250 MW SYSTEM POWER

SALE AGREEMENT

between

THE MANITOBA HYDRO-ELECTRIC BOARD

- and –

MINNESOTA POWER, an operating division of ALLETE, Inc.

DATED May 19, 2011

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250 MW SYSTEM POWER SALE AGREEMENT

DATED the 19th day of May , 2011

BETWEEN:

THE MANITOBA HYDRO-ELECTRIC BOARD,
(hereinafter referred to as "MH"),

- and –

MINNESOTA POWER, an operating division of ALLETE, Inc.,
(hereinafter referred to as "MP").

WHEREAS, MP, and MH are the owners and operators of electric generation and transmission facilities in the United States of America and in Canada, respectively, and are engaged in the generation, transmission, distribution and sale of electric energy;

AND WHEREAS, MP agrees to purchase and MH agrees to sell the 250 MW of System Power pursuant to the terms and conditions set forth in this Agreement;

AND WHEREAS, the Parties require governmental permits and approvals for the import and export of electric energy;

AND WHEREAS, MP is seeking to enhance the environmental characteristics for their resource plan with a power purchase agreement for resources that are predominantly non-emitting;

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AND WHEREAS, the Parties have previously entered into energy sale and power sale agreements and concurrently with this Agreement are entering into the Energy Exchange Agreement;

AND WHEREAS, the Parties agree to cooperate and coordinate the planning, permitting, funding, construction and international interconnection of the Transmission Interconnection;

AND WHEREAS, MP is a member of Midwest ISO and subject to applicable Midwest ISO tariffs, and MH is a coordinating member of Midwest ISO.

NOW, THEREFORE, in consideration of the mutual promises and covenants of each Party to the other contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

ARTICLE I
INTERPRETATION

1.1 Defined Terms

Unless otherwise specified in this Agreement, the following terms shall, for the purposes of this Agreement, have the following meanings:

"250 MW System Power" shall have the meaning set forth in Section 2.1.

"250 MW Use Limited System Capacity" shall have the meaning set forth in Section 2.2.

"Additional Energy" shall have the meaning set forth in Section 2.3(1)(c).

"**Additional Energy Price**" shall have the meaning set forth in Section 5.1(3).

"Additional Northbound Capability Costs" shall have the meaning set forth in Section 3.1(2)(c).

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"Adverse Water Conditions" shall mean **[TRADE SECRET DATA EXCISED].**

"Affiliate" shall mean any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with MP or MH and shall include a wholly owned subsidiary of MP or MH.

"**Agreement**" shall mean this 250 MW System Power Sale Agreement and all amendments thereto.

"[TRADE SECRET DATA EXCISED] Environmental Attributes" shall have the meaning set forth in Section 9.1(1).

"Ancillary Services" shall mean those Ancillary Services (as defined under the TARIFF) and other reasonably similar services and products, associated, directly or indirectly, with the 250 MW Use Limited System Capacity and/or the transmission of the Energy.

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"**Balancing Authority**" shall have the meaning set forth in the TARIFF.

"**Balancing Authority Agreement**" shall have the meaning set forth in the TARIFF.

"**Bankruptcy Code**" shall have the meaning set forth in Section 11.1(1)(k).

"BEA" shall mean the US Department of Commerce's Bureau of Economic Analysis or any successor agency.

"Business Day" shall mean Monday through Friday, excluding Canadian banking holidays (such banking holidays shall be as recognized by the Canadian Payments Association or any successor agency) and United States banking holidays (such banking holidays shall be as recognized by the Federal Reserve Board or any successor agency).

"**Centrally Operated Market**" shall mean a centrally operated structure or structures bringing together buyers and sellers to facilitate the exchange of wholesale electricity

products and/or related services.

"**Commercially Reasonable Efforts**" shall mean those efforts expended by a Party, acting reasonably, under normal commercial conditions to identify, develop, and implement a solution to an issue or problem that is cost effective (taking into account the complexity and importance of the issue or problem being addressed) and is also consistent with applicable legal requirements, rules governing any applicable Market and Good Utility Practice.

"**Conawapa GS**" shall mean a new proposed hydraulic generating station on the Nelson River that would be an addition, if built, to MH's integrated power system.

"**Confidential Information**" shall have the meaning set forth in Section 12.1(a).

"Contingency Reserve(s)" shall have the meaning set forth in the NERC Glossary of Terms.

"Contingency Reserves Emergency Energy" shall mean the energy required to be supplied by MH pursuant to a NERC Contingency Reserve obligation.

"**Contract Term**" shall mean, subject to the provisions of Section 13.1(1), June 1, 2020, through May 31, 2035.

"**Contract Year**" shall mean a twelve-month period, June 1 through May 31 of the following calendar year, whether or not within the Contract Term.

"CPT" shall mean Central Prevailing Time.

"**Credit Support Provider**" shall mean a Person approved by the Requesting Party who provides Performance Assurance on behalf of the Second Party.

"Day-Ahead Basis" shall mean in advance, not later than 11 a.m. (EST) of the Business Day prior to any day that the Energy is to be made available to MP.

"**Day-Ahead Energy and Operating Reserve Market**" shall mean the day-ahead

market established pursuant to and defined by the TARIFF.

"**DBRS**" shall mean DBRS Limited or its successor.

"**Defaulting Party**" shall have the meaning set forth in Section 17.3(1).

"**Delivery Point**" shall have the meaning set forth in Section 2.4(1).

"**Designated Additional Transfer Capability"** shall have the meaning set forth in Section 3.1(2)(c).

"**Discloser**" shall have the meaning set forth in Section 12.1.

"**Early Termination Date**" shall have the meaning set forth in Section 17.3(1).

"**Effective Date**" shall mean the date this Agreement is executed by the Parties.

"**Emergency Energy**" shall have the meaning set forth in the TARIFF.

"**Energy**" shall have the meaning set forth in Section 2.3(1).

"**Energy Exchange Agreement**" shall mean the Energy Exchange Agreement entered into between MP and MH concurrently with this Agreement.

"**Environmental Attributes**" shall mean the rights to any existing or future environmental benefits or attributes, credits, renewable characteristics, avoided emissions, avoided greenhouse gas emissions, emission reductions, emissions or greenhouse gas emissions associated with, related to or derived or resulting from the generation of electricity.

"**Event of Default**" shall have the meaning set forth in Section 17.1.

"**Executive Officers**" shall be, in the case of MH the Senior Vice-President of Power Supply, and in the case of MP the Senior Vice-President of Strategy and Planning, or its successor or such other officer designated by each Party from time to time.

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"**Expected Peak Load in Midwest ISO**" shall mean on any given day, the four (4) continuous hours during that day with the largest cumulative load in Midwest ISO based on Midwest ISO's load forecast or such four (4) continuous hours during that day as specified by Midwest ISO.

"**FERC**" shall mean the Federal Energy Regulatory Commission or its successor.

"**Financial Schedule**" shall have the meaning set forth in the TARIFF.

"**Financial Schedule Exceptions**" shall mean any or all of the following: (a) any amount of Weekday Energy and/or Weekend Energy where no offer was made by MH into the Day-Ahead Energy and Operating Reserve Market during any curtailment time period referred to in Sections 3.4, 3.7 or 3.8 or Article 14; or (b) any amount of Weekday Energy and/or Weekend Energy that was Must Offer Energy and no offer was made pursuant to and in accordance with the provisions of Section 3.2(6); or (c) in respect of that quantity of Weekend Energy that MH had designated pursuant to Section 3.10(1) during a period of Adverse Water Conditions.

"**Firm Point-to-Point Transmission Service**" shall have the meaning set forth in the applicable OATT.

"**Firm Power**" shall mean: (a) generating capacity that is intended to be available at all times, except as otherwise agreed by the seller and the purchaser, and for which the seller maintains generation reserves in accordance with standards and requirements established by the RRO to which the seller belongs; and (b) energy that was contracted to be supplied by the seller to the purchaser.

"**Firm Transmission Service**" shall mean transmission service provided pursuant to the OATT of either Party's Transmission Provider, being either Firm Point-to-Point Transmission Service or Network Integration Transmission Service, or the highest priority transmission service available pursuant to either Party's OATT, or in the event that either Party does not have an OATT, the highest priority transmission service

available to that Party for the delivery of energy and the supply of capacity.

"**Force Majeure**" shall mean an event or circumstances that prevents or delays one Party from performing its obligations under this Agreement and that is not within the reasonable control of, or the result of the negligence of, the claiming Party, and that, by the exercise of Good Utility Practice, the claiming Party is unable to overcome or avoid or cause to be avoided, including but not restricted to, acts of God, [**TRADE SECRET DATA EXCISED]** strikes, lockouts and other labour disturbances, epidemics, pandemic, war (whether or not declared), blockades, acts of public enemies, acts of sabotage or terrorism, civil insurrection, riots or civil disobedience, any situation where delivery or acceptance will endanger a Party's facilities or endanger that Party's system operations, explosions, acts or omissions of any Governmental Authority taken on or after the Effective Date, (including the adoption or change in any law or regulation or environmental constraints lawfully imposed by such Governmental Authority) but only if, and to the extent that, such action or inaction by such Governmental Authority prevents or delays performance and/or renders the Party unable, despite due diligence, to obtain any licenses, permits, or approval required by any Governmental Authority, and the issuance of any order, injunction, or other legal or equitable decree to the extent that any of the foregoing prevents or delays the performance of a Party's obligations hereunder.

"**GADS Data**" shall mean the information provided by MH to the NERC generating availability data system.

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"**Good Utility Practice**" shall mean, at any particular time, any of the practices, methods, and acts engaged in or approved by a significant portion of the hydro-electric utilities located in North America during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time a decision is made, could be expected to produce the desired

result at a reasonable cost consistent with reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but includes a range of acceptable practices, methods, or acts.

"**Governmental Authority**" shall mean any federal, state, or provincial government, parliament, legislature, or any regulatory authority, agency, commission or board of any of the foregoing, or any political subdivision thereof, or any court, or, without limitation, any other laws, regulation or rule-making entity, having jurisdiction in the relevant circumstances, or any Person acting under the authority of any of the foregoing, or any other authority charged with the administration or enforcement of applicable laws.

"**Governmental Charges**" shall mean all applicable federal, state, provincial and local ad valorem, property, occupation, severance, generation, first use, conservation, or energy, transmission, utility, gross receipts, privilege, sales, use, consumption, excise and other taxes (other than taxes based on income or net worth), charges, emission allowance costs, duties, tariffs, levies, licenses, fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Authority, independent system operator, utility, transmission and distribution provider or similar Person, however styled or payable.

"**Guarantee Agreement**" shall mean a guarantee provided to the Requesting Party by a Credit Support Provider with an Investment Grade Credit Rating as Performance Assurance pursuant to Section 15.2 in a form acceptable to the Requesting Party acting with commercially reasonable discretion.

"**HE**" shall mean hour ending.

"**Interest Rate**" shall mean, for any date, the lesser of: (a) the per annum rate of interest

equal to the prime lending rate as may from time to time be published in The Wall Street Journal under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%); or (b) the maximum rate permitted by applicable law.

"**Investment Grade Credit Rating**" shall mean with respect to any Person, a rating (unenhanced by unaffiliated third party support) of not less than: (a) BBB- from S&P; or (b) Baa3 from Moody's; or (c) BBB(low) from DBRS, then assigned to the lower of: (i) its unsecured, senior long-term debt obligations; or (ii) if applicable, its issuer rating and, in each instance, unenhanced by unaffiliated third party support and not on "credit watch" or "negative outlook", provided, however, that in the event that such Person has a rating from one of the aforesaid rating agencies below the required level, the lowest such rating shall apply for the purposes of this definition.

"Keeyask GS" shall mean a new proposed hydraulic generating station on the Nelson River located by Gull Rapids that would be an addition, if built, to MH's integrated power system.

"**Letter(s) of Credit**" shall mean one or more irrevocable, transferable, standby letters of credit, issued by a commercial bank, as defined in either the Federal Deposit Insurance Act (United States) or the Bank Act (Canada), or successor legislation, operating from an office in either the United States or Canada whose credit rating is, at such time of issuance, at least "A-'' by S&P or "A3" by Moody's or A(low) by DBRS, or an equivalent rating by any successor rating agency thereof (if any) in a form as the issuing bank may request and as may be acceptable in a commercially reasonable manner to the Party in whose favor the Letter of Credit is issued.

"Letter of Credit Default" shall mean with respect to an outstanding Letter of Credit, the occurrence of any of the following events: (a) the issuer of the Letter of Credit shall fail to maintain a credit rating of at least "A-" by S&P or "A3" by Moody's or A(low) by DBRS; (b) the issuer of such Letter of Credit shall disaffirm, disclaim, repudiate or

reject, in whole or in part, or challenge the validity of, such Letter of Credit; (c) such Letter of Credit shall expire or terminate, or shall fail to or cease to be in full force and effect at any time during the Contract Term; (d) any event analogous to an event specified in Section 17.1(c), (d),(e) or (g) of this Agreement shall occur with respect to the issuer of such Letter of Credit; or (e) twenty (20) Business Days prior to the expiration or termination date of a Letter of Credit, such Letter of Credit is not extended or replaced with a Letter of Credit for an amount at least equal to that of the Letter of Credit being replaced.

"Local Balancing Authority" shall have the meaning set forth in the TARIFF.

"**Market**" or "**Markets**" shall mean:

(a) a Centrally Operated Market; and/or

(b) the wholesale purchase and sale of electricity products and/or related services on a bilateral basis.

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"**Market Participant**" shall have the meaning set forth in the TARIFF.

"**Market Portal**" shall have the meaning set forth in the TARIFF.

"**Market Settlement Amounts**" shall mean any and all charges attributable to either Party arising out of a process of determining charges established and maintained at any time and from time to time by a Market (or a Transmission Provider).

"**MH Termination Event**" shall have the meaning set forth in Section 17.4.

"**MH's Border Accommodation Power Sales**" shall mean those sales of Firm Power made by MH, as seller, which for some purposes are treated by MH as part of MH's End-Use Load, to Persons located in provinces and states adjacent to the province of Manitoba in circumstances whereby electric service to those locations is not otherwise

readily available from other power suppliers. In all cases, these sales are made over transmission systems lower than 115 kV.

"**MH's Conditions Precedent**" shall have the meaning set forth in Section 13.2.

"**MH's Curtailment of Cleared Additional Energy**" shall have the meaning set forth in Section 3.4(4).

"**MH's Electrical Generation Facilities**" shall mean MH's electrical generation facilities that are either owned and operated or operated by MH.

"**MH's End-Use Load**" shall mean: (a) the total load of Persons that purchase electric service from MH for their own consumption in the province of Manitoba and not for resale including any portion of that Person's load that may from time to time not be supplied by MH but may be produced by that Person; (b) MH's Border Accommodation Power Sales; and (c) MH's Separated Load Sales.

"**MH's Energy Commitments**" shall mean the energy required by MH to serve the total of any of the following obligations of MH: (a) MH's End-Use Load; or (b) MH's End Use Load and all energy sales by MH that are associated with planning capacity; or (c) MH's End Use Load, all energy sales by MH that are associated with planning capacity, and all energy sales that are not associated with planning capacity including all of MH's Firm LD Energy Sales and MH's Firm Energy Sales.

"**MH's Energy Resources**" shall mean **[TRADE SECRET DATA EXCISED]**

"**MH's Firm Energy Sales**" shall mean those sales described as "Firm Energy Sales" in agreements entered into between MH and third Persons.

"**MH's Firm LD Energy Sales**" shall mean those sales described as "Firm LD Sales" in agreements entered into between MH and third Persons.

"**MH's HVDC System**" shall mean MH's high voltage direct current transmission

system.

"**MH's Separated Load Sales**" shall mean those sales of energy made by MH, as seller, which are treated by MH as part of MH's End-Use Load, to Persons located in provinces and states adjacent to the Province of Manitoba in circumstances whereby electric service to those locations becomes separated due to forced outages, planned outages, or scheduled outages by the applicable Transmission Provider, from the said province or state adjacent to the Province of Manitoba and requires electric service to be provided by MH until electric service is restored.

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"**Midwest ISO**" shall mean the Midwest Independent Transmission System Operator, Inc.

"**Monthly Capacity Price**" shall have the meaning set forth in Section 4.1.

"**Moody's**" shall mean Moody's Investors Service Inc. or its successor.

"MP/MH Agreements" shall mean this Agreement and the Energy Exchange Agreement.

"**MP Termination Event**" shall have the meaning set forth in Section 17.5.

"**MP's Conditions Precedent**" shall have the meaning set forth in Section 13.3.

"MP's Curtailment of MH's Cleared Energy" shall have the meaning set forth in Section 3.8(2).

"**MRO**" shall mean the Midwest Reliability Organization or successor regional reliability organization, or any committee or subcommittee thereof.

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"**Multi Value Project**" shall mean a transmission project that Midwest ISO has determined, in accordance with the TARIFF, will enable the reliable and economic delivery of energy in support of documented energy policy mandates or that address, through the development of a robust transmission system, multiple reliability and/or economic issues affecting multiple transmission zones. The Parties acknowledge that the Midwest ISO's Multi Value Project methodology was conditionally accepted by FERC in Docket No. ER10-1791-000 in an order dated December 16, 2010.

"**Must Offer Energy**" shall have the meaning set forth in Section 3.2(3)(a).

"**MVP Designation"** shall mean a transmission project designated by the Midwest ISO as a Multi Value Project.

"**NEB**" shall mean the National Energy Board of Canada or its successor.

"**NERC**" shall mean the North American Electric Reliability Corporation or its successor.

"**Net Scheduled Interchange**" shall have the meaning set forth in the TARIFF.

"**Network Integration Transmission Service**" shall have the meaning set forth in the applicable OATT.

"**New International Power Line**" shall mean that portion of the Transmission Interconnection Canadian Component that pursuant to the laws applicable to the NEB is an international power line.

"**Non-defaulting Party**" shall have the meaning set forth in Section 17.3(1).

"**Non-Disclosure Agreement**" shall mean that certain non-disclosure agreement between the Parties, effective November 10, 2006, as amended.

"**Northbound Base Transfer Capability**" shall mean the transfer capability recognized under MH's OATT and under the TARIFF as determined by the Transmission

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Providers of the Parties' resulting from and accruing to the benefit of the northbound component of the Transmission Interconnection ensuing from all of the transmission improvements that are required for the southbound component of the Transmission Interconnection to achieve a transfer capability of 250 MW southbound that is recognized under MH's OATT and under the TARIFF which improvements include the construction of new transmission facilities and enhancements to existing transmission facilities.

"**Northbound Transfer Capability**" shall have the meaning set forth in Section 3.1(2)(c).

"**Off-Peak Hours**" shall mean the HE 1:00 to HE 6:00 CPT and HE 23:00 and HE 24:00 CPT Monday to Friday and HE 1:00 CPT to HE 24:00 CPT Saturday and Sunday.

"**On-Peak Hours**" shall mean the hours in a week that are not Off-Peak Hours.

"**Open Access Transmission, Energy and Operating Reserve Markets Tariff**" or "**TARIFF**" shall mean the Open Access Transmission, Energy and Operating Reserve Markets FERC Electric Tariff, including all schedules and attachments thereto, of the Midwest Independent Transmission System Operator, Inc. issued on July 28, 2010, as amended, supplemented, or replaced from time to time.

"**Open Access Transmission Tariff**" or "**OATT**" shall mean a transmission tariff as it may be in effect from time to time that: (a) in the case of MP's Transmission Provider, has been filed with and accepted by FERC as complying with FERC's then current open access transmission, comparability, and nondiscrimination requirements; and (b) in the case of MH, provides reciprocal open access transmission service on sufficiently comparable and nondiscriminatory terms so as to entitle MH to use the transmission tariff of Transmission Providers in the United States; and (c) in the case of a third party, has been filed with and accepted by FERC as complying with FERC's then current open

access transmission, comparability, and nondiscrimination requirements, or provides reciprocal open access transmission service so as to entitle such entity to transmit electricity with entities whose transmission tariffs have been filed with and accepted by FERC as a transmission tariff.

"**Operating Committee**" shall have the meaning set forth in Section 10.1(1).

"**Party**" shall mean either MH or MP and "**Parties**" means both MH and MP.

"**Performance Assurance**" shall have the meaning set forth in Section 15.2(1).

"**Person**" shall mean an individual, partnership, corporation, trust, unincorporated association, syndicate, joint venture, or other entity or Governmental Authority.

"**Pledgor**" shall have the meaning set forth in Section 15.3(1).

"**Priority Criteria**" shall have the meaning set forth in Section 3.5.

"**Purchase and Sale Exclusion Event(s)**" shall mean any or all of the following events or circumstances: (a) MH's offer in respect of any amount of the Energy, (including for greater certainty any amount of the Must Offer Energy component) does not clear the Day-Ahead Energy and Operating Reserve Market; (b) MH does not make an offer in respect of an amount of Weekend Energy or Weekday Energy (excluding the Must Offer Energy); (c) MH does not make an offer in respect of the Must Offer Energy pursuant to Section 3.2(6); (d) any portion of the Energy that was curtailed, restricted or reduced pursuant to Sections 3.4, 3.7 or 3.8 or Article 14; or (e) MH designates a quantity of Weekend Energy pursuant to and in accordance with Section 3.10(a) during a period of Adverse Water Conditions.

"**Real-Time Energy and Operating Reserve Market**" shall mean the Market for purchases and sales of Energy and Operating Reserve conducted by the Transmission Provider during the Operating Day, each as defined in and in accordance with the TARIFF.

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"**Recipient**" shall have the meaning set forth in Section 12.1.

"**Representative**" shall have the meaning set forth in Section 12.1(b)(i).

"**Requesting Party**" shall have the meaning set forth in Section 15.2(1).

"**Required Approvals**" shall have the meaning set forth in Section 13.4.

"**RRO**" shall mean a regional reliability organization, including the MRO, if applicable.

"**S&P**" shall mean Standard & Poors Rating Group (a division of McGraw-Hill Inc.) or its successor.

"**Schedule**" or "**Scheduling**" shall mean the actions of seller, buyer, and their designated representatives, of notifying, requesting, and confirming to each other the quantity of the Energy to be delivered on any given day or days during the Contract Term.

"**Scheduled**" shall mean the result of Scheduling.

