

WIND ENERGY PURCHASE AGREEMENT

BETWEEN

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

(“COMPANY”)

AND

[_____]

(“SELLER”)



- [date] -

TABLE OF CONTENTS

	PAGE
Article 1 - Rules of Interpretation.....	1
1.1 Interpretation.....	1
1.2 Interpretation with Other Agreements.....	2
1.3 Good Faith and Fair Dealing.....	2
1.4 Waiver.....	2
Article 2 - Term and Termination.....	2
Article 3 - Facility Description.....	3
3.1 Description.....	3
3.2 General Design of the Facility.....	3
Article 4 - Implementation.....	3
4.1 Project Development.....	3
4.2 Commercial Operation.....	5
4.3 COD Conditions.....	5
4.4 Test Energy.....	6
Article 5 - Delivery.....	6
5.1 Electric Delivery Arrangements.....	6
5.2 Electric Metering Devices.....	7
Article 6 - Conditions Precedent.....	8
6.1 Company CPs.....	9
6.2 Seller CPs.....	9
Article 7 - Sale and Purchase.....	9
7.1 General Obligation.....	9
7.2 Committed Renewable Energy.....	9
7.3 AGC.....	9
7.4 Compensation for Other Products and Services.....	10
Article 8 - Payment Calculations.....	11
8.1 Renewable Energy Payment Rate.....	11
8.2 Curtailment Energy Payment Rate.....	12
Article 9 - Billing and Payment.....	13
9.1 Billing.....	14
9.2 Payment.....	14
9.3 Billing Disputes.....	14
Article 10 - Operations and Maintenance.....	15
10.1 Operation and Administration.....	15
10.2 Facility Maintenance.....	15
10.3 Books and Records.....	16
10.4 Operating Committee and Operating Procedures.....	16
10.5 Access to Facility.....	17
10.6 Accreditation.....	17
10.7 Real Time Data.....	17

Article 11 - Security for Performance.....	18
11.1 Security Fund.....	18
Article 12 - Default and Remedies.....	20
12.1 Events of Default	20
12.2 Remedies.....	22
12.3 Limitation on Damages	23
12.4 Step-In Rights	25
12.5 Duty to Mitigate.....	26
Article 13 - Dispute Resolution	26
13.1 Dispute Resolution.....	26
Article 14 - Force Majeure	27
14.1 Applicability of Force Majeure.....	27
14.2 Limitations on Effect of Force Majeure	27
14.3 Delays Attributable to Company	27
Article 15 - Representations and Warranties.....	27
15.1 General Representations and Warranties.....	27
15.2 Seller's Specific Representation	29
15.3 Company's Specific Representation	29
Article 16 - Insurance	29
16.1 Evidence of Insurance	29
16.2 Term and Modification of Insurance.....	29
16.3 Application of Proceeds	30
Article 17 - Indemnity.....	30
17.1 Indemnification.....	30
17.2 Notice of Claim	31
17.3 Settlement of Claim	31
17.4 Amounts Owed	31
Article 18 - Lender Provisions	31
18.1 Accommodation of Facility Lender.....	31
18.2 Facility Lender Notice and Right to Cure	32
18.3 Notice of Facility Lender Action	32
18.4 Officer Certificates	32
Article 19 - Assignment and Other Transfer Restrictions.....	32
19.1 Transfer Without Consent is Null and Void	32
19.2 ROFO and PFT.....	33
19.3 Subcontracting.....	34
Article 20 - Miscellaneous	34
20.1 Notices.....	34
20.2 Taxes and Change of Law	35
20.3 Applicable Laws.....	35
20.4 Fines and Penalties	35
20.5 Rate Changes.....	36

20.6	Disclaimer of Third Party Beneficiary Rights.....	36
20.7	Relationship of the Parties.....	36
20.8	Equal Employment Opportunity Compliance Certification.....	37
20.9	Survival of Obligations.....	37
20.10	Severability.....	37
20.11	Complete Agreement; Amendments.....	37
20.12	Binding Effect.....	37
20.13	Headings.....	37
20.14	Counterparts.....	37
20.15	Governing Law.....	37
20.16	Press Releases and Media Contact.....	38
20.17	Exhibits.....	38
20.18	Confidentiality.....	38

EXHIBIT A	(DEFINITIONS)
EXHIBIT B	(CONSTRUCTION MILESTONES)
EXHIBIT C	FACILITY DESCRIPTION AND SITE MAPS
EXHIBIT D	NOTICES AND CONTACT INFORMATION
EXHIBIT E	INSURANCE COVERAGE
EXHIBIT F	SELLER'S PERMITS
EXHIBIT G	FORM OF SECURITY DOCUMENTS
	EXHIBIT G-1 FORM OF LETTER OF CREDIT
	EXHIBIT G-2 FORM OF GUARANTY
	EXHIBIT G-3 FORM OF ESCROW AGREEMENT
EXHIBIT H	DATA COLLECTION
EXHIBIT I	LENDER CONSENT PROVISIONS
EXHIBIT K	C-BED PROVISIONS

Model Wind Energy Purchase Agreement

WIND ENERGY PURCHASE AGREEMENT
BETWEEN
NORTHERN STATES POWER COMPANY, A MINNESOTA CORPORATION
AND
[_____]

This Wind Energy Purchase Agreement (this “PPA”) is made this [____] day of [_____, 20__], by and between (i) Northern States Power Company, a Minnesota with a principal place of business at 414 Nicollet Mall, Minneapolis, Minnesota 55401 (“Company”), and (ii) [_____,], a [_____] with a principal place of business at [_____] (“Seller”). Company and Seller are hereinafter referred to individually as a “Party” and collectively as the “Parties”.

WHEREAS Seller desires to develop, design, construct, interconnect, own, operate and maintain the Facility as defined herein; and

WHEREAS Seller desires to sell and deliver and Company desires to accept and receive certain products and services delivered from the Facility to the Point of Delivery at the prices and on the terms and conditions set forth in this PPA.

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

Article 1 - Rules of Interpretation

1.1 Interpretation.

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

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

(C) This PPA was negotiated and prepared by both Parties with the advice and participation of counsel. The Parties have agreed to the wording of this PPA

Model Wind Energy Purchase Agreement

and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this PPA or any part hereof.

1.2 Interpretation with Other Agreements.

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

(B) This PPA does not provide for the supply of House Power. Seller shall contract with the Local Provider for the supply of House Power. Seller acknowledges that obtaining House Power is a separate contract and that (i) this PPA is not binding on the Local Provider, (ii) this PPA does not create any rights between Seller and the Local Provider, and (iii) the House Power contract does not modify the Parties' rights and obligations under this PPA. Seller agrees that the Local Provider shall be deemed to be a separate and unaffiliated contracting party regardless whether the Local Provider is Company or an Affiliate of Company. To the extent allowed by Applicable Law, Seller shall obtain House Power by self-generating and netting such self-generation from the Renewable Energy provided to Company, *provided, however*, that if Applicable Law does not allow netting of House Power, Seller shall obtain House Power exclusively from the Local Provider.

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

1.4 Waiver. The failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions of this PPA, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions, or rights, but the same shall be and remain at all times in full force and effect.

Article 2 - Term and Termination

Model Wind Energy Purchase Agreement

This PPA shall become effective as of the date of its execution, and shall remain in full force and effect until the Scheduled Termination Date, subject to early termination or extension as provided in this PPA or otherwise agreed to by the Parties. Applicable provisions of this PPA shall continue in effect after termination to the extent necessary to (i) provide for final billings, payments and adjustments, (ii) enforce or complete the duties, obligations or responsibilities of the Parties, and (iii) address any remedies or indemnifications, arising prior to termination.

Article 3 - Facility Description

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

3.2 General Design of the Facility.

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

(B) The Facility shall include all equipment necessary to successfully interconnect with the Transmission Authority's System for the delivery of the Facility's output to the Point of Delivery.

(C) The Facility shall include all equipment and telecommunications capabilities necessary to communicate with Company's SCADA System.

(D) The Facility shall include all equipment specified in Exhibit C-Facility Description or otherwise necessary to fulfill Seller's obligations under this PPA.

Article 4 - Implementation

4.1 Project Development.

(A) No later than 60 Days following State Regulatory Approval, Seller shall complete a comprehensive independent environmental investigation of the Site and shall disclose to Company any Environmental Contamination identified in that investigation and confirm that such Environmental Contamination has been remediated or is capable of being remediated and that the Site remains appropriate for its intended use by Seller. Seller shall promptly inform Company if due to any Environmental Contamination Seller is constrained in a way that will limit, reduce, interfere with or preclude Seller's ability to perform its obligations under this PPA, along with a statement of whether and to what extent this circumstance may limit or preclude Seller's ability to perform under this PPA. Seller shall provide Company with written recommendations to overcome any such issue(s) that would allow Seller to fully perform under this PPA. Upon request, Seller shall provide Company a copy of the investigation report and any backup data. Throughout the Term, Seller shall ensure that any Environmental

Model Wind Energy Purchase Agreement

Contamination identified at the Facility or Site is promptly remediated. Seller shall promptly disclose to Company the presence of any such Environmental Contamination or the existence of any enforcement, legal, or regulatory action or proceeding relating to such alleged violation or alleged presence of Environmental Contamination.

(B) Seller shall at its own expense enter the Construction Contract and all other major contracts necessary to the successful development, construction, operation of and delivery from the Facility with qualified and experienced contractors. Upon written request by Company, Seller shall provide to Company, copies of all major contracts pertaining to the Facility.

(C) Prior to the Commercial Operation Date, Seller shall (i) submit monthly progress reports to Company in a form agreed upon by the Parties advising Company of the current status of each Construction Milestone, any significant developments or delays along with an action plan for making up delays, and Seller's best estimate of the Commercial Operation Date; (ii) provide copies of reports submitted to the Facility Lender relating to status, progress and development of the project, (iii) provide a transmission/generator models for the Facility - including powerflow modeling data along with a working stability model that is compatible with the Transmission Authority standard models (typically PSS/E or PSLF models) for the Seller's generators and interconnection facilities to ensure consistent and accurate information (Refer to Exhibit L-Facility Transmission Modeling Requirements for the specific requirements to be followed), and (iv) invite Company to participate in monthly meetings to discuss the progress reports, answer questions, and assess the schedule. Seller shall make all relevant contractors available to Company in order to keep Company fully informed on the status of the development.

(D) Upon request, Company shall have the right to monitor the construction, start-up, testing, and operation of the Facility at the Facility for compliance with this PPA, *provided, however, that* Company shall comply with all of Seller's applicable safety and health rules and requirements. Company's monitoring of the Facility shall not be construed as inspections or endorsing the design thereof nor as any express or implied warranties including performance, safety, durability, or reliability of the Facility.

(E) Seller shall obtain and pay for all Permits necessary for the construction, ownership, operation and maintenance of the Facility and the generation and delivery of any output from the Facility to Company. Seller shall keep Company informed as to the status of its permitting efforts and shall provide Company the opportunity to review and comment on major applications for, draft and final Permits. Seller shall promptly inform Company of any Permits it is unable to obtain, that are delayed, limited, suspended, terminated or otherwise constrained in a way that will limit, reduce, interfere with or preclude Seller's ability to perform its obligations under this PPA, along with a statement of whether and to what extent this circumstance may limit or preclude Seller's ability to perform under this PPA. Seller shall provide Company with written recommendations to overcome any such issue(s) with any Permits to allow

Model Wind Energy Purchase Agreement

Seller to fully perform under this PPA. Company shall have the right to inspect and obtain copies of all Permits held by Seller.

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

4.2 Commercial Operation. Subject to extension as authorized in this PPA, the Facility shall achieve Commercial Operation no later than the Commercial Operation Milestone; *provided, however, that* Seller shall not be obligated to establish a Commercial Operation Date that is earlier than the Commercial Operation Milestone and Company shall not be obligated to accept a Commercial Operation Date that is earlier than the Commercial Operation Milestone. In its efforts to achieve the Commercial Operation Milestone, Seller agrees to use Commercially Reasonable Efforts to achieve the Construction Milestones set forth in Exhibit B-Milestones.

4.3 COD Conditions. Seller shall provide Company a Notice of the date Seller believes the Facility has achieved Commercial Operation along with all supporting documentation of the satisfaction or occurrence of all COD Conditions. Company shall have up to 10 Business Days to review such evidence and raise any Commercially Reasonable objection to Seller's satisfaction of any of the COD Conditions, *provided, however, that* such Notice shall be deemed accepted by Company if Company fails to object within such time period. Seller may provide Notice of completion of the COD Conditions on an individual and incremental basis pending resolution of any objections, *provided, however, that* Company shall in all cases have up to 10 Business Days to review and object to each Notice. The COD Conditions are:

(A) an officer of Seller, authorized to bind Seller and who is familiar with the Facility, has provided written confirmation that (1) all necessary and material Permits have been obtained and are in full force and effect, (2) Seller is in compliance with this PPA in all material respects, (3) the Facility is available to commence normal operations in accordance with Seller's operating agreements, Construction Contract, and applicable manufacturers' warranties; (4) the Facility has been registered with the Transmission Authority, (5) the Seller has provided Transmission Provider current powerflow and stability modeling data, (6) Seller is obligated under and in material compliance with the Interconnection Agreement, (7) the Facility is fully interconnected to the Transmission Authority's System, has been fully tested, has achieved initial synchronization, and has been successfully operated at a generation level acceptable to the Transmission Authority, without experiencing any abnormal or unsafe operating conditions on any interconnected system, (8) Seller has completed any testing of the Facility and Interconnection Facilities required by the Interconnection Agreement; and (8) Seller has made all other arrangements necessary to deliver the output of the Facility to the Point of Delivery;

(B) an independent registered professional engineer's certification has been obtained by Seller and provided to Company stating that the Facility has been

Model Wind Energy Purchase Agreement

completed in all material respects, except for punch list items that do not have a Material Adverse Effect on the ability of the Facility to operate for its intended purpose;

(C) Seller has demonstrated (1) the reliability of the Facility's communications systems and communication interface with Company's EMCC and the Facility is capable of receiving and reacting to signals from Company's SCADA System, and (2) all AGC equipment is installed and operational;

(D) at least 95% of the Wind Turbines and associated equipment sufficient to allow such Wind Turbines to generate and deliver Renewable Energy to the Point of Delivery have been completed; and

(E) Seller shall provide Buyer with the Energy Information Administration, Facility identification.

4.4 Test Energy.

(A) Seller shall provide Company and Transmission Authority with the information necessary to have the Facility registered with the Transmission Authority for inclusion in any generation modeling maintained by the Transmission Authority, sufficiently in advance to allow the Facility to be registered in such model at least four months prior to generating any Test Energy. Upon receipt of such information, Company will cooperate reasonably to assist in the registration of the Facility to allow generation of Test Energy.

(B) Prior to the COD, Seller shall coordinate the production and delivery of Test Energy with Company, with not less than five Days Notice, or such other Commercially Reasonable prior Notice as Company may reasonably request. The Parties shall cooperate to facilitate Seller's testing of the Facility necessary to satisfy the COD Conditions. Company shall only be required to accept delivery of Test Energy required to satisfy the COD Conditions. Company shall pay the Test Energy Rate for all Test Energy delivered prior to COD.

Article 5 - Delivery

5.1 Electric Delivery Arrangements. Seller shall be responsible for making, maintaining and paying the costs associated with the interconnection of the Facility to the Transmission Authority's System. Seller shall comply with the Transmission Authority's requirements for the interconnection and shall comply with all requirements set forth in the applicable Transmission Tariff.

(A) Seller authorizes Company to contact and obtain information concerning the Facility and Interconnection Facilities directly from any applicable Transmission Authority and, upon request, Seller shall confirm such authorization in writing to such Transmission Authority or any applicable transmission owners in such form as requested by Company or the Transmission Authority.

Model Wind Energy Purchase Agreement

(B) Seller shall be responsible for all interconnection, electric losses, transmission and ancillary service arrangements and costs required to deliver the output from the Facility to the Point of Delivery.

(C) Company shall be responsible for all electric losses, transmission and ancillary service arrangements and costs required to transmit and deliver the output from the Facility beyond the Point of Delivery. If at any time during the Term, the entity owning the transmission facilities at the Point of Delivery changes or the facilities at the Point of Delivery cease to be subject to the Transmission Tariff, then the Parties shall cooperate in good faith to amend this PPA in a manner to facilitate the delivery of output from the Point of Delivery to Company's customers at the least possible cost to Company.

5.2 Electric Metering Devices.

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

1. For purposes of this PPA, meter readings will be adjusted to reflect losses from the Electric Metering Devices to the Point of Delivery based initially on the amount specified by the manufacturer for expected losses, *provided, however, that* the Operating Committee may revise this loss adjustment based on actual experience.

