority regarding the Project (other than as to any sales or use tax or as to any private ruling that may be sought by Seller) without the prior written consent of the other Party (which may not be unreasonably withheld), and if such consent is provided, any agreement with the Tax Authorities shall also be subject to the prior written consent of the other Party (which may not be unreasonably withheld).

8.6.2 Seller shall include all income, gain, loss, deduction and credit of the Company and the Company Assets for any period ending on or prior to the Closing Date in its Tax returns ("***Seller Tax Returns***").

8.6.3 Seller shall prepare or cause to be prepared and file or cause to be filed all Tax returns, if any, for the Company required to be filed on or before the Closing Date ("***Pre-Closing Tax Returns***"). All such Pre-Closing Tax Returns shall be prepared in a manner consistent with the Company's past practice to the extent permitted by applicable Law. Seller will pay all Taxes, if any, shown as due or required to be shown as due on such Tax Returns of the Company.

8.6.4 Buyer shall prepare or cause to be prepared and file or cause to be filed any Tax returns for the Company required to be filed (without regard to any extensions) after the Closing Date, which returns shall be filed in accordance with applicable Law

and prior Company practice. Seller shall pay to Buyer within fifteen (15) days after the date on which Taxes are paid with respect to any such Tax return, an amount equal to the portion of such Taxes that relates to the portion of such Tax period ending on or before the Closing Date (the “*Pre-Closing Period*”), if any. Buyer shall use a closing of the books method for allocating any Taxes to the Pre-Closing Period (for property Taxes it shall be on a per diem basis and for sales and other similar Taxes on the basis of the date on which such liability arose, without regard to when the Taxes are due and payable, provided that Seller shall not be responsible for any increase in assessed values of the assets of the Company or the Company Assets for purposes of computing property Taxes taking effect on or after the Closing Date).

8.6.5 Any Tax refunds that are received by Buyer, and any amounts credited against Taxes to which Buyer becomes entitled, which in either case arise with respect to the Company or the Company Assets and relate to a Pre-Closing Period, shall be for the account of Seller, and Buyer shall pay over to Seller any such refund or the amount of any such credit or the appropriate percentage thereof within fifteen (15) days after receipt thereof.

8.6.6 Any Tax refunds that are received by Seller, and any amounts credited against Taxes to which Seller becomes entitled, which in either case arise with respect to the Company or the Company Assets and relate to Tax periods after the Closing Date, shall be for the account of Buyer, and Seller shall pay over to Buyer any such refund or the amount of any such credit or the appropriate percentage thereof within fifteen (15) days after receipt thereof.

8.6.7 After the Closing Date, Buyer and Seller shall provide each other with such cooperation and information related to the Company as the Parties reasonably may request in (a) filing any Tax return, amending any Tax return or claiming any Tax refund, (b) determining any liability for Taxes or any right to Tax refunds or (c) conducting or defending any proceeding in respect of Taxes (other than those specifically addressed in Section 2.2.3, as to which the parties’ obligations as to cooperation shall be as set forth therein). Seller and Buyer shall retain all Tax returns, schedules and work papers, and all material records and other documents related thereto until the expiration of the statute of limitations of the taxable years to which such Tax returns and other documents relate and until the final determination of any Tax in respect of such years, but for no longer than seven (7) years. At or before the Closing, Seller shall provide to Buyer copies of all supporting documentation that was provided to the (x) Independent Tax Attorney in connection with preparation of the Under Construction Opinions or (y) Independent Engineer in connection with preparation of the Final Under Construction Plan IE Certificate, in each case, including without limitation, construction schedules (planned and actual) and support for costs incurred prior to the PTC Expiration Date.

8.6.8 With respect to any Taxes for which Seller is liable pursuant to this Section 8.6, Seller shall control any audit, examination or administrative or judicial proceeding relating to such Taxes if such audit, examination or administrative or judicial proceeding relates to any Seller Tax Returns or Pre-Closing Tax Returns, provided that Seller may not settle or resolve any such audit examination or proceeding if it affects any

material liabilities for Taxes of Buyer or the Company for any periods or portions thereof for which Seller is not liable without the prior written consent of Buyer in its sole discretion (but consideration thereof shall not be unreasonably delayed). Buyer shall control all other audits, examinations or administrative or judicial proceedings that affect the Company. For this Section 8.6.8, Buyer shall consult in good faith with Seller as to audits, examinations or administrative or judicial proceedings that may affect the Taxes of Seller.

8.7. Maintain a Qualified Facility. Seller shall and shall cause the Company to take all actions necessary with respect to the Project in order to: (a) if the conclusions of the Initial Under Construction Certificate and the Initial Under Construction Opinion are based on a determination that “physical work of a significant nature” has commenced with respect to the Project, “maintain a continuous program of construction that involves continuing physical work of a significant nature” with respect to the Project (as described in the IRS PTC Publication); and (b) if the conclusions of the Initial Under Construction Certificate and the Initial Under Construction Opinion are based on a determination that Seller or the Company has paid or incurred five percent or more of the total cost of the Project, “indicat[e] continuous efforts to advance [the Project] towards completion” are being undertaken (as described in the IRS PTC Publication); in the case of each of (a) and (b), during the period commencing as of the delivery of the Initial Under Construction Certificate and ending on the Project Substantial Completion Date. If the IRS (or any court of competent jurisdiction) issues guidance in addition to the IRS PTC Publication with regard to how a taxpayer satisfies the requirement under Section 45(d)(1) of the Code that specifies that “the construction of which begins before” the PTC Expiration Date, Seller shall use commercially reasonable efforts to modify the Under Construction Plan, in a manner reasonably acceptable to Buyer and the Independent Tax Attorney, to cause the Project to satisfy such requirement.

8.8. Bird and Bat Conservation Strategy. **[BEGIN TRADE SECRET**

END TRADE SECRET] Seller shall take all action and to do all things necessary, proper or advisable to ensure the development, construction, commissioning and operation of the Project prior to Closing complies with Environmental Laws relating to the protection of avian and bat species, including modification or amendment of the Bird and Bat Conservation Strategy necessary to conform such Strategy to such Environmental Laws, as the same may be amended from time to time. **[BEGIN TRADE SECRET**

END TRADE SECRET] Buyer will make commercially reasonable efforts to cooperate with Seller to address any situation that arises that could reasonably be expected to cause noncompliance with the Bird and Bat Conservation Strategy or applicable Laws.

8.9. Non-Disparagement. From the Signing Date until the earlier of the termination date of this Agreement or the third anniversary of the Closing Date (the “*Non-Disclosure Period*”) neither Seller nor Buyer shall make any statement or other communication that

impugns or attacks the reputation or character of the Project, the Company or each other or any of Seller's or Buyer's respective Affiliates or Representatives, or that damages the goodwill of the Project, the Company or each other or any of Seller's or Buyer's respective Affiliates or Representatives, take any action that would interfere with any contractual or customer relationships of the Project, the Company or each other or any of Seller's or Buyer's respective Affiliates or Representatives, including any action that would result in a diminution of business, or otherwise take any action detrimental to the interests of the Project, the Company or each other or any of Seller's or Buyer's respective Affiliates or Representatives (except to assert Seller's rights or Buyer's rights, as applicable, under this Agreement); *provided, however*, that this Section 8.9 shall not be understood to limit the ability or right of Buyer or Seller or any of their respective Affiliates to compete with respect to future opportunities or the enforcement of any contractual or other legal rights.

8.10. Confidentiality Regarding This Agreement. The Parties each acknowledge and agree that the terms of this Agreement shall be considered Seller Confidential Information and Buyer Confidential Information. Neither Buyer nor Seller shall issue any public announcement or other statement with respect to this Agreement or the transactions contemplated hereby, without the prior consent of the other Party (which consent shall not be unreasonably withheld), unless required by applicable Law or stock exchange rule; *provided, however*, that both Buyer and Seller shall have the right without obtaining such consent to include public information concerning the Project in such Party's marketing materials following the initial public announcement by the other Party. In the event a Party breaches this Section 8.10, in addition to and not in lieu of any legal or equitable remedies that may otherwise be available, the non-breaching Party may, in its sole discretion, issue public announcements that the non-breaching Party shall deem to be appropriate in its sole discretion to supplement, correct or amplify the announcement or statement made by the breaching Party.

8.11. No Shop.

(a) Prior to the Closing, and unless and until this Agreement has been earlier terminated pursuant to the terms hereof, Seller shall not, and it shall not permit any of its Affiliates or any of its or their respective Representatives to:

(i) initiate, solicit or seek, directly or indirectly, any inquiries or the making of any proposal with respect to the direct or indirect acquisition of the Company Assets or the Purchased Interests (whether alone, in combination with or as part of a transaction involving other assets of Seller or the Company, or the membership or other equity interests in, the Company) by any Person other than Buyer (including by means of a merger, acquisition, consolidation, recapitalization, liquidation, dissolution, equity investment, transaction involving the assignment or transfer of the contractual relationships of the Company Assets or the Purchased Interests or similar transaction) (any such proposal or offer being herein referred to as an "***Acquisition Proposal***");

(ii) engage in any negotiations or discussions with, or provide any confidential information or data to, any Person other than Buyer (or

their Representatives) relating to an Acquisition Proposal, or otherwise facilitate any effort or attempt by a person other than Buyer to make or implement an Acquisition Proposal; or

(iii) enter into or consummate any agreement or understanding with any Person relating to an Acquisition Proposal;

provided, however, that, with respect to WTGs that Seller, the Company or any of their Affiliates have agreed or may agree to purchase for use in the Project, neither Section 6.16 nor this Section 8.11 shall restrict or limit Seller, the Company or their Affiliates from continuing or initiating discussions or negotiations with, or entering into agreements with, other Persons for the sale, lease, use or other disposition of such WTGs as an alternative to using such WTGs for the Project in the event that the Effective Date or Closing does not occur or this Agreement is terminated.