"**Seams Costs**" shall mean any and all transmission and transmission service and related costs applied by one Market for the transmission of energy and related products from that Market or to that Market at the boundary of that Market.

"**Second Party**" shall have the meaning set forth in Section 15.2(1).

"**Secured Party**" shall have the meaning set forth in Section 15.3(1).

"**Supplied Energy**" shall mean that portion of the Energy that was, pursuant to this Agreement, supplied and sold by MH and for greater certainty shall not include any amount of the Energy that was: (a) not offered by MH into the Day-Ahead Energy and Operating Reserve Market; or (b) offered by MH but did not clear the Day-Ahead Energy and Operating Reserve Market; or (c) curtailed, restricted or reduced pursuant to Sections 3.4, 3.7 or 3.8 or Article 14.

TRADE SECRET DATA EXCISED

"**System Power**" shall mean: (a) Use Limited System Capacity which was contracted to be made available by a seller to a purchaser (and for greater certainty does not include any generation reserves established or required by the RRO to which the purchaser belongs); and (b) energy which was contracted to be sold to a purchaser.

"**Transfer System**" shall have the meaning set forth in Section 9.4(2).

"**Transmission Interconnection"** shall have the meaning set forth in Section 3.1(1).

"**Transmission Interconnection Canadian Component**" shall mean that component of the Transmission Interconnection that is to be constructed in Canada on the Canadian side of the Delivery Point, including the construction of new transmission facilities and enhancements to existing transmission facilities.

"**Transmission Interconnection United States Component**" shall mean that component of the Transmission Interconnection that is to be constructed in the United States on the United States side of the Delivery Point, including the construction of new transmission facilities and enhancements to existing transmission facilities.

"**Transmission Provider(s)**" shall mean, collectively, the Person or Persons as applicable who direct the operation of the Transmission Provider(s) System.

"**Transmission Provider(s) System**" shall mean the contiguously interconnected electric transmission and sub-transmission facilities, including land rights, material, equipment and facilities owned, controlled, directed, and or operated by the Transmission Provider(s) that transmits and distributes electrical energy.

"**Transmission Service**" shall have the meaning set forth in Section 3.1(3).

"**Unavailability of MH's Purchased Power**" shall mean: (a) when all or a portion of the energy purchased from MP (including any assignee of MP) is not received by MH, under the provisions of one or more of the applicable energy or power purchase agreements between MP and MH (including without limiting the generality of the

foregoing due to curtailment or force majeure thereunder) unless the said energy is not received by MH due to MH being in default under the provisions of the applicable agreement; or (b) the occurrence of an uncured Event of Default (as such term is defined in the Energy Exchange Agreement) by MP under the Energy Exchange Agreement.

"**U.S. Dollars or US $**" shall mean lawful money of the United States of America.

"**Use Limited System Capacity**" shall mean a capacity resource, that due to design considerations, environmental restrictions on operations, cyclical requirements such as the need to recharge or refill, or for other non-economic reasons, is or may be unable to operate continuously on a daily basis, but is capable of providing energy for a minimum of four (4) continuous hours of each day during the expected peak load of the system operator to which the purchaser belongs during the term of the applicable power purchase and sale agreement.

"**Weekday Energy**" shall have the meaning set forth in Section 2.3(1)(a).

"**Weekday Energy Price**" shall have the meaning set forth in Section 5.1(1).

"**Weekdays**" shall mean Monday through Friday inclusive of any week (excluding holidays recognized by NERC) and "**Weekday**" shall mean any of the Weekdays.

"**Weekend Days**" shall mean Saturday through Sunday inclusive of any week plus holidays recognized by NERC, and "**Weekend Day**" shall mean any of the Weekend Days.

"**Weekend Energy**" shall have the meaning set forth in Section 2.3(1)(b).

"**Weekend Energy Price**" shall have the meaning set forth in Section 5.1(2).

1.2 Interpretation

Unless the context otherwise requires, this Agreement shall be interpreted in accordance

with the following:

(a) words singular and plural in number shall be deemed to include the other and pronouns having masculine or feminine gender shall be deemed to include the other;

(b) any reference in this Agreement to any Person includes its successors and permitted assigns, and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities;

(c) any reference in this Agreement to any section or Appendix means and refers to the section contained in, or Appendix attached to, this Agreement;

(d) other grammatical forms of defined words or phrases have corresponding meanings to the defined words or phrases;

(e) a reference to writing includes typewriting, printing, lithography, photography, and any other mode of representing or reproducing words, figures or symbols in a lasting and visible form, including electronic mail;

(f) a reference to a Party to this Agreement includes that Party's successors and permitted assigns;

(g) a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as amended from time to time and includes any exhibits or attachments thereto;

(h) headings are inserted for convenience only and shall not affect the interpretation of this Agreement or any section thereto;

(i) the word "including" means "including without limitation"; and

(j) the preamble hereto shall not form part of this Agreement.

1.3 No Presumption

The Parties are both represented by counsel, have both participated in the negotiation and drafting of this Agreement, and have endeavoured to ensure that the terms of this

Agreement are as clear as possible. Accordingly, in interpreting this Agreement there shall be no presumption in favour of or against any Party on the basis that it was or was not the drafter of this Agreement or any individual provision thereof.

ARTICLE II
SUPPLY AND PURCHASE OBLIGATIONS

2.1 MH System Power Sale

Subject to the provisions of this Agreement, during the Contract Term MH shall sell to MP and MP shall purchase from MH 250 MW of System Power (the "**250 MW System Power**").

2.2 Use Limited System Capacity

(1) Subject to the provisions of this Agreement, during the Contract Term MH shall make available to MP 250 MW of Use Limited System Capacity (the "**250 MW Use Limited System Capacity**"). The 250 MW Use Limited System Capacity is acknowledged by the Parties to be the generating capacity component of the 250 MW System Power that is being purchased and sold herein.

(2) MH covenants and agrees that during the Contract Term it:

(a) shall not sell the 250 MW Use Limited System Capacity at any time to any Person other than MP;

(b) shall make available the 250 MW Use Limited System Capacity from MH's resources that are listed in Appendix "A" together with such additional resources that MH shall provide notice of to MP;

(c) shall make available the 250 MW Use Limited System Capacity for the Expected Peak Load in Midwest ISO each day;

(d) shall forward to Midwest ISO all of its GADS Data;

(e) shall ensure that Midwest ISO is notified of any outages (including partial outages) that affect the 250 MW Use Limited System Capacity and the expected return date from such outages; and

(f) shall demonstrate in accordance with the generator testing requirements set forth in Appendix L of the Midwest ISO Market Business Practice Manual for Resource Adequacy, in effect as at the Effective Date, the claimed capability of the 250 MW Use Limited System Capacity and it shall forward the results to the Midwest ISO.

2.3 Energy

(1) Subject to the provisions of this Agreement, the quantity of energy to be purchased and sold during the Contract Term shall be comprised of:

(a) for each Weekday during the Contract Term shall be 250 MWh per hour for sixteen (16) continuous hours (the total quantity of energy to be purchased and sold for all of the hours during all of the Weekdays referred to in this Section 2.3(1)(a) during the Contract Term shall be collectively referred to as the "**Weekday Energy**");

(b) for each Weekend Day during the Contract Term shall be 250 MWh per hour for sixteen (16) continuous hours (the total quantity of energy to be purchased and sold for all of the Weekend Days referred to in this Section 2.3(1)(b) during the Contract Term shall be collectively referred to as "**Weekend Energy**"); and

(c) for each day during the Contract Term such amounts of energy that are not Weekday Energy or Weekend Energy that MH determines, in its sole discretion subject only to the requirement set out in Section 3.2(3)(a), for each day on a Day Ahead Basis that it has energy available for sale to MP and is offered by MH to MP on a Day Ahead Basis, provided that the energy so offered for each hour when combined with the applicable amount of Weekday Energy and Weekend Energy, if any, for the applicable hour shall not exceed 250 MWh per hour, (the total quantity of energy to be purchased and sold for all of the days during the Contract Term referred to in this Section 2.3(1)(c), that is in addition to Weekday

Energy and Weekend Energy shall be collectively referred to as "**Additional Energy**").

The Weekday Energy, Weekend Energy and Additional Energy shall collectively be referred to as the "**Energy**" and is acknowledged by the Parties to be the energy component of the 250 MW System Power that is being purchased and sold herein. The Parties acknowledge that the sixteen (16) continuous hours for Weekday Energy and Weekend Energy shall be comprised of HE 7 CPT to HE 22 CPT provided that, subject to MP providing a minimum of forty-five (45) days notice to MH prior to any particular month, MP shall have the right to designate an alternate sixteen (16) continuous hour time period for all of the Weekday Energy and Weekend Energy in that month.

(2) Subject to the provisions of this Agreement MH shall, during the Contract Term, offer and make available the Energy to the Delivery Point and MP shall accept delivery and pay for the Energy or alternatively, pay for the Energy, if not taken.

(3) The Parties acknowledge that subject to the requirement that the Must Offer Energy that is sold and supplied by MH to MP shall be supplied from MH's resources comprising the 250 MW Use Limited System Capacity MH, in its sole discretion, has the right, but not the obligation, to source and/or supply and/or sell the Energy from third party purchases and/or Markets available to MH. Without limiting the generality of the foregoing, the Parties acknowledge that MH has the right but not the obligation to utilize any Market mechanisms that are available to MH throughout the Contract Term.

2.4 <u>Delivery Point</u>

(1) The Parties agree that the delivery point for the Energy, that is sold by MH and purchased by MP under this Agreement shall be at the point or points where MH's major transmission facilities cross the international boundary between the province of Manitoba and the United States of America (the "**Delivery Point**").

(2) The Delivery Point for any portion of the Energy, to be sold and purchased

herein may only be changed with the consent of the Parties, provided that the Party receiving a request from the other Party to change the Delivery Point must use Commercially Reasonable Efforts in responding to such request.

2.5 Title and Risk of Loss

Title to and risk of loss of the Energy, sold and purchased under this Agreement shall pass from MH to MP at the Delivery Point.

2.6 Ancillary Services

(1) MP acknowledges and agrees that: (a) MH shall be entitled to retain all Ancillary Services; (b) MH shall be entitled to sell the Ancillary Services to other Persons through use of the Market Portal or otherwise and without limiting the generality of the foregoing, MH has the right to offer and/or schedule the Ancillary Services into the Midwest ISO market including in conjunction with Schedules for the delivery of the Energy to MP in accordance with Section 3.2 or, in MH's sole discretion through the use of the Market Portal; (c) the price for the 250 MW System Power does not include any value in respect of or related to the Ancillary Services; and (d) MP shall use Commercially Reasonable Efforts to comply with all reasonable requests of MH concerning the 250 MW System Power and MH's participation in any Market in respect of or related to Ancillary Services and other similar services and products.

(2) If MH's offer in respect of the Ancillary Services associated with a quantity of Weekday Energy or the Weekend Energy, clears the Day-Ahead Energy and Operating Reserve Market, MH shall be obligated to submit a Financial Schedule in accordance with Section 3.2(12), the Day-Ahead Energy and Operating Reserve Market for such quantity of Weekday Energy or Weekend Energy and for greater certainty MH shall have no obligation to make available such quantity of energy to MP.

(3) If MH's offer in respect of the Ancillary Services associated with a quantity of Additional Energy clears the Day-Ahead Energy and Operating Reserve Market,

the Parties acknowledge that MH shall have no obligation to make available such quantity of energy to MP and MP shall have no obligation to pay for such quantity of energy.

(4) MP shall, if required pursuant to the Market mechanisms in effect at the applicable time, approve any valid NERC E-Tag prepared pursuant to and in accordance with the applicable Market procedures associated with any offer of Ancillary Services made by MH pursuant to this Agreement into the Day-Ahead Energy and Operating Reserve Market and MP shall take such other actions as may be reasonably requested by MH pursuant to the Market mechanisms in effect at the applicable time in respect of such offers.

(5) In the event that MP receives any compensation or payment from the Midwest ISO or otherwise for Ancillary Services that were offered or scheduled by MH, MP shall remit such compensation or payment to MH or MP shall request the Midwest ISO redirect any such compensation or payments to MH.

ARTICLE III
SCHEDULING AND DELIVERY

3.1 Transmission

(1) The Parties covenant and agree to take all actions and do all things necessary to construct a new transmission interconnection with an in-service date of on or before the June 1, 2020 start date of the Contract Term (or any revised Contract Term start date pursuant to Section 13.1(1)) with transfer capability recognized under MH's OATT and under the TARIFF as Firm Transmission Service of 250 MW southbound and up to 250 MW northbound (as determined in accordance with Section 3.1(2)) between: (a) MH's Balancing Authority area in the province of Manitoba; and (b) MP's Local Balancing Authority area in the states of Minnesota and Wisconsin, in each instance as established as of the Effective Date or such other point or points or areas as the Parties may mutually agree

upon (collectively the "**Transmission Interconnection**").

(2) The Parties acknowledge and agree that the transfer capability of the northbound component of the Transmission Interconnection and the responsibility for the costs of the Transmission Interconnection shall be determined in the following manner:

(a) MH shall be responsible for the payment of all costs and charges for the Transmission Interconnection Canadian Component which transmission improvements are required to obtain transfer capability recognized under MH's OATT and under the TARIFF as Firm Transmission Service of 250 MW southbound;

(b) MP shall be responsible for the payment of all costs and charges for the Transmission Interconnection United States Component which transmission improvements are required to obtain transfer capability recognized under MH's OATT and under the TARIFF as Firm Transmission Service of 250 MW southbound; and

(c) if the Northbound Base Transfer Capability is less than 250 MW, MH shall have the right to designate to the Parties' Transmission Providers, in MH's sole discretion, the amount (if any) of additional northbound transfer capability measured in MW's (the "**Designated Additional Transfer Capability**") that is to be obtained for the northbound component of the Transmission Interconnection with reasonable notice to MP, provided that: (i) the Designated Additional Transfer Capability when added to the Northbound Base Transfer Capability shall not be greater than 250 MW's (the total transfer capability in MW's of the northbound component of the Transmission Interconnection which is comprised of the Designated Additional Transfer Capability and the Northbound Base Transfer Capability shall be referred to as the

"**Northbound Transfer Capability**"); and (ii) MH shall pay for all incremental direct construction costs (if any) for the additional transmission improvements that comprises a portion of the Transmission Interconnection, that the Parties' Transmission Providers have determined are required to be constructed in order to obtain the Designated Additional Transfer Capability designated by MH (the "**Additional Northbound Capability Costs**"). MH shall have the right to approve, acting reasonably, any agreement MP proposes to enter into with any Person that impacts on or relates to the amount of or payment by MH of the Additional Northbound Capability Costs.

(3) The Parties agree that, subject to obtaining the necessary approvals under MH's OATT and under the TARIFF, the Transmission Interconnection shall be utilized to provide Firm Transmission Service as follows: (a) MH shall have the right to use as Firm Transmission Service 250 MW of the southbound transfer capability component for the delivery of the Energy and making available the 250 MW Use Limited System Capacity that is sold by MH and purchased by MP pursuant to this Agreement to the Delivery Point with the Firm Transmission Service rights for the southbound transfer capability of the Transmission Interconnection Canadian Component to be in the name of MH; (b) MP shall have the right to use as Firm Transmission Service 250 MW of the southbound transfer capability component for accepting the delivery of the Energy and receiving the 250 MW Use Limited System Capacity that is sold by MH and purchased by MP pursuant to this Agreement from the Delivery Point with the Firm Transmission Service rights for the southbound transfer capability of the Transmission Interconnection United States Component to be in the name of MP (the "Firm Transmission Service referred to in this Section 3.1(3) (a) and (b) for meeting the Parties obligations under this Agreement shall be collectively referred to as the "**Transmission Service**"); and (c) MP and MH shall have the

right to use as Firm Transmission Service the quantity of Northbound Transfer Capability in accordance with the provisions of the Energy Exchange Agreement, with the Firm Transmission Service rights for the Northbound Transfer Capability of the Transmission Interconnection to be in the name of MH.

(4) The Parties' acknowledge that they may by mutual agreement increase the transfer capability of the Transmission Interconnection and/or revise the area in which the Transmission Interconnection will be located in, and enter into additional agreement or agreements with such Persons as may be required in respect of such changes to the Transmission Interconnection, all on such terms and conditions as are mutually agreeable to each Party. It is further acknowledged that in connection with such potential changes to the Transmission Interconnection, MVP Designation of a revised Transmission Interconnection is being pursued by MP and MH agrees to provide reasonable assistance to MP, if requested, in order to assist in MP obtaining MVP Designation for a revised Transmission Interconnection that is mutually acceptable to each Party.

(5) MH covenants and agrees that:

(a) the Transmission Interconnection Canadian Component shall be in-service on or before the June 1, 2020 start date of the Contract Term (or any revised Contract Term start date pursuant to Section 13.1(1)) and ready to make available the Energy and the 250 MW Use Limited System Capacity to the Delivery Point using 250 MW of Firm Transmission Service, subject only to a Force Majeure event and, without limiting the generality of the foregoing, MH shall have taken all actions and done all things necessary, including reserving the southbound Firm Transmission Service in Canada, to have the Transmission

Interconnection Canadian Component constructed and in-service and available to provide Firm Transmission Service on or before the June 1, 2020 start date of the Contract Term (or any revised Contract Term start date pursuant to Section 13.1(1)) and available to the Parties for the uses specified in this Agreement;

(b) it shall take all actions and do all things necessary to ensure that payment is made (without monetary contribution from MP) for all costs and charges, including without limitation construction costs, related to the construction of the Transmission Interconnection Canadian Component; and

(c) it shall pay any and all transmission charges and transmission related charges assessed by a Transmission Provider for MH's use of the Transmission Service for making available the Energy and the 250 MW Use Limited System Capacity to the Delivery Point.

(6) MP covenants and agrees that:

(a) the Transmission Interconnection United States Component shall be in-service on or before the June 1, 2020 start date of the Contract Term (or any revised Contract Term start date pursuant to Section 13.1(1)) and ready to take delivery of the Energy and the 250 MW Use Limited System Capacity from the Delivery Point using 250 MW Firm Transmission Service, subject only to a Force Majeure event and, without limiting the generality of the foregoing, MP shall have taken all actions and done all things necessary, including reserving the southbound Firm Transmission Service in the United States, to have the Transmission Interconnection United States Component constructed and in-service and available to provide Firm Transmission Service on or before the June 1, 2020 start date of the Contract Term (or any revised Contract Term start

date pursuant to Section 13.1(1)) and available to the Parties for the uses specified in this Agreement;

(b) it shall take all actions and do all things necessary to ensure that payment is made (without monetary contribution from MH) for all costs and charges, including without limitation construction costs, related to the construction of the Transmission Interconnection United States Component but excluding the payment of the Additional Northbound Capability Costs (if any) which are to be paid by MH; and

(c) it shall pay any and all transmission charges and transmission related charges assessed or charged by a Transmission Provider for MP using the Transmission Service for taking delivery of the Energy and receiving the 250 MW Use Limited System Capacity from the Delivery Point.

(7) The Parties may by mutual agreement arrange for alternatives to the Transmission Service to meet their obligations under this Agreement. Each Party agree to use Commercially Reasonable Efforts in responding to either Party's good faith request to make such other transmission service arrangements.

(8) The Parties agree to cooperate so that the Parties obtain the benefits (if any) of the additional southbound transmission capability (if any) of the Transmission Interconnection that may be received but is not required for the Parties to meet their obligations under this Agreement.

(9) Each Party acknowledges and agrees with the other Party that, unless the Parties otherwise mutually agree, the Energy that is Scheduled shall be Scheduled using the Transmission Service.

3.2 <u>Offers and Scheduling</u>

(1) MP shall be required to Schedule all of the Energy that has been offered on a

Day-Ahead Basis by MH.

(2) All Energy that is to be Scheduled shall be Scheduled and provide for delivery as follows:

(a) 250 MWh per hour of Weekday Energy and Weekend Energy, over the applicable portion of the sixteen (16) continuous hour period (such hours being determined pursuant to Section 2.3(1)) of each Weekday and Weekend Day, as applicable, for each month during the Contract Term;

(b) the amount of Additional Energy over the applicable hour(s) that MH offered Additional Energy on a Day-Ahead Basis during the Contract Term; and

(c) 250 MWh per hour during the Contract Term of the Must Offer Energy that is a component of Weekday Energy or Weekend Energy and was not otherwise Scheduled pursuant to subparagraph (a) hereof; or is component of Additional Energy and was not otherwise Scheduled pursuant to subparagraph (b) hereof, during the Expected Peak Load in Midwest ISO during all days of the Contract Term.

(3) MH shall, during each day during the Contract Term, subject to the provisions of this Agreement:

(a) offer into the Day-Ahead Energy and Operating Reserve Market during each hour of each day during the Contract Term of the Expected Peak Load in Midwest ISO, 250 MWh per hour of the Energy for each of the said hours (the total quantity of Energy that MH offers during the Expected Peak Load in Midwest ISO for each day during the Contract Term shall be collectively referred to as the "**Must Offer Energy**"). An example of determining the Must Offer Energy component of the Energy for one (1) day during the Contract Term is set out in Appendix "B"; and

(b) have the right, but not the obligation, to offer into the Day-Ahead Energy and Operating Reserve Market, all or any portion of the Energy, excluding the Must Offer Energy component of the Energy, which Must

Offer Energy is required to be offered by MH in accordance with Section 3.2(3)(a).

(4) MP shall, if required pursuant to the Market mechanisms in effect at the applicable time, approve any valid NERC E-Tag prepared pursuant to and in accordance with the applicable Market procedures associated with any offer of the Energy made by MH pursuant to this Agreement into the Day-Ahead Energy and Operating Reserve Market and MP shall take such other actions as may be reasonably requested by MH pursuant to the Market mechanisms in effect at the applicable time in respect of such offers.

(5) The price at which MH offers the Energy pursuant to this Agreement into the Day-Ahead Energy and Operating Reserve Market shall be at the sole discretion of MH.

(6) MH shall not be required to offer all or the applicable portion of the Must Offer Energy into the Day-Ahead Energy and Operating Reserve Market pursuant to Section 3.2(3)(a):

(a) during a Force Majeure event; or

(b) in order to avoid curtailing, restricting or reducing service to MH's End-Use Load, to the extent that the 250 MW Use Limited System Capacity is unavailable due to a full or partial forced, or scheduled outage, in accordance with the Business Practices Manual for Resource Adequacy and the Business Practices Manual for Outage Operations.