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

(B) Either Party may elect to install and maintain, at its own expense, backup metering devices ("Back-Up Metering"), *provided, however, that* the specifications, installation and testing of any such Back-Up Metering shall be consistent with the requirements for the Electric Metering Devices. Upon written request, the installing Party shall conduct retests requested by the other Party. The actual cost of any retest shall be borne by the Party requesting the test, unless, upon such retest, Back-Up Metering is inaccurate by more than one percent, in which case the cost of the retest shall be borne by the installing Party. If requested in writing, the installing Party shall provide copies of any inspection or testing reports to the requesting Party.

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

1. If the Electric Metering Device is found to be defective or inaccurate, the Parties shall use Back-up Metering, if installed, to determine the amount of such inaccuracy, *provided, however, that* Back-Up Metering has been tested and maintained and adjusted for losses on the same basis as the Electric Metering Device.

Model Wind Energy Purchase Agreement

If Back-Up Metering is not installed, or Back-Up Metering is also found to be inaccurate by more than one percent, the Parties shall use the best available information for the period of inaccuracy, adjusted as agreed by the Parties for losses to the Point of Delivery.

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

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

Article 6 - Conditions Precedent

6.1 Company CPs.

(A) No later than 45 Days after execution of this PPA, Company may make a written request for State Regulatory Approval. Company shall use Commercially Reasonable Efforts to obtain State Regulatory Approval, and Seller shall cooperate with Company's efforts to seek State Regulatory Approval. If Company fails to apply for State Regulatory Approval within 45 Days following the date of this PPA, Company shall be deemed to have waived its right to seek State Regulatory Approval or to terminate this PPA under this Section and this PPA shall remain in full force and effect thereafter.

(B) In the event that Company applies for State Regulatory Approval, Company shall have the right to terminate this PPA, without any further financial or other obligation to Seller as a result of such termination, by Notice to Seller not more than 10 Days after the earlier of (i) 14 Days after receipt of a written order from the State Regulatory Agency rejecting State Regulatory Approval or imposing conditions unsatisfactory to Company on State Regulatory Approval with conditions unsatisfactory to Company, or (ii) [_____] months following the written request for State Regulatory Approval without receipt of State Regulatory Approval without conditions unsatisfactory to Company. If Company fails to terminate this PPA in the time allowed by this paragraph, Company shall be deemed to have waived its right to terminate this PPA under this Section and this PPA shall remain in full force and effect thereafter.

6.2 Seller CPs. Either Party shall have the right to terminate this PPA, without any further financial or other obligation to the other as a result of such termination, by

Model Wind Energy Purchase Agreement

Notice to the other Party within 14 Days following the failure of Seller to satisfy any of the Seller CPs by the required date. If neither Party terminates this PPA in the time allowed by this Section, the Seller CPs shall be deemed to have been waived and this PPA shall remain in full force and effect thereafter.

Article 7 - Sale and Purchase

7.1 General Obligation.

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

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

7.2 Committed Renewable Energy. Seller covenants to deliver the Committed Renewable Energy to the Point of Delivery.

7.3 AGC.

(A) Beginning on the Commercial Operation Date, Company shall dispatch Facility through the EMCC AGC system.

(B) Company may notify Seller, by telephonic communication or through use of the AGC Set Point, to curtail the delivery of Renewable Energy to Company from the Facility and to the Point of Delivery, for any reason and in its sole discretion and Seller shall promptly comply with such notification.

(C) The AGC Set-Point is calculated by the EMCC AGC system and communicated electronically through the SCADA System. Seller shall ensure that, throughout the Term, the SCADA signal is capable of functioning on all AGC Set Points within the margin of error specified in the wind farm control system manufacturer's energy set point margin of error.

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

7.4 Compensation for Other Products and Services.

(A) The Parties acknowledge that existing and future Applicable Laws create value in the ownership, use or allocation of RECs. To the full extent allowed by such Applicable Law, Company shall own or be entitled to claim all RECs to the extent such credits may exist or be created during the Term associated with Test Energy, Renewable Energy, and any Excess Energy delivered to Company.

Model Wind Energy Purchase Agreement

1. Seller hereby automatically and irrevocably assigns to Company all Transmission Authority accreditable capacity (Zonal Resource Credits, or ZRCs) based on MISO Module E criteria.

2. Seller hereby automatically and irrevocably assigns to Company all rights, title and authority for Company to register the Eligible Energy Resource and own, hold and manage such RECs in Company's own name and to Company's account, including any rights associated with any renewable energy information or tracking system that exists or may be established (including but not limited to participants in any applicable REC Registration Program and the United States government) with regard to monitoring, registering, tracking, certifying, or trading such credits. Seller hereby authorizes Company to act as its agent for the purposes of registering the Eligible Energy Resource, tracking and certifying RECs and Company has full authority to hold, sell or trade such RECs to its own account of said renewable energy information or tracking systems. Upon the request of Company, at no cost to Company, (i) Seller shall deliver or cause to be delivered to Company such attestations/certifications of RECs, and (ii) Seller shall cooperate with Company's registration of the generator and certification of RECs.

3. Prior to the Commercial Operation Date, Seller shall make all applications and/or filings required by Applicable Law for REC accreditation and for the provision of such RECs to Company, or, upon Company's request, provide the information needed for the Company to make these applications and/or filings on the Seller's behalf..

4. Seller shall retain any RECs associated with any Excess Renewable Energy not delivered to Company.

(B) Seller shall make available to Company all Generation Benefits and Ancillary Services associated with the Facility at no additional charge under this PPA. Any compensation Seller receives under the Interconnection Agreement or otherwise for Generation Benefits or Ancillary Services associated with the Facility and its output shall be provided to Company at no additional cost to Company under this PPA. Seller shall credit Company, as a reduction to Seller's monthly invoice or other mutually-agreed mechanism, for any compensation that Seller receives for Generation Benefits or Ancillary Services.

1. Seller shall use Commercially Reasonable Efforts to maximize the availability of Generation Benefits and Ancillary Services available from the Facility, *provided, however, that* Seller shall not be required to make any extraordinary capital expenditures or incur any significant increased operating expenses in connection with such efforts.

2. In the event a Governmental Authority or Transmission Authority implements new or revised requirements for generators to create, modify, change, or supply Ancillary Services, requiring Seller to install additional equipment after the Commercial Operation Date to meet such requirements, then Seller shall be

Model Wind Energy Purchase Agreement

allowed to reduce the amount owed to Company for Ancillary Services by an amount sufficient to recover the cost of such additional equipment, *provided, however, that* the amount of credit shall in no event be less than zero. Any excess of such cost over the amount of the credit in any year shall instead be carried forward as a reduction of the amount of the credit in subsequent years.

Article 8 - Payment Calculations

8.1 Renewable Energy Payment Rate.

(A) Prior to the Commercial Operation Date, Company shall pay Seller for Test Energy delivered to the Point of Delivery pursuant to Section 4.4 at the Test Energy Rate. Seller shall be entitled to no Compensable Curtailment Energy payment prior to the COD in connection with Test Energy.

(B) Commencing on the Commercial Operation Date, Company shall pay Seller the Renewable Energy Payment Rate for Renewable Energy and RECs delivered to the Point of Delivery.

(C) In the event that the Renewable Energy in any Commercial Operation Year (including any Compensable Curtailment Energy) exceeds 115% of the Committed Renewable Energy ("Excess Energy"), Company shall have the option to either (i) pay Seller the Renewable Energy Payment Rate for all such Excess Energy and RECs associated therewith, or (ii) elect not to accept any Excess Energy.

1. To the extent available, Company agrees to use Seller's real time calculations of the Park Potential communicated to Company through the SCADA System as the proxy for Potential Energy. In the event that the Park Potential is not available through the SCADA System, the Parties shall use the best available data obtained through Commercially Reasonable methods to determine the Potential Energy.

2. Seller shall notify Company upon Seller's delivery of Renewable Energy hereunder that exceeds 110% of the Committed Energy for a Commercial Operation Year. Company shall elect within 10 Business Days of Seller's Notice to either accept or decline the Excess Energy after the date of Company's election and through the balance of such Commercial Operation Year.

3. If Company elects not to accept Excess Energy, Seller shall have the right to sell such Excess Energy (including associated RECs) to one or more third parties until the end of the applicable Commercial Operation Year, after which the Parties' obligations shall resume pursuant to this PPA, *provided, however, that* Seller shall be solely responsible for arranging transmission service and delivery arrangements to such third party at no cost to Company under this PPA.

8.2 Curtailment Energy Payment Rate.

Model Wind Energy Purchase Agreement

(A) If delivery of Renewable Energy is curtailed by Company pursuant to Section 7.3, and any such reduction is not included as a Non-Compensable Curtailment, then

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

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

3. Company shall pay to Seller for such Compensable Curtailment Energy net of any Non-Compensable Curtailments (i) all amounts that Seller would have received from Company under this PPA had such Compensable Curtailment Energy actually been delivered plus (ii) the amount of any associated Tax Benefits to which Seller would have been entitled but did not receive as a result, on a grossed up basis; provided, however, that Seller has elected to receive PTCs. For the avoidance of doubt, Seller shall not be entitled to recover any Tax Benefits to the extent Seller was not entitled to receive PTCs had the Compensable Curtailment Energy actually been delivered.

(B) For purposes of determining Compensable Curtailment Energy, the amount of Potential Energy at any given time shall be calculated using the best-available data and methods to determine an accurate representation of the amount of Renewable Energy.

1. To the extent available, Company agrees to use Seller’s real time Park Potential communicated to Company through the SCADA System as the proxy for Potential Energy, except to the extent that Park Potential is demonstrated not to accurately reflect the Potential Energy (plus or minus 2% over a period of one month).

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

3. Seller shall be entitled to sell any curtailed energy to third parties to whom Seller is able successfully to transact and deliver, *provided, however,*

Model Wind Energy Purchase Agreement

that the net amount realized for such sale shall offset amounts owed by Company for Compensable Curtailment Energy. Company shall reasonably cooperate with any such sales, and Seller accepts sole responsibility to obtain transmission rights to deliver such energy at no cost to Company. Seller accepts all risk of the unavailability of transmission rights during any curtailment.

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

1. an Emergency;
2. Any action taken which reduces or limits the allowable output of the Facility under the Interconnection Agreement or a provisional or conditional Interconnection Agreement, including curtailments arising out of interconnection limits established by the Transmission Authority or market rules which make conditional or provisional interconnection agreements subordinate to those with unconditional interconnection agreements.
3. maintenance outages, whether planned or unplanned, of any part of the transmission system or any testing of the transmission system;
4. the lack of available transmission for generation from the Facility to the Point of Delivery;
5. Seller’s failure to maintain in full force and effect any Permit to construct and/or operate the Facility;
6. Seller’s failure to maintain AGC capability or its failure or refusal to respond to an AGC instructions from the EMCC; and
7. Allowable Curtailments.

Article 9 - Billing and Payment

9.1 Billing.

(A) The billing period shall be the calendar month with any partial months prorated appropriately. Within ten Days after Seller’s request, Company will provide to Seller a statement containing the applicable billing parameters based on Company’s reading of the Electric Metering Devices and Company’s assessment of the amount due during the previous calendar month. No later than 15 Business Days after the end of each month, Seller shall submit an invoice to Company in a form and by a method mutually agreed to by the Parties showing the payment amount due Seller during the previous calendar month, specifying the products and services provided, all

Model Wind Energy Purchase Agreement

billing parameters, rates and factors, and any other data reasonably relevant to the calculation of payments due to Seller.

(B) Seller shall include an explanation of any items in dispute, as well as all supporting documentation upon which Seller relies. Billing disputes shall be resolved in accordance with Section 9.3.

(C) All billing data based on metered deliveries to Company shall be based on meter readings in accordance with Section 5.2.

9.2 Payment. Unless otherwise specified herein, undisputed payments shall be payable by check or electronic funds transfer, as designated by the owed Party, on or before the 15th Business Day following receipt of the invoice. Remittances received by mail will be considered to have been paid when due if the postmark indicates the payment was mailed on or before the 15th Business Day following receipt of the billing invoice.

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

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

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

9.3 Billing Disputes. Either Party may dispute invoiced amounts, but shall pay at least the undisputed portion on or before the date due. To resolve any billing dispute, the Parties shall use the procedures set forth in Article 13. When the billing dispute is resolved, the Party owing shall pay the amount owed within five Business Days of the date of such resolution, without late payment interest except to the extent that it shall have been established that the amount owed was not disputed in good faith, in which case late payment interest charges shall be calculated on the amount found not to have been disputed in good faith in accordance with the provisions of Section 9.2.

Article 10 - Operations and Maintenance

10.1 Operation and Administration.

(A) Seller shall staff, control, and operate the Facility consistent with Good Utility Practices and the Operating Procedures. Personnel shall be available at all times via telephone or other electronic means with (i) the capability of remotely starting,

Model Wind Energy Purchase Agreement

operating and stopping the Facility within 10 minutes, and (ii) the ability to be present at the Site within 30 minutes.

(B) Seller shall comply with the requirements of NERC, ERO, Transmission Authority, FERC, or successor organizations, Company requirements, Governmental Authority, and Good Utility Practice in the operation of the Facility.

1. To the extent that the actions of Seller or the Facility contributes in whole or in part to actions that result in monetary penalties being assessed to Company by NERC, ERO, Transmission Authority, FERC, or other Governmental Authority, Seller shall reimburse Company for all such monetary penalties proximately caused by Seller or the Facility.

(C) Seller shall be responsible for providing accurate and timely updates on the current availability of the Facility to Company's EMCC. Seller shall provide to Company a day-ahead availability forecast in accordance with Exhibit H-Operating Standards (AGC Protocols, Data Collection). Seller acknowledges that such forecasting is consistent with the reporting requirements required for compliance with NERC standards intended to maintain reliability. Seller, as the generator, is primarily responsible for complying with the NERC standards and to report the information to Transmission Authority, ERO or other reliability coordinator. Company agrees to provide the forecasted information to the reliability coordinator on Seller's behalf, *provided, however, that* Seller shall remain responsible to ensure the reliability and accuracy of forecasts and any changes to the real-time or forecast availability of the Facility.

10.2 Facility Maintenance.

(A) Seller shall maintain the Facility in accordance with Good Utility Practice and relevant equipment manufacturers' requirements. Seller shall coordinate its regular maintenance requirements for the Facility with Company. Maintenance Schedules shall be provided to Company in writing and sufficiently in advance for Commercially Reasonable review, and shall be subject to Company's Commercially Reasonable approval ("Maintenance Schedule").

(B) Except as otherwise agreed to by Company, Seller shall minimize the amount of scheduled maintenance during On-Peak Months to the full extent consistent with Good Utility Practices. During any Business Day of an On-Peak Month, Seller shall use Commercially Reasonable Efforts to (i) maximize the amount of Renewable Energy produced by the Facility, and (ii) minimize the extent and duration of Forced Outages.

(C) When Forced Outages occur, Seller shall notify Company's EMCC of the existence, nature, start time, and expected duration of the Forced Outage as soon as practical, but in no event later than one hour after the Forced Outage occurs. Seller shall immediately inform Company's EMCC of changes in the expected duration of the

Model Wind Energy Purchase Agreement

Forced Outage unless relieved of this obligation by Company's EMCC for the duration of each Forced Outage.

10.3 Books and Records.

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

(B) Seller and Company shall each keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this PPA, including such records as may be required by Governmental Authorities, Transmission Authority, NERC or ERO as applicable. All records of Seller pertaining to the operation of a Facility shall be maintained on the premises of the Facility or such other location as is mutually agreed to by the Parties.

(C) Each Party shall keep all books and records necessary for metering, billing and payment and shall provide the other Party Commercially Reasonable access to those records.

(D) Company may audit and examine from time to time upon request and during normal business hours: (i) Seller's operating procedures, (ii) equipment manuals, Operating Records, (iii) and data kept by Seller relating to transactions under and administration of this PPA, by Company with Applicable Law and relevant accounting standards. Seller shall maintain all such records at the Facility or some other mutually-agreeable location and shall cooperate with Company's audit rights under this Section.

10.4 Operating Committee and Operating Procedures.

(A) Company and Seller shall each appoint one representative and one alternate representative to act as the Operating Committee in matters relating to the Parties' performance obligations under this PPA and to develop operating arrangements for the generation, delivery and receipt of any output from the Facility. Operating Committee representatives shall be included in Exhibit D-Notices.