(b) Seller shall be responsible for any breach of the provisions of this Section 8.11 by Seller, any of its Affiliates or any of its or their respective Representatives.

8.12. Alternate WTG Locations. [BEGIN TRADE SECRET

END TRADE SECRET]

ARTICLE 9.

ACTIONS BY SELLER AND BUYER AFTER THE CLOSING DATE

9.1. Records. Seller and Buyer agree that each will cooperate with and make available to the other Party, during normal business hours after reasonable advance notice, all books and records relating to the Project or the Company retained and remaining in existence after the Closing Date that are necessary in connection with any Tax inquiry, audit, investigation or dispute, any litigation or investigation or any other matter requiring any such books and records. The Party requesting any such books and records shall bear all of the out-of-pocket costs and expenses (including attorneys' fees) reasonably incurred in connection with providing such books and records.

9.2. Survival. The representations and warranties of Buyer and Seller shall survive until [BEGIN TRADE SECRET **END TRADE SECRET]** except (a) as provided in the last sentence of Section 6.26 and (b) that the representations and warranties of each of Buyer and Seller relating to Taxes shall survive for the period corresponding to the applicable statute of limitations for the Tax at issue. Claims for

breach of any of the covenants and agreements of the Parties set forth herein shall survive the Closing for the period corresponding to the applicable statute of limitations applicable to such claims.

9.3. Indemnifications.

9.3.1 By Seller. Seller shall indemnify, save and hold harmless, Buyer, its Affiliates, and their respective employees, Representatives, officers, directors and agents (collectively, the “*Buyer Indemnified Parties*”) from and against any and all costs, losses (including diminution in value), liabilities (including liabilities arising under principles of strict or joint and several liability), damages, lawsuits, deficiencies, claims and expenses (whether or not arising out of third-party claims), including interest, penalties, additions, travel expenses, wages allocable to loss of employee time, reasonable attorneys’ fees and all amounts paid in investigation, defense or settlement of any of the foregoing (collectively, the “*Buyer Damages*”), incurred in connection with or arising out of or resulting from (a) any breach or violation of any covenant or agreement of Seller set forth in this Agreement or any Seller Document, (b) any breach or inaccuracy in any of the representations or warranties of Seller contained in this Agreement or any certificate delivered by or on behalf of Seller pursuant to this Agreement, (any such breach or inaccuracy to be determined without regard to any qualification for “materiality,” “in all material respects” or similar qualification), (c) if the Closing has occurred, any failure by Seller to pay, perform or discharge any Excluded Liability as and when due, (d) if the Closing has occurred, any liability, obligation or commitment of Seller or the Company of any nature (absolute, accrued, contingent or otherwise) relating to the Purchased Interests and not assumed by Buyer pursuant to this Agreement, (e) any fraud, willful misconduct or negligence in performance of this Agreement by Seller, or (f) Buyer’s performance of its obligations under Section 5.8. Any indemnity payment required hereunder shall be accompanied by a statement, certified to by an officer of Buyer, showing in reasonable detail the calculation of the amount of the indemnity payment. Notwithstanding anything to the contrary, no claim for indemnification shall be brought pursuant to this Section 9.3.1 until the total Buyer Damages for which Seller would be liable under this Section 9.3.1 exceeds in the aggregate a threshold amount equal to **[BEGIN TRADE SECRET** **END TRADE SECRET]** and, once such amount is exceeded, indemnification may be sought for the full aggregate amount of Buyer Damages, including indemnification for such amounts of Buyer Damages as do not exceed such threshold amount; *provided, however,* **[BEGIN TRADE SECRET**

END TRADE SECRET] Notwithstanding anything to the contrary, no claim for indemnification shall be brought pursuant to this Section 9.3.1 with respect to any risk, matter or Liability assumed by Buyer pursuant to Section 5.12

9.3.2 By Buyer. Buyer shall indemnify, save and hold harmless, Seller, its Affiliates, and their respective employees, Representatives, officers, directors and agents (collectively, the “*Seller Indemnified Parties*”) from and against any and all costs, losses (including diminution in value), liabilities (including liabilities arising under principles of strict or joint and several liability), damages, lawsuits, deficiencies, claims and expenses (whether or not arising out of third-party claims), including interest, penalties, additions, travel expenses, wages allocable to loss of employee time, reasonable attorneys’ fees and all amounts paid in investigation, defense or settlement of any of the foregoing (collectively, the “*Seller Damages*”), incurred in connection with or arising out of or resulting from (a) any breach or violation of any covenant or agreement of Buyer set forth in this Agreement or any Buyer Document, (b) any breach or inaccuracy of any representation or warranty, covenant or agreement (including the risks, matters and Liabilities assumed by Buyer pursuant to Section 5.12) made by Buyer in this Agreement or any other Buyer Document, including any breach by Buyer or Buyer’s authorized representative of its obligations under Section 5.5.3, (c) if the Closing has occurred, any failure of Buyer to pay, discharge or perform any of the Assumed Liabilities as and when due, or (d) any fraud, willful misconduct or negligence in performance of this Agreement by Buyer. Any indemnity payment required hereunder shall be accompanied by a statement, certified to by an officer of Seller, showing in reasonable detail the calculation of the amount of the indemnity payment. Notwithstanding anything to the contrary, no claim for indemnification shall be brought pursuant to this Section 9.3.2 until the total Seller Damages for which Buyer would be liable under this Section 9.3.2 exceeds in the aggregate a threshold amount equal to [BEGIN TRADE SECRET

END TRADE SECRET] and, once such amount is exceeded, indemnification may be sought for the full aggregate amount of Seller Damages, including indemnification for such amounts of Seller Damages as do not exceed such threshold amount; *provided, however*, [BEGIN TRADE SECRET

END TRADE SECRET]

9.3.3 Defense of Claims. If any action or proceeding (including any governmental investigation or inquiry) shall be brought or asserted or threatened to be brought or asserted against an indemnified Party in respect of which indemnity may be sought from an indemnifying Party, such indemnified Party shall notify the indemnifying Party in writing as promptly as practicable (and in any event within ten (10) Business Days after the service of the citation or summons); *provided, however*, that the failure of the indemnified Party to give timely notice hereunder shall relieve the indemnifying Party of its indemnification obligations hereunder only if, and only to the extent that, such failure caused Buyer Damages or Seller Damages (as applicable) for which the indemnifying Party is obligated to be greater than they would have been had the indemnified Party given timely notice, and the indemnifying Party promptly shall assume the defense thereof, including the employment of counsel satisfactory to such indemnified Party and the payment of all expenses. Such indemnified Party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be the expense of such indemnified Party unless (a) the indemnifying Party has agreed to pay such fees and

expenses, (b) the indemnifying Party shall have failed to assume the defense of such action or proceeding or shall have failed to employ counsel reasonably satisfactory to such indemnified Party in any such action or proceeding in either case, promptly and no more than five (5) Business Days after the receipt of notice pursuant to the preceding sentence or such shorter period of time as shall be reasonable under the circumstances, or (c) the named parties to any such action or proceeding (including any impleaded parties) include both such indemnified Party and the indemnifying Party, and such indemnified Party shall have been advised by counsel that there may be one or more legal defenses available to such indemnified Party that are different from or additional to those available to the indemnifying Party (in which case, if such indemnified Party notifies the indemnifying Party in writing that it elects to employ separate counsel at the expense of the indemnifying Party, the indemnifying Party shall not have the right to assume the defense of such action or proceeding on behalf of such indemnified Party). The indemnifying Party shall not be liable for any settlement of any such action or proceeding effected without its written consent (unless such consent is unreasonably withheld), but if settled with its written consent or without its written consent (if such written consent is unreasonably withheld), or if there be a final judgment for the plaintiff in any such action or proceeding, the indemnifying Party shall indemnify and hold harmless such indemnified parties from and against any loss or liability by reason of such settlement or judgment. The indemnified Party shall not be required to consent to the settlement of any action or proceeding if such settlement involves anything other than the payment of money by the indemnifying Party in full settlement of such action or proceeding.

9.3.4 Exclusive Remedy. Notwithstanding anything in this Agreement to the contrary and subject to the following sentence, the indemnification obligations of the Parties contained in this Section 9.3 (and subject to the limitations set forth in Section 9.4) shall be the sole and exclusive remedy of the Parties hereto, their Affiliates, successors and assigns with respect to any and all claims for Buyer Damages or Seller Damages, as applicable, sustained or incurred arising out of or relating to any breach of any representation or warranty, covenant or agreement contained in this Agreement, including any claims with respect to environmental, health and safety matters; and each Party hereby expressly waives and disclaims, and agrees that it shall not assert, any right, remedy (including the remedy of rescission) or claim in respect of any such breach or losses based on any cause or form of action whatsoever, except as and to the extent permitted in this Section 9.3; *provided, however*, that (i) the Parties may seek to enforce the provisions of this Agreement by injunction, specific performance or other equitable relief, (ii) either Party may seek any and all judicial relief with respect to any default by the other Party to satisfy or the breach by the other Party of any of its obligations to pay any amounts due and owing to such Party under this Agreement, and (iii) such limitation shall not limit Buyer's right to Liquidated Damages or return of the Deposit, subject to the terms of this Agreement applicable thereto. This provision shall not limit any available remedy of the Party seeking indemnification for any losses resulting from, or related to, the fraud or willful misconduct of the other Party. Nothing in this Section 9.3.4 is intended to constitute a waiver or limitation of any rights that any Party (or their respective Affiliates) may have to assert claims against third parties.

9.3.5 Acknowledgements. Seller and Buyer each acknowledge that (i) only representations, warranties, covenants or agreements expressly made in this Agreement or the Ancillary Agreements will be deemed to be representations, warranties, covenants or agreements for purposes of this Agreement, and (ii) neither Party has relied on any representation, warranty, covenant or agreement not expressly made in this Agreement or the Ancillary Agreements in consummating the transactions herein.