(7) During any applicable hour during the Contract Term that a Purchase and Sale Exclusion Event has occurred MH shall have no obligation to sell and make available and MP shall have no obligation to purchase and receive that quantity of the Energy that is subject to or otherwise applicable to the Purchase and Sale Exclusion Event. In that event, unless the Purchase and Sale Exclusion Event is also a Financial Schedule Exception, MP shall pay MH for the applicable quantity of Weekday Energy at the Weekday Energy Price and the applicable

quantity of Weekend Energy at the Weekend Energy Price and the Financial Schedule provisions of Section 3.2(12) shall apply to the Parties in respect of that quantity of Weekday Energy and/or Weekend Energy. For greater certainty, the Financial Schedule provisions of Section 3.2(12) shall not apply to and MP shall not pay, if applicable, for any of Weekday Energy and Weekend Energy that was curtailed restricted or reduced pursuant to Sections 3.4, 3.7 or 3.8 or 3.11 or Article 14 or for any quantity of Weekend Energy designated by MH pursuant to and in accordance with Section 3.10(a) during a period of Adverse Water Conditions and MP shall not pay for any of the Additional Energy, that did not clear the Day-Ahead Energy and Operating Reserve Market or was curtailed, restricted or reduced pursuant to Sections 3.4, 3.7, 3.8 or 3.11 or Article 14 or for any quantity of Weekend Energy designated by MH pursuant to and in accordance with Section 3.10(a) during a period of Adverse Water Conditions.

(8) Subject to the requirement that the Must Offer Energy that is sold and supplied by MH to MP shall be supplied from MH's resources comprising the 250 MW Use Limited System Capacity, the Parties shall, during the Contract Term, Schedule the Energy in a manner that would enable MH to satisfy its obligations under this Agreement utilizing MH's resources (which includes MH's Electrical Generation Facilities) and/or third party purchases and/or Markets available to MH and the right to utilize any market mechanisms that are available to MH throughout the Contract Term to satisfy its obligations under this Agreement. Without limiting the generality of the foregoing, the Parties agree that the Market Portal may be utilized at MH's sole discretion to offer and/or Schedule into the Midwest ISO market. The Parties further agree that if: (i) MH offers and/or Schedules a quantity of Additional Energy through the Market Portal; (ii) the said energy clears the Day-Ahead Energy and Operating Reserve Market; and (iii) MH receives payment from Midwest ISO for the said energy at the

[TRADE SECRET DATA EXCISED], MP shall not have to make a separate or additional payment to MH for the said energy. For greater certainty this shall not apply to Weekday Energy and Weekend Energy and MP shall remain obligated to pay for Weekday Energy at the Weekday Energy Price and for the Weekend Energy at the Weekend Energy Price.

(9) Each Party shall be responsible for and pay its own costs and expenses associated with the purchase and sale of the Energy under the applicable OATT and or TARIFF including, without limitation, any Market Settlement Amounts. MH shall be responsible for any Market Settlement Amounts charged to MP that are directly related to the purchase and sale of the Additional Energy (except any of the Must Offer Energy that is a component of the Additional Energy) under the applicable OATT and/or TARIFF.

(10) MH shall, if required to submit an offer or electing to submit an offer in the Day-Ahead Energy and Operating Reserve Market for the Energy, subject to the provisions of Section 3.2(13), use a Dispatchable Interchange Schedule with an Offer in the Day-Ahead Energy and Operating Reserve Market in order to satisfy its obligations under this Agreement, based on the present Scheduling practices and procedures of the TARIFF. MH shall, subject to the provisions of Section 3.2(13), submit such Dispatchable Interchange Schedule with an Offer in accordance with the timing requirements of the Market Business Practices Manuals. MP shall approve, if required pursuant to the Market mechanisms in effect at the applicable time, the Dispatchable Interchange Schedule with an Offer submitted by MH pursuant to this Agreement and take such other actions as may be reasonably requested by MH pursuant to the Market mechanisms in effect at the applicable time in respect of such Dispatchable Interchange Schedule with an Offer. Notwithstanding the foregoing, including Section 3.2(2) or Section 3.2(3), as applicable, MH may in its sole discretion, utilize the Market Portal to Schedule and/or offer into the Midwest ISO market.

TRADE SECRET DATA EXCISED

(11) During Maximum Generation Events, as defined under the Midwest ISO Emergency Operating Procedure RTO-EOP-002, MH shall have the right to utilize the Transmission Service to deliver Emergency Energy.

(12) In the event:

(a) any portion of an offer from MH in respect of the Weekday Energy and/or the Weekend Energy does not clear the Day-Ahead Energy and Operating Reserve Market; or

(b) no offer in respect of any portion of the Weekday Energy and/or the Weekend Energy (excluding Financial Schedule Exceptions) is made by MH into the Day-Ahead Energy and Operating Reserve Market; or

(c) MH elects to offer Weekday Energy and/or Weekend Energy directly into the Market Portal,

then MH shall, in respect of that quantity of Weekday Energy and/or Weekend Energy (and for greater certainty not in respect of any quantity of Additional Energy) subject to the provisions of Section 3.2(13), submit a Financial Schedule in the Day-Ahead Energy and Operating Reserve Market, for the quantity of the Weekday Energy and/or Weekend Energy referred to in this Section 3.2(12)(a), (b) or (c) above, specifying MH as the seller and MP as the buyer and specifying the **[TRADE SECRET DATA EXCISED]** as the source, sink, and delivery point except to the extent there has been a curtailment in accordance with Sections 3.4, 3.7, 3.8 or 3.11 or Article 14. MP shall approve, if required pursuant to the Market mechanisms in effect at the applicable time, the Financial Schedule submitted by MH pursuant to this Agreement and take such other actions as may be reasonably requested by MH pursuant to the Market mechanisms in effect at the applicable time in respect of such Financial Schedule. The Parties acknowledge that pursuant to the TARIFF Midwest ISO will charge MH and pay MP the **[TRADE SECRET DATA EXCISED]** for the quantity of the Weekday Energy and/or Weekend Energy Scheduled under the Financial Schedule submitted by MH in accordance with this Section 3.2(12).

The Parties further acknowledge that: (i) in respect of the quantity of Weekday Energy and/or Weekend Energy referred to in Sections 3.2(12)(a) or (b) above, that the submitting of the Financial Schedule and the Midwest ISO charging MH and paying MP the **[TRADE SECRET DATA EXCISED]** for such quantity of the Weekday Energy and/or Weekend Energy under the Financial Schedule shall, together with MP's obligation to pay for such quantity of Weekday Energy at the Weekday Energy Price and/or Weekend Energy at the Weekend Energy Price under Section 3.2(7), satisfy MH's obligation(s) to sell and MP's obligation(s) to purchase such quantity of Weekday Energy and/or Weekend Energy pursuant to Section 2.3 and in accordance with Section 3.2(7), MH shall have no obligation to sell and make available, and MP shall have no obligation to purchase and receive such quantity of Weekday Energy and/or Weekend Energy; and (ii) in respect of only the quantity of Weekday Energy and/or Weekend Energy referred to in Sections 3.2(12)(c) above that when offered into the Market Portal the said Weekday Energy and/or Weekend Energy, as applicable, cleared the Day-Ahead Energy and Operating and Reserve Market, and notwithstanding the submitting of the Financial Schedule and the Midwest ISO charging MH and paying MP the **[TRADE SECRET DATA EXCISED]** for such quantity of the Weekday Energy and/or Weekend Energy under the Financial Schedule, MH shall continue to have the obligation to sell and MP shall continue to have the obligation to purchase such quantity of Weekday Energy and/or Weekend Energy pursuant to Section 2.3 and MP shall continue to have the obligation to pay for such quantity of Weekday Energy at the Weekday Energy Price and/or such quantity of Weekend Energy at the Weekend Energy Price.

(13) As of the Effective Date, the Parties are Market Participants and the terms of Sections 3.2(10) and (12) reflect the Scheduling practices and procedures of the TARIFF. The Parties further acknowledge that in the event that, at any time after the Effective Date and prior to the end of the Contract Term: (i) either one

or both of the Parties is no longer a Market Participant; or (ii) the TARIFF or the Market Business Practices Manuals are no longer in effect or are revised, to the extent that the requirements of Sections 3.2(10) and (12), would if complied with by either Party, achieve a result that would be materially inconsistent with the rights and obligations of the Parties pursuant to the other provisions of this Agreement; or (iii) the Midwest ISO market no longer exists, the Parties agree that a new Scheduling mechanism that is consistent with the rights and obligations of the Parties pursuant to this Agreement shall be established including: (A) MP purchasing, paying for and taking title to all of the Energy at the Delivery Point; (B) subject to the requirement that the Must Offer Energy that is sold and supplied by MH to MP shall be supplied from MH's resources from which the 250 MW Use Limited System Capacity is made available, the Parties shall during the Contract Term Schedule the Energy in a manner that would enable MH to satisfy its obligations under this Agreement utilizing MH's resources, (which includes MH's Electrical Generation Facilities), and/or third party purchases, and/or Markets available to MH and the right to utilize any market mechanisms that are available to MH throughout the Contract Term to satisfy its obligations under this Agreement; and (C) changing the definition of Supplied Energy to reflect the new Scheduling mechanism, and the Parties agree to direct the Operating Committee to immediately enter into good faith negotiations to establish such new Scheduling mechanism failing which the establishment of a new Scheduling mechanism shall be determined pursuant to Article XVI on the condition that it is consistent with the rights and obligations under this Agreement prior to the revision. For greater certainty the Parties agree that if the settlement mechanism set out in Section 3.2(12) is no longer in effect or is revised to the extent that the requirements of that section would if complied with by either Party, achieve a result that would be materially inconsistent with the rights and obligations of the Parties pursuant to other provisions of this Agreement, Section 3.2(12) shall be amended or replaced with

a settlement mechanism utilizing a "contract for differences" and the Parties agree to direct the Operating Committee to immediately enter into good faith negotiations to proceed to amend the settlement mechanism or establish a new settlement mechanism failing which an amended settlement mechanism or establishment of a new settlement mechanism shall be determined pursuant to Article 16. In addition the Parties confirm that they may by mutual agreement amend the settlement mechanism set out in Section 3.2(12) to utilize a "contract for differences".

(14) The Parties further acknowledge and agree that in the event that, at any time after the Effective Date and prior to the end of the Contract Term, either one or both of the Parties is no longer a Market Participant and one Party is a participant in a Centrally Operated Market that is different from the Centrally Operated Market in which the other Party participates: (i) where one Party is still a participant in the Midwest ISO market, the Party that is no longer a participant in the Midwest ISO market shall pay all Seams Costs incurred by the Parties in respect of the sale and purchase and delivery of all of the Energy purchased and sold pursuant to the provisions of this Agreement; and (ii) where neither Party is a participant in the Midwest ISO market the Seams Costs incurred by the Parties in respect of the sale and purchase and delivery of all of the Energy purchased and sold pursuant to the provisions of this Agreement shall be accounted for and allocated equally between the Parties.

(15) The Parties further acknowledge that in the event that, at any time after the Effective Date and prior to the end of the Contract Term: (i) either one or both of the Parties is no longer a Market Participant; or (ii) the TARIFF or the Market Business Practices Manuals are no longer in effect or are substantially revised; or (iii) the Midwest ISO market no longer exists, the Operating Committee will meet, consult in good faith, and consistent with Section 10.1(3)(d), make recommendations to the Parties about what amendments or revisions to the Agreement (if any) would be appropriate to address one or both Parties not

being a Market Participant, the TARIFF changes or the end of the Midwest ISO market. The Operating Committee shall also keep a record of changes to the TARIFF that could impact on the scope and meaning of the Agreement and consistent with Section 10.1(3) shall make recommendations to the Parties about what amendments or revisions to the Agreement (if any) would be appropriate to address the TARIFF changes.

(16) Capitalized terms used in this Section 3.2 and not otherwise defined in this Agreement shall have the meanings prescribed in the TARIFF or the Midwest ISO Market Initiative Business Practices Manual for Definitions.

3.3 Transmission System Operations

The Parties acknowledge that, as of the Effective Date, their respective Transmission Providers operate their transmission systems pursuant to the provisions of an OATT. Nothing in this Agreement shall obligate either Party or its respective Transmission Providers to maintain an OATT in effect during the Contract Term. In the event that either Party's Transmission Provider ceases to maintain an OATT at any time during the Contract Term, that Party agrees that it shall allocate sufficient transmission capacity for delivery of the applicable amount of the Energy to/from the Delivery Point, as applicable, including the construction of new transmission facilities, if necessary, to comply with the provisions of this Section 3.3.

3.4 MH's Energy Curtailments

(1) MH shall have the right to curtail, restrict, or reduce the sale and supply of any of the Must Offer Energy, in accordance with either of the following provisions:

(a) a Force Majeure event; or

(b) to the extent necessary to avoid curtailing, restricting or reducing service to MH's End-Use Load, in a manner consistent with and to the extent authorized by "Requirement 6.3 of NERC Standard EOP-002" or its successor requirements.

(2) MH shall have the right to curtail, restrict, or reduce the sale and supply of any

of the Energy, (except for the Must Offer Energy which is governed by the provisions of Section 3.4(1)), in accordance with any of the following provisions:

(a) during any period(s) of time during the Contract Term, if there is either an: (A) Unavailability of MH's Purchased Power; or (B) all or a portion of MH's Electrical Generation Facilities' capacity is unavailable due to: (i) forced outages of one or more generating unit(s); or (ii) derates of one or more generating unit(s) caused by low water flow or other reason; or (iii) the unavailability of generation outlet capacity caused by a forced outage or derate of MH's HVDC System; or (iv) scheduled outages of generating unit(s) or MH's HVDC System, to the extent that such scheduled outages are reasonably necessary to avoid equipment damage to facilities or to avoid the deferral of normal or scheduled maintenance beyond that consistent with Good Utility Practice, and to the extent that such Unavailability of MH's Purchased Power or outages or derates as referenced in any of clauses (i), (ii), (iii) or (iv) cause MH to have insufficient energy to serve MH's Energy Commitments, the Energy (with the exception of the Must Offer Energy which are governed by the provisions of Section 3.4(1)) may be curtailed, restricted or reduced by MH by the amount determined after application of the Priority Criteria; or

(b) during any period(s) of time during the Contract Term to the extent an event of Force Majeure otherwise precludes MH's ability to make available, or to continue to make available any of the Energy in accordance with this Agreement, the Energy (with the exception of the Must Offer Energy which is governed by the provisions of Section 3.4(1)) may be curtailed, restricted or reduced by MH by the amount determined after application of the Priority Criteria; or

(c) to the extent necessary to avoid curtailing, restricting or reducing service to MH's End-Use Load, in a manner consistent with and to the extent authorized by "Requirement 6.3 of NERC Standard EOP-002" or its successor requirements.

(3) In the event of the exercise by MH of the right pursuant to Section 3.4(2)(a) or Section 3.4(2)(b) to curtail, restrict or reduce any of the Energy (except for the Must Offer Energy which is governed by the provisions of Section 3.4(1)), MH shall:

(a) subject to Section 3.4(3)(b), exercise that right only for an amount and for the applicable time period(s), as determined through the Priority Criteria, that MH determines is necessary to respond to the circumstance giving rise to this right to curtail, restrict or reduce any of the Energy (except for the Must Offer Energy);

(b) **[TRADE SECRET DATA EXCISED]**; and

(c) exercise Good Utility Practice to overcome the circumstances giving rise to this right, provided however that MP hereby acknowledges and agrees that the exercise of Good Utility Practice would not obligate MH to make additional purchases of energy from a third party and/or the Markets.

(4) In the event MH curtails, restricts, or reduces the supply of any of the Additional Energy (but not including any of the Must Offer Energy that is a component of the Additional Energy) that has already been accepted into the Midwest ISO Market or cleared the Day-Ahead Energy and Operating Reserve Market, as applicable ("**MH's Curtailment of Cleared Additional Energy**"), MH shall be responsible for any Market Settlement Amounts charged to MP that were directly related to the curtailment, restriction or reduction in the supply of Additional Energy or, if applicable, due to MH's Curtailment of Cleared Additional Energy under the applicable OATT and/or TARIFF.

(5) MH agrees that if a curtailment event that MH had provided notice of pursuant

to Section 3.9, ended prior to the anticipated duration of such curtailment event, MH shall not, without the consent of MP, be entitled to offer that quantity of Weekend Energy or Weekday Energy that was subject to such curtailment until the original notice time period has expired.

3.5 Curtailment Priority Criteria

In the event of the exercise by MH of the right granted pursuant to Section 3.4(2) to curtail, restrict or reduce any of the Energy (except for the Must Offer Energy which is governed by the provisions of Section 3.4(1)), then the following priority criteria (the "**Priority Criteria**") shall be used by MH to determine the amount of any of the Energy (except for the Must Offer Energy), for the applicable time period(s) that shall be subject to curtailment, restriction or reduction:

(a) MH's End-Use Load shall have priority over all other power and energy sales of MH;

(b) any power and/or energy sale by MH that is associated with planning capacity and is not part of MH's End Use Load shall take priority over all other power and energy sales of MH, except for MH's End-Use Load;

(c) all of MH's Firm LD Energy Sales and MH's Firm Energy Sales shall take priority over all other power and/or energy sales of MH, except for those referred to in categories (a) and (b) above;

(d) all other power and/or energy sales by MH except for those referred to in (a), (b) and (c) above; and

(e) in the event that more than one power or energy sale of the same types referred to in categories (b) and (c) of this Section 3.5 exists, curtailment with respect to such power or energy sales shall be determined on a pro rata basis.

The Parties acknowledge that the purchase and sale of the applicable portion of the Energy pursuant to this Agreement is part of Section 3.5(b).

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3.6 Option to Continue Deliveries

MP acknowledges and agrees that: (a) no provision in this Agreement requires MH to implement the right granted pursuant to Sections 3.4(1) or 3.4(2) to curtail, restrict or reduce the Energy; (b) MH retains the right to supply the applicable amount of the Energy, under conditions which give rise to the right to curtail, restrict or reduce the applicable amount of the Energy under Section 3.4(2), from any of MH's Electrical Generation Facilities, third party purchases, Markets or market mechanisms available to MH, during any period of time, for which this right exists provided MH does so for the entire period of time during which it had the right pursuant to Section 3.4(2) to curtail, restrict or reduce the applicable amount of the Energy to be supplied and does not selectively assert the right to provide the applicable amount of the Energy in only some, but not all, hours of the period of time when it would otherwise have the right to curtail, restrict or reduce the applicable amount of the Energy; and (c) in conjunction with the implementation of the right granted pursuant to Section 3.4(2) to curtail, restrict or reduce any of the applicable amount of Energy and MH's covenant to do so in accordance with the provisions of Section 3.5 and the Priority Criteria referenced therein. MH shall have the right, but not the obligation to curtail, restrict or reduce one type of its power and/or energy sales and not another type of its power and/or energy sales even though under the Priority Criteria the power and/or energy sale that was curtailed had a higher priority. The exercise of the right under Section 3.6(c) is subject to MH continuing to provide service, through purchases made from third parties, Markets and/or Market mechanisms available to MH, for that power and/or energy sale that was not curtailed despite having a lower priority. For greater certainty the exercise of the right under Section 3.6(c) does not restrict or limit MH's right granted pursuant to Section 3.4(2) to curtail, restrict or reduce the applicable amount of the Energy.

3.7 Transmission Provider Curtailments

(1) In the event that the Transmission Provider(s) of MH and/or MP reduces or curtails the Firm Transmission Service designated, allocated or required for the

delivery of the Energy, the Energy that is to be supplied by MH and received by MP shall be curtailed, restricted or reduced in accordance with the provisions of that Transmission Provider's OATT. The Parties also agree that if MH has been unable to obtain sufficient quantities of Net Scheduled Interchange including "ramp capability" to have its offer for the Energy clear the Day-Ahead Energy and Operating Reserve Market, the quantity of the Energy that did not clear the said market shall be deemed to have been curtailed pursuant to this Section 3.7(1).

(2) Subject to Section 19.3, in the event MH or MP or its respective Transmission Provider ceases to have an OATT, curtailment or reduction of Energy Schedules hereunder in order to maintain the reliable operation of the interconnected AC transmission system, shall be implemented exclusively in accordance with this Section 3.7(2). Curtailment of energy deliveries under this Section 3.7(2) to accommodate such events shall be implemented as follows, in the order specified, until the required amount of loading relief has been obtained: (a) all transmission service or transactions, that are lower in curtailment priority than Firm Transmission Service, and that contribute to the condition requiring curtailment; shall be curtailed first; (b) the applicable Party shall use Commercially Reasonable Efforts to cause the curtailing Person to redispatch its generation system to continue the Schedules hereunder consistent with producing the desired loading mitigation upon the congested facility(s); and (c) to the extent all transactions identified in clause (a) of this Section 3.7(2) are curtailed and system redispatch is not sufficient to produce the necessary mitigation that would avoid curtailment of the schedules under this Agreement, the transaction curtailment priority used by the applicable Transmission Provider relative to all uses of such AC transmission system at the time shall be implemented in a comparable and non-discriminatory manner.

3.8 MP's Curtailments

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(1) MP shall have the right to refuse to accept and purchase a quantity of the Energy to the extent a Force Majeure precludes MP's ability to accept such quantity of the Energy under this Agreement.

(2) In the event MP refuses to accept any of the Energy pursuant to Section 3.8(1), that has already been accepted into the Midwest ISO Market or cleared the Day-Ahead Energy and Operating Reserve Market, as applicable ("**MP's Curtailment of MH's Cleared Energy**"), MP shall be responsible for any Market Settlement Amounts charged to MH that are directly related to the curtailment, restriction or reduction in the supply of MP's Curtailment of MH's Cleared Energy under the applicable OATT and/or TARIFF.

3.9 Curtailment Notice

Each Party shall provide as much notice as practicable to the other Party regarding the curtailment, restriction or reduction or refusal of the supply or acceptance, as applicable, of the Energy pursuant to Sections 3.4(1), 3.4(2) and 3.8. This shall include the anticipated duration of the curtailment, restriction, or reduction or refusal of the supply or acceptance, as applicable, of the Energy and where practicable daily updates.