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

(B) The Operating Committee shall review the requirements for AGC from time to time after the date hereof and may agree on modifications thereto to the extent necessary or convenient for operation of the Facility in accordance with this PPA.

Model Wind Energy Purchase Agreement

(C) The Operating Committee shall have authority to act in all technical and day-to-day operational matters relating to performance of this PPA and to attempt to resolve disputes or potential disputes, *provided, however, that* except to the extent explicitly provided for in this PPA, such representatives and the Operating Committee shall not have the authority to amend or modify any provision of this PPA.

10.5 Access to Facility. Appropriate representatives of Company shall have access to the Facility with Commercially Reasonable prior notice, to read meters and perform inspections as may be appropriate to facilitate the performance of this PPA. While at the Facility, such representatives shall observe such Commercially Reasonable safety precautions as may be required by Seller and shall conduct themselves in a manner that will not interfere with the operation of the Facility.

10.6 Accreditation. Company has certain planning, operating and reporting requirements. Seller shall complete at its own expense all applicable testing and reporting requirements for the Facility, including any required capacity testing.

10.7 Real Time Data.

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

1. Seller shall use Commercially Reasonable Efforts to adjust the real time Park Potential when Company communicates to Seller a measured difference of plus or minus two percent between the metered Renewable Energy, during a time where there was no AGC Set-Point, and Park Potential.

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

(B) From and after the Commercial Operation Date, Seller shall provide Company, at Seller's expense, real time turbine performance and meteorological data for all Wind Turbines and meteorological towers at the Facility in accordance with Exhibit H-Operating Standards (AGC Protocols, Data Collection) for the Term of this PPA. Seller shall undertake to maintain Seller-owned data collection systems which are compatible with Company's PI. Seller shall ensure that real time communications capabilities are available and maintained for the transmission to Company's PI. Seller shall ensure that all meteorological equipment at a minimum meets the specifications

Model Wind Energy Purchase Agreement

set forth in Exhibit H-Operating Standards (AGC Protocols, Data Collection) . Company shall be entitled to disclose data gathered through the Company's PI to third parties. Company shall have the right to disclose data gathered through the Company's PI system publicly *provided, however, that* such data is (i) masked to obscure the origin of the data and (ii) aggregated so that the data cannot be correlated and used by competitors of Seller and the supplier of the Wind Turbines.

Article 11 - Security for Performance

11.1 Security Fund.

(A) No later than 30 Days following Company obtaining or waiving State Regulatory Approval, Seller shall establish, fund, and maintain a Security Fund that is available to pay any amount due to Company pursuant to this PPA, and to provide Company security that Seller will satisfy its obligations under this PPA.

1. The Security Fund shall equal the Pre-COD Security Fund up to the COD and the Post-COD Security Fund on and after the COD and throughout the Term.

2. Seller shall replenish the Security Fund within 15 Business Days after Company makes a draw on the Security Fund as authorized by this PPA, up to the required amount, *provided, however, that* Seller shall not be required to replenish the Security Fund to a level in excess of the remaining amount of the applicable Damage Cap. Notwithstanding the foregoing, Seller shall replenish all amounts drawn from the Security Fund in respect of damages described in Section 12.3(C).

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

(C) The Security Fund shall be maintained at Seller's expense, shall be originated by or deposited in a financial institution or company ("Issuer") satisfying the requirements of this Section, and shall be in the form of one or more of the following instruments:

1. The Security Fund may be in the form of an irrevocable standby letter of credit substantially in the form of Exhibit G-1-Letter of Credit, and any material changes to such Exhibit shall be subject to review and approval by Company at its sole discretion (the "Letter of Credit").

Model Wind Energy Purchase Agreement

a. The Issuer for the Letter of Credit shall have and maintain a senior unsecured bond rating (unenhanced by third-party support) equivalent to A- or better as determined by all rating agencies that have provided such a rating, and if ratings from either Standard & Poor's and Moody's are not available, equivalent ratings from alternate rating sources reasonably acceptable to Company. If such rating is equivalent to A-, the Issuer must not be on negative credit watch or have a negative outlook by any rating agency.

b. The Letter of Credit must be for a minimum term of 360 Days. Seller shall give Company at least 30 Days advance Notice prior to any expiration or earlier termination of the Letter of Credit. Seller shall cause the renewal or extension of the Letter of Credit or other authorized security for additional consecutive terms of 360 Days or more (or, if shorter, the remainder of the Term) more than 30 Days prior to each expiration date of the security. If the Letter of Credit or other security is not renewed or extended at least 30 Days prior to its expiration date or otherwise is terminated early, Company shall have the right to draw immediately upon the security and to place the amounts so drawn, at Seller's cost and with Seller's funds, in an interest bearing escrow account in accordance with sub-paragraph (2) below, until and unless Seller provides a substitute form of such security meeting the requirements of this Section.

2. The Security Fund may be in the form of United States currency, in which Company holds a first and exclusive perfected security interest, deposited with an Issuer who is a state or federally-chartered commercial bank with operations in the State in which the Facility is located (or such other escrow agent acceptable to Company in its sole discretion) in an account under which Company is designated as beneficiary with sole authority to draft from the account or otherwise access the security (the "Escrow Account"). The Escrow Account shall be established pursuant to an Escrow Agreement substantially in the form of Exhibit G-3-Escrow Agreement. Funds held in the Escrow Account may be deposited in a money-market fund, short-term treasury obligations, investment-grade commercial paper and other liquid investment-grade investments with maturities of three months or less, with all investment income thereon to be taxable to, and to accrue for the benefit of, Seller. After the Commercial Operation Date, periodic sweeps by Seller for recovery of interest earned by the escrowed funds shall be allowed, and, at any time the balance in the escrow account exceeds the required amount of security, the escrow agent may remit any excess to Seller.

3. Following COD, the Security Fund may consist of a guaranty substantially in the form of Exhibit G-2-Guaranty, from an Issuer with a minimum of net worth of at least \$200,000,000 and a senior unsecured credit rating (unenhanced by third-party support) equivalent to BBB+ or better as determined by all rating agencies that have provided such a rating, and if ratings from both Standard & Poor's and Moody's (or if either one or both are not available, equivalent ratings from alternate rating sources reasonably acceptable to Company). If such senior unsecured credit rating of the Issuer is exactly equivalent to BBB+, the Issuer must not be on credit watch or have a negative outlook by a rating agency. If the credit rating of the Issuer is

Model Wind Energy Purchase Agreement

downgraded or there has been a change that has a Material Adverse Effect in the creditworthiness of the Issuer, then Seller shall be required to convert the guarantee provided by such Issuer to a Security Fund instrument meeting the criteria set forth in either sub-paragraph (1) or sub-paragraph (2) above no later than 10 Days after receiving information from or about the Issuer that the Issuer no longer satisfies the requirements of this paragraph.

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

(E) Company may reevaluate from time to time the value of any Security posted by Seller to determine, in a Commercially Reasonable manner, whether (i) it continues to satisfy the requirements in this PPA or (ii) there has been a change that has a Material Adverse Effect in the creditworthiness of the Issuer or guarantor, such that it does not or with the passage of time, it will no longer satisfy the requirements of this PPA. If Company determines, in a Commercially Reasonable manner, that there has been an event that has caused, or will cause, with the passage of time, Seller's Security to no longer satisfy the requirements of this PPA, then Company shall provide prompt Notice to Seller of such event and after receipt of such Notice, Seller shall be required to provide alternative Security that satisfies the terms of this PPA.

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

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

Article 12 - Default and Remedies

12.1 Events of Default. Any of the following events shall constitute an Event of Default of the specified Party if such event has not been cured within the cure period specified for such event:

(A) Either Party's failure to make any payment to the other Party as required by this PPA, including invoices pursuant to Article 9, Liquidated Delay

Model Wind Energy Purchase Agreement

Damages, Actual Damages, any required indemnification, or any other required payment, and such amount remains unpaid for a period of 10 Business Days after the date the defaulting Party receives Notice from the non-defaulting Party that the amount is overdue.

(B) Either Party's application for, or consent (by admission of material allegations of a petition or otherwise) to, the appointment of a receiver, trustee or liquidator for a Party or for all or substantially all of its assets, or its authorization of such application or consent, or the commencement of any proceedings seeking such appointment against it without such authorization, consent or application, which proceedings continue undismissed or unstayed for a period of 30 Days from its inception.

(C) Either Party's authorization or filing of a voluntary petition in bankruptcy or application for or consent (by admission of material allegations of a petition or otherwise) to the application of any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction or the institution of such proceedings against a Party without such authorization, application or consent, which proceedings remain undismissed or unstayed for 30 Days from its inception or which result in adjudication of bankruptcy or insolvency within such time.

(D) Either Party's unauthorized assignment of this PPA or Change of Control, immediately upon its occurrence and without further notice from the non-defaulting Party.

(E) Any material representation or warranty made by a Party in this PPA that is proven to have been false in any material respect when made or ceases to remain true during the Term if such cessation would reasonably be expected to result in a Material Adverse Effect on the non-defaulting Party immediately upon its occurrence and without further notice from the non-defaulting Party.

(F) Seller's failure to establish and maintain the Security Fund as and in the amounts required that remains uncured for five (5) Business Days after Company provides Notice of Seller's failure.

(G) Seller's failure to achieve Commercial Operation more than 45 Days after the Commercial Operation Milestone, *provided, however, that* if during such period Seller provides a written opinion from a mutually-agreeable independent engineer that the COD can reasonably be achieved within an additional 45 Day period, then Seller shall be allowed a total period not to exceed 90 Days after the Commercial Operation Milestone to achieve Commercial Operation, *provided further that* Liquidated Delay Damages shall have been paid throughout the entire period of delay and that no additional cure period for such default shall be required.

(H) Seller's failure, commencing 18 months after the COD, to deliver at least 85% of the Committed Renewable Energy on a twelve-month rolling average basis utilizing data from the previous twelve months, *provided, however, that* the calculation of

Model Wind Energy Purchase Agreement

the rolling average shall exclude reduced for foregone generation attributable to (i) force majeure; (ii) the measured wind distribution at the Site for the twelve month period multiplied by the current power curve of the Facility establishes an available wind resource at the Facility lower than a one in 20 probability, using best-available data; or (iii) curtailment by Company under Section 7.3, and the contribution of such occurrences shall be imputed into the calculation of Committed Renewable Energy for the purposes of, and only for the purposes of, establishing a default of Seller under this paragraph, and Seller shall be permitted to add and/or replace Wind Turbines on the Site if and to the extent reasonably required to cure Seller's default pursuant to this paragraph.

(I) Seller's material breach of the Interconnection Agreement that has a Material Adverse Effect on Company.

(J) The failure by either Party to perform or observe any other material obligation to the other Party under this PPA, that is not excused by Force Majeure and such failure shall remain unremedied for 30 Days after Notice thereof shall have been given by the non-defaulting Party.

12.2 Remedies. Upon the occurrence of any Event of Default of this PPA, the non-defaulting Party may pursue all rights and remedies available to it at law and in accordance with the terms of this PPA. Except as explicitly provided to the contrary in this PPA, each right or remedy of the Parties provided for in this PPA shall be cumulative of and shall be in addition to every other right or remedy provided for in this PPA, and the exercise of one or more of the rights or remedies provided for herein shall not preclude the simultaneous or later exercise by such Party of any other rights or remedies provided for herein.

(A) Termination and Damages. For any uncured Event of Default, the non-defaulting Party may, at its option do any, some, or all of the following:

1. Offset from any payments due from the non-defaulting Party any amount otherwise due, including any unpaid Liquidated Delay Damages or Actual Damages;

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

3. In the case of an Event of Default by Seller, draw on the Security Fund for any unpaid Liquidated Delay Damages Actual Damages, or any other required and unpaid amount;

4. In the case of an Event of Default by Seller, exercise of Company's Step-In Rights.

5. Terminate this PPA immediately upon Notice, without penalty or further obligation to the defaulting Party. Upon the termination of this PPA under this Section, the non-defaulting Party shall be entitled to receive from the

Model Wind Energy Purchase Agreement

defaulting Party, subject to the Damage Caps, all of the Liquidated Delay Damages and Actual Damages in connection with the Event of Default resulting in such termination.

(B) Liquidated Delay Damages. Prior to the COD, Seller shall be liable to pay Company Liquidated Delay Damages as a liquidated damage and not a penalty for any delay in meeting the Commercial Operation Milestone on the terms and conditions as follows:

1. Provided Seller actually pays Liquidated Delay Damages as and when owed, the payment of such Liquidated Delay Damages shall be Company's sole and exclusive remedy for Seller's failure to achieve, or Seller's delay in achieving the Commercial Operation Milestone. Liquidated Delay Damages shall be payable in lieu of Actual Damages accrued for the period during which Liquidated Delay Damages are assessed. The Parties specifically recognize that Company's damages associated with any delays in achieving the Commercial Operation Milestone will be significant but that it will be difficult to quantify those damages.

2. All Liquidated Delay Damages shall begin to accrue on the Day after the Commercial Operation Milestone as may be extended pursuant to this PPA until the Day after such Commercial Operation Date is achieved.

(C) Actual Damages. For all Events of Default arising after the COD, the non-defaulting Party shall be entitled to receive from the defaulting Party all direct damages proximately caused by such Event of Default ("Actual Damages") incurred by the non-defaulting Party; *provided, however, that* if an Event of Default has occurred and has continued uncured for a period of 365 Days, the non-defaulting Party shall be required to either waive its right to collect further damages on account of such Event of Default or elect to terminate this PPA. If Seller is the defaulting Party, the Parties agree that Actual Damages recoverable by Company hereunder on account of an Event of Default of Seller may include Replacement Power Costs. If Company is the defaulting Party, the Parties agree that Actual Damages may include any direct damages available under this PPA.

(D) Specific Performance. In addition to the other remedies specified in this Article 12, in the event that any Event of Default of Seller is not cured within the applicable cure period set forth herein, Company may elect to treat this PPA as being in full force and effect and Company shall have the right to specific performance. By way of example only, if the breach by Seller arises from a failure by third party operating the Facility pursuant to an operating agreement entered into with Seller, and Seller fails or refuses to enforce its rights under the operating agreement that would result in the cure, or partial cure, of the Event of Default, Company's right to specific performance shall include the right to obtain an order compelling Seller to enforce its rights under the operating agreement.

12.3 Limitation on Damages.

Model Wind Energy Purchase Agreement

(A) Except as otherwise provided in this Section, (i) Seller's aggregate financial liability to Company for Liquidated Delay Damages shall not exceed Pre-COD Damage Cap, and (ii) Seller's aggregate financial liability to Company for Actual Damages shall not exceed the Post-COD Damage Cap (collectively the "Damage Cap(s)").

(B) If at any time during the Term, Company incurs damages in excess of a Damage Cap that Seller does not agree to pay when billed by Company, Company shall have the right to terminate this PPA upon Notice.

(C) The Damage Caps shall not apply to Actual Damages arising out of any of the following events:

1. damage to Company-owned facilities caused by Seller's acts or omissions;
2. Seller's intentional misrepresentation or misconduct in connection with this PPA or the operation of the Facility;
3. the sale or diversion by Seller to a third party of any capacity or energy committed to Company under this PPA;
4. Seller's failure (i) to maintain insurance coverages in the types and amounts required by this PPA or (ii) to apply any insurance proceeds to restoration of damaged equipment of the Facility following a casualty except to the extent allowed by this PPA;
5. any claim for indemnification under this PPA;
6. any Environmental Contamination caused by Seller in connection with this PPA; or
7. damages incurred by Company in connection with any bankruptcy or insolvency proceeding involving Seller, including Company's loss of the benefit of its bargain due to rejection or other termination of this PPA in such proceeding.

(D) The Parties confirm that the express remedies and measures of damages provided in this PPA satisfy the essential purposes hereof. If no remedy or measure of damages is expressly herein provided, the obligor's liability shall be limited to Actual Damages only. Neither Party shall be liable to the other Party for consequential, incidental, punitive, exemplary, special, equitable or indirect damages, lost profits or other business interruption damages by statute, in tort or contract (except to the extent expressly provided herein); *provided, however, that* if either Party is held liable to a third party for such damages and the Party held liable for such damages is entitled to indemnification from the other Party hereto, the indemnifying Party shall be liable for, and obligated to reimburse the indemnified Party for, such damages. To the extent any damages required to be paid hereunder are liquidated, the Parties

Model Wind Energy Purchase Agreement

acknowledge that the damages are difficult or impossible to determine, that otherwise obtaining an adequate remedy is inconvenient, and that the liquidated damages constitute a reasonable approximation of the harm or loss.