9.4. Limitation of Liability. SUBJECT TO THE NEXT SENTENCE, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY LOST OR PROSPECTIVE PROFITS NOR ANY PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES (IN TORT, CONTRACT OR OTHERWISE) UNDER OR IN RESPECT TO THIS AGREEMENT. THE FOREGOING EXCLUSION SHALL NOT (A) PRECLUDE RECOVERY, WHERE APPLICABLE, OF LIQUIDATED DAMAGE AMOUNTS HEREUNDER, OR (B) PRECLUDE RECOVERY UNDER ANY INDEMNITY IN ARTICLE 9, TO THE EXTENT THAT INDEMNIFICATION OBLIGATIONS FOR DAMAGES TO A THIRD PARTY COULD BE DEEMED TO BE CONSEQUENTIAL, SPECIAL, EXEMPLARY, INDIRECT, OR INCIDENTAL LOSSES OR DAMAGES. Notwithstanding any other provision of this Agreement, including Section 9.3, (x) the aggregate Buyer Damages to which the Buyer Indemnified Parties shall be entitled under Section 9.3.1 shall not exceed the Seller Indemnity Cap, and the aggregate Seller Damages to which the Seller Indemnified Parties shall be entitled under Section 9.3.2 shall not exceed **[BEGIN TRADE SECRET**
END TRADE SECRET] *provided, however*, that neither Party shall have any further liability under Section 9.3.1 or Section 9.3.2, as applicable, unless a claim is timely asserted during the applicable survival period set forth in Section 9.2 hereof; *provided, further*, that the limitation of liability set forth in this third sentence of this Section 9.4 is unrelated to and shall not apply to Seller's or Buyer's (as applicable) liability in respect of (a) Seller's obligation to remove any Encumbrances on the Company Assets, other than Permitted Encumbrances, created or suffered to exist by Seller or the Company, (b) the payment by Seller of Excluded Liabilities, (c) Seller's obligations in respect of Section 2.2.3, (d) Seller's or Buyer's obligations to make litigation expense payments pursuant to Section 12.6, (e) Buyer's obligation to pay the Purchase Price or the Assumed Liabilities or (f) Buyer's failure to close if all of the conditions precedent to Closing set forth in Section 3.3 have been satisfied.

9.5. Further Assurances.

9.5.1 Further Assurances. Subject to the provisions of Section 8.3, each of the Parties shall use commercially reasonable efforts to take all action and to do all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement. Seller shall cooperate in the preparation and audit of any financial statements required to be filed with any Person, including by giving Buyer and their independent certified public accountants reasonable access to work papers and other records, documents and written information of Seller and Seller's independent certified public accountants used to prepare or audit, or reasonably related to the preparation or audit of, all financial statements of Seller to the extent reasonably required for the preparation of such financial statements.

9.5.2 Taxes. Each Party hereto agrees to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information and assistance (including access to books and records) relating to Seller and the Project, as is reasonably necessary for the preparation of any return with respect to Taxes, claim for refund or audit, and the prosecution or defense of any claim, suit or proceeding relating to Taxes.

9.5.3 Completion.

(a) In the event Seller exercises its right to cause Project Substantial Completion or WTG Substantial Completion, as applicable, to occur pursuant to Section 3.3.4(b), promptly, but in no event later than five (5) days following the date that the Project achieves Interconnection, Seller shall commence, and shall diligently pursue to completion, the satisfaction of those conditions set forth in Section 3.3 that could not be fulfilled or satisfied as of Closing Date due to the inability of the Project to achieve Interconnection, including the delivery of a certificate of the Independent Engineer demonstrating satisfaction of such conditions. Nothing in Section 3.3.4(b) nor this Section 9.5.3 or otherwise shall relieve Seller of its obligation to timely demonstrate full compliance with the conditions set forth in Section 3.3 that were not (without application of Section 3.3.4(b)) fulfilled or satisfied as of the Closing Date once the Project has achieved Interconnection, and Seller shall retain all Liabilities hereunder and under the EPC Contract and Turbine Supply Agreement with respect to such obligation, except to the extent that actions taken by Buyer or the Company after the Closing prevent Seller from satisfying such obligation.

(b) Notwithstanding any provision herein to the contrary, following the Closing, Seller shall retain all Liabilities of the Company in respect of the EPC Agreement and Turbine Supply Agreement (except to the limited extent such Liabilities are included in the Assumed Liabilities) and, Seller shall promptly remediate any WTG site on which construction was commenced (whether grading, excavation, pouring a foundation, erection or otherwise) on a WTG that was not brought to WTG Substantial Completion and such site shall be returned to the condition in which it existed prior to commencement of construction to the extent required and in accordance with the terms of the applicable Land Contracts and applicable Law. Buyer shall cause, at no cost to the Company or Buyer, the Company to comply with all commercially reasonable requests from Seller in connection with Seller's obligations and rights under this Section 9.5.3; *provided, however*, that in no event shall the Company be required to consent to any modification, amendment or supplement of the EPC Agreement or the Turbine Supply Agreement, the Turbine Warranty and O&M Agreement or waive or consent to the variance of any of the terms thereof, or issue any consent thereunder.

(c) In the event that Final Completion has not occurred within ninety (90) days following the Guaranteed Completion Date, Buyer may, without limiting any other rights or remedies, cause Final Completion to occur (including the completion of any Punch List Items or Curative Work) with respect to any

portion of the Project previously delivered to Buyer at a Closing and for which Final Completion has not occurred, at Seller's expense.

ARTICLE 10.
DELAY DAMAGES AND SECURITY

10.1. Delay Damages. [BEGIN TRADE SECRET

SECRET]

END TRADE

10.2. Payment of Delay Damages. On the first Business Day of each week following the Target Closing Date until the Closing Date, Seller shall pay Buyer all accrued and unpaid Delay Damages by (a) wire transfer of immediately available funds to the account specified in writing by Buyer for such purpose, (b) if so requested in writing by Buyer, by such alternative means of delivery of immediately available funds or other method of payment as is reasonably acceptable to Seller or (c) by drawing against the Deposit Refund Letter of Credit.

10.3. Nature of Liquidated Damages. The Parties acknowledge and agree that because of the unique nature of the Project and the unavailability of adequate substitutes, it is difficult or impossible to determine with precision the amount of damages that would or might be incurred by Buyer as a result of Seller's failure to achieve Closing by the Target Closing Date or the Guaranteed Closing Date. It is understood and agreed by the Parties that (a) Buyer shall be disadvantaged by failure of Seller to meet such obligations, (b) it would be impracticable or extremely difficult to quantify the amount of time lost to Buyer's disadvantage resulting therefrom, (c) any sums which would be payable under Section 10.2 or Section 11.1.3 are in the nature of liquidated damages, are fair and reasonable and do not constitute penalties, and (d) such payments represent a reasonable estimate of damages, and shall, without duplication, be the sole and exclusive remedy of Buyer with respect to any such failure by Seller.

10.4. Security for Liquidated Damages; Refund of Deposit.

10.4.1 Delay Damages and Termination Payment Guaranty. To secure payment of its obligation to pay Delay Damages and the Termination Payment, Seller shall deliver the Guaranty to Buyer on the Effective Date.

10.4.2 Deposit Refund Letter of Credit. [BEGIN TRADE SECRET

END TRADE SECRET]

**ARTICLE 11.
EXTENSION AND TERMINATION**

11.1. Termination; Extension.

11.1.1 Termination by Buyer. This Agreement may be terminated prior to the Closing by Buyer upon written notice to Seller of such termination (or, in the case of a termination under clause (b) below, upon the lapse of the period for Seller to give a notice under clause (b)(vi)) as follows:

(a) If the Parties have not agreed upon a plan for the development and construction of the Project that the Parties believe will result in the Project satisfying the Under Construction requirement prior to the PTC Expiration Date (as the same may be amended pursuant to Section 8.7, the “***Under Construction Plan***”) (to be attached to this Agreement as Exhibit K when agreed upon by the Parties), and the form of Under Construction Certificates to be attached as Exhibits J-1 and J-2 hereto, **[BEGIN TRADE SECRET**

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provided further that:

(iv) any notice of termination under clause (b)(i), (ii) or (iii) above shall be given, if at all, on or before ten (10) Business Days after Buyer’s receipt of the Optional Interconnection Study (for a termination under clause (b)(i)), the DPPS (for a termination under clause (b)(ii)), or the final form of the Interconnection Agreement (for a termination under clause (b)(iii)), and if the termination notice is not given by the applicable date Buyer shall be deemed to have irrevocably waived its right to terminate this Agreement under clause (b)(i), (ii) or (iii), as applicable;

(v) **[BEGIN TRADE SECRET**

END TRADE SECRET]

(vi) if Buyer gives a termination notice under clause (b)(i), (ii) or (iii) above, Seller shall have the right, but not the obligation, to notify Buyer, within ten (10) Business Days after receipt of Buyer's termination notice, that **[BEGIN TRADE SECRET**

END TRADE

SECRET] if Seller gives such notice Buyer's termination notice shall be deemed withdrawn, Buyer's right to terminate this Agreement under clause (b)(i), (ii) or (iii), as applicable, shall be deemed irrevocably waived and this Agreement shall not terminate;

(c) if the Effective Date has not occurred by **[BEGIN TRADE SECRET**
SECRET **END TRADE SECRET]**

(d) in the event the Closing has not occurred, or the conditions precedent to Closing in favor of Buyer have not been fulfilled or waived, on or before the Guaranteed Completion Date effective immediately upon receipt of notice to Seller, which notice may be served at Buyer's election, in its sole discretion and without further explanation; *provided, however*, that Buyer may not terminate this Agreement pursuant to this Section 11.1.1(d) if Buyer's failure to fulfill any material obligation under this Agreement has been the cause of, or resulted in, the failure of the occurrence of the Closing or failure of any such conditions precedent to be fulfilled on or prior to the Guaranteed Completion Date; or