3.10 Adverse Water Conditions

(1) MP agrees that for such time period during which MH has declared Adverse Water Conditions, MH shall have the right, but not the obligation, to cease the sale and delivery of such quantities of Weekend Energy and Additional Energy (but not Weekday Energy and not any component of the Weekend Energy or Additional Energy, which is Must Offer Energy), as MH may designate, from time to time, provided:

(a) MH gives a minimum of thirty (30) days notice of the amount of Weekend Energy that MH has designated as being the amount of energy that MH will be ceasing the sale and delivery of during the Adverse Water Conditions;

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(b) MH shall provide weekly progress reports on the status of the Adverse Water Conditions; and

(c) MH shall provide MP with notice once the Adverse Water Conditions end.

(2) Notwithstanding the provisions of Section 3.10(1), MH shall after declaring Adverse Water Conditions, but prior to such conditions ending, be entitled on providing a minimum of thirty (30) days notice to MP, or lesser notice with the consent of MP, to withdraw or revise the designation referred to in Section 3.10(1). For greater certainty the Financial Schedule provisions of Section 3.2(12) do not apply to the amount of Weekend Energy and/or Additional Energy designated by MH pursuant to this Section 3.10.

(3) **[TRADE SECRET DATA EXCISED]**

3.11 <u>Contingency Reserves, Contingency Reserves Emergency Energy and Emergency Energy</u>

The Parties acknowledge and agree that:

(a) Contingency Reserves and Contingency Reserves Emergency Energy made available by MH to the Midwest ISO during the Contract Term pursuant to MH's NERC Contingency Reserve obligations shall not be considered to be Weekday Energy and/or Weekend Energy and/or Additional Energy;

(b) Emergency Energy made available by MH to the Midwest ISO during the Contract Term shall not be considered to be Weekday Energy and/or Weekend Energy and/or Additional Energy;

(c) MH shall have the right to deliver during the Contract Term Contingency Reserves, Contingency Reserves Emergency Energy and Emergency Energy using the Transmission Service;

(d) all payments received by MP from a Transmission Provider for

Contingency Reserves, Contingency Reserves Emergency Energy and/or Emergency Energy made available to the Midwest ISO by MH during the Contract Term which are received by MP by virtue of MP's rights in and to the Transmission Service or otherwise shall be remitted by MP to MH in the month following MP's receipt of said payments; and

(e) all costs associated with Contingency Reserves, Contingency Reserves Emergency Energy and/or Emergency Energy charged to MH by the Midwest ISO which are attributable to MP during the Contract Term shall be billed to MP by MH and shall be paid by MP in the month following MP's receipt of the billing for said costs to the extent MH is not compensated by the Midwest ISO for the said costs.

ARTICLE IV

CAPACITY PRICING

4.1 Capacity Pricing

The Parties agree that the monthly price for the 250 MW Use Limited System Capacity (the "**Monthly Capacity Price**") required to be made available pursuant to Section 2.2(1) shall, subject to Section 4.1(2), be US $**[TRADE SECRET DATA EXCISED]** per MW-month for each Contract Year during the Contract Term in 2007 US $ and shall be escalated from **[TRADE SECRET DATA EXCISED]**

The Parties acknowledge that the Monthly Capacity Price: (i) determined as aforesaid, as of **[TRADE SECRET DATA EXCISED]** shall not escalate further; and (ii) notwithstanding the application of the escalation provision shall not be reduced at anytime below a US $**[TRADE SECRET DATA EXCISED]** per MW-month price.

ARTICLE V

ENERGY PRICING

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5.1 Energy Pricing

Weekday Energy

The price for Weekday Energy for each Contract Year of the Contract Term shall be **[TRADE SECRET DATA EXCISED]**

[TRADE SECRET DATA EXCISED]

Weekend Energy

The price for Weekend Energy for each Contract Year of the Contract Term shall be **[TRADE SECRET DATA EXCISED]**

TRADE SECRET DATA EXCISED]

Additional Energy

(1) The price for Additional Energy **[TRADE SECRET DATA EXCISED]**

ARTICLE VI
BILLING AND PAYMENT

6.1 Dollar Amounts

All dollar amounts set forth in this Agreement, monetary transactions, accounting and cost calculations between MH and MP shall be determined and stated in U.S. Dollars.

6.2 Payment in U.S. Dollars

Payment of all invoices pursuant to this Agreement shall be made in U.S. Dollars.

6.3 Method of Payment of Invoices

Payment of all invoices pursuant to this Agreement shall be made by the Party required to make the payment to the Party entitled to receive the payment by electronic bank transfer or by other mutually agreeable method(s), to the bank designated in Appendix D attached hereto. A Party may change the designation of the bank set out in Appendix D by notice to the other Party in accordance with Section 19.1 hereof. Payment shall be deemed to be made when received by the bank designated in Appendix D.

6.4 Rendering Invoices

Unless otherwise specifically agreed upon by the Parties, the calendar month shall be the standard billing period for all invoices rendered under this Agreement. As soon as practicable after the end of each calendar month, each Party shall render to the other Party an invoice for the payment obligations, if any, incurred hereunder during the preceding month.

6.5 Payment Amounts

Except as hereinafter expressly provided, the amount payable by MP to MH for each month during the Contract Term shall be determined as follows:

Capacity

(a) the Monthly Capacity Price (in U.S. Dollars per MW-month) applicable for that month determined in accordance with Section 4.1(1), multiplied by the 250 MW Use Limited System Capacity; plus

Weekday Energy

(b) the sum of the amount determined for each applicable hour that a quantity of Weekday Energy was Scheduled for that month and/or a quantity of Weekday Energy that MP is otherwise obligated to pay for pursuant to Section 2.3(2) for that month determined for each applicable hour as follows:

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(i) the Weekday Energy Price (in U.S. Dollars per MWh) applicable for each applicable hour of each Weekday, in that month, determined in accordance with Section 5.1(1); multiplied by the applicable quantity of Weekday Energy Scheduled for that hour of that day for that month, determined in accordance with Section 3.2; plus

(c) the sum of the amount determined for each applicable hour that a quantity of Weekday Energy was not Scheduled for that month but that MP is otherwise obligated to pay for as part of the financial settlement for that quantity of Weekday Energy pursuant to Section 3.2(7) for that month determined as follows:

(i) the Weekday Energy Price (in U.S. Dollars per MWh) applicable for each applicable hour of each applicable Weekday in that Month, determined in accordance with Section 5.1(1); multiplied by the quantity of Weekday Energy that was not Scheduled but that MP is obligated to pay for pursuant to Section 3.2(7) for that hour of that day for that month, determined in accordance with Section 3.2; less:

(d) the sum of the amount determined for each applicable hour that a quantity of Weekday Energy that had been Scheduled during any day for that month was curtailed or reduced pursuant to Sections 3.4, 3.7, 3.8 or 3.11 or Article 14 as follows:

(i) the Weekday Energy Price (in U.S. Dollars per MWh) applicable for each applicable hour of each applicable Weekday in that month, determined in accordance with section 5.1(1); multiplied by the applicable quantity of Weekday Energy that had been Scheduled for that hour of that day for that month that was curtailed or reduced pursuant to Sections 3.4, 3.7, 3.8 or 3.11 or Article 14; plus

Weekend Energy

(e) the sum of the amount determined for each applicable hour that a quantity of Weekend Energy was Scheduled for that month and/or a quantity of Weekend Energy that MP is otherwise obligated to pay for pursuant to Section 2.3(2) for that month determined for each applicable hour as follows:

(i) the Weekend Energy Price (in U.S. Dollars per MWh) applicable for each applicable hour of each Weekend Day, in that month, determined in accordance with Section 5.1(2); multiplied by the applicable quantity of Weekend Energy Scheduled for that hour of that day for that month, determined in accordance with Section 3.2; plus

(f) the sum of the amount determined for each applicable hour that a quantity of Weekend Energy was not Scheduled for that month but that MP is otherwise obligated to pay for as part of the financial settlement for that quantity of Weekend Energy pursuant to Section 3.2(7) for that month determined as follows:

(i) the Weekend Energy Price (in U.S. Dollars per MWh) applicable for each applicable hour of each applicable Weekend Day in that Month, determined in accordance with Section 5.1(2); multiplied by the quantity of Weekend Energy that was not Scheduled but that MP is obligated to pay for pursuant to Section 3.2(7) for that hour of that day for that month, determined in accordance with Section 3.2; less:

(g) the sum of the amount determined for each applicable hour that a quantity of Weekend Energy that had been Scheduled during any day for that month was curtailed or reduced pursuant to Sections 3.4, 3.7, 3.8 or 3.11 or Article 14 as follows:

(i) the Weekend Energy Price (in U.S. Dollars per MWh) applicable

for each applicable hour of each applicable Weekend Day in that month, determined in accordance with Section 5.1(2); multiplied by the applicable quantity of Weekend Energy that had been Scheduled for that hour of that day for that month that was curtailed or reduced pursuant to Sections 3.4, 3.7, 3.8 or 3.11 or Article 14; plus

Additional Energy

(h) the sum of the amount determined for each hour that a quantity of Additional Energy was Scheduled for that month and/or a quantity of Additional Energy that MP is otherwise obligated to pay for pursuant to Section 2.3(2) for that month determined as follows:

(i) the Additional Energy Price (in U.S. Dollars per MWh) applicable for each applicable hour of each applicable day in that month, determined in accordance with Section 5.1(3); multiplied by the applicable quantity of Additional Energy Scheduled for that hour of that day for that month, determined in accordance with Section 3.2; less

(i) the sum of the amount determined for each applicable hour that a quantity of Additional Energy that had been Scheduled during any day for that month was curtailed or reduced pursuant to Sections 3.4, 3.7, 3.8 or 3.11 or Article 14 as follows:

(i) the Additional Energy Price (in U.S. Dollars per MWh) applicable for each applicable hour of each applicable day in that month, determined in accordance with Section 5.1(3); multiplied by the applicable quantity of Additional Energy that had been Scheduled for the corresponding applicable hour of the applicable day for that month that was curtailed or reduced pursuant to Sections 3.4, 3.7, 3.8 or 3.11 or Article 14; plus

Other

(j) payments received by MP from a Transmission Provider for Contingency Reserves, Contingency Reserves Emergency Energy and/or Emergency Energy made available to the Midwest ISO by MH as provided in Section 3.11(d); plus

(k) costs associated with Contingency Reserves, Contingency Reserves Emergency Energy and/or Emergency Energy charged to MH by the Midwest ISO as provided in Section 3.11(e); plus

(l) any costs and expenses associated with the supply and receipt of the Energy under the applicable OATT that were billed to and paid by MH but were amounts that were required to be paid by MP pursuant to Section 3.2(9); less

(m) any costs and expenses associated with the supply and receipt of the Energy under the applicable OATT that were billed to and paid by MP but were amounts that were required to be paid by MH pursuant to Section 3.2(9).

6.6 Payment Date

Unless otherwise agreed by the Parties, all invoices under this Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the third (3rd) Business Day after receipt of the invoice. Any amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Interest Rate and such interest shall be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

6.7 Estimates

In the event that not all of the information necessary for the preparation of the monthly invoice is known in time for the preparation of the monthly invoice, estimates may be used on the monthly invoice to be followed with an adjustment to reflect actual charges on a future invoice. In the event that the amount paid or payable on any invoice or

invoices delivered pursuant to this Agreement is based, in whole or in part, upon third party invoices and the third party subsequently adjusts their invoice, MH shall charge or credit MP for the change in such third party invoice within sixty (60) Business Days of MH's receipt of such adjusted third party invoice.

6.8 Billing Adjustments and Disputes

A Party may in good faith dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement within twelve (12) months of the date the invoice or adjustment to an invoice was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the invoice, as invoiced, shall be required to be made when due. Notice of the objection shall be given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Upon resolution of the dispute, any required payment shall be made within ten (10) Business Days of the receipt of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date the payment or reimbursement is paid. Inadvertent overpayments shall be deducted by the Party receiving such overpayment from subsequent monthly invoices rendered by such Party. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 6.8 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made.

6.9 Netting

(1) The billing departments of each of the Parties shall exchange settlement data under each of the MP/MH Agreements. A netting computation of the amount that each Party has determined is due and owing under each of the MP/MH Agreements for the applicable billing period shall be performed by each of the Parties by the third (3) Business Day following the last day of each month. If the Parties are in agreement as to the net amount owing by a Party under the MP/MH Agreements, that net amount shall be paid by that Party by the date

referenced in Section 6.6. If the net amount agreed upon is not paid by that date, or if the Parties are unable to agree on the net amount to be paid, all of the provisions of each of the MP/MH Agreements, including the billing and payment provisions shall continue to govern the payment obligations of each Party, and all amounts due under this Agreement shall be paid in full on the date payment is required to be made under this Agreement.

(2) The payment by a Defaulting Party of any amounts due under each of the MP/MH Agreements shall be a condition precedent to the payment of any amounts due by the Non-defaulting Party to the Defaulting Party under either of the MP/MH Agreements.

6.10 Payment in Full

If the Parties subsequently mutually agree not to net payments pursuant to Section 6.9 or only one Party owes a debt or obligation to the other during the applicable billing period, including, but not limited to, any interest, and payments or credits, that Party shall pay such sum in full when due.

6.11 Impact of Performance Assurance

Except in connection with a termination in accordance with Article XVII in which circumstances the Party benefiting from the Performance Assurance notifies the other Party in writing, amounts invoiced pursuant to this Article VI shall not take into account or include any Performance Assurance which may be in effect to secure a Party's performance under this Agreement.

6.12 Accounting and Billing Procedures

The Operating Committee may make and implement decisions regarding the creation and revision, from time to time, of accounting and billing procedures necessary to implement the terms and conditions of this Agreement including the provisions of Article VI.

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6.13 Preliminary Billing Information

The Parties shall exchange preliminary billing information in accordance with the accounting and billing procedures established by the Operating Committee.

ARTICLE VII
GOVERNMENTAL CHARGES

7.1 Governmental Charges

Each Party shall be solely responsible for and shall pay or cause to be paid all Governmental Charges imposed on that Party in respect of any matters related to this Agreement. In the event MH is required by law or regulation to remit or pay Governmental Charges that are MP's responsibility hereunder, MP shall promptly reimburse MH for such Governmental Charges. In the event MP is required by law or regulation to remit or pay Governmental Charges that are MH's responsibility hereunder, MH shall promptly reimburse MP for such Governmental Charges. For greater certainty, the Parties agree and acknowledge that, as of the Effective Date, MP is a non-resident, non-registrant not carrying on business in Canada in respect of all supplies hereunder for Canadian federal goods and services tax purposes.

7.2 Assistance

Each Party shall provide reasonable assistance to the other Party in connection with and for the purpose of enabling due compliance with Governmental Charges and all associated information, documentation and reporting obligations. Each Party shall provide to the other and to a Governmental Authority having jurisdiction such forms, returns, reports, documents, elections, written declarations, certificates, etc. as the other Party may reasonably request, including without limitation any documentation that may be required to substantiate any available exemptions or relief from Governmental Charges.

ARTICLE VIII
METERING

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8.1 Metering

All applicable matters relating to the metering of the Energy shall be determined in accordance with the applicable provisions of agreements between the Parties Transmission Providers relating to revenue metering and the application of the provisions of such agreements shall, if necessary, be referred to the Operating Committee.

ARTICLE IX
ENVIRONMENTAL ATTRIBUTES

9.1 Environmental Attributes of Energy

(1) The Parties acknowledge and agree that MH shall allocate and transfer to MP that amount of Environmental Attributes (the "**[TRADE SECRET DATA EXCISED] Environmental Attributes**") determined by MH, only for the purposes allocating and transferring Environmental Attributes pursuant to Section 9.2 and Section 9.4, to be from that portion of the MWh of Energy that was: (a) Supplied Energy; and (b) allocated or determined by MH, only for the purpose of allocating and transferring Environmental Attributes, to be sourced from those **[TRADE SECRET DATA EXCISED]**

(2) The Parties acknowledge and agree that for environmental reporting purposes, the Environmental Attributes of that component of the Energy, that: (a) is Supplied Energy; and (b) is not allocated or determined by MH to be sourced from **[TRADE SECRET DATA EXCISED]**

(3) The Parties further acknowledge and agree that for environmental reporting purposes, the Environmental Attributes of that component of the Energy, that is not Supplied Energy, **[TRADE SECRET DATA EXCISED]** and shall be reported by each of the Parties, in that manner, in any reports that are filed by each of the Parties in respect of the purchase and sale of the Energy pursuant to this Agreement.

(4) MH shall not be obligated to manage the supply of the Energy in any particular

manner, nor does this Agreement restrict or limit MH to any specific type(s) of generating resources to be used to supply the Energy (including energy obtained from third party purchases and/or the Markets available to MH, regardless of the generation type used by the third party or which generating resources may have been attributable to the energy accessed through the Markets), nor shall any provision in this Agreement constitute a representation or warranty by MH that the Energy is supplied from a particular generating resource, including renewable resources.

(5) **[TRADE SECRET DATA EXCISED]**

(6) The Parties acknowledge and agree that the consideration for the **[TRADE SECRET DATA EXCISED]** Environmental Attributes is included in the price for the Energy.

(7) Without limiting the reporting requirements referred to in Section 9.1(2), the Parties further acknowledge and agree that MH has retained all Environmental Attributes for the Energy allocated or determined by MH for the purposes of this Article to be sourced from those **[TRADE SECRET DATA EXCISED]**

(8) The Parties acknowledge and agree that MH shall be entitled to revise or amend Appendix C, with reasonable notice to MP, to **[TRADE SECRET DATA EXCISED]**

9.2 <u>Calculation of Environmental Attributes for Supplied Energy</u>

(1) MH shall, calculate the Environmental Attributes of the Supplied Energy purchased by MP, for the purposes of this Article IX, in the following manner:

(a) **[TRADE SECRET DATA EXCISED]**

9.3 <u>Reporting of Environmental Attributes</u>

(1) On or before March 31st of each calendar year, MH shall provide MP with a report, for each preceding calendar year or applicable portion thereof, during the Contract Term, in accordance with the procedures established by MH for such reporting, that identifies the MWh of Energy that was supplied from **[TRADE**

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SECRET DATA EXCISED] and the MWh of Energy that is not Supplied Energy and the Environmental Attributes of each of **[TRADE SECRET DATA EXCISED]**.

(2) The Parties acknowledge and agree that the report referred to above shall be used by MH and MP when reporting the Environmental Attributes of the Energy.

9.4 Transfer of Environmental Attributes

(1) MH shall transfer to MP the **[TRADE SECRET DATA EXCISED]** Environmental Attributes applicable for each calendar year during the Contract Term, on or before March 31st of the subsequent calendar year.

(2) For **[TRADE SECRET DATA EXCISED]** and are registered by MH on a system used to track and transfer Environmental Attributes and used by MH to transfer **[TRADE SECRET DATA EXCISED]** (the "**Transfer System**"), MP shall receive the transfer of the applicable amount of **[TRADE SECRET DATA EXCISED]** Environmental Attributes through the Transfer System. MH's transfer through the Transfer System will be on the condition that MP complies, at its own expense, with the Transfer System requirements concerning the acceptance of the transferred **[TRADE SECRET DATA EXCISED]** Environmental Attributes.

(3) **[TRADE SECRET DATA EXCISED]**

9.5 Use

MP may use any of the **[TRADE SECRET DATA EXCISED]** Environmental Attributes at its sole discretion and for MP's sole benefit, including without limitation the re-sale of the **[TRADE SECRET DATA EXCISED]** Environmental Attributes.

9.6 Rights Conferred by Law

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9.7 MP Qualification

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To the extent allowed by applicable law, MP may have the **[TRADE SECRET DATA EXCISED]** Environmental Attributes qualified and recognized as environmental credits or offsets, if any. MH shall cooperate in such qualification and recognition in accordance with the procedures that it uses or applies generally to the qualification and recognition of **[TRADE SECRET DATA EXCISED]** Environmental Attributes. Without limiting the generality of Section 9.8 and Section 18.1, neither Party makes any representation or warranty with respect to any future action or failure to act, or approval or failure to approve, by any Governmental Authority or any other third Person in respect of the allocation and transfer of the **[TRADE SECRET DATA EXCISED]** Environmental Attributes.

9.8 Disclaimer

WITH RESPECT TO THE **[TRADE SECRET DATA EXCISED]** ENVIRONMENTAL ATTRIBUTES TO BE TRANSFERRED UNDER THIS AGREEMENT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, MH EXPRESSLY DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES, WHETHER WRITTEN OR ORAL, AND WHETHER EXPRESS OR IMPLIED. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MH MAKES NO REPRESENTATION OR WARRANTY HEREUNDER REGARDING THE SUITABILITY OR LIKELIHOOD OF THE **[TRADE SECRET DATA EXCISED]** ENVIRONMENTAL ATTRIBUTES TO MEET OR QUALIFY UNDER ANY VOLUNTARY OR MANDATORY PROGRAM PERTAINING TO THE GENERATION OF "GREEN" OR CARBON NEUTRAL ELECTRIC POWER OR REGARDING ANY CREATION OF A FEDERAL, STATE OR LOCAL MANDATORY OR VOLUNTARY RENEWABLE PORTFOLIO STANDARD OR CARBON OFFSET OR ALLOWANCE TRADING PROGRAM UNDER WHICH THE **[TRADE SECRET DATA EXCISED]** ENVIRONMENTAL ATTRIBUTES COULD BE SOLD, TRANSFERRED OR USED FOR COMPLIANCE.

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ARTICLE X
OPERATING COMMITTEE

10.1 Operating Committee

(1) A committee (the "**Operating Committee**") is hereby constituted consisting of the Division Manager of Power Sales & Operations for MH or a duly authorized delegate from MH and the Director of Energy Supply and Asset Optimization or a duly authorized delegate from MP. Both MH and MP shall have one vote, and all decisions of the Operating Committee must be unanimous to be effective.

(2) The Operating Committee shall meet at the written request of either of its members within ten (10) Business Days of receipt of such request. Written minutes shall be kept of all meetings and decisions and copies of such minutes shall be distributed to the Operating Committee members and the Parties within five (5) Business Days after each meeting.