12.4 Step-In Rights.

(A) Upon the occurrence of an Event of Default, Company shall have the right, but not the obligation, to exercise its Step-In Rights for the period of time until Seller has cured its Event of Default or this PPA has been terminated. Exercising Step-In Rights shall not preclude or limit Company's right to exercise any remedy it has against Seller under this PPA.

(B) Seller irrevocably appoints Company as Seller's attorney-in-fact for the exclusive purpose of executing such documents and taking such other actions necessary to implement Company's Step-In Rights. Seller shall not grant any person, other than the Facility Lender, a right to possess, assume control of, or operate the Facility in derogation of Company's Step-In Rights.

(C) Company acknowledges that the Facility Lender may foreclose and take possession of and operate the Facility and Company may be required to relinquish its Step-In Rights in such circumstance. Prior to commencing construction of the Facility, Seller shall obtain the written agreement of the Facility Lender recognizing Company's Step-In Rights as being limited only by foreclosure of the Facility as a result of Seller's material default of its contractual obligations with the Facility Lender.

(D) Company shall implement its Step-In Rights in conformance with Good Utility Practice and shall perform Seller's obligations in a manner consistent with Seller's duties under this PPA. Seller shall reimburse Company for its expenses and costs (including the fees and expenses of counsel) incurred by Company in connection with exercising its Step-In Rights. Company shall give Seller and the Facility Lender 10 Days Notice in advance of exercising Company's Step-In Rights. Upon receipt of such Notice:

1. Seller shall make available at the Facility all documents, contracts, books, manuals, reports, and records required to construct, operate, and maintain the Facility in accordance with Good Utility Practice.

2. Seller shall give Company, its employees, contractors, or designated third parties unrestricted access to the Site and the Facility.

3. Seller shall cooperate in the implementation of Company's Step-In Rights.

4. Company shall use the output generated and delivered from the Facility during such period in partial satisfaction of Seller's obligations hereunder.

(E) Company may draw upon the Security Fund to cover any expenses incurred by Company in exercising its rights under this Section.

Model Wind Energy Purchase Agreement

(F) Seller shall retain legal title to and ownership of the Facility.

(G) Company shall provide Seller with at least 15 Days Notice of Company's intent to relinquish its Step-In Rights. Company shall relinquish its Step-In Rights on the earliest of (i) termination of this PPA; (ii) Seller has cured all outstanding defaults; (iii) Company's unilateral decision to relinquish possession of the Facility; or (iv) the Parties mutual decision.

(H) Company's Step-In Rights shall not constitute an assumption by Company of any liability attributable to Seller.

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

Article 13 - Dispute Resolution

13.1 Dispute Resolution.

(A) In the event of any dispute arising under this PPA (a "Dispute"), within 10 Business Days following Notice by either Party, (i) each Party shall appoint a representative, and (ii) the representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the representatives cannot resolve the Dispute within 30 Days after the first meeting, either Party may request that consideration and resolution of the Dispute be transferred to a designated representative of each Party's senior management. Within 10 Days following such a request, each Party shall submit a written summary of the Dispute describing the issues and claims to a senior officer of each Party designated to address the Dispute. Within 10 Business Days after receipt of each Party's Dispute summaries, the senior management representatives for both Parties shall negotiate in good faith to resolve the Dispute. If such senior management representatives are unable to resolve the Dispute thereafter, either Party may seek available legal remedies.

(B) If no Notice has been issued within 24 months following the occurrence of events or circumstances giving rise to the Dispute (regardless of the knowledge or potential knowledge of either Party of such events and circumstances), the Dispute and all claims related thereto shall be deemed waived and the aggrieved Party shall thereafter be barred from proceeding thereon.

(C) SELLER AND COMPANY EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS PPA OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF SELLER AND COMPANY RELATED HERETO AND EXPRESSLY AGREE TO HAVE ANY DISPUTES ARISING UNDER OR IN

Model Wind Energy Purchase Agreement

CONNECTION WITH THIS PPA BE ADJUDICATED BY A JUDGE OF THE COURT HAVING JURISDICTION WITHOUT A JURY.

Article 14 - Force Majeure

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

14.2 Limitations on Effect of Force Majeure.

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

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

(C) If Force Majeure affecting Seller continues for an uninterrupted period of 90 Days from its inception (with respect to Force Majeure occurring prior to COD) or 365 Days from its inception (with respect to Force Majeure occurring after COD), Company may, at any time following the end of such period, terminate this PPA upon Notice to Seller, without further obligation by either Party except as to costs and balances incurred prior to the effective date of such termination.

14.3 Delays Attributable to Company. Seller shall be excused from performing its obligations under this PPA where Seller can establish that such a failure was caused by (i) any delay or failure by Company to perform its obligations under this PPA, or (ii) any delay or failure by the Transmission Authority to perform its obligations under the Interconnection Agreement, in each case whether or not caused by Force Majeure.

Article 15 - Representations and Warranties

15.1 General Representations and Warranties. each Party hereby represents and warrants to the other as follows, which representations and warranties will be deemed to be repeated, if applicable, by each Party throughout the Term:

(A) It is a valid separate legal entity, duly organized, validly existing and in good standing under Applicable Law. It is qualified to do business in the State in which the Facility is located and each other jurisdiction where the failure to so qualify would have a Material Adverse Effect on the business or financial condition of the other Party; it has all requisite power and authority to conduct its business, to own its properties, and to execute, deliver, and perform its obligations under this PPA.

Model Wind Energy Purchase Agreement

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

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

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

3. result in a breach or constitute a default under the representing Party's formation documents or bylaws, or under any agreement relating to its management or affairs or any indenture or loan or credit agreement, or any other agreement, lease, or instrument to which it is a party or by which it or its properties or assets may be bound or affected, the breach or default of which could reasonably be expected to have a Material Adverse Effect on the representing Party's ability to perform its obligations under this PPA; or

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

(C) This PPA is a valid and binding obligation of the representing Party.

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

(E) Within the meaning of the United States bankruptcy code, (i) this PPA constitutes a "master netting agreement", (ii) all transactions pursuant to this PPA constitute "forward contracts" or a "swap agreement", (iii) the representing Party is a "forward contract merchant" and "master netting agreement participant", and (iv) all payments made or to be made pursuant to this PPA constitute "settlement payments."

(F) It is (i) an "eligible contract participant" as defined in Section 1a(12) of the Commodity Exchange Act, as amended, 7 U.S.C. § 1a(12), (ii) a "market participant" under applicable exchange and market rules; (iii) a producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of this PPA, or the products or by products thereof; and (iv) entering into this PPA solely for purposes related to its business as such.

Model Wind Energy Purchase Agreement

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

(H) Each Party is a commercial market participant that regularly makes or takes delivery of the commodity which is the subject of this PPA in connection with the ordinary course of its business, and who intends to make or take delivery, as applicable, of the commodity under the terms and conditions of this Agreement in connection with such business.

15.2 Seller’s Specific Representation. To the best knowledge of Seller, and except for those Permits identified in Exhibit F-Seller’s Permits, which Seller anticipates will be obtained by Seller in the ordinary course of business, all Permits, or other action required by any Governmental Authority to authorize Seller’s execution, delivery and performance of this PPA have been duly obtained and are in full force and effect.

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

Article 16 - Insurance

16.1 Evidence of Insurance. No later than commencement of construction and then on or before June 1 of each year, Seller shall provide Company with two copies of insurance certificates acceptable to Company evidencing that insurance coverages for the Facility are in compliance with the specifications for insurance coverage set forth in Exhibit E-Insurance to this PPA. Such certificates shall (a) name Company as an additional insured (except worker’s compensation); (b) provide that Company shall receive 30 Days prior Notice of non-renewal, cancellation of, or significant modification to any of the corresponding policies (except that such Notice shall be 10 Days for non-payment of premiums); (c) provide a waiver of any rights of subrogation against Company, its Affiliates and their officers, directors, agents, subcontractors, and employees; and (d) indicate that the Commercial General Liability policy has been endorsed as described above. All policies shall be written with insurers with an AM Best rating of at least A-VII or a Standard & Poor’s rating of at least A. All policies shall be written on an occurrence basis, except as provided in Section 16.2. All policies shall contain an endorsement that Seller’s policy shall be primary in all instances regardless of like coverages, if any, carried by Company. Seller’s liability under this PPA is not limited to the amount of insurance coverage required herein.

Model Wind Energy Purchase Agreement

16.2 Term and Modification of Insurance.

(A) All insurance required under this PPA shall cover occurrences during the Term and for a period of two years after the Term. In the event that any insurance as required herein is commercially available only on a “claims-made” basis, such insurance shall provide for a retroactive date not later than the date of this PPA and such insurance shall be maintained by Seller for a minimum of six years after the Term.

(B) Company shall have the right, at times deemed appropriate to Company during the Term, to request Seller to modify the insurance minimum limits specified in Exhibit E-Insurance in order to maintain Commercially Reasonable coverage amounts. Seller shall make all Commercially Reasonable Efforts to comply with any such request.

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

16.3 Application of Proceeds. Seller shall apply any insurance proceeds to reconstruction of the Facility following a casualty.

Article 17 - Indemnity

17.1 Indemnification. Each Party (the “Indemnifying Party”) agrees to indemnify, defend and hold harmless the other Party (the “Indemnified Party”) from and against all third party claims, demands, losses, liabilities, penalties, and expenses (including attorneys’ fees) for personal injury or death to persons and damage to the Indemnified Party’s real property and tangible personal property or facilities or the property of any other person or entity to the extent arising out of, resulting from, or caused by the (i) an Event of Default or other breach under this PPA, (ii) violation of Applicable Laws, (iii) negligent or tortious acts, errors, or omissions, or (iv) intentional acts or willful misconduct, of the Indemnifying Party, its Affiliates, its directors, officers, employees, or agents.

(A) This indemnification obligation shall apply notwithstanding any negligent or intentional acts, errors or omissions of the Indemnified Party, but the Indemnifying Party’s liability to indemnify the Indemnified Party shall be reduced in proportion to the percentage by which the Indemnified Party’s negligent or intentional acts, errors or omissions caused the damages.

(B) Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts or willful misconduct. These indemnity provisions shall

Model Wind Energy Purchase Agreement

not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

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

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

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

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

Article 18 - Lender Provisions

18.1 Accommodation of Facility Lender. Company shall make Commercially Reasonable Efforts to provide such consents to collateral assignment, certifications, representations, information or other documents, as may be reasonably requested by Seller in connection with the financing of the Facility consistent with the terms set forth in Exhibit I – Consent Provisions (generally, a "Lender Consent"), *provided, however, that* in providing a Lender Consent, Company shall have no obligation to alter or modify the terms of this PPA or provide any consent or enter into any agreement, that has a Material Adverse Effect on any of Company's rights, benefits, risks, or obligations under this PPA. Seller shall reimburse, or shall cause the Facility Lender to reimburse, Company for the direct expenses (including the fees and expenses of counsel) incurred by Company in the preparation, negotiation, execution and/or delivery of the Lender Consent and any documents requested by Seller or the Facility Lender, and provided by

Model Wind Energy Purchase Agreement

Company, pursuant to this Section. Seller shall provide Company with a Notice identifying the Facility Lender and providing appropriate contact information for the Facility Lender.

18.2 Facility Lender Notice and Right to Cure. Seller shall provide Company with a Notice identifying the Facility Lender and providing appropriate contact information for the Facility Lender. Following receipt of such Notice, Company shall provide Notice of any breach or default of Seller to the Facility Lender, and Company will accept a cure performed by the Facility Lender, so long as the cure is accomplished within the applicable cure period set forth in this PPA.

18.3 Notice of Facility Lender Action. Within 10 Days following Seller's receipt of each Notice from the Facility Lender of default, or Facility Lender's intent to exercise any remedies under the Financing Documents, Seller shall deliver a copy of such Notice to Company.

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

Article 19 - Assignment and Other Transfer Restrictions

19.1 Transfer Without Consent is Null and Void.. Any Change of Control or sale, transfer, or assignment of any interest in the Facility or in this PPA made without fulfilling the requirements of this PPA shall be null and void and a breach of this PPA.

(A) Except as permitted in this Section, neither Party shall assign this PPA or any portion thereof, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; *provided, however, that* (i) at least 30 Days prior Notice of any proposed assignment requiring consent shall be given to the other Party; (ii) any assignee shall expressly assume the assignor's obligations under this PPA unless otherwise agreed by the other Party, (iii) no assignment shall relieve the assignor of its obligations under this PPA in the event the assignee fails to perform, unless the other Party waives in writing the assignor's continuing obligations under this PPA; (iv) no assignment shall impair any security given by Seller unless such security has been replaced in accordance with Section 11.1; and (v) before this PPA is assigned by Seller, the assignee must first obtain such approvals as may be required by all applicable Governmental Authorities.

1. Seller's consent shall not be required for Company to assign this PPA to an Affiliate of Company; *provided, however, that* Company shall remain liable for obligations incurred under this PPA unless released in accordance with the terms of this PPA. In the event that a permitted assignee of Company is an entity that provides retail electric service in the State in which the Facility is located and is subject

Model Wind Energy Purchase Agreement

to rate and quality service regulation under the jurisdiction of the State Regulatory Agency and has or attains an Investment Grade rating, Seller shall release Company from its obligations under this PPA if Company requests to be so released by Notice to Seller.

2. Company's consent shall not be required for Seller to assign this PPA for collateral purposes, to the Facility Lender. Seller shall provide Company Notice of any such assignment no later than 30 Days after the assignment.

(B) Any Change of Control of Seller, whether voluntary or by operation of law, shall require the prior written consent of Company, which shall not be unreasonably withheld, provided, however, that Company shall have no obligation to provide any such consent prior to the fulfillment and expiration of all rights conferred pursuant to Section 19.2.

19.2 ROFO and PFT. Seller hereby grants Company (i) a right of first offer ("ROFO"), and (ii) a right to receive Notice of a Pending Facility Transaction ("PFT") each on terms set forth in this PPA.

(A) At any time after the Commercial Operation Date, if Seller or any Affiliate of Seller offers to convey the Facility or a majority of the LLC interests in Seller to an unaffiliated third party, Seller shall simultaneously offer Company the ROFO. Seller shall identify (i) the buyer, (ii) the nature and terms of the transaction, and (iii) the minimum price Seller is willing to accept to proceed with the contemplated transaction (the "ROFO Notice").

1. Seller shall allow Company 60 Days after the ROFO Notice to investigate the transaction and conduct due diligence. Within such period, Company shall either (i) exercise its ROFO rights on substantially comparable terms to the transaction, or (ii) cancel its ROFO rights.

2. If Company exercises its ROFO rights, the Parties shall have an additional 120 Day period to sign definitive agreements on terms no less favorable to Company than those contained in the ROFO Notice. Seller shall cooperate in all respects necessary for Company to exercise its ROFO rights.

3. If Company does not exercise its ROFO rights, Seller shall have the right to close its transaction with the identified prospective buyer, *provided, however, that* such transaction shall have an aggregate value of not less than the minimum price set forth in the ROFO Notice and the transaction shall have been closed not more than nine months following expiration of the Company's right to exercise its ROFO rights.

(B) To the extent Seller proposes a Pending Facility Transaction that does not otherwise trigger Company's ROFO rights, Seller shall give Company at least 90 Days prior Notice of such Pending Facility Transaction (a "PFT Notice") in order to provide Company with an opportunity to discuss and negotiate with Seller a possible transaction with Company. Any PFT Notice shall include a fair summary of Seller's

Model Wind Energy Purchase Agreement

plans with respect to the Facility in connection with the proposed Pending Facility Transaction, to the extent then known. Seller shall have no obligation to sell nor shall Company have any obligation to purchase the Facility, following any PFT Notice, *provided, however, that* issuance of a PFT Notice shall not relieve Seller of its obligations to provide a ROFO Notice if and when applicable pursuant to this Section. In the event that the transaction giving rise to the PFT Notice has not been completed within nine months of the PFT Notice, Seller shall be required to resubmit the PFT Notice for such transaction.

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

Article 20 - Miscellaneous

20.1 Notices. Notices required by this PPA shall be in writing and addressed to the other Party, including the other Party's representative on the Operating Committee, at the addresses noted in Exhibit D-Notices as either Party updates them from time to time by Notice to the other Party. Notices shall either be hand delivered or mailed, postage prepaid. If mailed, Notices shall be simultaneously sent by facsimile or other electronic means. Any Notice shall be deemed to have been received by the close of the Business Day on which it was hand delivered or transmitted electronically (unless hand delivered or transmitted after the close of the Business Day, in which case it shall be deemed received at the close of the next Business Day). Real-time or routine communications concerning Facility operations shall be exempt from this Section.