(e) if any Authority shall have issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement and such order, decree, ruling or other action shall have become final and nonappealable; or

(f) if Seller has abandoned the Project; or

(g) as provided in Section 5.12 or 5.13; or

(h) **[BEGIN TRADE SECRET
END TRADE SECRET]**

(i) upon the dissolution or bankruptcy of Seller;

(j) **[BEGIN TRADE SECRET**

END

TRADE SECRET] or

(k) **[BEGIN TRADE SECRET**

END TRADE SECRET]

11.1.2 Termination by Seller. This Agreement may be terminated prior to the Closing by Seller upon written notice to Buyer of such termination as follows:

(a) **[BEGIN TRADE SECRET**

END

TRADE SECRET]

(b) if the Effective Date has not occurred by **[BEGIN TRADE SECRET
END TRADE SECRET]**

(c) if Interconnection has not occurred by **[BEGIN TRADE SECRET
END TRADE SECRET]** or

(d) in the event the Closing has not occurred, or the conditions precedent to Closing in favor of Seller have not been fulfilled or waived, on or before the Guaranteed Completion Date effective immediately upon receipt of notice to Buyer, which notice may be served at Seller’s election, in its sole discretion and without further explanation; *provided, however,* that Seller may not terminate this Agreement pursuant to this Section 11.1.2(d) if Seller’s failure to fulfill any material obligation under this Agreement has been the cause of, or resulted in, the failure of the occurrence of the Closing or failure of any such conditions precedent to be fulfilled on or prior to the Guaranteed Completion Date; or

(e) upon a repudiation of this Agreement by Buyer; or

(f) as provided in Section 5.13; or

(g) **[BEGIN TRADE SECRET
END TRADE SECRET]**

(h) upon the dissolution or bankruptcy of Buyer; or

(i) **[BEGIN TRADE SECRET**

END TRADE SECRET]

11.1.3 Termination Damages.

(a) In the event of termination of this Agreement by Buyer as provided in Section 11.1, Seller shall refund the Deposit (if it has been paid by Buyer) to Buyer, within five (5) Business Days after such termination of this Agreement by wire transfer of immediately available funds to the account specified in writing by Buyer for such purpose or, if so requested in writing by Buyer, by such alternative means of delivery of immediately available funds or other method of payment as is reasonably acceptable to Seller.

(b) **[BEGIN TRADE SECRET**

END TRADE SECRET]

11.2. Buyer's Option to Purchase Project in Certain Circumstances After Guaranteed Completion Date. If (a) the Effective Date occurs but Closing does not occur by the Guaranteed Completion Date due to the non-satisfaction of any of the conditions set forth in Section 3.3 (other than Section 3.3.6) and this Agreement is thereafter terminated in accordance with Section 11.1; (b) Seller subsequently, within two (2) years following the date of such termination (the "*Option Period*"), achieves Project Substantial Completion for the Project in excess of **[BEGIN TRADE SECRET** **END TRADE SECRET]** on the Site; and (c) the failure to meet the conditions set forth in Section 3.3 is not a result of any failure to perform hereunder by Buyer, then, Buyer shall, at any time during the Option Period, have the option to purchase the Purchased Interests on the same terms and conditions set forth in this Agreement, **[BEGIN TRADE SECRET**

END TRADE SECRET] except that (i) references herein to the Closing Date shall, upon and following the exercise of such option, be deemed to refer to the date of such exercise, and (ii) Seller shall be permitted to update Seller's Schedules to ensure that the representations and warranties are true and correct as of the date of exercise. Such option shall be exercisable upon written notice delivered to Buyer at any time prior to the expiration of the Option Period. If the Effective Date occurs, this provision shall expressly survive any termination of this Agreement. The rights of Buyer under this Section 11.2 shall be subject and subordinate to the rights of the lenders for the financing described in Section 4.1.1 and Buyer shall execute such subordinations and other documents as may be requested by such lenders.

**ARTICLE 12.
MISCELLANEOUS**

12.1. Payment Instructions. All amounts payable under this Agreement shall be made pursuant to the payment instructions provided by the payee of such amount to the payor thereof in writing on or before the date on which such payment is due.

12.2. Assignment. Seller may not assign any of its rights or obligations under this Agreement without the prior written consent of Buyer; *provided, however*, that no such consent shall be required with respect to the assignment by Seller to any Affiliate of Seller, or the assignment or collateral assignment of this Agreement by Seller to, or for the benefit of, a lender under the financing in respect of the development or construction of the Project. In connection with any such assignment to a lender, Buyer shall execute and deliver consent forms, acknowledgements and other documents reasonably requested by the financing party, in form and substance reasonably acceptable to Buyer to effect or to evidence such assignment, provided, that nothing in this Section 12.2 shall require Buyer to waive any of its rights under, or amend any provision of, this Agreement. Buyer may not assign any of its rights or obligations under this Agreement; *provided, however*, that upon prior notice to Seller, Buyer may assign its rights or obligations under this Agreement to any Affiliate of Buyer; *provided further*, that Buyer shall not be released of its obligations under this Agreement unless Seller agrees in writing that such

Affiliate has the financial and other capabilities to assume all of the obligations of Buyer under this Agreement.

12.3. Notices. All notices, requests, demands and other communications which are required or may be given under this Agreement, including all documents delivered pursuant to this Agreement, shall be in writing and shall be deemed to have been duly given when received if personally delivered; the day after it is sent, if sent for next day delivery to a domestic address by recognized overnight delivery service (e.g., Federal Express or UPS); and upon receipt, if sent by certified or registered mail, return receipt requested. In each case notice shall be sent to:

If to Seller, to:

RES America Developments Inc.
11101 West 120th Avenue, Suite 400
Broomfield, Colorado 80021
Attention: Brian Evans, President
Facsimile: 303-439-4299

With a copy to:

RES America Developments Inc.
11101 West 120th Avenue, Suite 400
Broomfield, Colorado 80021
Attention: Marcia Emmons, General Counsel
Facsimile: 303-439-4299

If to Buyer, to:

Northern States Power Company
414 Nicollet mall, 7th Floor
Minneapolis, MN 55401-1927
Attention: Paras M. Shah, Director
Business Development
Facsimile: (612) 215-4575

with a copy to:

Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401-1927
Attention: Scott Wilensky,
Sr. Vice President and General Counsel
Facsimile: (612) 215-9025

with a copy to (which copy shall not constitute notice hereunder):

Dorsey & Whitney LLP
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402-1498
Attention: Michael Pignato
Facsimile: (612) 340-2643
E-mail: pignato.michael@dorsey.com

or to such other place and with such other copies as a Party may designate as to itself by written notice to the other Party.

12.4. Choice of Law; Consent to Jurisdiction; Service of Process.

12.4.1 Governing Law. This Agreement shall be construed, interpreted and the rights of the Parties determined in accordance with the Laws of the State of New York without reference to its choice of law provisions; *provided, however*, the laws of the State of North Dakota shall control this Agreement with respect to matters of conveyance and other real property and permitting matters necessarily subject to the laws of the State of North Dakota.

12.4.2 Executive Dispute Resolution. Upon a Party's written notification to the other Party of a dispute, which notification must include a written explanation of the dispute and the material particulars of the notifying Party's position as to the dispute, each Party shall nominate one (1) executive representative with the authority to bind such Party. The nominated representatives shall meet not later than ten (10) Business Days thereafter to attempt in good faith to resolve the dispute and to produce written terms of settlement for the dispute (a "**Settlement Agreement**"). A Settlement Agreement executed by each executive representative shall serve as conclusive evidence of the resolution of such dispute. If the executive representatives do not produce and execute the Settlement Agreement within forty-five (45) days after the date of the first meeting or within a longer period agreed to by each executive representative, then, either Party may upon written notice to the other Party, pursue all its rights and remedies provided at law or equity or otherwise in this Agreement.

12.4.3 Jurisdiction. The Parties hereto hereby irrevocably submit to the jurisdiction of the federal or state courts located in Hennepin County, Minnesota, over any dispute arising out of or relating to this Agreement or any of the transactions contemplated hereby; and each Party hereby irrevocably agrees that all claims in respect of such dispute or proceeding shall be heard and determined in such federal courts unless such federal courts do not have jurisdiction in which event such dispute or proceeding shall be heard and determined in such state courts. Each Party hereby irrevocably waives, to the fullest extent permitted by applicable Law, any objection which it may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum.

12.4.4 Service of Process. Each of the Parties hereto hereby consents to process being served by the other Party to this Agreement in any suit, action or proceeding of the nature specified in Section 12.4.3 by mailing of a copy thereof in accordance with the provisions of Section 12.3 hereof.

12.5. Waiver Of Jury Trial. EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED ON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT OR ACTION OF ANY PARTY HERETO IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED HEREBY.

12.6. Attorneys' Fees and Litigation Expenses. In the event any action is commenced to recover damages or enforce any rights or obligations under this Agreement, and the Party bringing such action is found by a court of law to have brought such action in bad faith, then the prevailing Party in such action shall be entitled to recover its attorney fees, including the reasonable fees of in-house counsel, expert fees, and all reasonable out-of-pocket expenses incurred in enforcing the prevailing Party's rights under this Agreement, regardless of whether those fees, costs or expenses are otherwise recoverable as costs in the action, including all fees and expenses incurred in connection with the investigation and preparation of the action before it is filed and upon appeal.

12.7. Entire Agreement; Amendments and Waivers. This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements and commitments with respect thereto. No supplement, modification or waiver of this Agreement or waiver of any breach of or failure to comply with any representation, warranty, covenant, agreement or condition herein shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions of this Agreement or waiver of any breach of or failure to comply with any representation, warranty, covenant, agreement or condition herein shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar) or any other breach of or failure to comply with any representation, warranty, covenant, agreement or condition herein, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

12.8. Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

12.9. Expenses. Except as otherwise specified herein, each Party hereto shall pay its own legal, accounting, out-of-pocket and other expenses incident to this Agreement and to any action taken by such Party in preparation for carrying this Agreement into effect.