(3) The Operating Committee may:

(a) make and implement decisions regarding the creation and revision, from time to time, of accounting and billing procedures necessary to implement the terms and conditions of this Agreement in accordance with Section 6.12 and Section 6.13;

(b) make and implement decisions and procedures regarding Scheduling, from time to time as necessary to implement the terms and conditions of this Agreement in accordance with Section 3.2;

(c) make and implement decisions for operating procedures for the conduct of meetings and the recording of minutes;

(d) make recommendations to the Parties concerning amendment and revision of this Agreement;

(e) perform any other obligations expressly provided for in this Agreement to be performed by the Operating Committee and any other matters as the Parties may agree from time to time;

(f) attempt to settle any controversy, claim or dispute prior to referring such matters to the Executive Officers of MP and MH for resolution in accordance with Section 16.1; and

(g) make and implement decisions concerning Section 19.1 and the form of notices being provided by the Parties pursuant to the provisions of this Agreement,

provided that the Operating Committee shall not have authority to modify the terms and conditions of this Agreement.

ARTICLE XI
REPRESENTATIONS, WARRANTIES AND COVENANTS

11.1 General and US Bankruptcy Representations and Warranties

(1) Each Party makes the following representations and warranties to the other Party, which representations and warranties will be deemed to be repeated, if applicable, by each Party throughout the Contract Term:

(a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

(b) subject to Article XIII, it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;

(c) subject to Article XIII, the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;

(d) subject to Article XIII, this Agreement and each other document executed and delivered in accordance with this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms subject to any equitable defences;

(e) it is a Market Participant as of the date of the execution of this

Agreement;

(f) it or its Credit Support Provider, if any, is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it or its Credit Support Provider, if any, being or becoming bankrupt;

(g) there is not pending or, to its knowledge, threatened against it or any of its Affiliates or its Credit Support Provider, if any, any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;

(h) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing and understanding the merits, and understands and accepts, the terms, conditions and risks of this Agreement. It is also capable of assuming, and assumes, the risks of this Agreement. Information and explanations related to the terms and conditions of this Agreement will not be considered advice or a recommendation to enter into this Agreement. No communication (written or oral) received from the other Party will be deemed to be an assurance or guarantee as to the expected results of this Agreement, unless such communication is expressly stated in writing to be a "guarantee" and is signed by the Party providing the statement;

(i) it has entered into this Agreement in connection with the conduct of its business and it has, subject to the provisions of this Agreement, the capacity or ability to make available or take delivery of all the Energy;

(j) the other Party is not acting as a fiduciary for or an adviser to it in respect of this Agreement;

(k) this Agreement constitutes a "master netting agreements" and all

transactions pursuant to it constitute "forward contracts" within the meaning of the United States Bankruptcy Code ("**Bankruptcy Code**") or a "swap agreement" within the meaning of the Bankruptcy Code;

(l) it is a "forward contract merchant" within the meaning of the Bankruptcy Code with respect to any transactions that constitute "forward contracts" and a "swap participant" with respect to any transactions that constitute "swap agreements";

(m) all payments made or to be made by one Party to the other Party pursuant to this Agreement constitute "settlement payments" within the meaning of the Bankruptcy Code;

(n) all transfers of Performance Assurance by one Party to the other Party under this Agreement constitute "margin payments" within the meaning of the Bankruptcy Code;

(o) it is a "master netting agreement participant" within the meaning of the Bankruptcy Code;

(p) certain provisions of this Agreement grants each Party the contractual right to "cause the liquidation, termination or acceleration" of the transactions under this Agreement within the meaning of Sections 556, 560 and 561 of the Bankruptcy Code, as they may be amended superseded or replaced from time to time;

(q) upon a bankruptcy of the other Party, a Non-defaulting Party shall be entitled to exercise its rights and remedies under this Agreement in accordance with the safe harbour 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;

(r) it is an "eligible contract participant" as defined in Section 1a(18) of the Commodity Exchange Act, as amended, 7 U.S.C. § 1a(18);

(s) it (i) is a producer, processor, or commercial user of, or a merchant

handling, the commodity which is the subject of this Agreement, or the products or by products thereof; and (ii) is offered or enters into this Agreement solely for purposes related to its business as such;

(t) for the purposes of this Agreement, it is not a "utility" as such term is used in 11 U.S.C. Section 366. Each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. Section 366 in any bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort;

(u) no Event of Default or potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement; and

(v) all transactions under this Agreement and this Agreement itself are not "swaps" as defined in Section 1a(47)(A) of the Commodity Exchange Act, as amended, 7 U.S.C. § 1 et. seq. (the "Act"), but rather all transactions under this Agreement and this Agreement itself are excluded from the term "swap" under Section 1a(47)(B)(ii) or lawful Commodity Futures Trading Commission ("CFTC") regulations promulgated thereunder ("Regulations") as contracts of sale of nonfinancial commodities for deferred shipment or delivery intended to be physically settled. In the event that any particular transaction is deemed by an agency of competent jurisdiction (whether or not in a final adjudication) to be a "swap" as defined above, or not to be qualified for the exclusion under Section 1a(47)(B) described above, any attendant recordkeeping, reporting or other regulatory obligations shall be timely and completely fulfilled by MP; and consistent therewith, in such event, MP and MH have elected, under Section 4r(a)(3)(C) of the Act (7 U.S.C. Section 6r(a)(3)(C)), that MP shall fulfill all counterparty reporting obligations of

either party under the Act and the interim and final Regulations. Notwithstanding the above, MH shall meet all its own then applicable record keeping obligations under the Act and interim and final Regulations (i) which are not the exclusive responsibility of MP under the Act or as provided above, and (ii) which are applicable to MH under the Act despite MH not being a U.S. person. Further, MH will cooperate in a reasonably timely and complete manner in such event to provide MP information to enable MP to meet its responsibilities under the Act.

(2) MH makes the following additional representations and warranties to MP as of the Effective Date and which will be deemed to be repeated throughout the Contract Term:

(a) no Event of Default with respect to MH and no MH Termination Event has occurred and is continuing; and

(b) no Event of Default with respect to MH and no MH Termination Event would occur as a result of its entering into or performing its obligations under this Agreement.

(3) MP makes the following additional representations and warranties to MH as of the Effective Date and which will be deemed to be repeated throughout the Contract Term:

(a) no Event of Default with respect to MP and no MP Termination Event has occurred and is continuing; and

(b) no Event of Default with respect to MP and no MP Termination Event would occur as a result of its entering into or performing its obligations under this Agreement.

11.2 MH Tax Representations and Warranties

MH makes the following representations and warranties to MP, which representations and warranties will be deemed to be repeated, if applicable, by MH throughout the Contract Term:

(a) it is a foreign person (as that term is used in section 1.6041-4(a)(4) of the United States Treasury Regulations) for United States federal income tax purposes and its U.S. Taxpayer identification number is 98-0126210; and

(b) no part of any payment received or to be received by MH in connection with this Agreement is attributable to a trade or business carried on by it in the United States of America.

11.3 MP Tax Representations

MP makes the following representations and warranties to MH, which representations and warranties will be deemed to be repeated, if applicable, by MP throughout the Contract Term:

(a) it is a "U.S. person" (as that term is used in section 1.1441-4(a) (3) (ii) of the United States Treasury Regulations) for United States federal income tax purposes and its U.S. Taxpayer identification number is 41-04181150; and

(b) no part of any payment received or to be received by MP in connection with this Agreement is attributable to a trade or business carried on by it or in respect of services rendered by it in Canada.

11.4 MH's National Energy Board Covenant

MH agrees to file the application with the NEB referred to in Section 13.2(d) for an order of the NEB authorizing the export by MH of the 250 MW System Power to the United States by the date that is no later than two (2) years prior to the start of the Contract Term, provided MH is able to comply with the applicable filing requirements of the NEB on such date, or such application shall be filed on such other date as the Parties' may mutually agree upon.

11.5 MP's Minnesota Public Utilities Commission Covenant

MP agrees to file the application referred to in Section 13.3(a) for approval of this Agreement with the Minnesota Public Utilities Commission within 120 days of the

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Effective Date.

ARTICLE XII
CONFIDENTIALITY

12.1 Confidentiality

The Parties confirm that Confidential Information (as defined in the "Non-Disclosure Agreement") had been disclosed by each Party to the other Party during the course of negotiating this Agreement and acknowledge that the provisions of the Non-Disclosure Agreement governs the disclosure of all such Confidential Information that was disclosed up to the date this Agreement is executed. The Parties (each a "**Discloser**") also recognize that there is a need pursuant to this Agreement for each Party to disclose Confidential Information, after the date this Agreement is executed, to the other Party (each a "**Recipient**") and that the provisions of this Agreement will govern the disclosure of such information not the Non-Disclosure Agreement and the Parties wish to protect the Confidential Information in the following manner and agree as follows:

(a) **"Confidential Information"** shall mean all non-public and confidential information which information is treated by the Discloser and its representatives as confidential and which is conspicuously marked "Confidential" if in written or printed form, or if oral, which is specifically identified as confidential at the time of disclosure and is confirmed in writing to each other party as "Confidential" within five (5) Business Days after disclosure, unless: (i) the information is or becomes publicly known through lawful means; (ii) the information was rightfully in Recipient's possession or part of Recipient's general knowledge prior to the date of this Agreement; or (iii) the information is disclosed to Recipient without confidential restriction by a third party who rightfully possesses the information (without confidential restriction) and did not learn of it, directly or indirectly, from Recipient.

(b) Except as hereinafter provided, Recipient shall hold all Confidential

Information in strict confidence and shall not disclose any Confidential Information to any third party. Recipient shall take all reasonable measures to protect the confidentiality of, and avoid the unauthorized use, disclosure, publication, or dissemination of Confidential Information. Recipient may disclose Confidential Information:

(i) to its directors, officers, employees, members, agents or advisors, including, without limitation, its attorneys, accountants, consultants and financial advisors who need to know such information for the purposes of the transactions contemplated by this Agreement (each a "**Representative**"); and

(ii) to any other third parties, only with the prior written consent of the Discloser.

(c) If the Recipient or its Representatives are required to disclose the Confidential Information by law, regulation, ruling of a governmental agency or by court order, before the Recipient or its Representatives disclose any Confidential Information, the Recipient or its Representatives shall give the Discloser timely written notice (at least 10 Business Days) of the requirement for disclosure and assist the Discloser to secure a protective order to limit disclosure of such Confidential Information only to parties agreeing to be bound by the terms of a confidentiality agreement in a form and content satisfactory to the Discloser, acting reasonably. Recipient shall cooperate reasonably in any such efforts to secure a protective order; provided, however, Recipient shall not be required to take, or refrain from taking, any action if it would cause Recipient or its Representatives to be in violation of the terms of a required disclosure described in this Section 12.1(c).

(d) Notwithstanding the foregoing, the Parties acknowledge that MP is required pursuant to Section 11.5 to file this Agreement for approval

with the Minnesota Public Utilities Commission accompanied by an application. MP agrees to seek protection of the Confidential Information in this Agreement under the Minnesota Public Utilities Commission's Minnesota Rule 7829.0500. The Parties will cooperate reasonably to prepare a public version of this Agreement for inclusion in the public record at the Minnesota Public Utilities Commission. The Parties agree that the public version of this Agreement will redact only such Confidential Information that properly constitutes proprietary information, trade secrets, or other privileged information as defined by applicable Minnesota laws.

(e) Recipient shall be liable for any use or disclosure of Confidential Information by its Representatives, which is not in compliance with the obligations imposed upon the Recipient pursuant to this Agreement.

(f) All rights, title and interest in and to the Confidential Information are reserved by, and remain the sole property of the Disclosing Party. The Recipient does not acquire any intellectual property rights under this Agreement. Nothing in this Agreement shall be construed as a grant of, or intention or commitment to grant any right, title or interest of any nature whatsoever in or to the Confidential Information.

(g) Recipient agrees that the unauthorized disclosure or use of Confidential Information could cause irreparable harm and significant injury to the Discloser, the amount of which may be difficult to ascertain or quantify, thus, making any remedy at law or in damages inadequate. Therefore, Recipient agrees that Discloser shall have the right to apply to any court of competent jurisdiction for an order restraining any breach or threatened breach of this Section and for any other relief Discloser deems appropriate. This right shall be in addition to any other remedy available to Discloser in law or equity.

(h) This Section 12.1 shall survive any termination of this Agreement for a period of three (3) years.

ARTICLE XIII
CONDITIONS

13.1 MH's Conditions and Options

MH Keeyask GS Construction Option

(1) If MH, in its sole and absolute discretion, has not commenced construction of the cofferdam for the Keeyask GS by June 1, 2014, after all approvals and authorizations required in respect of the construction of the Keeyask GS have been obtained, including MH obtaining an Order in Council of the Lieutenant Governor (Manitoba) approving the construction of the Keeyask GS, MH shall have the option, to be exercised in MH's sole and absolute discretion, on written notice to MP, on or before June 1, 2016, to:

(a) delay the June 1, 2020 start date of the Contract Term as follows: (i) by such period of time as MH selects not exceeding one (1) year if the said construction of the Keeyask GS cofferdam has commenced on or before June 1, 2015 but after June 1, 2014; or (ii) by such period of time as MH selects not exceeding two (2) years if the said construction of the Keeyask GS cofferdam has either commenced on or before June 1, 2016 but after June 1, 2015 or has not commenced by June 1, 2016, with the end of the Contract Term being extend by the same time period that the start of the Contract Term was delayed by, such that the length of the Contract Term remains at fifteen (15) years; and

(b) delay the intended in-service date (such dates are referred to in Section 3.1) of the Transmission Service as applicable, by the same time period that the start of the Contract Term was delayed by,

in which event all provisions of this Agreement that rely on or otherwise utilize

the original June 1, 2020 start date of the Contract Term shall be changed to reflect in accordance with this Section 13.1(1)(a), the revised start date of the Contract Term. For greater certainty for the purposes of this Agreement construction of the Keeyask GS cofferdam shall have commenced with the placement of the first rock by or through MH, for the purpose of river management in the construction of the Keeyask GS cofferdam.

MH New Manitoba Power Transmission Facilities Option

(2) If MH, in its sole and absolute discretion, has not commenced construction by June 1, 2014 of new power transmission facilities within the province of Manitoba, which MH has determined, in its sole and absolute discretion, are required for the transmission of the output of the Keeyask GS, MH shall have the option, to be exercised in MH's sole and absolute discretion, on written notice to MP, on or before June 1, 2016, to:

(a) delay the June 1, 2020 start date of the Contract Term as follows: (i) by such period of time as MH selects not exceeding one (1) year if the said construction of the transmission facilities started on or before June 1, 2015, but after June 1, 2014; or (ii) by such period of time as MH selects, not exceeding two (2) years, if the said construction of the transmission facilities has either commenced on or before June 1, 2016 but after June 1, 2015 or has not commenced by June 1, 2016, with the end of the Contract Term being extend by the same time period that the start of the Contract Term was delayed by, such that the length of the Contract Term remains at fifteen (15) years; and

(b) delay the intended in-service date (such dates are referred to in Section 3.1) of the Transmission Service by the same time period that the start of the Contract Term was delayed by,

in which event all provisions of this Agreement that rely on or utilize the original June 1, 2020 start date of the Contract Term shall be changed to reflect in accordance with this Section 13.1(2)(a), the revised start date of the Contract

Term. For greater certainty, for the purposes of this Agreement, construction of the new power transmission facilities shall have commenced with the placement by or through MH of a transmission structure foundation located between the connecting transmission stations in northern Manitoba and southern Manitoba.

13.2 MH's Conditions Precedent

The obligation of MH to complete the transactions referenced herein shall be subject to and contingent upon the fulfillment of the following conditions precedent ("**MH's Conditions Precedent**") to the satisfaction of MH, as certified or waived in writing by MH, by the dates specified:

(a) MH, in its sole and absolute discretion, commencing construction of the cofferdam for the Keeyask GS by June 1, 2016, after all approvals and authorizations required in respect of the construction of the Keeyask GS have been obtained, including MH obtaining an Order in Council of the Lieutenant Governor (Manitoba) approving the construction of the Keeyask GS;

(b) MH, in its sole and absolute discretion, commencing construction of new power transmission facilities within the province of Manitoba by June 1, 2016, after all approvals and authorizations required in respect of the said construction of the transmission facilities have been obtained, which transmission facilities MH has determined are required, in its sole and absolute discretion, for the transmission of the generation output of the Keeyask GS;

(c) MH obtaining an Order in Council of the Lieutenant Governor (Manitoba) within sixty (60) days of the Effective Date approving MH entering into this Agreement;

(d) MH obtaining the final non-appealable order of the NEB, on conditions acceptable to MH, in its sole and absolute discretion by May 1, 2020 or

in the event the June 1, 2020 Contract Term start date is delayed pursuant to Section 13.1, by the date that is one month (1) prior to the revised Contract Term start date, or by such other date as the Parties' may mutually agree upon authorizing the export by MH of the 250 MW System Power to the United States;

(e) MH obtaining the final non-appealable order of the NEB, on conditions acceptable to MH, in its sole and absolute discretion by June 1, 2017 or in the event the June 1, 2020 Contract Term start date is delayed pursuant to Section 13.1, by the date that is three (3) years prior to the revised Contract Term start date, or by such other date as the Parties' may mutually agree upon authorizing: (i) the construction and operation of the New International Power Line; and (ii) the modification of the component of the transmission interconnection in the province of Manitoba that is pursuant to the laws applicable to the NEB an international power line and that MH, in its sole and absolute discretion, determines is necessary to be modified in conjunction with the construction of the New International Power Line; and

(f) the Parties executing on the Effective Date the Energy Exchange Agreement.

13.3 MP's Conditions Precedent

The obligation of MP to complete the transactions referenced herein shall be subject to and contingent upon the fulfillment of the following conditions precedent ("**MP's Conditions Precedent**") to the satisfaction of MP, as certified or waived in writing by MP, by the dates specified:

(a) the final approval of this Agreement by the Minnesota Public Utilities Commission on conditions acceptable to MP, within eighteen (18) months of the Effective Date;

(b) approval by the Midwest ISO that the 250 MW Use Limited System Capacity qualifies as a "capacity resource" as that term is defined under the TARIFF as in effect as of the date of the approval, within six (6) months after the Effective Date; and

(c) the Parties executing on the Effective Date the Energy Exchange Agreement.

13.4 Required Approvals

MH shall use Commercially Reasonable Efforts to secure only the approval listed in Section 13.2(d) and MP shall use Commercially Reasonable Efforts to secure only the approvals listed in Sections 13.3(a) and (b) (these approvals for each Party collectively referred to as the "**Required Approvals**"). The Parties agree to provide reasonable assistance to the other Party, if requested, in order to assist that Party in obtaining the Required Approvals.

13.5 Conditions Precedent Notices

Each Party shall notify the other Party as soon as practicable following the satisfaction or waiver or the failure to satisfy or to waive MH's Conditions Precedent or MP's Conditions Precedent, as applicable, including the failure to obtain any of the Required Approvals. This Agreement shall, subject to the obligations of the Parties in Section 13.4 and Article XIII, terminate on the date notice has been received by one Party from the other Party that any of MH's Conditions Precedent or MP's Conditions Precedent have not been satisfied and will not be waived.

ARTICLE XIV
FORCE MAJEURE

14.1 Force Majeure

(1) Neither Party shall be in breach or liable for any delay or failure in its performance under this Agreement to the extent such performance is prevented or delayed due to a Force Majeure event or circumstance, provided that:

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(a) the non-performing Party shall give the other Party notice promptly (and within forty-eight (48) hours if possible) after the non-performing Party's knowledge of the commencement of the Force Majeure, with written confirmation to be supplied within ten (10) calendar days after the commencement of the Force Majeure further describing the particulars of the occurrence of the Force Majeure;

(b) the delay in performance due to the Force Majeure shall be of no greater scope and of no longer duration than is directly caused by the Force Majeure;

(c) the Party whose performance is delayed or prevented: (i) shall proceed with Commercially Reasonable Efforts to overcome the Force Majeure which is preventing or delaying performance; and (ii) shall provide weekly written progress reports to the other Party during the period that performance is delayed or prevented describing actions taken and to be taken to remedy the consequences of the Force Majeure, the schedule for such actions and the expected date by which performance shall no longer be affected by the Force Majeure; and

(d) when the performance of the Party claiming the Force Majeure is no longer being delayed or prevented, that Party shall give the other Party notice to that effect.

(2) For greater certainty, the Parties acknowledge and agree that:

(a) provided all of the requirements of a Force Majeure have otherwise been met, a Force Majeure event or circumstance may be based on any of the following: (i) one or more of the generating units of the Keeyask GS not being commissioned as part of MH's integrated power system by MH's scheduled in-service date for such generating station; (ii) the new transmission facilities referred to in Section 13.2(b) not being commissioned as part of MH's integrated power system by MH's scheduled in-service date for such transmission facility; (iii) one or more

of the generating units of the Conawapa GS not being commissioned as part of MH's integrated power system by MH's scheduled in-service date for such station; (iv) if the Parties are to Schedule the Energy in accordance with this Agreement using the Transmission Service, the Transmission Interconnection not being commissioned and available for the delivery of the Energy by MH and the receipt of the Energy by MP by the scheduled in-service date for such interconnection; or (v) if the Parties are to Schedule the Energy in accordance with this Agreement using the Transmission Service, the Transmission Interconnection not being commissioned and available for the delivery of the Energy by MH and receipt of the Energy by MP by the scheduled in-service date for such interconnection;

(b) notwithstanding Section 14.1(2)(a), a Force Majeure event or circumstance referred to in Sections 14.1(2)(a)(i), 14.1(2)(a)(ii) and 14.1(2)(a)(iii) shall not, while the generation or transmission facility is being constructed, be based on any of the following Force Majeure events or circumstances: (i) strikes; (ii) lockouts and other labour disturbances; and (iii) inability to obtain materials; and

(c) the Force Majeure event or circumstance referred to in Sections 14.1(2)(a)(iv) or 14.1(2)(a)(v), as applicable, may include a Force Majeure event or circumstance that is being relied on by one of the Parties pursuant to a provision in an arm's length agreement with another Person or Persons providing for the construction of the said transmission interconnection, conditional on such provision being reasonable and in accordance with Good Utility Practice.