20.2 Taxes and Change of Law.

(A) Seller shall be solely responsible for any and all present or future taxes and other impositions of Governmental Authorities relating to the construction, ownership or leasing, operation or maintenance of the Facility, or any components or appurtenances thereof, any sales or *ad valorem* taxes relating to the Facility, or any taxes on the products and services generated by Seller, sold and delivered to Company at the Point of Delivery. Seller's prices under Article 8 are inclusive of such taxes and impositions during the Term.

(B) Company shall be solely responsible for the payment of any taxes imposed by Governmental Authorities on the Renewable Energy purchased under this PPA beyond the Point of Delivery.

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

Model Wind Energy Purchase Agreement

20.3 Applicable Laws. Each Party shall at all times comply with all Applicable Laws, except for any non-compliance that, individually or in the aggregate, could not reasonably be expected to have a material effect on the business or financial condition of the Party or its ability to fulfill its commitments hereunder.

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

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

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

20.4 Fines and Penalties.

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

(B) If fees, fines, penalties, or costs are claimed or assessed against Company by any Governmental Authority due to noncompliance by Seller, its employees, or subcontractors with any provision of this PPA, or any contractual obligation, Permit or requirements of Applicable Law, or, if the work of Seller or any of its contractors or subcontractors is delayed or stopped by order of any Governmental Authority due to Seller's noncompliance, its employees, or subcontractors with any provision of this PPA, or any contractual obligation, Permit or requirements of Applicable Law, Seller shall reimburse and hold Company harmless against any such costs incurred by Company, including claims for indemnity or contribution made by third parties against Company in accordance with Article 17.

20.5 Rate Changes.

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

(B) Absent the agreement of all Parties to the proposed change, this PPA shall not be subject to change by application of either Party pursuant to Section 205 or 206 of the Federal Power Act. Absent the agreement of both Parties to the proposed change,

Model Wind Energy Purchase Agreement

the standard of review for changes to this PPA whether proposed by a Party, a non-party, or FERC acting *sua sponte* shall be the “public interest” standard of review set forth in United Gas Pipe Line v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) (the Mobile-Sierra doctrine), as interpreted and applied by the Supreme Court of the United States in subsequent cases.

20.6 Disclaimer of Third Party Beneficiary Rights. In executing this PPA, Company does not and does not intend to extend its credit or financial support for the benefit of any third parties lending money to or having other transactions with Seller. Nothing in this PPA shall be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a party to this PPA.

20.7 Relationship of the Parties.

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

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

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

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

20.10 Severability. In the event any of the terms, covenants, or conditions of this PPA, its Exhibits, or the application of any such terms, covenants, or conditions, shall be held invalid, illegal, or unenforceable by any court or administrative body having jurisdiction, all other terms, covenants, and conditions of the PPA and their application not adversely affected thereby shall remain in force and effect; *provided, however, that*

Model Wind Energy Purchase Agreement

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

20.11 Complete Agreement; Amendments. The terms and provisions contained in this PPA constitute the entire agreement between Company and Seller with respect to the Facility and shall supersede all previous communications, representations, or agreements, either verbal or written, between Company and Seller with respect to the sale of any output from the Facility. This PPA, including Exhibits, may be amended, changed, modified, or altered in accordance with the terms of this PPA, *provided, however, that* such amendment, change, modification, or alteration shall be in writing.

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

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

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

20.15 Governing Law. The interpretation and performance of this PPA and each of its provisions shall be governed and construed in accordance with the laws of the State in which the Facility is located, exclusive of conflict of laws principles. The Parties submit to the exclusive jurisdiction of the state courts of the State in which the Facility is located, and venue is hereby stipulated as the capital city of such State or such other city as mutually agreed to by the Parties.

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

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

20.18 Confidentiality.

(A) This PPA and all appendices and amendments hereto are intended to be treated as Confidential Information, *provided, however, that* Seller hereby irrevocably agrees that Company may, at its sole discretion and without prior notice to

Model Wind Energy Purchase Agreement

Seller, provide such documents to any Governmental Authorities, their staffs or in connection with any regulatory proceedings including regulatory filings and responses to discovery requests, on a public basis, without redactions, and without Seller's consent. Company shall have no responsibility for any public dissemination that occurs as a result of such disclosure.

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

1. Confidential Information shall include all documentation and data, including special techniques, methods, computer programs and software, that the disclosing Party considers proprietary or trade secret and furnishes to the receiving Party. Such materials may be designated as Confidential Information by clear and distinct notation on such documentation or by equivalent method, and shall be treated as such by the receiving Party. Documentation and data not so designated need not be considered by the receiving Party to be proprietary or trade secret; *provided, however, that* any and all data and documentation regarding Facility output, performance, outages and similar operational information shall be considered Confidential Information without the need for further designation if any disclosure thereof would be in a form or by a means that associates such data or documentation with the Facility or Seller or any of its Affiliates, or from which a reasonable person could make such an association. The disclosing Party hereby grants to the receiving Party authority to use Confidential Information for the purposes of this PPA, including keeping electronic copies of such Confidential Information. The receiving Party agrees to keep such Confidential Information confidential, except as set forth in this Section, to use it for work necessary to the performance of this PPA, and not to sell, transfer, sublicense, disclose or otherwise make available any such Confidential Information to others; *provided, however, that* Confidential Information may be disclosed by the receiving Party to the agents, employees, advisors, consultants, or potential or actual debt or equity investors of the receiving Party, subject to their acceptance of the obligations of confidentiality imposed hereby and for whose violations of this requirement of confidentiality the receiving Party shall be responsible.

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

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

b. Which can be documented was independently developed by the receiving Party;

Model Wind Energy Purchase Agreement

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

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

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

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Model Wind Energy Purchase Agreement

IN WITNESS WHEREOF, the Parties have executed this PPA.

Seller:

By: _____

Company:

Northern States Power Company
A Minnesota Corporation

By: _____

Model Wind Energy Purchase Agreement (NSP)

EXHIBIT A

(Definitions)

The following terms shall have the meanings set forth herein:

“Actual Damages” has the meaning set forth in Section 12.2(C).

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

“AGC” or “Automatic Generation Control” means the equipment and capability of an electric generation facility to automatically adjust the generation quantity within the applicable Balancing Authority with the purpose of interchange balancing and specifically, the Facility’s capability of accepting AGC Set-Point electronically and automatically adjusting and regulating the Facility’s energy production via the Facility’s SCADA System.

“AGC Protocols” means the protocols attached hereto as Exhibit H-AGC Protocols, as modified in accordance with Section 10.6.

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

“AGC Set-Point” means the Company-generated analog or digital signal sent by the SCADA System to the Facility, representing the maximum Renewable Energy output for the Facility.

“Allowable Curtailments” means [_____] MWh of otherwise Compensable Curtailment Energy in any Commercial Operation Year that may be applied at the election of Company at any time during the same Commercial Operation Year without compensation to Seller.

“Ancillary Services” means those ancillary services defined under the Transmission Tariff as well as those other services and products that may be included under such tariff from time to time, which are associated, directly or indirectly, with the capacity of the Facility or the transmission of energy from the Facility.

“Applicable Law” means all laws, statutes, treaties, codes, ordinances, regulations, certificates, orders, licenses and permits of any Governmental Authority that are applicable to a Party, the business of a Party or the Facility, now in effect or

Model Wind Energy Purchase Agreement

hereafter enacted, amendments to or interpretations of any of the foregoing by a Governmental Authority having jurisdiction, and all applicable judicial, administrative, arbitration and regulatory decrees, judgments, injunctions, writs, orders, awards or like actions.

“Back-Up Metering” shall have the meaning set forth in Section 5.2(B).

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

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

“Capacity Resource” means the amount of net generating capacity associated with the Facility for which capacity credit may be obtained under applicable planning reserve procedures and requirements as designated by Company.

“Change of Control” means the occurrence of any one of the following events with respect to Seller or any direct or indirect owner of a majority of the ownership interests in Seller: (i) a transfer of a majority of the ownership interests in Seller or such owner; or (ii) any consolidation or merger of Seller or such owner in which Seller or such owner, as the case may be, is not the continuing or surviving entity, or (iii) a sale or conveyance of any direct or indirect ownership interest in Seller following which **[the selling entities]** are no longer the direct or indirect owner of at least 50% of the ownership interests of Seller, provided, however, that a Change of Control shall not be deemed to have occurred as a result of (i) transactions exclusively among Affiliates of Seller, (ii) any exercise by the Facility Lender of its rights and remedies under the Financing Documents, (iii) a change of the Ultimate Parent Entity of Seller (defined under Section 7A of the Clayton Act, 15 U.S.C. 18a, aka the Hart-Scott-Rodino Antitrust Improvements Act of 1976), or (iv) any change of economic and voting rights triggered in Seller’s organization documents arising from the financing of the Facility and that does not result in the transfer of ownership, economic or voting rights in any entity that had no such rights immediately prior to the change.

“COD Conditions” means all of the requirements that must be satisfied by Seller in order to achieve Commercial Operation as set forth in Section 4.3.

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

“Commercial Operation Date” or “COD” means 12:00 am on the date following the date upon which Seller satisfies the COD Conditions, or such other date as is mutually agreed upon by the Parties.

“Commercial Operation Milestone” means the Construction Milestone for the Commercial Operation Date specified in Exhibit B-Milestones.

Model Wind Energy Purchase Agreement

“Commercial Operation Year” means any consecutive 12 month period during the Term, commencing with the Commercial Operation Date or any of its anniversaries.

“Commercially Reasonable” or “Commercially Reasonable Efforts” means, with respect to any action required to be made, attempted or taken by a Party under this PPA, the level of effort in light of the facts known to such Party at the time a decision is made that: (a) can reasonably be expected to accomplish the desired action at a reasonable cost; (b) is consistent with Good Utility Practices; and (c) takes into consideration the amount of advance notice required to take such action, the duration and type of action and the competitive environment in which such action occurs.

“Committed Renewable Energy” means [_____] MWh Renewable Energy in any Commercial Operation Year.

“Company” shall have the meaning set forth in the first paragraph of this PPA.

“Confidential Information” shall have the meaning set forth in Section 20.18.

“Construction Contract” means the contract or contracts providing for the engineering, procurement, construction, acquisition, manufacture, delivery and installation of the generating and step-up transformation equipment that is to be part of the Facility and the engineering, procurement and construction of the Facility.

“Construction Milestones” means the dates set forth in Exhibit B-Milestones.

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

“Damage Caps” shall have the meaning set forth in Section 12.3.

“Day” means a calendar day.

“Dispute” shall have the meaning set forth in Article 13.

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

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

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

Model Wind Energy Purchase Agreement

“Emergency” means any event or occurrence after the date of this PPA that results in the declaration of an Emergency Condition under and as defined in the Interconnection Agreement.

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

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

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

“ERO” means the Electric Reliability Organization certified by FERC pursuant to Section 215 of the Federal Power Act or any successor organization; the Midwest Reliability Organization (“MRO”) is the certified ERO as of the date of this PPA.

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

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

“Facility” means Seller's electric generating facilities, associated balance of plant, parts and equipment consistent with the warranties for the major equipment components, and all equipment necessary to interconnect to the Transmission Authority's System, all as further described in Exhibit C-Facility Description, including all of the following: Seller's equipment, buildings, turbines, generators, step-up transformers, output breakers, facilities necessary to connect to the Interconnection Point, protective and associated equipment, improvements, and other tangible assets, contract rights, easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for construction, operation, maintenance, generation and delivery of the capacity and energy subject to this PPA.

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

“Facility Lender” means, collectively, any lenders providing any Facility Debt and any successors or assigns thereto.

Model Wind Energy Purchase Agreement

“Facility Property” means all property rights necessary for the use of the Facility for its intended purpose, including (i) the Facility; (ii) the Site; (iii) Seller’s Interconnection Facilities; (iv) the Facility collection facilities and substation; (v) Seller’s rights and obligations under the Interconnection Agreement; (vi) Permits, and all material contracts; and (vi) all Facility fixtures, equipment and personal property.

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

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

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

“Force Majeure” means an event or circumstance that prevents a Party from performing its obligations under this PPA, which event or circumstance (i) was not anticipated as of the date of this PPA, (ii) is not within the control of or the result of the fault or negligence of the Party claiming its occurrence, and (iii) which by exercise of due diligence and foresight could not reasonably have been avoided, *provided, however, that* such an event or circumstance shall not include: (a) inability, or excess cost, to procure any equipment necessary to perform the obligations of this PPA; (b) acts or omissions of a third party (not under contract to Seller), unless such acts or omissions are themselves excused by reason of Force Majeure; (c) mechanical or equipment breakdown or inability to operate, attributable to circumstances occurring within design criteria and normal operating tolerances of similar equipment designed to be located in the local vicinity; (d) changes in market conditions; or (e) any labor strikes, slowdowns, work stoppages, or other labor disruptions.

“Forced Outage” means any condition at the Facility that requires the immediate and unplanned removal of the Facility, or at least ten percent thereof, from service, another outage state, or a reserve shutdown state, resulting from immediate mechanical/electrical/hydraulic control system trips and operator-initiated trips in response to abnormal Facility conditions or alarms.

“Generation Benefits” means existing or future environmental benefits or attributes, economic and other related carbon credits, carbon offsets, carbon allowances or benefits, renewable energy credits or green tags, carbon dioxide emissions credits, avoided or reduced carbon dioxide emissions, that are attributable to Energy generated by the Seller and sold to Company under this PPA, whether pursuant

Model Wind Energy Purchase Agreement

to or arising from any Governmental Authority or international agreement or treaty, *provided, however, that* this definition excludes any credits, offsets or other benefits arising out of or associated with any emission or pollutant other than carbon dioxide emissions.

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

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

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

“Hazardous Materials” means any substance, material, gas, or particulate matter that is regulated by any local Governmental Authority, any applicable State, or the United States of America, as an environmental pollutant or dangerous to public health, public welfare, or the natural environment including, without limitation, protection of non-human forms of life, land, water, groundwater, and air, including any material or substance that is (i) defined as “toxic,” “polluting,” “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” “solid waste” or “restricted hazardous waste” under any provision of local, state, or federal law; (ii) petroleum, including any fraction, derivative or additive; (iii) asbestos; (iv) polychlorinated biphenyls; (v) radioactive material; (vi) designated as a “hazardous substance” pursuant to the Clean Water Act, 33 U.S.C. §1251 *et seq.* (33 U.S.C. §1251); (vii) defined as a “hazardous waste” pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* (42 U.S.C. §6901); (viii) defined as a “hazardous substance” pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 *et seq.* (42 U.S.C. §9601); (ix) defined as a “chemical substance” under the Toxic Substances Control Act, 15 U.S.C. §2601 *et seq.* (15 U.S.C. §2601); or (x) defined as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 *et seq.* (7 U.S.C. §136).

Model Wind Energy Purchase Agreement

“House Power” means retail power to the Facility, for purposes of turbine unit start-up or shut-down, or for any other purpose.

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

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

“Interconnection Agreement” means the separate agreement for interconnection of the Facility to the Transmission Authority’s System, as such agreement may be amended from time to time. For purposes of this PPA, the Interconnection Agreement shall be interpreted to include any third party facility construction agreement or other Agreement required by the Transmission Authority to interconnect the Facility in accordance with the Transmission Tariff.

“Interconnection Facilities” means those facilities designated in the Interconnection Agreement for the direct purpose of interconnecting the Facility at the Interconnection Point, along with any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the construction, operation and maintenance of such facilities, whether owned by Seller, the Transmission Authority or another entity. This equipment is conceptually depicted in Exhibit C-Facility Description to this PPA.

“Interconnection Point” means the physical point within the operational authority of Transmission Authority as specified in the Interconnection Agreement as project [____], at which electrical interconnection is made between the Facility and the Transmission Authority’s System in accordance with the Transmission Authority OATT and the Interconnection Agreement.

“Investment Grade” means a long-term credit rating (corporate or long-term senior unsecured debt) of (a) Baa3 or higher by Moody’s, and (b) BBB- or higher by S&P.

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

“kW” means kilowatt.

“kWh” means kilowatt hour.

“Lender Consent” shall have the meaning set forth in Section 18.2.

“Liquidated Delay Damages” means \$200 per MW of Facility Nameplate Capacity per Day..

“Local Provider” means the utility providing House Power to the Facility.

“Maintenance Schedule” has the meaning set forth in Section 10.2.

Model Wind Energy Purchase Agreement

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

“MW” means megawatt or one thousand kW.

“MWh” means megawatt hours.

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

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

“Non-Compensable Curtailment” shall have the meaning set forth in Section 8.2.