12.10. Invalidity. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein (other than a requirement to make payments hereunder), shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by Law, such invalidity, illegality or

unenforceability shall not affect any other provision of this Agreement or any other such instrument.

12.11. Titles. The recitals to this Agreement and the titles, captions or headings of the Articles and Sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

12.12. Burden and Benefit. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Buyer Indemnified Parties and Seller Indemnified Parties shall be third party beneficiaries of this Agreement and shall be entitled to indemnification, with full rights of enforcement as though each such Person were a signatory to this Agreement. Except as provided in this Section 12.12, there shall be no third-party beneficiaries of this Agreement.

12.13. Cumulative Remedies. All rights and remedies of either Party hereto are cumulative of each other and of every other right or remedy such Party may otherwise have at law or in equity, and the exercise of one or more rights or remedies shall not prejudice or impair the concurrent or subsequent exercise of other rights or remedies.

12.14. No Partnership or Joint Venture. The Parties hereto do not intend to create a partnership or joint venture by virtue of this Agreement. No Party shall owe any fiduciary duty to any other Party by virtue of this Agreement or any other Seller Document or Buyer Document or otherwise.

12.15. No Merger. This Agreement is a fully integrated complete agreement and is not merged with or extinguished by any other agreement.

12.16. Non-Interference. **[BEGIN TRADE SECRET**

END TRADE SECRET]

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed on their respective behalf, by their respective officers thereunto duly authorized, all as of the day and year first above written.

BUYER:

**NORTHERN STATES POWER
COMPANY, a Minnesota corporation**

By: David M Sp-ly
Name:
Title: President & CEO

SELLER:

**RES AMERICA DEVELOPMENTS INC.,
a Delaware corporation**

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed on their respective behalf, by their respective officers thereunto duly authorized, all as of the day and year first above written.

BUYER:

**NORTHERN STATES POWER
COMPANY, a Minnesota corporation**

By: _____

Name:

Title:

SELLER:

**RES AMERICA DEVELOPMENTS INC.,
a Delaware corporation**

By: _____ 

Name: *Brian Evans*

Title: *President*

**SIGNING DATE
DISCLOSURE SCHEDULES**

To

**PURCHASE AND SALE AGREEMENT
(BORDER WINDS)**

between

NORTHERN STATES POWER COMPANY

as Buyer

and

RES AMERICA DEVELOPMENTS INC.

as Seller

Dated as of July 31, 2013

SIGNING DATE
DISCLOSURE SCHEDULES

These Disclosure Schedules are being delivered as of the Signing Date pursuant to the Purchase and Sale Agreement (Border Winds) between Northern Power State Company, a Minnesota corporation, as Buyer, and RES America Developments Inc., a Delaware corporation, as Seller, dated as of July 31, 2013 (the “*Agreement*”). The representations and warranties of Seller in Article 6 of the Agreement, and the other conditions of closing set forth in the Agreement are made and given subject to the disclosures in these Disclosure Schedules. Capitalized terms used but not otherwise defined in these Disclosure Schedules shall have the respective meaning given to them in the Agreement.

Any fact or item set forth in these Disclosure Schedules that is required to be so set forth pursuant to a particular Section of the Agreement shall be deemed to have been disclosed with respect to every other Section of the Agreement if such disclosure would be reasonably apparent as disclosure relevant to such other Sections.

Schedule 1.1(a)
Buyer's Knowledge

[BEGIN TRADE SECRET

END TRADE SECRET]

Schedule 1.1(b)
NSP Drawing Standards

[BEGIN TRADE SECRET

END TRADE SECRET]

Schedule 1.1(c)**Electrical Works**

All facilities and equipment described in Part 3 (Electrical System and Transmission line Technical Specifications), Part 6 (Collector Substation Technical Specifications) and Part 8 (Technical Specifications Wind Generator Step-up Transformer) of Exhibit I to the Agreement.

Schedule 1.1(d)
O&M Facility Real Property

[BEGIN TRADE SECRET

END TRADE SECRET]

Schedule 1.1(e)
Seller's Knowledge

[BEGIN TRADE SECRET

END TRADE SECRET]

Schedule 1.1(f)

[BEGIN TRADE SECRET

END TRADE SECRET]

Schedule 2.5.5

Allocation Categories

Wind plant

- Structures and improvements
 - O&M building (excluding land)
 - Permanent meteorological tower(s) (excluding land), i.e., the building, fencing, grading driveways, drainage and sewerage systems, permits, etc
- Wind Turbine Generators, including rotors, blades, nacelles, towers and foundations
- Electrical systems, including SCADA, but excluding plant substation
- Land rights costs associated with Wind Turbine Generator easements
- Fee land costs
- Land leases

Plant substation

- Structures
- Equipment

Transmission

- Poles, lines and fixtures
- Conductors
- Network upgrades
- Interconnection costs

Schedule 6.4
Seller Consents and Approvals

1. Approvals and filings described in Section 5.14 of the Agreement.
2. Approvals and filings described in Section 5.8 of the Agreement.
3. Amendment to Site Compatibility Certificate issued by the North Dakota Public Utilities Commission (PU-08-797) and associated compliance documentation.
4. Updated Rolette County Board of Commissioners Building Permit 12 and Conditional Use Permit.
5. FAA Determinations of No Hazard to Air Navigation to reflect additional alternate turbine locations.
6. All Permits not listed on Part F of Schedule 6.13 (or amendments or modifications thereto), necessary to comply with Sections 3.2.1 and 3.3.3, in each case, subject to Section 5.6 of the Agreement.

Schedule 6.6
Seller Litigation

None.

Schedule 6.7
Compliance with Laws

None.

Schedule 6.8
Environmental Matters

1. Seller has provided a copy of a Phase I Environmental Site Assessment dated November 23, 2011, prepared by Westwood Professional Services for Border Winds I, LLC c/o Sequoia Energy U.S. Inc. (the “*2011 Phase I*”), which 2011 Phase I was not provided sufficiently in advance of the Signing Date to allow Buyer to complete a review thereof. The Parties acknowledge the existence of the 2011 Phase I and the possibility that the 2011 Phase I contains information that would require Seller to make a disclosure in this Schedule 6.8 to qualify the statements made by Seller in Section 6.8. Seller acknowledges that the foregoing disclosure of items contained in the 2011 Phase I shall not be deemed to mean that disclosure of such items on this Schedule 6.8 as of the Effective Date is acceptable to Buyer unless and until such disclosure is actually accepted by Buyer, in its sole discretion.

2. A new Phase I Environmental Site Assessment will be conducted and provided prior to the Effective Date.

Schedule 6.11

Land Contracts

Part E – Zoning and Land Use Approvals

1. Amendment to Site Compatibility Certificate issued by the North Dakota Public Utilities Commission (PU-08-797) and associated compliance documentation.
2. Updated Rolette County Board of Commissioners Building Permit 12 and Conditional Use Permit.
3. FAA Determinations of No Hazard to Air Navigation to reflect additional alternate turbine locations.

Schedule 6.13

Permits

Part F – Signing Date Permits

Permit	Issue Date or Expected Issue Date, if Known
Site Compatibility Certificate from the Public Service Commission of the State of North Dakota (PU-08-797) (Granted)	Issued May 5, 2011
Rolette County Building Permit No. 12 and Conditional Use Permit (Granted)	Issued January 4, 2011
Federal Aviation Administration (FAA) Determinations of No Hazard to Air Navigation for the following Aeronautical Study Numbers: 2013-WTE-3631-OE, 2013-WTE-3632-OE, 2013-WTE-3633-OE, 2013-WTE-3634-OE, 2013-WTE-3635-OE, 2013-WTE-3636-OE, 2013-WTE-3637-OE, 2013-WTE-3638-OE, 2013-WTE-3639-OE, 2013-WTE-3640-OE, 2013-WTE-3641-OE, 2013-WTE-3642-OE, 2013-WTE-3643-OE, 2013-WTE-3644-OE, 2013-WTE-3645-OE, 2013-WTE-3646-OE, 2013-WTE-3647-OE, 2013-WTE-3648-OE, 2013-WTE-3649-OE, 2013-WTE-3650-OE, 2013-WTE-3651-OE, 2013-WTE-3652-OE, 2013-WTE-3653-OE, 2013-WTE-3654-OE, 2013-WTE-3655-OE, 2013-WTE-3656-OE, 2013-WTE-3657-OE, 2013-WTE-3658-OE, 2013-WTE-3659-OE, 2013-WTE-3660-OE, 2013-WTE-3661-OE, 2013-WTE-3662-OE, 2013-WTE-3663-OE, 2013-WTE-3664-OE, 2013-WTE-3665-OE, 2013-WTE-3666-OE, 2013-WTE-3667-OE, 2013-WTE-3668-OE, 2013-WTE-3669-OE, 2013-WTE-3670-OE, 2013-WTE-3671-OE, 2013-WTE-3672-OE, 2013-WTE-3673-OE, 2013-WTE-3674-OE, 2013-WTE-3675-OE, 2013-WTE-3676-OE, 2013-WTE-3677-OE, 2013-WTE-3678-OE, 2013-WTE-3679-OE, 2013-WTE-3680-OE, 2013-WTE-3681-OE, 2013-WTE-3682-OE, 2013-WTE-3683-OE, 2013-WTE-3684-OE, 2013-WTE-3688-OE, 2013-WTE-3689-OE, 2013-WTE-3690-OE, 2013-WTE-3691-OE, 2013-WTE-3692-OE, 2013-WTE-3693-OE, 2013-WTE-3694-OE, 2013-WTE-3695-OE, 2013-WTE-3696-OE, 2013-WTE-3697-OE, 2013-WTE-3698-OE, 2013-WTE-3701-OE, 2013-WTE-3702-OE, 2013-WTE-3703-OE, 2013-WTE-3704-OE, 2013-WTE-3705-OE, 2013-WTE-3706-OE, 2013-WTE-3707-OE, 2013-WTE-3708-OE, 2013-WTE-3709-OE, 2013-WTE-3710-OE	Issued July 22, 2013