(3) The Parties agree that if the Force Majeure is based on the event or circumstance described in Sections 14.1(2)(a)(iv) or 14.1(2)(a)(v), while the Party or Parties relying on the Force Majeure event shall use its best efforts to overcome the said Force Majeure and to have the said transmission service in-service and available

for use under this Agreement, each of the Parties shall use Commercially Reasonable Efforts to obtain alternative Firm Transmission Service during the duration of the Force Majeure event.

(4) For greater certainty, the Parties further acknowledge that the following events or circumstances shall not constitute or form the basis for Force Majeure: (a) the loss of MP's Markets; (b) MP's inability to economically use or resell or the 250 MW System Power, including MP's ability to purchase 250 MW System Power at a price less than the prices provided for in this Agreement; and (c) MH's ability to sell 250 MW System Power at a price greater than the prices provided for in this Agreement.

ARTICLE XV
CREDITWORTHINESS

15.1 Credit Review Procedures

For the purpose of determining whether a Party is able to meet its obligations pursuant to this Agreement, a Party may require commercially reasonable credit review procedures. If requested by a Party, the other Party shall deliver, unless such financial statements are available on "EDGAR" or "SEDAR" or on such other Party's internet website: (a) within 150 calendar days following the end of each fiscal year, a copy of such Party's annual report containing audited consolidated financial statements for such fiscal year; and (b) within 90 calendar days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles or such other principles then in effect, provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such Party shall diligently pursue the preparation, certification and delivery of the statements.

15.2 Performance Assurances

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(1) Should the creditworthiness, financial strength, or performance viability of a Party (the "**Second Party**") become unsatisfactory to the other Party (the "**Requesting Party**") in such Requesting Party's commercially reasonably exercised discretion with regard to any transaction pursuant to this Agreement, the Requesting Party may require the Second Party to post or provide at the Second Party's option: (a) a Letter of Credit; (b) other collateral or security by the Second Party that is acceptable to the Requesting Party in its commercially reasonably exercised discretion; (c) a Guarantee Agreement; or (d) some other mutually agreeable method of satisfying the Requesting Party (the items described in (a) through (d) are referred to as "**Performance Assurance**"). The Requesting Party may only request, and the Second Party shall only be required to provide, Performance Assurance in a commercially reasonable amount under the circumstances. The Second Party may request from the Requesting Party that the Performance Assurance be returned or reduced, on the condition that such a request shall only be made once every sixty (60) days during any period when a Performance Assurance has been provided. The Requesting Party shall be required to return or reduce the Performance Assurance, after receipt of the request from the Second Party, if, considering whether the factors that justified the Requesting Party's request for Performance Assurance have been removed or improved, it is commercially reasonable to do so.

(2) Events which may cause the Requesting Party to question the Second Party's financial strength, or performance viability as set out in Section 15.2(1) above, include, but are not limited to, any of the following:

(a) The Requesting Party having knowledge that the Second Party (or its Credit Support Provider, if applicable) is failing to perform or defaulting under terms of other contracts;

(b) The Second Party, or its Credit Support Provider has an Investment Grade Credit Rating (unenhanced by unaffiliated third Party support) and the credit rating falls below an Investment Grade Credit Rating

according to at least one of S&P, Moody's or DBRS;

(c) The Second Party, or its Credit Support Provider is rated BBB- by S&P (or the equivalent rating from Moody's or DBRS) and the Second Party or its Credit Support Provider (as applicable) has been either placed on negative credit watch or negative outlook by at least one such rating agency; or

(d) Other material adverse changes in the Second Party's financial condition.

(3) If the Second Party fails to provide Performance Assurance within five (5) Business Days of written demand therefore, such failure will be considered an Event of Default under Article XVII of this Agreement and the Requesting Party shall have the right to exercise any of the remedies provided for under that Article XVII. Nothing contained in this Article XV shall affect any other credit agreement or arrangement, if any, between the Parties.

(4) If the Second Party provides a Letter of Credit, the Second Party shall: (i) renew the Letter of Credit on a timely basis; and (ii) provide a substitute Letter of Credit at least twenty (20) Business Days prior to the expiration of the outstanding Letter of Credit if the issuer has indicated its intent not to renew such Letter of Credit.

15.3 Grant of Security Interest

(1) To secure its obligations under this Agreement and to the extent either or both Parties (or their Credit Support Provider, if applicable) deliver Performance Assurance hereunder, unless prohibited by applicable law, each Party (a "**Pledgor**") hereby grants to the other Party (the "**Secured Party**") a present and continuing security interest in, and lien on (and right of setoff against), all Performance Assurance delivered by the Pledgor to the Secured Party hereunder and held for the benefit of, such Secured Party, and all proceeds of such Performance Assurance (subject to any secured interest held or maintained by the Pledgor's lender), and Pledgor agrees to take such actions as the Secured

Party reasonably requires in order to perfect the Secured Party's security interest in, and lien on (and right of setoff against), such Performance Assurance and any and all proceeds resulting there from or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default, or an uncured event of default under the Energy Exchange Agreement, the Non-defaulting Party may do any one or more of the following: (a) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance delivered by the Defaulting Party, including any such rights and remedies under law then in effect; (b) exercise its rights of setoff against any and all Performance Assurance of the Defaulting Party in the possession of the Non-defaulting Party or its agent up to the amount then owed to it by the Defaulting Party; (c) draw on any outstanding Letter of Credit issued for its benefit up to the amount then owed to it by the Defaulting Party; and (d) liquidate all Performance Assurance then held by or for the benefit of the Secured Party, free from any claim or right of any nature whatsoever of the Defaulting Party, including any equity or right of purchase or redemption by the Defaulting Party. The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Pledgor's obligations under this Agreement (the Pledgor remaining liable for any amounts owing to the Secured Party after such application), subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

(2) In addition to and not in limitation of any other right or remedy (including any right to setoff, counterclaim, or otherwise withhold payment) under applicable law, the Non-defaulting Party may, at its option and in its commercially reasonably exercised discretion and without prior notice to the Defaulting Party, setoff any amounts payable by it to the Defaulting Party under this Agreement (irrespective of currency, place of payment or booking office of obligation) against amounts that the Defaulting Party may owe it under this Agreement and

the Energy Exchange Agreement. The obligations of the Parties under this Agreement in respect of such amounts shall be deemed satisfied and discharged to the extent of any such setoff.

(3) The payment by the Defaulting Party of any amounts due under this Agreement and under the Energy Exchange Agreement shall be a condition precedent to the payment of any amounts due by the Non-defaulting Party to the Defaulting Party under either of the MP/MH Agreements.

(4) The Non-defaulting Party shall use Commercially Reasonable Efforts to provide notice to the Defaulting Party as to the nature and amount of any setoff and recoupment after it is effected, but failure to give notice shall not impair the validity of any setoff.

ARTICLE XVI
DISPUTE RESOLUTION

16.1 Condition Precedent to Arbitration

Prior to initiation of arbitration, any controversy, claim or dispute between the Parties shall be first referred in writing to the Operating Committee for review and attempted resolution. If the controversy, claim or dispute is not resolved within thirty (30) calendar days after referral to the Operating Committee, the matter will be referred to the Executive Officers for review and decision. Any decision by the Executive Officers to resolve a controversy, claim or dispute must be unanimous. If the controversy, claim or dispute is not resolved within thirty (30) calendar days after referral to the Executive Officers, either Party may proceed to arbitration.

16.2 Initiation

Arbitration proceedings must be initiated within one hundred and twenty (120) calendar days of the date the controversy, claim or dispute was first referred to the Executive Officers and shall be initiated by written notice to the other Party setting forth the point or points in dispute. Unless otherwise agreed to in writing by the Parties, failure to

initiate arbitration within such one hundred and twenty (120) day period shall be deemed a waiver of the right to arbitrate that controversy, claim or dispute. Provided however, that any such waiver shall not preclude a Party from initiating arbitration proceedings in respect of a similar claim, controversy or dispute based on facts that arise subsequent to the date the controversy, claim or dispute was first submitted to the Executive Officers.

16.3 Arbitration Proceedings

Subject to Section 16.1 above and Section 10.1(f), any and all controversies, claims or disputes between the Parties arising out of or relating to this Agreement or an alleged breach thereof, shall be settled by arbitration. For greater clarity and certainty, arbitration shall not be available to anyone who is not a party to this Agreement, and the aforesaid requirement to arbitrate shall not preclude a Party from seeking contribution, indemnification or damages from another Person in proceedings instituted by third parties in courts of competent jurisdiction. Unless otherwise provided in this Article, the arbitration shall be conducted before three arbitrators and shall be conducted in accordance with the International Commercial Arbitration Act (Ontario), RSO 1990, c.I9 and the UNCITRAL model Law on International Commercial Arbitration as amended and then in effect. Each Party shall select one arbitrator, and the two selected arbitrators shall jointly agree, within 30 days after the last of the two arbitrators have been appointed, on a third arbitrator who shall chair the arbitration. All arbitrators shall be competent by virtue of education and experience in the particular matter subject to arbitration. Before proceeding with the first hearing, each arbitrator shall take an oath of office. The arbitrators shall require witnesses to testify under oath administered by a duly qualified person. The arbitrators shall have jurisdiction and authority only to interpret, apply or determine compliance with the provisions of this Agreement insofar as shall be necessary to determine the particular matter subject to arbitration. The arbitrators shall not have jurisdiction or authority to add to, detract from, or alter the provisions of this Agreement or any applicable law or rule of civil procedure. The

arbitrators shall have the power to order specific performance under any and all provisions of this Agreement and no Party can avoid specific performance based on an argument that the other Party has an adequate remedy at law. All arbitrations shall be held in Winnipeg, Manitoba.

16.4 Jurisdiction

The arbitrators may rule on their own jurisdiction, including any objections with respect to the existence or validity of this Agreement. For that purpose, this Article shall be treated as an agreement independent of the terms of the balance of this Agreement. A decision by the arbitrators that this Agreement is null and void shall not entail *ipso jure* the invalidity of this Article. If a Party disputes the authority or jurisdiction of the arbitrators, it shall notify the other Party as soon as the matter alleged to be beyond the authority or jurisdiction of the arbitrators is raised during the arbitration proceedings. The arbitrators may rule on the issue as to whether or not they have the authority or jurisdiction in dispute, either as a preliminary question or in an award on the merits.

16.5 Discovery

Each Party shall have the rights of discovery in accordance with the applicable rules of the Court of Queen's Bench of Manitoba. All issues subject to discovery shall be determined by order of the arbitrators upon motion made to them by any Party. When a Party is asked to reveal material which the Party considers to be proprietary or confidential information or trade secrets, the Party shall bring the matter to the attention of the arbitrators, who shall make such protective orders as are reasonable and necessary or as otherwise provided by law.

16.6 Continuation of Performance

Pending the final decision of the arbitrators, the Parties agree, subject to Section 15.2, to diligently proceed with the performance of all obligations, including the payment of all sums required by this Agreement. Payment of any interest shall be as determined by the arbitrator.

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16.7 Costs

All fees, costs and expenses of the arbitrators incurred in connection with the arbitration shall be allocated among the Parties by the arbitrators. The nature of the dispute and the outcome of the arbitration shall be factors considered by the arbitrators when allocating such fees, costs, and expenses. Each Party shall be responsible for the fees, costs, and expenses of its own employees, expert consultants and attorneys, and for the costs of exhibits and other incidental costs.

16.8 Enforcement

Any decision (including orders arising out of disputes as to the scope or appropriateness of a request for, or a response to, discovery) of an arbitrator may be enforced in a court of competent jurisdiction with all costs, including court costs and attorney's fees and disbursements, paid by the Party found to be in default or in error. Judgment upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction and may be enforced in accordance with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

16.9 Correction and Interpretation of Award

Within thirty (30) calendar days after receipt of an arbitration award, a Party, with notice to the other Party, may request the arbitrators to correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature, or may request the arbitrators to give an interpretation of a specific point or a part of the award. If the arbitrators consider the request to be justified, they shall make the correction or give the interpretation within thirty (30) calendar days after receipt of the request. The interpretation shall form part of the award. The arbitrators may correct any error as herein-before referred to on their own initiative within thirty (30) calendar days after the date of award. In addition, within thirty (30) calendar days after receipt of an award, a Party with notice to the other Party may request the arbitrators to make an additional award as to claims presented in the arbitration but omitted from the award. If the arbitrators consider the request to be justified, they shall make an additional award

within sixty (60) calendar days after receipt of the request. The arbitrators may extend, at their sole discretion if necessary, the period of time within which it shall make a correction, interpretation or an additional award.

ARTICLE XVII
DEFAULT/TERMINATION

17.1 Events of Default

If any of the following events, conditions, or circumstances (each an "**Event of Default**") shall occur and be continuing:

(a) the failure of either Party or any Credit Support Provider of either Party to make any payment to the other Party as required by this Agreement if such amount remains unpaid for a period of five (5) Business Days after the date the Defaulting Party receives written notice from the Non-defaulting Party that the amount is overdue;

(b) the failure by either Party to perform or observe any material obligation to the other Party under this Agreement, that is not excused by an event of Force Majeure, other than obligations for the payment of money, if such failure is not remedied within thirty (30) calendar days after written notice thereof shall have been given by the Non-defaulting Party to the Defaulting Party;

(c) the insolvency or bankruptcy of a Party or its Credit Support Provider or its inability or admission in writing of its inability to pay its debts as they mature, or the making of a general assignment for the benefit of, or entry into any contract or arrangement with, its creditors;

(d) the 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 thirty (30) calendar days;

(e) the authorization or filing by a Party or its Credit Support Provider 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 or its Credit Support Provider without such authorization, application or consent, which proceedings remain undismissed or unstayed for thirty (30) calendar days or which result in adjudication of bankruptcy or insolvency within such time;

(f) in the event that a Party fails to provide Performance Assurance within five (5) Business Days of the date the Performance Assurance was to have been provided in accordance with Section 15.2;

(g) a Party or its Credit Support Provider consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to or reorganizes or reincorporates or reconstitutes into or as another entity and, at the time of such consolidation, amalgamation, merger, transfer, reorganization, reincorporation or reconstitution, the resulting, surviving or transferee entity fails to assume, if applicable, all the obligations of such Party or such Party's Credit Support Provider under this Agreement to which it or its predecessor was a party and, in the case of a Credit Support Provider, such Party has failed to provide a replacement Guarantee Agreement (if a Guarantee Agreement is outstanding) within five (5) Business Days

(h) the occurrence of a Letter of Credit Default that remains uncured for five (5) Business Days;

(i) the occurrence of an uncured Event of Default (as such term is defined in

the Energy Exchange Agreement) provided that the Non-defaulting Party shall have the unfettered discretion whether to declare an Event of Default under this Agreement associated with such occurrence; or

(j) any material representation or warranty made by the Defaulting Party in this Agreement that is proven to have been false in any material respect when made,

then, and in any such event, the Non-defaulting Party shall have all the rights and remedies available to it at law or in equity, including the right to terminate this Agreement by written notice to the Defaulting Party in accordance with Section 17.3.

17.2 Suspension of Performance

Notwithstanding any other provision of this Agreement, if an Event of Default has occurred and is continuing beyond any applicable cure period, the Non-defaulting Party, upon notice to the Defaulting Party, shall have the right: (a) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than (10) Business Days unless an Early Termination Date has been declared and notice thereof given pursuant to Section 17.3; and (b) to the extent an Event of Default has occurred and is continuing beyond any applicable cure period, to exercise any remedies available at law or in equity.

17.3 Right to Terminate Following an Event of Default

(1) If at any time an Event of Default with respect to a Party (the "**Defaulting Party**") has occurred and is then continuing beyond any applicable cure period, the other Party (the "**Non-defaulting Party**") may, by not less than twenty (20) calendar days notice to the Defaulting Party specifying the relevant Event of Default, designate a Business Day not earlier than the day such notice is effective as termination of this Agreement prior to the expiry of the Contract Term (such designated Business Day will constitute an "**Early Termination Date**").

(2) In addition to and not in limitation of any other right or remedy (including any

right to setoff, counterclaim, or otherwise withhold payment) available to the Non-defaulting Party at law or in equity, the Non-defaulting Party may, at its option and in its commercially reasonably exercised discretion and without prior notice to the Defaulting Party, setoff any amounts payable by it to the Defaulting Party under this Agreement (irrespective of currency, place of payment or booking office of obligation) against amounts that the Defaulting Party may owe it under the Energy Exchange Agreement. The obligations of the Parties under this Agreement in respect of such amounts shall be deemed satisfied and discharged to the extent of any such setoff and recoupment.

(3) The payment by the Defaulting Party of any amounts due under either of the MP/MH Agreements shall be a condition precedent to the payment of any amounts due by the Non-defaulting Party to the Defaulting Party under either of the MP/MH Agreements.

(4) The Non-defaulting Party shall use Commercially Reasonable Efforts to provide notice to the Defaulting Party as to the nature and amount of any setoff and recoupment after it is effected, but failure to give notice shall not impair the validity of any setoff and recoupment.

17.4 MH Termination Events

MH has the right, but not the obligation, to terminate this Agreement in the manner described below following any of the events, conditions or circumstances specified below (each a "**MH Termination Event**"):

(a) immediately upon notice to MP upon the termination of the Energy Exchange Agreement prior to the expiry of the term of that agreement, unless the termination occurred due to occurrence of an uncured Event of Default (as such term is defined in the Energy Exchange Agreement) by MH.

17.5 MP Termination Events

MP has the right, but not the obligation, to terminate this Agreement in the manner

described below following any of the events, conditions or circumstances specified below (each a "**MP Termination Event**"):

(a) immediately upon notice to MH upon the termination of the Energy Exchange Agreement prior to the expiry of the term of that agreement, unless the termination occurred due to occurrence of an uncured Event of Default (as such term is defined in the Energy Exchange Agreement) by MP.

17.6 Payment on Termination

On or as soon as practicable following the effective designation of either an MH Termination Event or an MP Termination Event, MH shall calculate the amounts due and owing by MP to MH, and MP shall calculate the amounts due and owing by MH to MP, as applicable, for the period up to and including the termination date, and each Party shall deliver an invoice to the other Party for the amount due which shall be payable in accordance with Article VI.

ARTICLE XVIII
LIMITATION OF LIABILITY

18.1 **Limitation of Liability**

THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF THE EXPRESS REMEDY

OR MEASURE OF DAMAGES PROVIDED IS ALL RIGHTS OR REMEDIES AVAILABLE TO A PARTY AT LAW OR IN EQUITY, SUCH PARTY SHALL BE ENTITLED TO SEEK ALL OR ANY SUCH RIGHTS AND DAMAGES OR REMEDIES. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE XIX
GENERAL

19.1 Notices

Any notices, demands or requests (other than those operational matters identified by the Operating Committee), required or authorized by this Agreement shall be in writing and

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may be delivered by hand delivery, mail, electronic mail, confirmed fax, or overnight courier service to:

if to the Manitoba Hydro-Electric Board:

Division Manager
Power Sales & Operations
Manitoba Hydro
360 Portage Avenue
Post Office Box 815
Winnipeg, Manitoba
R3C 2P4
Fax 204-360-6137

with copies to:

General Counsel
Manitoba Hydro
360 Portage Avenue
Post Office Box 815
Winnipeg, Manitoba
R3C 2P4
Fax 204-360-6147

if to Minnesota Power:

Senior Vice-President Strategy & Planning
Minnesota Power
30 West Superior St.
Duluth, MN 55802
Fax (218) 723-3915

with copies to:

General Counsel

Minnesota Power
30 West Superior Street
Duluth, MN 55802
Fax (218) 723-3955

Notice by hand delivery shall be effective at the close of business on the day actually received, if received during the recipient's business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight mail, or courier, shall be effective on the next Business Day after it was sent. Notice by electronic mail or confirmed fax shall be effective at the close of business on the day actually received, if received during the recipient's business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. The designation of the persons to be notified or the address of such persons may be changed at any time by similar notice.

19.2 Operational Matters

All issues related to operational matters and notices in respect thereto, as identified by the Operating Committee shall be directed to the appropriate operations personnel at MH and MP. Each Party shall each provide to the other Party a list of contacts for notification on the said operational matters that shall be updated from time to time as required.

19.3 MH's Marketing and Sales Function and MP's Merchant Function

The Parties acknowledge that MH has established an open access transmission tariff and MP is subject to the TARIFF, and MH has adopted, and MP is subject to, the FERC "Standards of Conduct" which require that MH's and MP's respective employees engaged in transmission system operations function independently from MH's and MP's respective marketing and sales employees, and that MH and MP treat all of their respective transmission customers on a non-discriminatory basis. This Agreement is entered into by MH and MP on behalf of their respective marketing and sales functions.

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Nothing in this Agreement shall obligate either MH's or MP's transmission function to take or refrain from taking any action.

19.4 Records

Each Party shall keep complete and accurate records and memoranda of its operations hereunder and shall maintain such data as may be necessary to determine with reasonable accuracy any item required hereunder. With respect to invoicing records, each Party shall maintain such records, memoranda and data for the current calendar year plus a minimum of five (5) previous calendar years. Each Party or its respective designee, shall each have the right, at its sole expense, upon reasonable prior notice during the other Party's regular business hours at such Party's primary place of business, to inspect, review and take copies of the other Party's records as far as such records concern monetary matters or other issues under this Agreement and may be reasonably necessary for the purpose of ascertaining the reasonableness and accuracy of any statements of cost, bills or invoices relating to transactions hereunder. Each Party shall treat and shall take reasonable steps to cause its designee to treat such information so inspected, reviewed, or copied as Confidential Information.

19.5 Indemnity

(1) Each Party shall indemnify and save harmless the other Party from and against all claims, actions, suits, proceedings, demands, assessments, judgments, charges, penalties, costs, and expenses which arise or are made or claimed against or suffered or incurred by the other as a result of:

(a) any breach by it of or any inaccuracy of any representation or warranty contained in this Agreement or in any agreement, instrument, certificate or other document delivered pursuant hereto; and

(b) any breach or non-performance by it of any covenant to be performed by it that is contained in this Agreement or in any agreement, certificate or other document delivered pursuant hereto.