“Notice(s)” shall have the meaning set forth in Section 20.1.

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

“Operating Committee” means one representative each from Company and Seller pursuant to Section 10.4.

“Operating Procedures” means those procedures developed pursuant to Section 10.4, if any.

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

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

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

Model Wind Energy Purchase Agreement

“Pending Facility Transaction” or “PFT” means (i) any Change of Control of Seller, (ii) the issuance by Seller or any of its Affiliates of a request for proposals or the response by Seller or any of its Affiliates to a request for proposal or similar process (e.g., auction) for the purchase or sale to any unaffiliated third party of any equity interests in Seller or the Facility Property, or any group(s) of assets or equity interests that includes any part of the Facility Property, (iii) the commencement by Seller or any of its Affiliates of substantive negotiations with any unaffiliated third party with respect to the sale of any equity interests in Seller or the Facility Property, or any group(s) of assets or equity interests that includes any part of the Facility Property, (iv) the execution by Seller or any of its Affiliates of any letter of intent, memorandum of understanding or similar document, whether or not legally binding, which contemplates the sale or lease to an unaffiliated third party of any equity interests in Seller or the Facility Property or any group(s) of assets or equity interests that includes part of the Facility Property, *provided, however, that* a PFT does not include, (i) any financing, refinancing or replacing of the Facility Debt by Seller or any of its Affiliates; (ii) any transaction between and among Affiliates of Seller; and (iii) any transaction in which Company declined to exercise its ROFO rights.

“Permit(s)” means all applicable construction, land use, air quality, emissions control, environmental and other permits, licenses and approvals from any Governmental Authority required under Applicable Laws for construction, ownership, operation and maintenance of the Facility and the generation and delivery of any output from the Facility to Company.

“PFT Notice” shall have the meaning set forth in Section 19.2.

“PI” means the “plant information” system as described and implemented in Section 10.7.

“Point of Delivery” means the physical point within the operational authority of Transmission Authority at which Seller makes available to Company and delivers to Company the capacity and energy being provided by Seller to Company under this PPA as specified in Exhibit C-Facility Description to this PPA.

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

“Post-COD Damage Cap” means \$100/kW [*multiplied by the number of KW in the Facility Nameplate Capacity*].

Model Wind Energy Purchase Agreement

“Post-COD Security Fund” means \$50/kW *[multiplied by the number of KW in the Facility Nameplate Capacity]*.

“Pre-COD Damage Cap” means \$100/kW *[multiplied by the number of KW in the Facility Nameplate Capacity]*.

“Pre-COD Security Fund” means \$100/kW *[multiplied by the number of KW in the Facility Nameplate Capacity]*.

“PTCs” means Production Tax Credits applicable to electricity produced from certain renewable resources pursuant to 26 U.S.C. § 45, or such substantially equivalent tax credit that provides Seller with a tax credit based on energy production from any portion of the Facility.

“REC Registration Program” means any State, regional, or federal program established to register Eligible Energy Resources and create and certify RECs arising from energy generated from such Resource, including any rights associated with any renewable energy information or tracking system that exists or may be established by Applicable Law with regard to monitoring, registering, tracking, certifying, or trading such credits.

“Renewable Energy” means all electric energy generated by the Facility during the Term and purchased by Company, including all Test Energy, any Excess Energy, and shall be deemed to include all RECs associated with such electric energy.

“Renewable Energy Credits” or “RECs” means any contractual right to the full set of non-energy attributes, including any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, directly attributable to a specific amount of capacity and/or electric energy generated from an Eligible Energy Resource, including any and all environmental air quality credits, benefits, emissions reductions, off-sets, allowances, or other benefits as may be created or under any existing or future statutory or regulatory scheme (federal, state, or local) by virtue of or due to the Facility’s actual energy production or the Facility’s energy production capability because of the Facility’s environmental or renewable characteristics or attributes, including any Renewable Energy Credits or similar rights arising out of or eligible for consideration in the REC Registration Program. For the avoidance of doubt, RECs exclude (i) any local, state or federal depreciation deductions or other tax credits providing a tax benefit to Seller based on ownership of, or energy production from, any portion of the Facility, including the investment tax credit that may be available to Seller with respect to the Facility under Applicable Laws, and (ii) depreciation and other tax benefits arising from ownership or operation of the Facility unrelated to its status as a generator of renewable or environmentally clean energy.

“Renewable Energy Payment Rate” means all Renewable Energy in a Commercial Operation Year, net of energy self-generated and concurrently consumed by the Facility, and net of losses prior to the Point of Delivery, for up to 115% of the Committed Renewable Energy, at a price equal to [\$_____] per megawatt hour.

Model Wind Energy Purchase Agreement

“Replacement Power Costs” means the costs incurred by Company, after the Commercial Operation Milestone, that are necessary to replace the products and services that Seller was required to provide under this PPA, but failed to so provide, less the sum of any payments from Company to Seller, under this PPA, that were eliminated as a result of such failure; *provided, however, that* the net amount shall never be less than zero in any hour and if the calculation for any hour results in a number less than zero, the number for such hour shall be deemed to be zero. Replacement Power Costs shall be determined on an hourly basis and shall equal the sum of all hours where the following calculation achieves a positive number.

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

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

“B” is the sum of (i) the product of the number of MWh of energy purchased by Company to replace any of the Committed Renewable Energy that was not delivered under this PPA and the applicable market price for energy delivered to Company’s system at a point nearest to the Point of Delivery for the hour, and (ii) the product of the MWh of energy derived in clause (i) and the actual cost of registered RECs for that number of MWh; and

“C” an amount equal to the actual cost of transmission, ancillary services, fuel and fuel transportation and related penalties that could not be avoided or mitigated and transaction charges to deliver reasonably available energy to Company in amounts equal to the number of MWh for which Replacement Power Costs are owed;

“D” is the product of the MWh of energy purchased by Company associated with the Committed Nameplate Capacity that was not delivered under this PPA and the Renewable Energy Payment Rate.

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

“ROFO Notice” shall have the meaning set forth in Section 19.2.

“SCADA” means supervisory control and data acquisition.

“Scheduled Termination Date” means the [____] anniversary of the COD.

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

“Seller CPs” means those conditions precedent listed below that must be satisfied or waived by the deadline date(s) shown:

Model Wind Energy Purchase Agreement

Condition Precedent	Deadline Date
<i>[Bid Specific]</i>	<i>[Bid Specific]</i>

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

“Start-up Testing” means the initial synchronization to the Transmission System. Including production of energy as measured on the Electric Metering Devices.

“State Regulatory Agency” means each of the Minnesota Public Utilities Commission and the North Dakota Public Service Commission, or any successor agency(s).

“State Regulatory Approval” means a final, non-appealable written order of each of the State Regulatory Agency making the affirmative determination that Company’s execution of this PPA is reasonable, in the public interest, and all costs incurred under this PPA are recoverable from the retail customers pursuant to Applicable Law, subject only to the requirement that the State Regulatory Agency retains ongoing prudency review of Company’s performance and administration of this PPA.

“Step-In Rights” means Company’s right, but not the obligation, to assume control and operate the Facility as agent for Seller (whether voluntary or involuntary) in accordance with Seller’s rights, obligations, and interest under this PPA.

“Tax Benefits” means an amount equal to: (A) the PTCs to which Seller would have been entitled with respect to Renewable Energy that could have been delivered but for a Compensated Curtailment pursuant to Section 8.2 of this PPA; plus (B) a “gross up” amount to take into account the federal, state and local income tax to Seller on such payments in lieu of PTCs so that the net amount retained by Seller, after payment of federal, state and local income taxes, is equal to the amount set forth in clause (A) of this definition. For purposes of determining the foregoing, Seller shall be deemed to be subject to tax at the highest statutory corporate income tax rates for the highest income bracket (federal, state or local, as applicable) for the Seller or its parent, as appropriate, that are in effect or scheduled to be in effect for the tax year in which the receipt of such Tax Benefits payment is taxed. By way of example, as of the date of this PPA, the highest marginal corporate federal income tax rate for the highest income tax bracket is 35%.

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

Model Wind Energy Purchase Agreement

“Test Energy” means that energy which is produced by the Facility, delivered to Company at the Point of Delivery, and purchased by Company, pursuant to Section 4.4, in order to perform all testing of the Facility.

“Test Energy Rate” means a payment rate of 70% of the Renewable Energy Payment Rate applicable as of the Commercial Operation Date.

“Transmission Authority” means collectively those entities owning and/or operating the interconnected transmission system applicable to Seller and the Facility pursuant to a Transmission Tariff, including (i) Midwest Independent Transmission System Operator, Inc., (“MISO”) a non-profit, Delaware corporation, or successor organization, and (ii) all entity(s) responsible under the Interconnection Agreement for providing the transmission lines, any Interconnection Facilities and other equipment and facilities with which the Facility interconnects at the Interconnection Point and transmission system.

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

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

“UCP” shall have the meaning set forth in Exhibit G-1, FORM OF LETTER OF CREDIT.

“Ultimate Parent Entity” shall have the meaning set forth under Section 7A of the Clayton Act, 15 U.S.C. 18a, also known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

Model Wind Energy Purchase Agreement (NSP)

“Wind Turbine(s)” means [*manufacturer, Model # _____*], wind-energy generating devices that are included in the Facility.

Model Wind Energy Purchase Agreement (NSP)

EXHIBIT B

(CONSTRUCTION MILESTONES)

Construction Milestone	<i>Outcome</i>
<i>[Date]</i>	Seller and all required counterparties have executed major procurement contracts, the Construction Contract, any operating agreements, and the Interconnection Agreement needed to commence construction of the Facility.
<i>[Date]</i>	Seller shall have achieved closing on financing for the Facility or provided Company with proof of financial capability to construct the Facility.
<i>[Date]</i>	Seller shall have laid the foundation for all Facility buildings, generating facilities and step-up transformation facilities.
<i>[Date]</i>	The turbine(s)/generator(s)/step-up transformer shall have been delivered to, and installed at, the Site.
<i>[Date]</i>	Seller shall have constructed Seller's Interconnection Facilities and such facilities are capable of being energized.
<i>[Date]</i>	Start-up testing of the Facility commences.
<i>[Date]</i>	<i>Seller shall make all applications and/or filings required by Applicable Law for REC accreditation and for the provision of such RECs to Company.</i>
<i>[Date]</i>	Commercial Operation Milestone.

Model Wind Energy Purchase Agreement (NSP)

EXHIBIT C

FACILITY DESCRIPTION AND SITE MAPS

[This Exhibit shall include a description of the Facility and all material components thereof.]

The Facility shall be located on the Site and shall be identified as Seller's [] Generation Facility. Maps and one-line diagrams of the Facility and associated equipment are included as part of this Exhibit.

The address of the Facility is [].

The Facility must include the following specific components:

- * have the panel space and 125VDC battery supplied voltage necessary to accommodate the metering, telemetering and communications equipment required by the PPA;
- * communication circuits from the Facility to the EMCC for the purpose of telemetering, supervisory control/data acquisition, and voice communications as required by Company;
- * equipment and software necessary to receive, accept and react to an AGC signal from the Company's SCADA System and to comply with the AGC Protocols as further specified on Exhibit H-AGC Protocols;
- * each Wind Turbine equipped with meteorological measurement equipment (e.g. anemometers), individually linked to Seller's information system;
- * capability of sending real time data and OPC interface to Company's plant information PI system;

[Additional Bid Specific requirements to be added]

Model Wind Energy Purchase Agreement

Real-Time Contact Information	Real-Time Contact Information
<p>Real-time Communications Contact Real-time Generation Dispatch desk (24 hour coverage) Phone: Fax: E-mail:</p> <p>Transmission Operation Contact Position: Real Time Transmission Operations Phone: FAX: E-mail:</p>	

Model Wind Energy Purchase Agreement (NSP)

EXHIBIT E INSURANCE COVERAGE

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

CGL insurance shall be written on ISO occurrence form CG 00 01 01 96 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products/completed operations, contracts, property damage, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract), all with limits as specified above. CGL insurance shall include ISO endorsement CG 24 17 (or an equivalent endorsement) which modifies the definition of "Insured contract" to eliminate the exclusion of easement or license agreements in connection with construction or demolition operations on or within 50 feet of a railroad. There shall be no endorsement or modification of the CGL insurance limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

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

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

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

Business Automobile Liability	\$2,000,000 combined single limit (each accident), including all Owned, Non-Owned, Hired and Leased Autos.
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Business Automobile Liability insurance shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

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

Type of Insurance	Minimum Limits of Coverage
Employers Liability	\$2,000,000 each accident for bodily injury by accident, or \$2,000,000 each employee for bodily injury by disease.

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

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

Environmental Impairment Liability	\$5,000,000 each occurrence.
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All-Risk Property insurance covering physical loss or damage to the Facility	Full replacement value of the Facility. A deductible may be carried which deductible shall be the absolute responsibility of Seller.
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All-Risk Property insurance shall include: (i) coverage for fire, flood, wind and storm, tornado and earthquake with respect to facilities similar in construction, location and occupancy to the Facility, with sublimits of no less than \$10,000,000 each for flood and earthquake; and (ii) Boiler and Machinery insurance covering all objects customarily subject to such insurance, including boilers and turbines, in an amount equal to their full replacement value.

Business Interruption insurance	Amount required to cover Seller's continuing or increased expenses, resulting from full interruption, for a period of 12 calendar months.
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Business Interruption insurance shall cover loss of revenues or the increased expense to resume operations attributable to the Facility by reason of total or partial suspension or delay of, or interruption in, the operation of the Facility as a result of an insured peril covered under Property insurance as set forth above, to the extent available on Commercially Reasonable terms as determined by Company, subject to a Commercially Reasonable deductible that shall be the responsibility of Seller. Notwithstanding any other provision of this PPA, Seller shall not be required to have Business Interruption insurance until the Commercial Operation Date.

Model Wind Energy Purchase Agreement (NSP)

EXHIBIT F

SELLER'S PERMITS

Bid Specific

Model Wind Energy Purchase Agreement (NSP)

**EXHIBIT G
FORM OF SECURITY DOCUMENTS**

Model Wind Energy Purchase Agreement

EXHIBIT G-1

FORM OF LETTER OF CREDIT

LETTERHEAD OF ISSUING BANK

Irrevocable Standby Letter of Credit
No: _____

Date of Issuance:

Initial Expiration Date: [Must be at least
one year after date of issuance]

Beneficiary:

Applicant:

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

Beneficiary may draw all or any portion of this Letter of Credit at any time and from time to time, and Issuer will make funds immediately available to Beneficiary upon presentation of Beneficiary's draft(s) at sight in substantially the form attached hereto as Exhibit "A" ("Sight Draft"), drawn on Issuer and accompanied by this Letter of Credit. All Sight Drafts must be signed on behalf of Beneficiary and the signatory must indicate his or her title or other official capacity. No other documents will be required to be presented. Issuer will effect payment under this Letter of Credit within twenty-four (24) hours after presentment of any Sight Draft. Payment shall be made in U.S. Dollars with Issuer's own funds in immediately available funds.

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

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

Model Wind Energy Purchase Agreement

This Letter of Credit will be automatically extended each year without amendment for a period of one (1) year from the expiration date hereof, as extended, unless at least thirty (30) days prior to the expiration date, Issuer notifies Beneficiary by registered mail that it elects not to extend this Letter of Credit for such additional period. Notice of non-extension will be given by Issuer to Beneficiary at Beneficiary's address set forth herein or at such other address as Beneficiary may designate to Issuer in writing at Issuer's letterhead address.

This Letter of Credit is freely transferable by Beneficiary in whole or in part, and the number of transfers is unlimited. Issuer agrees that it will affect any transfers immediately upon presentation to Issuer of this Letter of Credit and a completed written transfer request substantially in the form attached hereto as Exhibit "B." Such transfer will be effected at no cost to Beneficiary. Any transfer fees assessed by Issuer will be payable solely by Applicant, and the payment of any transfer fees will not be a condition to the validity or effectiveness of the transfer of this Letter of Credit.

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

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

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

ISSUER:

By: _____
Authorized Signature

Name: _____
Its: _____

Model Wind Energy Purchase Agreement (NSP)

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

SIGHT DRAFT

Draft Number _____
\$ _____

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

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

Dated: _____, 20__

[Name of Beneficiary to be inserted]

By: _____

Name: _____
Its Authorized Representative and [Title
or Other official Capacity to be
inserted]

Account: [Applicant to be inserted]

Model Wind Energy Purchase Agreement (NSP)

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

FORM OF TRANSFER REQUEST

Irrevocable Standby Letter of
Credit No. _____

Current Beneficiary:

Applicant:

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

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

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

Dated: _____

[Name of Beneficiary]

By: _____

Name: _____

Title: _____

[Notary Acknowledgement]

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

EXHIBIT G-2

FORM OF GUARANTY

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

- RECITALS -

A. Seller is planning to construct, own, and operate a wind power electric generation facility having Nameplate Capacity of approximately _____ MW to be located in _____ County, _____ (the “Facility”).