North Dakota State Historic Preservation Office (ND SHPO Ref: 08-1046 Border Winds Wind Energy Project; Proposed Turbine Visual Effect on the Coghlan Castle Site [32RO51] Rolette, County, ND) (Granted)	Issued January 3, 2011
North Dakota State Historic Preservation Office (ND SHPO Ref: 08-1406 Border Winds Wind Energy Project; Unanticipated Discovery Plan) (Granted)	Issued December 1, 2010
ND State Historical Society (SHPO) - Cultural Resources Concurrence	Obtained July 14, 2008

Schedule 6.17

Wind Data

Item	Description of Item
Resource assessment data collected from the meteorological tower located at site #1509.	Resource assessment data collected from May 11, 2006 – Effective Date
Resource assessment data collected from the meteorological tower located at site #1510.	Resource assessment data collected from May 12, 2006 – Effective Date
Resource assessment data collected from the SODAR equipment at location #1.	Resource assessment data collected from July 10, 2008 - September 17, 2008
Resource assessment data collected from the SODAR equipment at location #2.	Resource assessment data collected from September 17, 2008 - November 5, 2008

All data related to the information described above stored and delivered to Buyer in .dat, .xlsx, .pdf, or .doc file types.

Schedule 7.4
Buyer Consents and Approvals

1. All approvals contained in Section 5.13, 5.14.1, and 5.14.2 of the Agreement; and
2. The NSP Corporate Approval.

Schedule 7.5
Buyer Litigation

None.

Schedule 8.12
Alternate WTG Locations

[BEGIN TRADE SECRET

END TRADE SECRET]

**PUBLIC DOCUMENT – TRADE SECRET
INFORMATION REDACTED
TRADE SECRET IN ITS ENTIRETY**

**Please Note
This Page in Exhibit A
to the Purchase and Sale Agreement
has been redacted in its entirety**

Exhibit B
to Purchase and Sale Agreement (Border Winds)**GUARANTEE OF RENEWABLE ENERGY SYSTEMS HOLDINGS LIMITED****[BEGIN TRADE SECRET**

END TRADE SECRET] in favor of Northern States Power Company, a corporation organized and existing under the Laws of the State of Minnesota ("Company").

WHEREAS, pursuant to Section 3.2.13 of that certain Purchase and Sale Agreement, dated as of July 31, 2013 (as the same may be amended, modified or supplemented from time to time, the "Agreement"), by and between Company and RES America Developments Inc., a Delaware corporation ("Subsidiary"), Company's obligation to sign the Effective Date Certificate is conditioned, *inter alia*, upon Guarantor's execution and delivery of this Guarantee to Company simultaneously with the execution and delivery of the Agreement; and

WHEREAS, Guarantor is the indirect parent of Subsidiary and will indirectly benefit from the terms and conditions thereof, and the performance by Subsidiary of its obligations thereunder.

NOW, THEREFORE, in consideration of the foregoing and for \$1 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Guarantor hereby covenants and agrees with Company as follows:

Section 1. Definitions. Capitalized terms used herein and not otherwise defined shall have their respective meanings as set forth in the Agreement.

Section 2. Guarantee.

(a) **Guarantee.** Guarantor hereby irrevocably and unconditionally guarantees to and for the benefit of Company, the full and prompt performance and payment by Subsidiary of each and every obligation of Subsidiary arising under the Agreement up to the limitations set forth in the Agreement, including, without limitation, the payment when due of all indemnities, refunds and liquidated damages payable at any time under the Agreement (the "Guaranteed Obligations"). The Guaranteed Obligations shall further include, without limitation, (i) interest accruing as part of the Guaranteed Obligations according to the terms thereof following the commencement by or against the Subsidiary of any case or proceeding under any applicable Law relating to bankruptcy, insolvency, reorganization, winding-up, liquidation, dissolution or composition or adjustment of debt and (ii) all reasonable costs and expenses (including reasonable attorneys' fees), if any, incurred in successfully enforcing Company's rights under this Guarantee. **[BEGIN TRADE SECRET**

END TRADE SECRET] Guarantor further agrees that if Subsidiary shall fail to pay or perform in full when due all or any part of the Guaranteed Obligations, Guarantor will pay or perform (or procure the payment or performance of) the same in accordance with, and up to the limitations set forth in the Agreement. This Guarantee is

Exhibit B
to Purchase and Sale Agreement (Border Winds)

irrevocable and unconditional in nature and is made with respect to any Guaranteed Obligations now existing or hereafter arising and shall remain in full force and effect until the earlier of (I) the time when in accordance with the terms of the Agreement all of the Guaranteed Obligations are fully satisfied and discharged, and (II) except in respect of (A) claims hereunder notified prior to such date and (B) claims and Liabilities arising pursuant to Section 2.2.3 of the Agreement, the third anniversary of the Closing.

(b) **Nature of Guarantee.** This Guarantee is a continuing guaranty by Guarantor of the Guaranteed Obligations. The Guarantee and the obligations of Guarantor hereunder shall continue to be effective or be automatically reinstated, as the case may be, even if at any time payment of any of the Guaranteed Obligations is rendered unenforceable or is rescinded or must otherwise be returned by Company upon the occurrence of any action or event including, without limitation, the bankruptcy, reorganization, winding-up, liquidation, dissolution or insolvency of the Subsidiary, Guarantor, any other Person or otherwise, all as though the payment had not been made.

(c) **Absolute Guarantee.** Guarantor agrees that its obligations under this Guarantee are irrevocable, absolute, independent and unconditional and shall not be affected by any circumstance that constitutes a legal or equitable discharge of a guarantor or surety other than payment and performance in full of the Guaranteed Obligations. In furtherance of the foregoing and without limiting the generality thereof, Guarantor agrees, subject to the other terms and conditions hereof, as follows:

(i) this Guarantee is a guarantee of payment and performance when due and not of collectibility;

(ii) Company may from time to time in accordance with the terms of the Agreement, without notice or demand and without affecting the validity or enforceability of this Guarantee or giving rise to any limitation, impairment or discharge of Guarantor's liability hereunder, (A) renew, extend, accelerate or otherwise change the time, place, manner or terms of payment or performance of the Guaranteed Obligations, (B) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto and/or subordinate the payment or performance of the same to the payment or performance of any other obligations, (C) request and accept other guaranties of or security for the Guaranteed Obligations and take and hold security for the payment or performance of this Guarantee or the Guaranteed Obligations, (D) release, exchange, compromise, subordinate or modify, with or without consideration, any security for payment or performance of the Guaranteed Obligations, any other guarantees of the Guaranteed Obligations, or any other obligation of any person with respect to the Guaranteed Obligations, (E) enforce and apply any security now or hereafter held by or for the benefit of Company in respect of this Guarantee or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that Company may have against any such security, as Company in its discretion may determine consistent with the Agreement and any applicable security agreement, and even though such action operates to impair or extinguish any right of reimbursement or subrogation or any other right or remedy of Guarantor against Subsidiary or any other guarantor of the Guaranteed Obligations or any other guarantee of or security for the

Exhibit B
to Purchase and Sale Agreement (Border Winds)

Guaranteed Obligations, and (F) exercise any other rights available to Company under the Agreement, at law or in equity; and

(iii) this Guarantee and the obligations of Guarantor hereunder shall be valid and enforceable and shall not be subject to any limitation, impairment or discharge for any reason (other than payment or performance in full of the Guaranteed Obligations and otherwise as set forth in this Guarantee), including, without limitation, the occurrence of any of the following, whether or not Guarantor shall have had notice or knowledge of any of them: (A) any failure to assert or enforce, or agreement not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy with respect to the Guaranteed Obligations or any agreement relating thereto, or with respect to any other guarantee of or security for the payment or performance of the Guaranteed Obligations; (B) any waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions of the Agreement or any agreement or instrument executed pursuant thereto or of any other guarantee or security for the Guaranteed Obligations; (C) the Guaranteed Obligations, or any agreement relating thereto, at any time being found to be illegal, invalid or unenforceable in any respect; (D) the personal or corporate incapacity of any person; (E) any change in the financial condition, or the bankruptcy, administration, receivership or insolvency of Subsidiary or any other person, or any rejection, release, stay or discharge of Subsidiary's or any other person's obligations in connection with any bankruptcy, administration, receivership or similar proceeding or otherwise or any disallowance of all or any portion of any claim by Company, its successors or permitted assigns in connection with any such proceeding; (F) any change in the corporate existence of, or cessation of existence of, Guarantor or the Subsidiary (whether by way of merger, amalgamation, transfer, sale, lease or otherwise); (G) the failure to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, any person; (H) any substitution, modification, exchange, release, settlement or compromise of any security or collateral for or guaranty of any of the Guaranteed Obligations or failure to apply such security or collateral or failure to enforce such guaranty; (I) the existence of any claim, set-off, or other rights which Guarantor or any affiliate thereof may have at any time against Company or any affiliate thereof in connection with any matter unrelated to the Agreement; and (J) any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of Guarantor as an obligor in respect of the Guaranteed Obligations.

(d) **Currency.** All payments made by Guarantor hereunder shall be made in U.S. dollars in immediately available funds. Notwithstanding Guarantor's obligation to make all payment in U.S. dollars, if any payment is made in another currency then, to the extent that the amount received, when converted falls short of the amount due under this Guarantee, Guarantor shall remain liable to Company in respect of the shortfall in accordance with the terms hereof.