(2) The Parties agree:

(a) MH shall be deemed to be in exclusive control of the 250 MW System Power prior to the delivery by MH and receipt by MP of the 250 MW System Power at the Delivery Point and MH shall be responsible for, and shall indemnify MP from, any damages or injury MP or any third party may suffer or incur, caused thereby except to the extent such damages or injury were caused by the gross negligence or wilful misconduct of MP; and

(b) MP shall be deemed to be in exclusive control of the 250 MW System Power from and after delivery by MH and receipt by MP of the 250 MW System Power at the Delivery Point and shall be responsible for, and shall indemnify MH from, any damages or injury MH or any third party may suffer or incur, caused thereby except to the extent such damages or injury is caused by the gross negligence or wilful misconduct of MH.

For the purposes of this Section 19.5(2) "gross negligence or wilful misconduct" does not include acts or omissions by a Party that constitute ordinary negligence, and "damages or injury" does not include indirect, incidental, and consequential damages, and without restricting generality of the foregoing, "damages or injury" does not include expenses or liabilities associated with the interruption of power, energy or related services to any third Person.

(3) Each Party shall promptly notify the other Party of claims, demands or actions that may result in a claim for indemnity. Failure to be provided with notice will not relieve a Party from indemnification liability unless, and then only to the extent that, such failure results in the forfeiture by such Party of a substantial right or defense. No settlement of any claim which may result in a claim for indemnity may be made by either Party without the prior consent of the other Party, which consent may not be unreasonably withheld. Neither Party shall be liable under this Agreement in respect of any settlement of a claim unless it has consented in writing to such settlement.

19.6 Governing Law

This Agreement shall be governed and construed in accordance with the laws of the province of Manitoba and Canada. Any disputes arising under this Agreement that are not resolved by arbitration shall be subject to the exclusive jurisdiction of the courts of the province of Manitoba and the Supreme Court of Canada.

19.7 Waiver of Right to Trial by Jury

Each Party hereby irrevocably waives to the fullest extent permitted by applicable law, any and all rights it may have to trial by jury with respect to any legal proceeding arising out of or relating to this Agreement and any agreement executed or contemplated to be executed in conjunction with this Agreement. This provision is a material inducement to each of the Parties for entering into this Agreement. Each Party hereby waives any right to consolidate any action, proceeding, or counterclaim arising out of or in connection with this Agreement and any other agreement executed or contemplated to be executed in conjunction with this Agreement, or any matter arising hereunder or thereunder in which a jury trial has not or cannot be waived.

19.8 Foreign Sovereign Immunities Act

MH irrevocably agrees to waive the protections of the Foreign Sovereign Immunities Act, 28 U.S.C. §1602, et seq., in connection with this Agreement.

19.9 No Representation or Warranty for Injury

It is acknowledged and agreed that the 250 MW System Power and related services are inherently dangerous, and MH offers no warranty, or representation, express or implied, that the 250 MW System Power or related services will not cause injury to Person, property or business.

19.10 Surviving Termination

All provisions of this Agreement which by their nature are intended to survive the termination of this Agreement, including, the provisions relating to: (a) the billing by MH to MP of and payment from MP to MH for or related to the 250 MW System Power; (b) the transfer of the **[TRADE SECRET DATA EXCISED]** Environmental

Attributes; (c) the confidentiality provisions pursuant to Article XII of this Agreement; (d) Section 19.5, shall survive the Contract Term or the earlier termination of this Agreement as the case may be for a period of three (3) years following the expiration of the Contract Term or the earlier termination of this Agreement.

19.11 Enurement

This Agreement shall be binding upon and its benefits enure to the Parties and their permitted successors and assigns. This Agreement shall not create the relationship between the Parties of a joint venture or a partnership.

19.12 Assignment

Neither this Agreement nor any interest or obligation in or under this Agreement may be assigned (whether by way of security or otherwise) by either Party without the prior written consent of the other Party, except that either Party may, without consent of the other Party, assign this Agreement (in whole and not in part only) to any of their respective Affiliates, including any newly formed Affiliate pursuant to either Party reorganizing its corporate structure on sixty (60) days advance notice to the other Party provided that:

(a) prior to the effective date of the assignment, Performance Assurance, if required by the non-assigning Party, has been provided to the non-assigning Party in an amount and upon terms satisfactory to the non-assigning Party, in its sole discretion, acting reasonably;

(b) the non-assigning Party shall not be required to pay to the assignee an amount in respect of any Governmental Charges which the non-assigning Party would not have been required to pay to the assigning Party in the absence of such assignment;

(c) the non-assigning Party shall not receive a payment from which an amount has been withheld or deducted, on account of a withholding tax in excess of that which the assigning Party would have been required to so withhold or deduct in the absence of such assignment;

(d) it does not become unlawful for either Party or the assignee to perform any obligation under this Agreement as a result of such assignment; and

(e) no Event of Default or MH Termination Event or MP Termination Event, as applicable, occurs as a result of such assignment.

With respect to the results described in clauses (b) and (c) above, the non-assigning Party will cause the assignee to make, and the assigning Party will make, such reasonable representations as may be mutually agreed upon by the assigning Party, the assignee and the non-assigning Party in order to permit such parties to determine that such results will not occur upon or after the assignment. For greater certainty the assignment in part only of the interest or obligation of MP, to an Affiliate of MP in accordance with and pursuant to the conditions stipulated in this Section 19.12, includes the interest granted pursuant to Article 9 to have the **[TRADE SECRET DATA EXCISED]** Environmental Attributes transferred to MP.

19.13 Waiver and Amendment

Unless otherwise specifically provided herein, this Agreement may be altered, modified, varied, or waived, in whole or in part, only by a supplementary written document executed by the Parties.

19.14 Counterparts

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

19.15 Recording of Communications

The Parties agree: (a) that each may electronically monitor or record, at any time and from time to time, any and all communications between them; (b) to waive any further notice of such monitoring or recording; (c) to notify and obtain any necessary consents of its officers and employees of such monitoring or recording; (d) that any such monitoring or recording may be offered into evidence in any such suit, trial, hearing, arbitration, or other proceeding; and (e) to furnish appropriately redacted copies of

recordings to the other Party within ten (10) Business Days of the other Party's written request.

19.16 Existing Agreements

Each of the Parties are parties to existing agreements with each other and with other third parties. This Agreement shall not affect the obligations and rights of a Party with respect to such existing agreements, except as expressly provided for herein.

19.17 No Other Rights

This Agreement is not intended to and shall not create rights of any character whatsoever in favour of any Person, other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third Persons to any Party, nor shall any provision of this Agreement give any third Persons any right of subrogation or action over against any Party.

19.18 Entire Agreement

Subject only to the provisions of the Non-Disclosure Agreement, this Agreement represents the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral and written proposals and communications pertaining hereto, including the term sheet entered into by the Parties on December 12, 2007. There are no representations, conditions, warranties or agreements, express or implied, statutory or otherwise, with respect to or collateral to this Agreement other than contained herein or expressly incorporated herein.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed on the date first above written.

THE MANITOBA HYDRO-ELECTRIC BOARD

_____

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By: A.D. Cormie, Division Manager Power Sales & Operations

I HAVE AUTHORITY TO BIND THE MANITOBA HYDRO-ELECTRIC BOARD

MINNESOTA POWER, an operating division of ALLETE, Inc.

_____

By: Eric R. Norberg
Senior Vice President
Strategy and Planning

I HAVE AUTHORITY TO BIND ALLETE, INC.

Appendix A
MH's Resources

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Appendix B

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Appendix C
MH's Energy Resources

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APPENDIX D

INTERBANK TRANSFER OF FUNDS ACCOUNT DESIGNATIONS

For The Manitoba Hydro-Electric Board:

By Bank Wire Transfer to: **[TRADE SECRET DATA EXCISED**

TRADE SECRET DATA EXCISED]

For Transfer to: **[TRADE SECRET DATA EXCISED**

TRADE SECRET DATA EXCISED]

For Credit to: **[TRADE SECRET DATA EXCISED**

TRADE SECRET DATA EXCISED]

As per invoice:

By Bank Wire Transfer to:	For Transfer to:	For Credit to:
[TRADE SECRET DATA EXCISED	**[TRADE SECRET DATA EXCISED**	**[TRADE SECRET DATA EXCISED**
TRADE SECRET DATA EXCISED]	**TRADE SECRET DATA EXCISED]**	**TRADE SECRET DATA EXCISED]**

For Minnesota Power:

Bank wire transfer to:	**[TRADE SECRET DATA EXCISED**
	TRADE SECRET DATA EXCISED]
For credit to:	**[TRADE SECRET DATA EXCISED**
	TRADE SECRET DATA EXCISED]

As per invoice:

By Bank Wire Transfer to:	For Credit to:
[TRADE SECRET DATA EXCISED	**[TRADE SECRET DATA EXCISED**
TRADE SECRET DATA EXCISED]	**TRADE SECRET DATA EXCISED]**

ENERGY EXCHANGE AGREEMENT

between

THE MANITOBA HYDRO-ELECTRIC BOARD

- and –

MINNESOTA POWER, an operating division of ALLETE, Inc.

DATED May 19, 2011

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ENERGY EXCHANGE AGREEMENT

DATED the 19th day of May , 2011

BETWEEN:

THE MANITOBA HYDRO-ELECTRIC BOARD,
(hereinafter referred to as "MH"),

- and –

MINNESOTA POWER, an operating division of ALLETE, Inc.,
(hereinafter referred to as "MP").

WHEREAS, MP, and MH are the owners and operators of electric generation and transmission facilities in the United States of America and in Canada, respectively, and are engaged in the generation, transmission, distribution and sale of electric energy;

AND WHEREAS, MH agrees to purchase and MP agrees to sell MP's Energy pursuant to the terms and conditions set forth in this Agreement;

AND WHEREAS, MP is developing significant wind resources and desires to pump and store wind energy, in conjunction with the construction of a new transmission interconnection between MP and MH and MH's proposed new hydraulic generation development;

AND WHEREAS, MH agrees to pay for MP's Pumped Energy pursuant to the terms and conditions set forth in this Agreement;

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AND WHEREAS, MP agrees to pay for MH's Stored Energy pursuant to the terms and conditions set forth in this Agreement;

AND WHEREAS, the Parties have previously entered into energy sale and power sale agreements and concurrently with this Agreement are entering into the 250 MW System Power Sale Agreement;

AND WHEREAS, the Parties require governmental permits and approvals for the import and export of electric energy;

AND WHEREAS, the Parties agree to cooperate and coordinate the planning, permitting, funding, construction and international interconnection of the Transmission Interconnection;

AND WHEREAS, MP is a member of Midwest ISO and subject to applicable Midwest ISO tariffs, and MH is a coordinating member of Midwest ISO.

NOW, THEREFORE, in consideration of the mutual promises and covenants of each Party to the other contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

ARTICLE I
INTERPRETATION

1.1 Defined Terms

Unless otherwise specified in this Agreement, the following terms shall, for the purposes of this Agreement, have the following meanings:

"**250 MW SPSA**" shall mean the 250 MW System Power Sale Agreement entered into

between MP and MH concurrently with this Agreement.

"Additional Northbound Capability Costs" shall have the meaning set forth in Section 3.1(2)(c).

"Affiliate" shall mean any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with MP or MH and shall include a wholly owned subsidiary of MP or MH.

"**Agreement**" means this Energy Exchange Agreement and all amendments thereto.

"Ancillary Services" shall have the meaning set forth in the TARIFF.

"**Balancing Authority**" shall have the meaning set forth in the TARIFF.

"**Bankruptcy Code**" shall have the meaning set forth in Section 9.1(1)(k).

"Business Day" shall mean Monday through Friday, excluding Canadian banking holidays (such banking holidays shall be as recognized by the Canadian Payments Association or any successor agency) and United States banking holidays (such banking holidays shall be as recognized by the Federal Reserve Board or any successor agency).

"**Centrally Operated Market**" shall mean a centrally operated structure or structures bringing together buyers and sellers to facilitate the exchange of wholesale electricity products and/or related services.

"**Commercially Reasonable Efforts**" shall mean those efforts expended by a Party, acting reasonably, under normal commercial conditions to identify, develop, and implement a solution to an issue or problem that is cost effective (taking into account the complexity and importance of the issue or problem being addressed) and is also consistent with applicable legal requirements, rules governing any applicable Market and Good Utility Practice.

"**Confidential Information**" shall have the meaning set forth in Section 10.1(a).

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"**Contract Term**" shall mean June 1, 2020, through May 31, 2035, with such Contract Term to be revised to reflect changes, if any, made to the "June 1, 2020" start date referred to in definition of the "Contract Term" pursuant to the provisions of the 250 MW SPSA.

"**Contract Year**" shall mean a twelve-month period, June 1 through May 31 of the following calendar year, whether or not within the Contract Term.

"**Credit Support Provider**" shall mean a Person approved by the Requesting Party who provides Performance Assurance on behalf of the Second Party.

"Day-Ahead Basis" shall mean in advance, not later than 11 a.m. (EST) of the Business Day prior to any day that MP is to make available MP's Energy to MH.

"**Day-Ahead Energy and Operating Reserve Market**" shall mean the day-ahead market established pursuant to and defined by the TARIFF.

"Day-Ahead Offer Basis" shall mean in advance, not later than 11 a.m. (EST) of the Business Day prior to any day that MP offers MP's Pumped Energy to MH or MH offers MH's Stored Energy to MP, as applicable.

"**DBRS**" shall mean DBRS Limited or its successor.

"**Defaulting Party**" shall have the meaning set forth in Section 15.3(1).

"**Delivery Point**" shall have the meaning set forth in Section 2.2(1).

"**Designated Additional Transfer Capability"** shall have the meaning set forth in Section 3.1(2)(c).

"**Discloser**" shall have the meaning set forth in Section 10.1.

"**Early Termination Date**" shall have the meaning set forth in Section 15.3(1).

"**Effective Date**" shall mean the date this Agreement is executed by the Parties.

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"**Environmental Attributes**" shall mean the rights to any existing or future environmental benefits or attributes, credits, renewable characteristics, avoided emissions, avoided greenhouse gas emissions, emission reductions, emissions or greenhouse gas emissions associated with, related to or derived or resulting from the generation of electricity.

"**Event of Default**" shall have the meaning set forth in Section 15.1.

"**Executive Officers**" shall be, in the case of MH the Senior Vice-President of Power Supply, and in the case of MP the Senior Vice-President of Strategy and Planning, or its successor or such other officer designated by each Party from time to time.

"**FERC**" shall mean the Federal Energy Regulatory Commission or its successor.

"**Financial Schedule**" shall have the meaning set forth in the TARIFF.

"**Firm Point-to-Point Transmission Service**" shall have the meaning set forth in the applicable OATT.

"**Firm Transmission Service**" shall mean transmission service provided pursuant to the OATT of either Party's Transmission Provider, being either Firm Point-to-Point Transmission Service or Network Integration Transmission Service, or the highest priority transmission service available pursuant to either Party's OATT, or in the event that either Party does not have an OATT, the highest priority transmission service available to that Party for the delivery of energy and the supply of capacity.

"**Force Majeure**" shall mean an event or circumstances that prevents or delays one Party from performing its obligations under this Agreement and that is not within the reasonable control of, or the result of the negligence of, the claiming Party, and that, by the exercise of Good Utility Practice, the claiming Party is unable to overcome or avoid or cause to be avoided, including but not restricted to, acts of God, **[TRADE SECRET DATA EXCISED]** strikes, lockouts and other labour disturbances, epidemics,

pandemic, war (whether or not declared), blockades, acts of public enemies, acts of sabotage or terrorism, civil insurrection, riots or civil disobedience, any situation where delivery or acceptance will endanger a Party's facilities or endanger that Party's system operations, explosions, acts or omissions of any Governmental Authority taken on or after the Effective Date, (including the adoption or change in any law or regulation or environmental constraints lawfully imposed by such Governmental Authority) but only if, and to the extent that, such action or inaction by such Governmental Authority prevents or delays performance and/or renders the Party unable, despite due diligence, to obtain any licenses, permits, or approval required by any Governmental Authority, and the issuance of any order, injunction, or other legal or equitable decree to the extent that any of the foregoing prevents or delays the performance of a Party's obligations hereunder.

"**Good Utility Practice**" shall mean, at any particular time, any of the practices, methods, and acts engaged in or approved by a significant portion of the hydro-electric utilities located in North America during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time a decision is made, could be expected to produce the desired result at a reasonable cost consistent with reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but includes a range of acceptable practices, methods, or acts.

"**Governmental Authority**" shall mean any federal, state, or provincial government, parliament, legislature, or any regulatory authority, agency, commission or board of any of the foregoing, or any political subdivision thereof, or any court, or, without limitation, any other laws, regulation or rule-making entity, having jurisdiction in the relevant circumstances, or any Person acting under the authority of any of the foregoing, or any other authority charged with the administration or enforcement of applicable laws.

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"**Governmental Charges**" shall mean all applicable federal, state, provincial and local ad valorem, property, occupation, severance, generation, first use, conservation, or energy, transmission, utility, gross receipts, privilege, sales, use, consumption, excise and other taxes (other than taxes based on income or net worth), charges, emission allowance costs, duties, tariffs, levies, licenses, fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Authority, independent system operator, utility, transmission and distribution provider or similar Person, however styled or payable.

"**Guarantee Agreement**" shall mean a guarantee provided to the Requesting Party by a Credit Support Provider with an Investment Grade Credit Rating as Performance Assurance pursuant to Section 13.2 in a form acceptable to the Requesting Party acting with commercially reasonable discretion.

"**Interest Rate**" shall mean, for any date, the lesser of: (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%); or (b) the maximum rate permitted by applicable law.

"**Investment Grade Credit Rating**" shall mean with respect to any Person, a rating (unenhanced by unaffiliated third party support) of not less than: (a) BBB- from S&P; or (b) Baa3 from Moody's; or (c) BBB(low) from DBRS, then assigned to the lower of: (i) its unsecured, senior long-term debt obligations; or (ii) if applicable, its issuer rating and, in each instance, unenhanced by unaffiliated third party support and not on "credit watch" or "negative outlook", provided, however, that in the event that such Person has a rating from one of the aforesaid rating agencies below the required level, the lowest such rating shall apply for the purposes of this definition.

"**Letter(s) of Credit**" shall mean one or more irrevocable, transferable, standby letters

of credit, issued by a commercial bank, as defined in either the Federal Deposit Insurance Act (United States) or the Bank Act (Canada), or successor legislation, operating from an office in either the United States or Canada whose credit rating is, at such time of issuance, at least "A-'' by S&P or "A3" by Moody's or A(low) by DBRS, or an equivalent rating by any successor rating agency thereof (if any) in a form as the issuing bank may request and as may be acceptable in a commercially reasonable manner to the Party in whose favor the Letter of Credit is issued.

"Letter of Credit Default" shall mean with respect to an outstanding Letter of Credit, the occurrence of any of the following events: (a) the issuer of the Letter of Credit shall fail to maintain a credit rating of at least "A-" by S&P or "A3" by Moody's or A(low) by DBRS; (b) the issuer of such Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; (c) such Letter of Credit shall expire or terminate, or shall fail to or cease to be in full force and effect at any time during the Contract Term; (d) any event analogous to an event specified in Section 15.1(c), (d),(e) or (g) of this Agreement shall occur with respect to the issuer of such Letter of Credit; or (e) twenty (20) Business Days prior to the expiration or termination date of a Letter of Credit, such Letter of Credit is not extended or replaced with a Letter of Credit for an amount at least equal to that of the Letter of Credit being replaced.

"**Local Balancing Authority**" shall have the meaning set forth in the TARIFF.

"**Market**" or "**Markets**" shall mean:

(a) a Centrally Operated Market; and/or

(b) the wholesale purchase and sale of electricity products and/or related services on a bilateral basis.

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"**Market Participant**" shall have the meaning set forth in the TARIFF.

"**Market Settlement Amounts**" shall mean any and all charges attributable to either Party arising out of a process of determining charges established and maintained at any time and from time to time by a Market (or a Transmission Provider).

"**MH Termination Event**" shall have the meaning set forth in Section 15.4.

"**MH's Ancillary Services**" shall mean those Ancillary Services and other reasonably similar services and products, associated, directly or indirectly, with the transmission of MP's Energy.

"**MH's Condition Precedent**" shall have the meaning set forth in Section 11.1.

"**MH's Stored Energy**" shall have the meaning set forth in Section 2.5(2).

"**MH's Stored Energy Price**" shall have the meaning set forth in Section 4.1(3).

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"**Midwest ISO**" shall mean the Midwest Independent Transmission System Operator, Inc.

"**Minimum MP's Energy Requested Amount**" shall have the meaning set forth in Section 2.1(2).

"**Moody's**" shall mean Moody's Investors Service Inc. or its successor.

"MP/MH Agreements" shall mean this Agreement and the 250 MW SPSA.

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"**MP Termination Event**" shall have the meaning set forth in Section 15.5.

"**MP's Ancillary Services**" shall mean those Ancillary Services and other reasonably similar services and products, associated, directly or indirectly, with the generation of MP's Energy.

"**MP's Condition Precedent**" shall have the meaning set forth in Section 11.2.

"**MP's Designated Peak Hours**" shall mean any four (4) hours in any day during the Contract Term, of which MP has provided advance notice to MH, not later than 8 a.m. (EST) of the Business Day occurring immediately prior to the day that MP's Energy is to be made available by MP to MH.

"**MP's Energy**" shall have the meaning set forth in Section 2.1(1).

"**MP's Energy Price**" shall have the meaning set forth in Section 4.1(1).

"**MP's Load Zone**" shall mean the geographic area that encompasses the major portion of MP's electric load in the States of Minnesota and Wisconsin.

"**MP's Pumped Energy**" shall have the meaning set forth in Section 2.5(1).

"**MP's Pumped Energy Price**" shall have the meaning set forth in Section 4.1(2).

"**Multi Value Project**" shall mean a transmission project that Midwest ISO has determined, in accordance with the TARIFF, will enable the reliable and economic delivery of energy in support of documented energy policy mandates or that address, through the development of a robust transmission system, multiple reliability and/or economic issues affecting multiple transmission zones. The Parties acknowledge that the Midwest ISO's Multi Value Project methodology was conditionally accepted by FERC in Docket No. ER10-1791-000 in an order dated December 16, 2010.

"**MVP Designation"** shall mean a transmission project designated by the Midwest ISO as a Multi Value Project.