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

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

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

- AGREEMENT -

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

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

3. Rights of Company. Guarantor hereby grants to Company, in Company’s discretion and without the need to notify or obtain any consent from Guarantor, and

Model Wind Energy Purchase Agreement

without termination, impairment, or any other effect upon Guarantor's duties hereunder, the power and authority from time to time:

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

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

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

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

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

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

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

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

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

Model Wind Energy Purchase Agreement

- Obligations;
- (c) any defense based upon an election of remedies by Company;
 - (d) any duty of Company to protect or not impair any security for the
 - (e) the benefit of any laws limiting the liability of a surety;
 - (f) any duty of Company to disclose to Guarantor any facts concerning Seller, the PPA or the Project, or any other circumstances, that would or allegedly would increase the risk to Guarantor under this Guaranty, whether now known or hereafter learned by Company, it being understood that Guarantor is capable of and assumes the responsibility for being and remaining informed as to all such facts and circumstances; and
 - (g) until all Obligations in Default have been fully paid and/or performed, any rights of subrogation, contribution, reimbursement, indemnification, or other rights of payment or recovery for any payment or performance by it hereunder. For the avoidance of doubt, if any amount is paid to Guarantor in violation of this provision, such amount shall be held by Guarantor for the benefit of, and promptly paid to, Company.

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

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

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

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

10. Collection Costs. Guarantor hereby agrees to pay to Company, upon demand, and in addition to the maximum liability set forth in Section 3 hereof, all reasonable attorneys' fees and other expenses which Company may expend or incur in enforcing the Obligations against Seller and/or enforcing this Guaranty against

Model Wind Energy Purchase Agreement

Guarantor, whether or not suit is filed, including, without limitation, all attorneys' fees, and other expenses incurred by Company in connection with any insolvency, bankruptcy, reorganization, arrangement, or other similar proceedings involving Seller that in any way affect the exercise by Company of its rights and remedies hereunder.

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

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

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

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

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

(a) if to Company as provided in the PPA

(b) if to Guarantor: _____

Attn:

Phone: (____) _____

Fax: (____) _____

with a copy to: _____

Attn:

Phone: (____) _____

Fax: (____) _____

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

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

Model Wind Energy Purchase Agreement

[Name of Guarantor]

By: _____

Name:

Title:

STATE OF _____)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, as _____ of _____.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

(S E A L)

(space above reserved for recording information)

Model Wind Energy Purchase Agreement

EXHIBIT G-3 FORM OF ESCROW AGREEMENT

This Escrow Agreement ("Agreement") is entered into and effective this ___ day of _____, _____ by and among _____ ("Seller"), _____ ("Company") and _____ ("Escrow Agent").

RECITALS

WHEREAS, Seller and Company are parties to a Renewable Energy Purchase Agreement dated _____ (the "PPA"), pursuant to which Seller agrees to build and operate an electric generating facility in _____ (the "Facility") and to sell energy from the Facility to Company. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the PPA; and

WHEREAS, Section 11.1 of the PPA requires Seller to provide security in favor of Company in amounts set forth in the PPA up to a total of \$_____ (the "Escrow Total"); and

WHEREAS, Seller has elected to establish and deliver funds (the "Escrow Funds") into an escrow account with Escrow Agent to meet its PPA security obligations, and Seller, Company and Escrow Agent agree to enter into this Agreement to define the terms of that account.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and other consideration set forth in this Agreement and the PPA, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Appointment of Escrow Agent. On the terms, and subject to the conditions, set forth in this Agreement, Seller and Company hereby appoint Escrow Agent as their agent and custodian to hold, invest and distribute the Escrow Funds and all interest and investment earnings thereon (the "Escrow Interest") in accordance with this Agreement. To the extent any Escrow Interest accrues during the term of this Agreement, such Escrow Interest shall be added to but shall not be included as part of the principal amount of the Escrow Funds except as set forth in Section 5.
2. Delivery of Funds to Escrow Agent.
 - a. Seller shall deposit with Escrow Agent an amount equal to \$_____ on or before _____ on or before the date required by the PPA.

Model Wind Energy Purchase Agreement

b. Escrow Agent shall retain and disburse the Escrow Funds pursuant to the terms of this Agreement. The execution and full performance of this Agreement by Seller and Escrow Agent, and retention and disbursement by Escrow Agent of the Escrow Funds pursuant to the terms hereof, fully satisfies Seller's initial obligations under Section 11.1 of the PPA to establish and maintain a security fund. Escrow Agent shall hold the Escrow Funds under the terms of this Agreement and distribute the Escrow Funds only in accordance with Section 4.

c. The Escrow Funds shall, for all purposes, be considered property of Seller unless and until distributed to Company in accordance with this Agreement. To protect Company prior to such distribution, Seller hereby grants to Company a first priority security interest in all of Seller's right, title and interest in and to the Escrow Funds held under this Agreement for the purpose of securing Seller's obligations under the PPA. However, any release of any portion of the Escrow Funds to Company in accordance with this Agreement shall act as an automatic termination of Company's security interest in the Escrow Funds so released. Seller authorizes Company to file such financing statements and other documents as Company reasonably deems necessary or advisable to protect Company's rights in the Escrow Funds. Each party will sign such documents (including upon the request of Company a control agreement), provide such information, send such notices and take such other actions as any other party reasonably requests to consummate more effectively the intent and purpose of the parties under this Section 2(b).

3. Investment. Escrow Agent shall hold and invest the Escrow Funds only in accordance with the terms of this Agreement. At the written direction of Seller, Escrow Agent shall invest and reinvest the Escrow Funds in cash or one or more of the following short-term securities: a money-market fund, short-term treasury obligations, investment-grade commercial paper and other liquid investment-grade investments with maturities of three (3) months or less. All investments of the Escrow Funds shall be held by, or registered in the name of, Escrow Agent or its nominee. All Escrow Interest and investment income earned on the Escrow Funds shall accrue for the benefit of, and be taxable to, Seller.
4. Distributions of Escrow Funds by Escrow Agent. Escrow Agent shall hold the Escrow Funds until instructed or otherwise required to deliver the same or any portion thereof in accordance with Section 4.
5. Distributions.
 - a. Escrow Interest. Once Escrow Funds being held by Escrow Agent reach the Escrow Total, Seller may be paid Escrow Interest earned on the Escrow Funds at times and amounts in Seller's discretion as long as the

Model Wind Energy Purchase Agreement

amount of the Escrow Funds does not, as a result, become less than the Escrow Total.

- b. Release at End of Term; Substitution of Security. After the full and final satisfaction of all of Seller's obligations under the PPA and the RoFO Agreement, any Escrow Funds remaining with Escrow Agent after all deductions for any damages or other allowed charges made by Company, and all accrued Escrow Interest, shall be released to Seller. If Seller provides a letter of credit or other security under the PPA in form and substance as required by the PPA and in the full amount of the Escrow Total to secure Seller's obligations to Company prior to the expiration or termination of the PPA, the Escrow Funds and any Escrow Interest shall be released to Seller upon the delivery to Company of such effective letter of credit or security mechanism as permitted by the PPA.
 - c. Escrow Claims by Company. During the term of the PPA or the RoFO Agreement, Company may draw all or any portion of the Escrow Funds to the extent necessary to recover amounts owing to Company pursuant to the PPA or the RoFO Agreement that are not the subject of a good faith dispute, including any damages due to Company and any amounts for which Company is entitled to indemnification under the PPA. Each claim against the Escrow Funds under this Agreement shall be made by Company by delivering to Escrow Agent a certificate, in substantially the form of Exhibit A attached hereto, specifying the nature of the claim (a "Claim Certificate"). A copy of each Claim Certificate shall also be delivered to Seller contemporaneously with provision to Escrow Agent. Escrow Agent shall pay to Company the amount of Escrow Funds set forth in the Claim Certificate, in accordance with the Claim Certificate, on the first business day after it receives the Claim Certificate.
 - d. Regulations of the Comptroller of the Currency. Company and Seller acknowledge that regulations of the Comptroller of the Currency grant Company and Seller the right to receive brokerage confirmations of any security transactions as they occur. Company and Seller specifically waive such notifications to the extent permitted by law, and Seller will receive monthly cash transaction statements that will detail all investment transactions.
6. Rights and Obligations of Escrow Agent.
- a. Duties.
 - i. Escrow Agent hereby accepts its obligations under this Agreement and represents that it has the legal power and authority to enter into this Agreement and to perform its obligations hereunder. Escrow Agent agrees that all Escrow Funds held by Escrow Agent under this Agreement shall be segregated from all other property held by

Model Wind Energy Purchase Agreement

Escrow Agent and shall be identified as being held in connection with this Agreement. Segregation may be accomplished by appropriate identification on the books and records of Escrow Agent. Escrow Agent's documents and records with respect to the transactions contemplated by this Agreement shall be available for examination by authorized representatives of Company and Seller. Escrow Agent will deliver to Company and Seller written statements not less than quarterly summarizing any activity with respect to the Escrow Funds (including the amount of interest and earnings thereon) and detailing the balance of the Escrow Funds.

- ii. This Agreement may be terminated only by a writing executed by all of Company, Seller and Escrow Agent.
 - iii. In the event that this Agreement is scheduled to expire or terminate during the term of the PPA, and Seller has not provided security pursuant to the PPA required to replace this Agreement, Company may draw the entire balance of Escrow Funds, up to the Escrow Total, within five (5) business days of the scheduled expiration or termination date, and without regard to any objection asserted by Seller, provided Company holds the Escrow Funds it draws in escrow until the earlier of (i) the date Seller provides adequate replacement security in compliance with the PPA, or (ii) the date Company is entitled to draw and retain all or any portion of the Security Fund under the PPA.
 - iv. Escrow Agent and Seller will provide immediate notice to Company in the event that (i) the amount of Escrow Funds at any time falls below \$_____ prior to the time the Second Deposit is due or (ii) the amount of Escrow Funds at any time falls below the Escrow Total after the Second Deposit is due.
- b. No Other Duties. Escrow Agent shall not have any duties or responsibilities under this Agreement except as expressly set forth herein.
- c. Escrow Fee. Escrow Agent shall be entitled to receive solely from Seller (a) compensation for its regular services as escrow agent under this Agreement and (b) reimbursement for all reasonable and necessary out-of-pocket expenses incurred by Escrow Agent in fulfilling its obligations under this Agreement, including, without limitation, reasonable fees and disbursements of legal counsel. Such compensation and reimbursement obligations shall be paid from time to time as incurred. In no circumstance will Company have any obligation to pay any amount to Escrow Agent arising out of or under this Agreement.
- d. Resignation of Escrow Agent. Escrow Agent may at any time resign by giving thirty (30) days advance written notice of such resignation to Company and Seller. Upon such resignation, Escrow Agent shall not be discharged from its obligations under this Agreement until (a) a successor

Model Wind Energy Purchase Agreement

escrow agent, as mutually agreed on by Seller and Company, shall have been appointed, (b) the successor escrow agent shall have executed and delivered an Escrow Agreement in substantially the form of this Agreement and (c) all Escrow Funds then held by Escrow Agent under this Agreement shall have been delivered to such successor escrow agent.

- e. Liability of Escrow Agent. Escrow Agent shall not be liable for any action taken in accordance with the terms of this Agreement, including, without limitation, any distribution of the Escrow Funds in accordance with Section 4, as long as the action was taken in good faith. Escrow Agent shall not be liable for any other act or failure to act under or in connection with this Agreement, except for its own negligence or intentional tortious misconduct. Seller and Company agree to indemnify, defend and hold Escrow Agent harmless from and against all claims, causes of action, costs, judgments, losses and damages arising out of or related to this Agreement, except for any such claims, causes of action, costs, judgments, losses or damages arising from or related to any breach of this Agreement by Escrow Agent or negligent or intentional tortious actions or omissions of Escrow Agent.
 - f. Reliance on Documentary Evidence. Escrow Agent shall be entitled to rely on any written notice, certificate, affidavit, letter, document or other communication that is reasonably believed by Escrow Agent to be genuine and to have been signed or sent by the proper party or parties, and on statements contained therein, without further inquiry or investigation. Notwithstanding anything to the contrary in this Agreement, Escrow Agent may act on any written instructions given jointly by Company and Seller.
 - g. Interpleader. If Company and Seller shall disagree about the interpretation of this Agreement, or about the rights and obligations or the propriety of any act contemplated by Escrow Agent hereunder, then Escrow Agent may, within its reasonably exercised discretion, file an action of interpleader in the appropriate court of competent jurisdiction and deposit all of the applicable Escrow Funds with such court.
7. Termination of Agreement. This Agreement shall continue through the date on which all obligations of Seller under the PPA and the RoFO Agreement have been fully satisfied or all of the Escrow Funds shall have been paid to Company pursuant to the terms of this Agreement.
8. Taxes. Taxes on distributions of the Escrow Funds shall be paid by Seller.
9. Notices. All notices and other communications (including all certificates delivered pursuant to Section 4) under this Agreement by Company or Seller to Escrow Agent shall be delivered contemporaneously to the other parties in the same

Model Wind Energy Purchase Agreement

manner as provided to Escrow Agent. All notices and other communications under this Agreement shall be given in writing and shall be personally delivered, sent by telecopier or facsimile transmission or sent to the applicable parties at their respective addresses indicated in this Section 9 by registered or certified U.S. mail, return receipt requested and postage prepaid, or by private overnight mail courier service, as follows:

If to Seller, to:

Attention: _____

Phone: _____

Fax: _____

If to Company:

Manager, Renewable Purchases
Xcel Energy Services Inc.
1800 Larimer Street, Suite 1000
Denver, CO 80202
Phone: (303) 571-7714
Fax: (303) 571-7002

If to Escrow Agent, to:

Attention: _____

Phone: _____

Fax: _____

or to such other person or address as any party shall have specified by notice in writing to the other parties. If personally delivered, such communication shall be deemed delivered upon actual receipt; if sent by telecopier or facsimile transmission, such communication shall be deemed delivered the day of the transmission, or if the transmission is not made on a business day, the first business day after transmission (and sender shall bear the burden of proof of delivery); if sent by overnight courier pursuant to this Section 8, such communication shall be deemed delivered upon receipt; and if sent by U.S. mail pursuant to this Section 8, such communication shall be deemed delivered as of the date of delivery indicated on the receipt issued by the

Model Wind Energy Purchase Agreement

relevant postal service or, if the addressee fails or refuses to accept delivery, as of the date of such failure or refusal.

10. Miscellaneous.

- a. Captions. All titles, subject headings, section titles and similar items are provided for the purpose of reference and convenience and are not intended to be inclusive, definitive or to affect the meaning of the contents or scope of the Agreement.
- b. No Third-Party Beneficiary. No provision of this Agreement is intended to nor shall it in any way inure to the benefit of any customer, property owner or other third party, so as to constitute any such person a third-party beneficiary under this Agreement, or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.
- c. Integration; Amendment. This Agreement constitutes the entire agreement among the parties relating to the transactions described herein and supersedes any and all prior oral or written understandings. No amendment, addition to or modification of any provision hereof shall be binding on the parties, and no party shall be deemed to have waived any provision or any remedy available to it unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the applicable party or parties.
- d. Governing Law. The Agreement is made in the State in which the Facility is located and shall be interpreted and governed by the laws of such State or the laws of the United States, as applicable.
- e. Good Faith and Fair Dealing; Reasonableness. The parties agree to act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement, (i) whenever this Agreement requires the consent, approval or similar action by a party, such consent, approval or similar action shall not be unreasonably withheld or delayed, and (ii) whenever this Agreement gives a party a right to determine, require, specify or take similar action with respect to matters, such determination, requirement, specification or similar action shall be reasonable.
- f. Severability. Should any provision of this Agreement be or become void, illegal or unenforceable, the validity or enforceability of the other provisions of this Agreement shall not be affected and shall continue in force. The parties will, however, use their reasonable best endeavors to agree on the replacement of the void, illegal or unenforceable provisions with legally acceptable clauses that correspond as closely as possible to

Model Wind Energy Purchase Agreement

the sense and purpose of the affected provision and this Agreement as a whole.