(e) **Defenses.** Notwithstanding anything herein to the contrary, Guarantor specifically reserves to itself all rights, counterclaims and other defenses that the Subsidiary is or may be entitled to arising from or out of the Agreement, except for any defenses arising out of the bankruptcy, insolvency, dissolution or liquidation of the Subsidiary, the lack of power or authority of the Subsidiary to enter into the Agreement and to perform its obligations thereunder,

Exhibit B
to Purchase and Sale Agreement (Border Winds)

or the lack of validity or enforceability of the Subsidiary's obligations under the Agreement or any transaction thereunder.

Section 3. Other Provisions of the Guarantee.

(a) **Waivers by Guarantor.** Guarantor hereby waives for the benefit of Company, to the maximum extent permitted by applicable Law:

(i) any right to require Company, as a condition of payment or performance by Guarantor, to (A) proceed against or exhaust its remedies against Subsidiary or any person, including any other guarantor of the Guaranteed Obligations, or (B) proceed against or exhaust any security held from any person other than the Subsidiary, including any other guarantor of the Guaranteed Obligations;

(ii) subject to Clause 2(e), any defense arising by reason of the incapacity, lack of authority or any disability of Subsidiary including, without limitation, any defense based on or arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of Subsidiary from any cause other than payment or performance in full of the Guaranteed Obligations or termination of this Guarantee in accordance with its terms;

(iii) any requirement that Company protect, secure, perfect or insure any security interest or lien or any property subject thereto;

(iv) notices of default under the Agreement, notices of any renewal, extension or modification of the Guaranteed Obligations or any agreement related thereto, and any right to consent to any thereof; and

(v) except with respect to the limitations on the Guarantee term provided in Section 2(a)(II)(A) hereof, defenses under this Guarantee for lack of promptness or diligence, or for failure of or delays in presentment, demand for payment, protest, or any notice including without limitation notice of dishonor, notice of acceptance, notice of intent to accelerate, notice of acceleration and notice of the incurring of the Obligations created under or pursuant to the Agreement .

(b) **Deferral of Subrogation.** Until such time as the Guaranteed Obligations have been paid or performed in full, notwithstanding any payment made by Guarantor hereunder or the receipt of any amounts by Company with respect to the Guaranteed Obligations, (i) Guarantor (on behalf of itself, its successors and assigns, including any surety) hereby expressly agrees not to exercise any right, nor assert the impairment of such rights, it may have to be subrogated to any of the rights of Company against Subsidiary or against any other collateral security held by Company for the payment or performance of the Guaranteed Obligations, (ii) Guarantor agrees that it will not seek any reimbursement from Company in respect of payments or performance made by Guarantor in connection with the Guaranteed Obligations, or amounts realized by Company in connection with the Guaranteed Obligations and (iii) Guarantor shall not claim or prove in a liquidation or other insolvency proceeding of the Subsidiary in competition with the Company. If any amount shall be paid to Guarantor on account of such subrogation

Exhibit B
to Purchase and Sale Agreement (Border Winds)

rights at any time when all of the Guaranteed Obligations shall not have been paid in full or otherwise fully satisfied, such amount shall be held in trust by Guarantor for the benefit of Company and shall forthwith be paid to Company, to be credited and applied to the Guaranteed Obligations.

Section 4. Representations and Warranties of Guarantor. Guarantor hereby represents, warrants, and undertakes to Company as follows:

(a) Guarantor is duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization.

(b) Guarantor has full power, authority and legal right to execute and deliver this Guarantee and all other instruments, documents and agreements required by the provisions of this Guarantee to be executed, delivered and performed by Guarantor, and to perform its obligations hereunder and thereunder.

(c) The execution, delivery and performance of this Guarantee and all other instruments, documents and agreements required by the provisions of this Guarantee to be executed, delivered and performed by Guarantor have been duly authorized by all necessary company action on the part of Guarantor and do not contravene or conflict with Guarantor's memorandum and articles of association.

(d) This Guarantee and all other instruments, documents and agreements required by the provisions of this Guarantee to be executed, delivered and performed by Guarantor have been duly executed and delivered by Guarantor and constitute the legal, valid and binding obligations of Guarantor, enforceable against it in accordance with their respective terms.

(e) Neither the execution and delivery of this Guarantee nor the performance of the terms and conditions hereof by Guarantor shall result in (i) a violation or breach of, or a default under, or a right to accelerate, terminate or amend, any contract, commitment or other obligation to which Guarantor is a party or is subject or by which any of its assets are bound, or (ii) a violation by Guarantor of any applicable Law, except, in either case for such violations, breaches, defaults or rights as would not, individually or in the aggregate, have a material adverse effect on the ability of Guarantor to perform its obligations under this Guarantee.

(f) There are no actions, suits, investigations, proceedings, condemnations, or audits by or before any court or other Governmental or Regulatory Authority or any arbitration proceeding pending or, to its knowledge, threatened against or affecting Guarantor, its properties, or its assets that, if adversely determined, would reasonably be expected to have a material and adverse effect on Guarantor's ability to perform its obligations under this Guarantee.

(g) All necessary action has been taken under the Laws of England to authorize the execution, delivery and performance of this Guarantee and to make this Guarantee admissible in evidence in England. No governmental approvals or other consents, approvals, or notices of or to any person are required in connection with the execution, delivery, performance by Guarantor, or the validity or enforceability, of this Guarantee.

Exhibit B
to Purchase and Sale Agreement (Border Winds)

Section 5. Notices. All notices, demands, instructions, waivers, consents, or other communications required or permitted hereunder shall be in writing in the English language and shall be sent by personal delivery or courier to the following addresses:

- (a) If to Guarantor:
[BEGIN TRADE SECRET

END TRADE SECRET]

- (b) If to Company:

Northern States Power Company
414 Nicollet mall, 7th Floor
Minneapolis, MN 55401-1927
Attention: Paras M. Shah, Director
Business Development
Facsimile: (612) 215-4575

with a copy to:

Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401-1927
Attention: Scott Wilensky,
Sr. Vice President and General Counsel
Facsimile: (612) 215-9025

with a copy to (which copy shall not constitute notice hereunder):

Dorsey & Whitney LLP
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402-1498
Attention: Michael Pignato
Facsimile: (612) 340-2643
E-mail: pignato.michael@dorsey.com

The addresses and facsimile numbers of either party for notices given pursuant to this Guarantee may be changed by means of a written notice given to the other party at least fifteen (15) Business Days (being a day on which clearing banks are generally open for business in the jurisdiction of the party to whom a notice is sent) prior to the effective date of such change. Any notice required or authorized to be given hereunder shall be deemed to have been duly given

Exhibit B
to Purchase and Sale Agreement (Border Winds)

when received if personally delivered; and when delivered if sent by recognized courier service (e.g., Federal Express, UPS or DHL). As proof of such service it shall be sufficient to produce a receipt showing personal service or the receipt of a reputable courier company showing the correct address of the addressee.

Section 6. Miscellaneous Provisions.

(a) **Waiver; Remedies Cumulative.** No failure on the part of Company to exercise, and no delay on the part of Company in exercising, any right or remedy, in whole or in part hereunder shall operate as a waiver thereof. No single or partial exercise of any right or remedy shall preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver by Company shall be effective unless it is in writing and such writing expressly states that it is intended to constitute such waiver. Any waiver given by Company of any right, power or remedy in any one instance shall be effective only in that specific instance and only for the purpose for which given, and will not be construed as a waiver of any right, power or remedy on any future occasion. The rights and remedies of Company herein provided are cumulative and not exclusive of any rights or remedies provided by applicable Law.

(b) **Successors and Assigns.** This Guarantee shall be binding upon the successors of Guarantor and shall inure to the benefit of Company and its successors and permitted assigns. Guarantor shall not assign or transfer all or any part of its rights or obligations hereunder without the prior written consent of Company. Any purported assignment or delegation without such written consent shall be null and void. Company may assign its rights and obligations hereunder to any assignee of its rights under the Agreement permitted in accordance with the Agreement. No other persons shall be a beneficiary of this Guarantee or have or acquire any rights by reason of this Guarantee.

(c) **Amendment.** This Guarantee may not be modified, amended, terminated or revoked, in whole or in part, except by an agreement in writing signed by Company and Guarantor.

(d) **Release.** Other than termination in accordance with the terms of Section 2(a) hereof, no release of this Guarantee shall be valid unless executed by Company and delivered to Guarantor.

(e) **Law, Jurisdiction, Service and Waiver of Jury Trial.**

(i) This Guarantee is governed by and shall be construed in accordance with Laws of the State of New York, without regard for any principles of conflicts of law that would direct or permit the application of the Law of any other jurisdiction.

(ii) The parties hereto hereby irrevocably submit to the exclusive jurisdiction of the federal or state courts located in Hennepin County, Minnesota, over any dispute arising out of or relating to this Guarantee or any of the transactions contemplated hereby; and each Party hereby irrevocably agrees that all claims in respect of such dispute or proceeding shall be heard and determined in such federal courts unless such federal courts do not have jurisdiction in which event such dispute or proceeding shall be heard and determined in such state courts;

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provided that for the purpose only of enforcement of any judgment of the federal or state courts located in Hennepin County, Minnesota, the jurisdiction of such courts shall be non-exclusive. Each party hereby irrevocably waives, to the fullest extent permitted by applicable Law, any objection which it may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum.

(iii) Each of the parties hereto hereby consents to process being served by the other party to this Guarantee in any suit, action or proceeding of the nature specified in Section 6(e)(ii) hereof by mailing of a copy thereof in accordance with the provisions of Section 5 hereof.

(iv) EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED ON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS GUARANTEE OR ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT OR ACTION OF ANY PARTY HERETO IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED HEREBY.

(f) **Survival.** All representations and warranties made in this Guarantee and by Guarantor in any other instrument, document, and agreement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Guarantee.