- g. Cooperation. The parties agree to cooperate reasonably with each other in the implementation and performance of this Agreement. Such duty to cooperate shall not require any party to act in a manner inconsistent with its rights under this Agreement.
- h. Execution in Counterparts and By Facsimile Transmission. This Agreement may be executed in two (2) or more counterparts and by different parties on separate counterparts, all of which shall be considered one and the same agreement and each of which shall be deemed an original. This Agreement may be executed and delivered by facsimile, and the parties agree that such facsimile execution and delivery shall have the same force and effect as delivery of an original document with original signatures.

[This space intentionally left blank.]

Model Wind Energy Purchase Agreement

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed as of the date first set forth above.

Dated: _____ **(Seller)**

By: _____

Name: _____

Its: _____

Dated: _____ **(Company)**

By: _____

Name: _____

Its: _____

Dated: _____ **(Escrow Agent)**

By: _____

Name: _____

Its: _____

Model Wind Energy Purchase Agreement

EXHIBIT A TO ESCROW AGREEMENT

ESCROW CLAIM

CERTIFICATE

TO: _____

This Certificate is issued pursuant to that certain Escrow Agreement, dated as of _____, 2010, by and among Company, Seller and you, as Escrow Agent (the "Escrow Agreement"). Capitalized terms used but not otherwise defined in this Certificate shall have the meaning ascribed to them in the Escrow Agreement.

The undersigned representative of Company hereby certifies that Company is entitled to receive Escrow Funds in the amount of \$_____ pursuant to the terms of the Escrow Agreement and the PPA, due to the following (generally): _____

_____.

Accordingly, subject to the terms of the Escrow Agreement, you are hereby instructed to distribute, on the first business day after your receipt of this Certificate, the sum of \$_____ from the Escrow Funds to the undersigned by wire transfer to the following account:

Bank: _____
Account: _____
Routing Number: _____

Date: _____, 20____

(Company)

By: _____

Name: _____

Title: _____

Model Wind Energy Purchase Agreement

**Exhibit H
Operating Standards**

General

[Bid Specific]

Model Wind Energy Purchase Agreement

Exhibit H

AGC Protocols

These AGC protocols for the Facility will cover:

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

1. AGC Electronic Communications between Company and Seller

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

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

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

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

Model Wind Energy Purchase Agreement

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

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

a. Required Response Time

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

b. Allowable Variances in Excess of AGC Set-Point

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

c. Frequency of Changes

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

d. Range of AGC Set-Point

The range of set point values can be between 0% and 100% of Nameplate Capacity.

4. Backup Communications

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

Model Wind Energy Purchase Agreement

EXHIBIT H

DATA COLLECTION

I. Data.

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

A. Four data points from each Wind Turbine:

1. Turbine generation (kW)
2. Wind Speed (mps)
3. Turbine Availability
4. Wind Direction (in degrees relative to true north)
5. Ambient Temperature (degrees Celsius)

B. Five data points from each Meteorological Tower:

1. Wind Speed** (mphs)
2. Wind Direction** (degrees relative to true north)
3. Temperature (degrees Celsius)
4. Pressure (mb)
5. Air Density (kg/m³)

** = at all metered heights if available.

C. In addition to the other requirements for data collection, Seller shall ensure that it installs, maintains and operates at least one meteorological tower that is installed at hub height and is placed upstream of the prevailing wind path. The data stream from this meteorological tower to the Company's PI system must be reliable during periods of transmission-related curtailments and must include battery back-up at the meteorological tower and a local source of electricity to power the PI system and interconnectivity between the Facility and Company during transmission outages.

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

II. Forecasting Requirements:

1. The forecast shall be submitted through an availability forecast system as specified by Company to Seller. Prior to the Commercial Operation Date, Company

Model Wind Energy Purchase Agreement

shall provide Seller with information necessary for Seller to access the chosen availability forecast system.

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

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

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

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

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

III. Meteorological Equipment Specifications:

SURFACE WEATHER SYSTEM TECHNICAL SPECIFICATIONS

As required by Section 13.6(C) of the PPA, the Surface Weather System shall be constructed to satisfy the following technical specifications:

Hydromet System MAWS301 (Quantity: 1)

- A: Standard Assembly for Data Collection Platform (DCP) including:

Model Wind Energy Purchase Agreement

- QML201A Logger with 1.6 MB Flash Memory for Data Logging and Mounting Plate
- 1 x RS-232 (3-w) and 1 x RS-485 (2-w) port
- RTC Clock, Compact Flash Card Place and Extended RAM
- Product Manuals in PDF Format
- Lizard Set-Up Software and Terminal Software
- YourVIEW Software (Basic)
- E: ENC542PLM Polyester Enclosure for DCP with Installation Frame and Radiation Shield
- I: Wall Mounting Set for DCP using ENCRST/PLM542
- D: ADC15V60 Mains Power Supply for DCP with ADC40V60 Heating Supply, Mounting, Wiring, Connector and Surge Arrestor for 115VAC
- 7: Back-up Battery Acc. Set for DCP with Mounting, QBR101C Battery Regulator and Wiring to 52Ah/12V Internal Battery
- 1: RS-232 Maintenance Cable for DCP
- A: Standard Calibration for DCP
- B: Standard Configuration for DCP with non-Metric (US) units
- 6: Removable CF Card 2 GB for DCP with Industrial Temperature Range (2 pcs)
- 1: LCD Display/Keyboard for DCP Mounted on Enclosure Door (via SPI)
- C: RS-485 (2-w) Interface with DCP with Connector, Wiring and Surge Protector Using COM 1
- 6: DSI486 Dual RS-485 Module for DCP (2 x RS-485 (2-w) + 1 x SDI-12)
- 6: DSI486 Dual RS-485 Module for DCP (2 x RS-485 (2-w) + 1 x SDI-12)
- D: Sensor Interface for DCP with Connector and Wiring to one (1) HMP155 Air Temperature and Relative Humidity Sensor, Heated RH, via RS-485 (2-w) using mod 2 DSI486 port 2
- G: Sensor Interface for DCP Surge Protection, Connectors and Wiring to one (1) WS425 Ultrasonic Wind Sensor (Heated) via RS-485 (2-w). ADC40V60 req. using mod 1 DSI486 port 2
- G: Sensor Interface for DCP Surge Protection, Connectors and Wiring to one (1) WS425 Ultrasonic Wind Sensor (Heated) via RS-485 (2-w). ADC40V60 req. using mod 2 DSI486 port 2

Backup Batteries (Quantity: 1)

- Battery 12V 26Ah
- Battery 12V 26Ah

LCD Display & Keyboard Unit (Quantity: 1)

- Display/Keyboard for MAWS Enclosure Door

Model Wind Energy Purchase Agreement

Hub Height Level Sensors/ 1 RHAT & 2 WIND - Air Temp, RH and Dew Point

(Quantity: 1)

- Humidity and Temperature Probe, Heated RH (separate T and RH via RS485)
- Radiation Shield for Humidity and Temperature Probe with Mounting Kit (installed on pole mast 60-100 mm)
- Cable, Extension M112 8N Female to Male, 3M (8-pin F-M connectors)
- Cable to connect sensor to WSP150, cut to length, plus connection from WSP150 to Termination Box
- Surge Protector – For Data and Power Wiring
- Ultrasonic Wind Sensors (Quantity 2) which includes:
 - Stainless Steel Enclosure
 - Heated
 - RS-485/RS-422/RS-232
 - Metric Setup
 - No Power Supply or Cable
 - No Mounting Adaptor
 - Basic Configuration Work
 - Manual
- Mounting Adaptor 30 mm
- RS-485 and Power Cable for MAWS/WS425, 10M Cable to connect sensor to WSP150, cut to length, plus connection from WSP150 to Termination Box
- Surge Protector – For Data and Power Wiring
- 8' Retractable Boom w/Sensor Mount (Quantity: 2)
- 12 pair data cable, 22 gauge, open leads, Hub Height
- Termination Box with Mounting Kit (Hub Height), mounted at Hub Height Level
- 5 Conductor Power Cables, 16 gauge, open leads, Hub Height

Extended Warranty

- Extended Warranty for up to four (4) years

Model Wind Energy Purchase Agreement

EXHIBIT I

LENDER CONSENT PROVISIONS

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

1. Seller and Company will neither modify nor terminate the PPA other than as provided therein, without the prior written consent of the Facility Lender.
2. The Facility Lender shall have the right, but not the obligation, to do any act required to be performed by Seller under the PPA, and any such act performed by the Facility Lender shall be as effective to prevent or cure a default as if done by Seller itself.
3. If Company becomes entitled to terminate the PPA due to an uncured Event of Default by Seller, Company shall not terminate the PPA unless it has first given notice of such uncured Event of Default to the Facility Lender and has given the Facility Lender the same cure period afforded to Seller under Section 12.1 of the PPA, plus an additional 30 Days beyond Seller's cure period to cure such Event of Default; *provided, however*, that if the Facility Lender requires possession of the Facility in order to cure the Event of Default, and if the Facility Lender diligently seeks possession, the Facility Lender's additional 30-Day cure period shall not begin until foreclosure is completed, a receiver is appointed or possession is otherwise obtained by or on behalf of the Facility Lender.
4. Neither the Facility Lender nor any other participant in the Facility Debt shall be obligated to perform or be liable for any obligation of Seller under the PPA until and unless any of them assumes possession of the Facility through the exercise of the Facility Lender's rights and remedies.
5. Any party taking possession of the Facility through the exercise of the Facility Lender's rights and remedies shall remain subject to the terms of the PPA and shall assume all of Seller's obligations under the PPA, both prospective and accrued, including the obligation to cure any then-existing defaults capable of cure by performance or the payment of money damages. In the event that the Facility Lender or its successor assumes the PPA in accordance with this paragraph 6, Company shall continue the PPA with the Facility Lender or its successor, as the case may be, substituted wholly in the place of Seller.
6. Within ninety (90) Days of any termination of the PPA in connection with any bankruptcy or insolvency Event of Default of Seller, the Facility Lender (or its successor) and Company shall enter into a new power purchase agreement on the same terms and conditions as the PPA and for the period that would have been remaining under the PPA but for such termination.

Model Wind Energy Purchase Agreement

EXHIBIT K C-BED Provisions

[Applicable if the bid states the intention to qualify as a C-BED Project as part of its proposal.]

(A) C-BED Specific Definitions:

1. "C-BED Eligibility" means the satisfaction of the applicable requirements set forth in Minnesota Statutes Section 216B.1612, necessary for the Facility to qualify as a C-BED Project.
2. "C-BED Project" is a project that satisfies all of the requirements for a community-based wind energy development project set forth in Minnesota Statutes Section 216B.1612.
3. "Non-C-BED Rate" means 90% of the applicable Renewable Energy Payment Rate.

(B) C-BED Covenants.

1. Seller hereby covenants that the ownership structure of Seller satisfies all of the requirements for C-BED Eligibility. Seller shall provide to Company, within the time frames specified by the Construction Milestones (i) a resolution of support adopted by the county board (or applicable Tribal council) for each county/reservation on which any portion of the C-BED Project will be located; (ii) written determination from the Minnesota Office of Energy Security that the Facility qualifies as a C-BED Project, and (iii) all other documentation necessary to establish C-BED Eligibility. All documentation provided by Seller evidencing C-BED Eligibility is attached hereto as part of Exhibit C-Facility Description. Seller shall be solely responsible for obtaining and maintaining C-BED Eligibility for the Term and accepts all risk associated with the failure to maintain C-BED Eligibility. Seller shall promptly notify Company of any change in circumstance that results in or, in Seller's Commercially Reasonable judgment, could result in the loss of C-BED Eligibility.
2. Seller will cooperate with Company to provide all information requested by Company or by any Governmental Authority necessary to confirm ongoing C-BED Eligibility. Company shall in all circumstances have the right to rely on Seller's information for all purposes and shall not be required to undertake any independent measures to confirm or monitor ongoing C-BED Eligibility. Company shall have the right but not the obligation to seek an order from the State Regulatory Agency or other Governmental Authority with jurisdiction to determine ongoing C-BED Eligibility.
3. Notwithstanding any provision of this PPA to the contrary, prior to assigning the PPA or undertaking any Change of Control pursuant to Section 19.1, Seller shall demonstrate to Company's Commercially Reasonable satisfaction that C-BED Eligibility will be maintained after the transaction.

(C) Non-C-BED Rate. During any month in which Seller fails to maintain C-BED Eligibility, as determined by any Governmental Authority with jurisdiction, Seller shall be entitled to payment of the Non-C-BED Rate for Renewable Energy delivered to Company until the conclusion of the month after Seller restores C-BED Eligibility or the termination of this PPA. Notwithstanding any provision in this PPA to the contrary, Seller's failure to maintain C-BED

Model Wind Energy Purchase Agreement

Eligibility from and after State Regulatory Approval of this PPA shall not constitute an event of default capable of leading to termination of this PPA by Company. Company's sole remedy for failure to maintain C-BED Eligibility is application of the Non-C-BED Rate.

Model Wind Energy Purchase Agreement

EXHIBIT L Facility Transmission Modeling Requirements

	Wind Generating Plant Data	
1	Generation Plant/Unit Name	
2	Commercial Operations Date	
3	Transmission Authority Project Number (eg: MISO generator interconnection project number)	
4	Location - State/ Province	
5	Location - County	
6	Interconnecting Transmission Owner	
7	POI Substation Name	
8	POI Voltage (kV)	
9	POI Bus Number	
10	No. of Wind Turbine Generators Installed	
11	Total Nameplate Generation Capacity installed (MW)	
12	Net Maximum Real Power (MW) output (Pmax)	
13	Net Minimum Real Power (MW) output (Pmin)	
14	Net Maximum Reactive Power (MVAR) output (Qmax) as applicable	
15	Net Minimum Reactive Power (MVAR) output (Qmin) as applicable	
	Wind Turbine Generator (WTG) Unit Data	
16	Make/ Manufacturer	
17	Manufacturer Model No.	
18	WTG Technology TYPE (i.e. 1, 2, 3, or 4)	
19	PSS/E Dynamic Model Name	
20	Rated Voltage (Volts)	
21	Rated MW	
22	Lead PF (underexcited /consuming vars) - all PFC's OFF	
23	Lag PF (overexcited/delivering vars) - all PFC's ON	
24	Built-in PFC kvars	
25	Rated MVA	
26	Minimum Ambient Operating Limit	
	WTG Pad Mount Unit Step-up Transformer Data	
27	Rated MVA	
28	High Voltage Winding Rated Voltage (kV)	
29	Low Voltage Winding Rated Voltage (kV)	
30	X (pu) on Rated MVA Base	
31	R (pu) on Rated MVA Base	

Model Wind Energy Purchase Agreement

	Equivalent WTG Collector System Data	
32	Voltage Level (kV)	
33	MVA Rating	
34	X (pu) on 100 MVA base	
35	R (pu) on 100 MVA base	
	Collector Substation Step-up Transformer Data	
36	Number of transformers in parallel (provide data for all transformers if not identical)	
37	Rated MVA	
38	High Voltage Winding Rated Voltage (kV)	
39	Low Voltage Winding Rated Voltage (kV)	
40	X (pu) on Rated MVA Base	
41	R (pu) on Rated MVA Base	
42	Normal and emergency ratings (MVA)	
43	Load tap changer/phase shifter information	
	Plant-level Reactive Compensation	
44	Collector Bus Voltage (kV)	
45	Reactive Compensation Device (Shunt Caps/ D-VAR/ SVC)	
46	Mvar Range - Qmin (cap bank steps)	
47	Mvar Range - Qmax (cap bank steps)	
	Interconnection Radial Line Parameters (Collector Substation to POI)	
48	Voltage Level (kV)	
49	Normal and Emergency Ratings (MVA)	
50	X (pu) on 100 MVA base	
51	R (pu) on 100 MVA base	
	Wind Turbine Generator (WTG) Dynamic Data	
52	Seller to submit working dynamic model for Generating Facility compatible with Transmission Authority standard models (eg. PSS/E for MISO) that include the following:	
53	Time constants	
54	Saturated Sub-transient, transient, and synchronous impedances	
55	Un-saturated Sub-transient, transient, and synchronous impedances	
56	Inertia	
57	Damping	
58	Generator Data	

Model Wind Energy Purchase Agreement

59	Control mode	
60	Mechanical (Turbine) Data	
61	Electrical (Exciter/Converter) Data	
62	Pitch Control Data	
63	Aerodynamic Data	
	Supplemental Reference Data	
64	Plant one-line diagram	
65	Submitter's name/email/phone number	
66	Submitter Comments	
Reference: Midwest Reliability Organization Model Building Manual Addendum - Wind Generation and MISO Generator Interconnection Business Practice Manual BPM-015		

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