(g) **Severability.** Any provision of this Guarantee that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Where provisions of Law resulting in such prohibition or unenforceability may be waived they are hereby waived by Guarantor and Company to the full extent permitted by Law so that this Guarantee shall be deemed a valid binding agreement in each case enforceable in accordance with its terms.

(h) **Third Party Rights.** A person who is not a party to this Guarantee has no rights to enforce any term of this Guarantee.

(i) **Set-off.** Company shall have the right to set off, combine, consolidate, or otherwise appropriate and apply (i) any assets of Guarantor at any time held by Company or (ii) any indebtedness or other liabilities at any time owing by Company to Guarantor, as the case may be, on account of the obligations or liabilities owed by Guarantor to such party under this Guarantee.

(j) **Counterparts; Facsimile Signatures.** This Guarantee may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures delivered by facsimile shall be deemed to be original signatures.

Exhibit B
to Purchase and Sale Agreement (Border Winds)

In Witness whereof, Guarantor has duly executed this Guarantee on the day and year first before written.

[BEGIN TRADE SECRET

END TRADE SECRET]
NORTHERN STATES POWER COMPANY

By:

Name:
Title:

Exhibit C
to Purchase and Sale Agreement (Border Winds)

MEMBERSHIP INTEREST ASSIGNMENT

This Membership Interest Assignment (this “*Assignment*”), dated effective as of _____, 201[], is made between RES America Developments Inc., a Delaware corporation (the “*Assignor*”) and Northern States Power Company, a Minnesota corporation (“*Assignee*”).

RECITALS:

A. Assignor and Assignee are parties to that certain Purchase and Sale Agreement (Border Winds), dated as of July 31, 2013 (the “*Agreement*”).

B. Assignor owns one hundred percent (100%) of the membership interests of [____], a Delaware limited liability company (the “*Company*”), which owns all of the rights and assets with respect to the Project.

C. Assignor desires to assign to Assignee all of Assignor’s membership interest in the Company (the “*Interest*”).

ASSIGNMENT:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties do hereby agree as follows:

1. Defined Terms. Unless otherwise defined herein, all capitalized terms used herein that are defined in the Agreement shall have their respective meanings as therein defined.

2. Assignment of Limited Liability Company Interest. Effective for all purposes as of the date first set forth above, Assignor does hereby give, transfer and assign to Assignee, and Assignee does hereby accept and acquire from Assignor, the Interest, including all right, title and interest of Assignors in the properties, capital, cash flow, and profits and losses of the Company properly allocable thereto, as well as all rights and privileges associated therewith. It is the intention of Assignor that Assignee be substituted in Assignor’s place as a Member of the Company with respect to the Interest, and Assignee hereby specifically accepts the assignment of the Interest. Assignor has delivered simultaneously herewith all certificates representing ownership of the Interest, along with all necessary stock power or equivalent power of attorney.

3. Representations. Assignor represents and warrants that Assignor is the sole owners of the Interest, free and clear of any liens, encumbrances or claims of any other person, and that Assignor may lawfully assign the Interest pursuant to the terms hereof.

4. Cooperation. The parties agree to cooperate with each other in the furnishing of information, the execution of deeds or other documents, and the taking of any other action reasonably necessary to fully effectuate this Assignment.

Exhibit C
to Purchase and Sale Agreement (Border Winds)

5. Multiple Counterparts. This Assignment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Assignment effective as of the date first given above.

ASSIGNOR:

RES AMERICA DEVELOPMENTS INC.

By: _____
Name:
Title:

ASSIGNEE:

NORTHERN STATES POWER COMPANY

By: _____
Name:
Title:

**PUBLIC DOCUMENT – TRADE SECRET
INFORMATION REDACTED
TRADE SECRET IN ITS ENTIRETY**

**Please Note
Exhibit D
to the Purchase and Sale Agreement
has been redacted in its entirety**

**Exhibit E
to Purchase and Sale Agreement (Border Winds)**

FORM OF NON-DISTURBANCE AGREEMENT

This Agreement is made as of _____, 20__, by and among _____, a _____, as "TENANT", and _____, a _____, as "LENDER" and _____, a _____, as "LANDLORD".

W I T N E S S E T H

WHEREAS, effective the _____ day of _____, 20__, LANDLORD and TENANT entered into that certain Lease Agreement (hereinafter referred to as "Lease") for certain property in _____ County, _____, which includes the real property legally described on the attached Exhibit "A" (collectively, the "Property").

WHEREAS, LENDER is the holder of a security interest in, and a lien and encumbrance on, the Property as security for the obligation of LANDLORD under that certain [Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Financing Statement], dated as of _____, 20__, filed _____, 20__, as Document No. _____ in the office of the _____ in and for _____ County, _____ (the "Mortgage"); and

WHEREAS, the parties desire to acknowledge TENANT's interest in the Property so long as there is not a TENANT default under the Lease.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and for other consideration received the parties agree as follows:

1. Non Disturbance. So long as there is no TENANT default in the payment of rent or in the performance of any of the terms of the Lease beyond applicable notice and cure periods, the TENANT's possession of the Property and the TENANT's rights and privileges under the Lease or any renewal thereof shall not be diminished or interfered with by the LENDER.
2. Attornment. In the event the Mortgage is foreclosed for any reason, and the LENDER succeeds to the interest of the LANDLORD under the LEASE, the TENANT shall be bound to the LENDER under all of the terms of the Lease. The TENANT hereby attorns to the LENDER as its LANDLORD, such attornment to be effective and self-operative, without the execution of any further instrument on the part of either party, immediately upon the LENDER succeeding to the interest of the LANDLORD. Notwithstanding anything in this Agreement to the contrary, the TENANT shall be under no obligation to pay rent to the LENDER until LENDER has succeeded to the interest of the LANDLORD under the Lease. The respective rights and obligations of the TENANT and the LENDER upon such attornment shall be the same as now set forth in the Lease, it being the intention of the parties to incorporate the Lease in this Agreement by reference with the same force and effect as if set forth at length in this Agreement.
3. LANDLORD's Obligations. In the event that the Mortgage is foreclosed for any reason and the LENDER succeeds to the interest of the LANDLORD, the LENDER shall be bound to the TENANT under all of the terms of the Lease, and the TENANT shall, from and after such event, have the same remedies against the LENDER for the breach of an agreement contained in the Lease that the TENANT might have had under the Lease against the prior LANDLORD. LENDER hereby consents to the Lease.

PUBLIC DOCUMENT: TRADE SECRET INFORMATION EXCISED

**Exhibit E
to Purchase and Sale Agreement (Border Winds)**

4. Binding Effect. The rights and obligations of the LANDLORD, TENANT and the LENDER under this Agreement shall bind and inure to the benefit of their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Non-Disturbance Agreement to be executed by their respective officers and duly authorized, as of the date first above written.

TENANT:

By: _____
Its: _____

LENDER:

By: _____
Its: _____

LANDLORD:

By: _____
Its: _____

Exhibit E
to Purchase and Sale Agreement (Border Winds)

EXHIBIT A

Legal Description of the Property

**PUBLIC DOCUMENT – TRADE SECRET
INFORMATION REDACTED
TRADE SECRET IN ITS ENTIRETY**

**Please Note
Exhibit F
to the Purchase and Sale Agreement
has been redacted in its entirety**

**Exhibit G
to Purchase and Sale Agreement (Border Winds)**

Form of Effective Date Certificate

[MONTH, DAY, 201_]

Pursuant to Sections 3.1, 3.2 and 4.1 of the Purchase and Sale Agreement (Border Winds), dated July 31, 2013 (the “*Agreement*”), by and between Northern States Power Company, a Minnesota corporation (“*Buyer*”), and RES America Developments Inc., a Delaware corporation (“*Seller*”), as of the date first set forth above, the Parties each certify as follows:

- (a) Seller certifies that (i) [_____] holds the office of [_____] of Seller, and (ii) all of the Effective Date Conditions have been satisfied (or waived in writing by the Party entitled to do so);
- (b) Buyer certifies that [_____] holds the office of [_____] of Buyer, and (ii) all of the Effective Date Conditions have been satisfied (or waived in writing by the Party entitled to do so); and
- (c) The Parties intend the provisions of the Agreement (other than the provisions already effective as of the Signing Date) to be effective as of the date first written above, and such date shall be the Effective Date for purposes of the Agreement.

Unless otherwise defined herein, all capitalized terms used herein that are defined in the Agreement shall have their respective meanings as therein defined.

IN WITNESS WHEREOF, the undersigned officer of Seller and officer of Buyer have executed and delivered this Effective Date Certificate as of the date first written above.

**RES AMERICA DEVELOPMENTS INC., a
Delaware corporation**

**By: _____
Name:
Title:**

**NORTHERN STATES POWER
COMPANY, a Minnesota corporation**

**By: _____
Name:
Title:**

**PUBLIC DOCUMENT – TRADE SECRET
INFORMATION REDACTED
TRADE SECRET IN ITS ENTIRETY**

**Please Note
Exhibit H
to the Purchase and Sale Agreement
has been redacted in its entirety**

**PUBLIC DOCUMENT – TRADE SECRET
INFORMATION REDACTED
TRADE SECRET IN ITS ENTIRETY**

**Please Note
Exhibit I
to the Purchase and Sale Agreement
has been redacted in its entirety**

Exhibit J-1
to Purchase and Sale Agreement (Border Winds)

FORM OF INITIAL UNDER CONSTRUCTION CERTIFICATE

[BEGIN TRADE SECRET

END TRADE SECRET]

Exhibit J-2
to Purchase and Sale Agreement (Border Winds)

FORM OF FINAL UNDER CONSTRUCTION CERTIFICATE

[BEGIN TRADE SECRET

END TRADE SECRET]

Exhibit K
to Purchase and Sale Agreement (Border Winds)

UNDER CONSTRUCTION PLAN

[BEGIN TRADE SECRET

END TRADE SECRET]