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"**NERC**" shall mean the North American Electric Reliability Corporation or its successor.

"**Network Integration Transmission Service**" shall have the meaning set forth in the applicable OATT.

"**Non-defaulting Party**" shall have the meaning set forth in Section 15.3(1).

"**Non-Disclosure Agreement**" shall mean that certain non-disclosure agreement between the Parties, effective November 10, 2006, as amended.

"**Northbound Base Transfer Capability**" shall mean the transfer capability recognized under MH's OATT and under the TARIFF as determined by the Transmission Providers of the Parties' resulting from and accruing to the benefit of the northbound component of the Transmission Interconnection ensuing from all of the transmission improvements that are required for the southbound component of the Transmission Interconnection to achieve a transfer capability of 250 MW southbound that is recognized under MH's OATT and under the TARIFF which improvements include the construction of new transmission facilities and enhancements to existing transmission facilities.

"**Northbound Transfer Capability**" shall have the meaning set forth in Section 3.1(2)(c).

"**Open Access Transmission, Energy and Operating Reserve Markets Tariff**" or "**TARIFF**" shall mean the Open Access Transmission, Energy and Operating Reserve Markets FERC Electric Tariff, including all schedules and attachments thereto, of the Midwest Independent Transmission System Operator, Inc. issued on July 28, 2010, as amended, supplemented, or replaced from time to time.

"**Open Access Transmission Tariff**" or "**OATT**" shall mean a transmission tariff as it may be in effect from time to time that: (a) in the case of MP's Transmission Provider,

has been filed with and accepted by FERC as complying with FERC's then current open access transmission, comparability, and nondiscrimination requirements; and (b) in the case of MH, provides reciprocal open access transmission service on sufficiently comparable and nondiscriminatory terms so as to entitle MH to use the transmission tariff of Transmission Providers in the United States; and (c) in the case of a third party, has been filed with and accepted by FERC as complying with FERC's then current open access transmission, comparability, and nondiscrimination requirements, or provides reciprocal open access transmission service so as to entitle such entity to transmit electricity with entities whose transmission tariffs have been filed with and accepted by FERC as a transmission tariff.

"**Operating Committee**" shall have the meaning set forth in Section 8.1(1).

"Party" shall mean either MH or MP and "**Parties**" means both MH and MP.

"**Performance Assurance**" shall have the meaning set forth in Section 13.2(1).

"**Person**" shall mean an individual, partnership, corporation, trust, unincorporated association, syndicate, joint venture, or other entity or Governmental Authority.

"**Pledgor**" shall have the meaning set forth in Section 13.3(1).

"**Recipient**" shall have the meaning set forth in Section 10.1.

"**Representative**" shall have the meaning set forth in Section 10.1(b)(i).

"**Requesting Party**" shall have the meaning set forth in Section 13.2(1).

"**S&P**" shall mean Standard & Poors Rating Group (a division of McGraw-Hill Inc.) or its successor.

"**Schedule**" or "**Scheduling**" shall mean the actions of seller, buyer, and their designated representatives, of notifying, requesting, and confirming to each other the quantity of MP's Energy to be delivered on any given day or days during the Contract

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Term.

"**Scheduled**" shall mean the result of Scheduling.

"**Seams Costs**" shall mean any and all transmission and transmission service and related costs applied by one Market for the transmission of energy and related products from that Market or to that Market at the boundary of that Market.

"**Second Party**" shall have the meaning set forth in Section 13.2(1).

"**Secured Party**" shall have the meaning set forth in Section 13.3(1).

"**Transmission Interconnection"** shall have the meaning set forth in Section 3.1(1).

"**Transmission Interconnection Canadian Component**" shall mean that component of the Transmission Interconnection that is to be constructed in Canada on the Canadian side of the Delivery Point, including the construction of new transmission facilities and enhancements to existing transmission facilities.

"**Transmission Interconnection United States Component**" shall mean that component of the Transmission Interconnection that is to be constructed in the United States on the United States side of the Delivery Point, including the construction of new transmission facilities and enhancements to existing transmission facilities.

"**Transmission Provider(s)**" shall mean, collectively, the Person or Persons as applicable who direct the operation of the Transmission Provider(s) System.

"**Transmission Provider(s) System**" shall mean the contiguously interconnected electric transmission and sub-transmission facilities, including land rights, material, equipment and facilities owned, controlled, directed, and or operated by the Transmission Provider(s) that transmits and distributes electrical energy.

"**Transmission Service**" shall have the meaning set forth in Section 3.1(3).

"**U.S. Dollars or US $**" shall mean lawful money of the United States of America.

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1.2 Interpretation

Unless the context otherwise requires, this Agreement shall be interpreted in accordance with the following:

(a) words singular and plural in number shall be deemed to include the other and pronouns having masculine or feminine gender shall be deemed to include the other;

(b) any reference in this Agreement to any Person includes its successors and permitted assigns, and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities;

(c) any reference in this Agreement to any section or Appendix means and refers to the section contained in, or Appendix attached to, this Agreement;

(d) other grammatical forms of defined words or phrases have corresponding meanings to the defined words or phrases;

(e) a reference to writing includes typewriting, printing, lithography, photography, and any other mode of representing or reproducing words, figures or symbols in a lasting and visible form, including electronic mail;

(f) a reference to a Party to this Agreement includes that Party's successors and permitted assigns;

(g) a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as amended from time to time and includes any exhibits or attachments thereto;

(h) headings are inserted for convenience only and shall not affect the interpretation of this Agreement or any section thereto;

(i) the word "including" means "including without limitation"; and

(j) the preamble hereto shall not form part of this Agreement.

1.3 No Presumption

The Parties are both represented by counsel, have both participated in the negotiation and drafting of this Agreement, and have endeavoured to ensure that the terms of this

Agreement are as clear as possible. Accordingly, in interpreting this Agreement there shall be no presumption in favour of or against any Party on the basis that it was or was not the drafter of this Agreement or any individual provision thereof.

ARTICLE II
ENERGY TRANSACTIONS

2.1 MP's Energy

(1) Subject to the provisions of this Agreement, during the Contract Term MP shall sell to MH and MH shall purchase from MP that quantity of energy that MH, subject to Section 2.1(2), in its sole discretion requests on a Day-Ahead Basis ("**MP's Energy**"), provided that the energy quantity requested in any hour shall not exceed the Northbound Transfer Capability. MP shall offer and make available MP's Energy to the Delivery Point and MH shall accept delivery at the Delivery Point and pay for MP's Energy.

(2) MH agrees to request from MP pursuant to Section 2.1(1) the energy quantity amount (expressed in MWh) determined as follows:

(Northbound Transfer Capability x 3,750,000) ÷ 250

over the Contract Term (the "**Minimum MP's Energy Requested Amount**"), which amount shall be decremented for any delay in the June 1, 2020 start date of the Contract Term (any such delay is incorporated in the Contract Term definition and would be based on a change to the "June 1, 2020" start date of the "Contract Term" as such term is defined in the 250 MW SPSA) for any twelve (12) month time period delay of the June 1, 2020 start date of the Contract Term, by the following amount:

Minimum MP's Energy Requested Amount ÷ 15

provided that the said twelve (12) month time period amount shall be pro-rated and shall decrement the Minimum MP's Energy Requested Amount for any time period that the Contract Term is delayed by that is less than twelve (12) months.

(3) The Parties acknowledge that in accordance with Section 3.1 the Transmission

Service shall be utilized for the delivery and receipt of MP's Energy. The Parties may by mutual agreement also request additional Firm Transmission Service or additional transmission service that is not Firm Transmission Service on a daily and/or monthly basis for the delivery and receipt of MP's Energy.

(4) The Parties acknowledge that MP has in its sole discretion the right, but not the obligation, to source and/or supply and/or sell MP's Energy from third party purchases and/or Markets available to MP. Without limiting the generality of the foregoing, the Parties acknowledge that MP has the right but not the obligation to utilize any Market mechanisms that are available to MP throughout the Contract Term.

(5) The Parties acknowledge and agree that: (a) MP has retained all Environmental Attributes for MP's Energy; and (b) for environmental reporting purposes, the Environmental Attributes of MP's Energy, is electrical energy that is not sourced from any specific generation type or resource and has Environmental Attributes equivalent to energy that is associated with the applicable market in which the majority of MP's Load Zone is physically situated and shall be reported by each of the Parties in that manner, in any reports that are filed by each of the Parties in respect of the purchase and sale of MP's Energy pursuant to this Agreement.

2.2 MP's Energy Delivery Point

(1) The Parties agree that the delivery point for MP's Energy that is sold by MP and purchased by MH under this Agreement shall be at the point or points where MH's major transmission facilities cross the international boundary between the province of Manitoba and the United States of America (the "**Delivery Point**").

(2) The Delivery Point for any portion of MP's Energy to be sold and purchased herein may only be changed with the consent of the Parties provided that the Party receiving a request from the other Party to change the Delivery Point must use Commercially Reasonable Efforts in responding to such request.

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2.3 MP's Energy Title and Risk of Loss

Title to and risk of loss of MP's Energy sold and purchased under this Agreement shall pass from MP to MH at the Delivery Point.

2.4 MP's Energy Ancillary Services

(1) The Parties acknowledge and agree that: (a) MP shall be entitled to retain all of MP's Ancillary Services; (b) the price for MP's Energy does not include any value in respect of or related to MP's Ancillary Services; (c) MH shall use Commercially Reasonable Efforts to comply with all reasonable requests by MP to participate in the Market in respect of or related to MP's Ancillary Services; (d) MH shall be entitled to retain all of MH's Ancillary Services; (e) the price for MP's Energy is inclusive of the value in respect of or related to MH's Ancillary Services; and (f) MP shall use Commercially Reasonable Efforts to comply with all reasonable requests by MH to participate in the Market in respect of or related to MH's Ancillary Services.

(2) In the event that MH receives any compensation or payment from the Midwest ISO or otherwise for MP's Ancillary Services that were offered or scheduled by MP, MH shall remit such compensation or payment to MP. In the event that MP receives any compensation or payment from the Midwest ISO or otherwise for MH's Ancillary Services that were offered or scheduled by MH, MP shall remit such compensation or payment to MH.

2.5 MP's Pumped Energy and MH's Stored Energy

MP's Pumped Energy

(1) Subject to the provisions of this Agreement, during the portion of the Contract Term when the Transmission Interconnection is in-service, MP shall be entitled to offer to MH on a Day-Ahead Offer Basis when MP, in its sole discretion, determines excess wind energy is available: (a) during the twelve (12) month

period of each calendar year that is entirely within the Contract Term, up to a total of 250,000 MWh of energy; and (b) during such period of time within a portion of a calendar year that is within the Contract Term and that calendar year is not entirely within the Contract Term, up to a total amount determined using a pro-rated portion of 250,000 MWh of energy for an entire calendar year, calculated using the total number of days in that calendar year that were within the Contract Term (all energy offered by MP pursuant to this Section 2.5(1)(a) and (b) shall collectively be referred to as "**MP's Pumped Energy**"). MP's Pumped Energy shall not exceed in any hour the Northbound Transfer Capability. The Parties acknowledge and agree that MP shall have no obligation to sell and deliver any quantity of MP's Pumped Energy and MH shall have no obligation to purchase and receive any quantity of MP's Pumped Energy. MH agrees to pay MP for the applicable quantity of MP's Pumped Energy at MP's Pumped Energy Price and the Financial Schedule provisions of Section 3.2(9) shall apply to the Parties in respect of MP's Pumped Energy.

(2) MH's Stored Energy

Subject to the provisions of this Agreement, during that portion of the Contract Term when the Transmission Interconnection is in-service, MP shall be entitled to require MH to offer to MP the amount of energy that MP has requested on a Day-Ahead Offer Basis that MH offer to MP during the Contract Term, provided that: (a) the total amount of energy offered by MH shall not exceed for the corresponding time period referred to in Section 2.5(1)(a) or (b) above, the total amount of MP's Pumped Energy that was offered by MP during that same time period; and (b) the energy offered by MH shall not exceed in any hour 250 MWh (all energy offered by MH pursuant to the request of MP pursuant to this Section 2.5(2)(a) and (b) shall collectively be referred to as "**MH's Stored Energy**"). The Parties acknowledge and agree that MH shall have no obligation to sell and deliver any of MH's Stored Energy and MP shall have no obligation

to purchase and receive any quantity of MH's Stored Energy. MP agrees to pay MH for the applicable quantity of MH's Stored Energy at MP's Stored Energy Price and the Financial Schedule provisions of Section 3.2(9) shall apply to the Parties in respect of MH's Stored Energy.

ARTICLE III
SCHEDULING AND DELIVERY

3.1 Transmission

(1) The Parties covenant and agree to take all actions and do all things necessary to construct a new transmission interconnection with an in-service date of on or before the June 1, 2020 start date of the Contract Term (or any revised Contract Term start date) with transfer capability recognized under MH's OATT and under the TARIFF as Firm Transmission Service of 250 MW southbound and up to 250 MW northbound (as determined in accordance with Section 3.1(2)) between: (a) MH's Balancing Authority area in the province of Manitoba; and (b) MP's Local Balancing Authority area in the states of Minnesota and Wisconsin, in each instance as established as of the Effective Date or such other point or points or areas as the Parties may mutually agree upon (collectively the "**Transmission Interconnection**").

(2) The Parties acknowledge and agree that the transfer capability of the northbound component of the Transmission Interconnection and the responsibility for the costs of the Transmission Interconnection shall be determined in the following manner:

(a) MH shall be responsible for the payment of all costs and charges for the Transmission Interconnection Canadian Component which transmission improvements are required to obtain transfer capability recognized under MH's OATT and under the TARIFF as Firm Transmission Service of 250 MW southbound;

(b) MP shall be responsible for the payment of all costs and charges for the Transmission Interconnection United States Component which transmission improvements are required to obtain transfer capability recognized under MH's OATT and under the TARIFF as Firm Transmission Service of 250 MW southbound; and

(c) if the Northbound Base Transfer Capability is less than 250 MW, MH shall have the right to designate to the Parties' Transmission Providers, in MH's sole discretion, the amount (if any) of additional northbound transfer capability measured in MW's (the "**Designated Additional Transfer Capability**") that is to be obtained for the northbound component of the Transmission Interconnection with reasonable notice to MP, provided that: (i) the Designated Additional Transfer Capability when added to the Northbound Base Transfer Capability shall not be greater than 250 MW's (the total transfer capability in MW's of the northbound component of the Transmission Interconnection which is comprised of the Designated Additional Transfer Capability and the Northbound Base Transfer Capability shall be referred to as the "**Northbound Transfer Capability**"); and (ii) MH shall pay for all incremental direct construction costs (if any) for the additional transmission improvements that comprises a portion of the Transmission Interconnection, that the Parties' Transmission Providers have determined are required to be constructed in order to obtain the Designated Additional Transfer Capability designated by MH (the "**Additional Northbound Capability Costs**"). MH shall have the right to approve, acting reasonably, any agreement MP proposes to enter into with any Person that impacts on or relates to the amount of or payment by MH of the Additional Northbound Capability Costs.

(3) The Parties agree that, subject to obtaining the necessary approvals under MH's

OATT and under the TARIFF, the Transmission Interconnection shall be utilized to provide Firm Transmission Service as follows: (a) MH shall have the right to use as Firm Transmission Service the amount of the Northbound Transfer Capability in accordance with the provisions of this Agreement to receive MP's Energy from the Delivery Point and to receive energy and/or capacity utilizing the said Firm Transmission Service from such Person or Persons that MH may contract with, with the Firm Transmission Service rights for the Northbound Transfer Capability of the Transmission Interconnection to be in the name of MH; (b) MP shall have the right to use as Firm Transmission Service the amount of the Northbound Transfer Capability in accordance with the provisions of this Agreement to make available MP's Energy to the Delivery Point, with the said Firm Transmission Service rights for the Northbound Transfer Capability of the Transmission Interconnection to be in the name of MH (the "Firm Transmission Service referred to in this Section 3.1(3) (a) and (b) for use in meeting the Parties' obligations under this Agreement shall be collectively referred to as the "**Transmission Service**"); (c) MH shall have the right to use as Firm Transmission Service 250 MW of the increased southbound transfer capability component to meet its obligations under the 250 MW SPSA; and (d) MP will have the right to use 250 MW of the increased southbound transfer capability component to meet its obligations under the 250 MW SPSA.

(4) The Parties' acknowledge that they may by mutual agreement increase the transfer capability of the Transmission Interconnection and/or revise the area in which the Transmission Interconnection will be located in, and enter into additional agreement or agreements with such Persons as may be required in respect of such changes to the Transmission Interconnection, all on such terms and conditions as are mutually agreeable to each Party. It is further acknowledged that in connection with such potential changes to the Transmission Interconnection, MVP Designation of a revised Transmission

Interconnection is being pursued by MP and MH agrees to provide reasonable assistance to MP, if requested, in order to assist in MP obtaining MVP Designation for a revised Transmission Interconnection that is mutually acceptable to each Party.

(5) MH covenants and agrees that:

(a) the Transmission Interconnection Canadian Component shall be in-service on or before the June 1, 2020 start date of the Contract Term (or any revised Contract Term start date) and ready to receive MP's Energy from the Delivery Point using the amount of the Northbound Transfer Capability as Firm Transmission Service, subject only to a Force Majeure event and, without limiting the generality of the foregoing, MH shall have taken all actions and done all things necessary, including reserving the northbound Firm Transmission Service in Canada, to have the Transmission Interconnection Canadian Component constructed and in-service and available to provide Firm Transmission Service on or before the June 1, 2020 start date of the Contract Term (or any revised Contract Term start date) and available to the Parties for the uses specified in this Agreement;

(b) it shall take all actions and do all things necessary to ensure that payment is made (without monetary contribution from MP) for all costs and charges, including without limitation construction costs, related to the construction of the Transmission Interconnection Canadian Component; and

(c) it shall pay any and all transmission charges and transmission related charges assessed by a Transmission Provider for the use of the Transmission Service for: (A) the delivery of MP's Energy to the Delivery Point; and (B) receiving MP's Energy from the Delivery Point.

(6) MP covenants and agrees that:

(a) the Transmission Interconnection United States Component shall be in-service, on or before the June 1, 2020 start date of the Contract Term (or any revised Contract Term start date) and ready to make available MP's Energy to the Delivery Point using the amount of the Northbound Transfer Capability as Firm Transmission Service, subject only to a Force Majeure event and without limiting the generality of the foregoing, MP shall have taken all actions and done all things necessary, (with MH to reserve the northbound Firm Transmission Service in the United States), to have the Transmission Interconnection United States Component constructed and in-service and available to provide Firm Transmission Service on or before the June 1, 2020 start date of the Contract Term (or any revised Contract Term start date) and available to the Parties for the uses specified in this Agreement; and

(b) it shall take all actions and do all things necessary to ensure that payment is made (without monetary contribution from MH) for all costs and charges, including without limitation construction costs, related to the construction of the Transmission Interconnection United States Component but excluding the payment of the Additional Northbound Capability Costs (if any) which are to be paid by MH.

(7) The Parties may by mutual agreement arrange for alternatives to the Transmission Service to meet their obligations under this Agreement. Each Party agree to use Commercially Reasonable Efforts in responding to either Party's good faith request to make such other transmission service arrangements.

(8) Each Party acknowledges and agrees with the other Party that, unless the Parties otherwise mutually agree, MP's Energy that is Scheduled shall be Scheduled using the Transmission Service.

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3.2 Scheduling

MP's Energy

(1) The Parties shall Schedule MP's Energy provided that MP's Energy that is Scheduled shall:

(a) not exceed in any hour the Northbound Transfer Capability; and

(b) not be Scheduled during MP's Designated Peak Hours.

(2) MP shall during each day, during each month of the Contract Term, subject to the provisions of this Agreement offer into the Day-Ahead Energy and Operating Reserve Market, in accordance with the applicable Midwest ISO requirements, MP's Energy and MH shall submit a Bid into the Day-Ahead Energy Market for MP's Energy, in accordance with the applicable Midwest ISO requirements.

(3) The price at which MP offers MP's Energy pursuant to this Agreement, into the Day-Ahead Energy and Operating Reserve Market shall be at the sole discretion of MP. The price of MH's Bid for MP's Energy pursuant to this Agreement into the Day-Ahead Energy and Operating Reserve Market shall be at the sole discretion of MH.

(4) MP shall advise MH of any curtailment of MP's Energy pursuant to Section 3.6. Upon receipt of such notice, MH agrees not to submit a Bid and/or will curtail any Schedules for the amount of MP's Energy that has been curtailed and agrees to disclaim any right or entitlement to such amount of MP's Energy for the duration of the curtailment. Such curtailment time period shall decrement the Minimum MP's Energy Requested Amount for each one (1) month curtailment time period the amount determined as follows:

Minimum MP's Energy Requested Amount ÷ 180;

provided that the said monthly amount will be pro-rated for any curtailment time period that is less than one (1) month in duration.

(5) In the event during any applicable hour during the Contract Term:

(a) MH's Bid in respect of any amount of MP's Energy does not clear the Day-Ahead Energy and Operating Reserve Market; and/or

(b) any portion of MP's Energy was curtailed, restricted or reduced pursuant to Sections 3.4, 3.5 or 3.6 or Article 12,

MP shall have no obligation to sell and deliver and MH shall have no obligation to purchase and receive that quantity of MP's Energy. For greater certainty, all of the energy quantities referred to in this Section 3.2(5) shall decrement the Minimum MP's Energy Requested Amount.

(6) MP may offer MP's Energy in a manner that would enable MP to supply MP's Energy from MP's resource(s) including MP's electrical generation facility(s), third party purchases and/or Markets available to MP, and has the right to utilize any Market mechanisms that are available to MP throughout the Contract Term to satisfy its obligations under this Agreement.

(7) MH shall be responsible for and pay the costs and expenses associated with the purchase and sale of MP's Energy under the applicable OATT and/or TARIFF, including without limitation any Market Settlement Amounts, with the exception of all amounts arising due to MP's curtailment of MP's Energy pursuant to Section 3.6, and any costs associated with or related to the generation of MP's Energy. For greater certainty, this Section 3.2 does not allocate responsibility for construction costs related to the Transmission Interconnection which is addressed in Section 3.1.

(8) MP shall utilize the Market mechanisms authorized by the TARIFF with MP's offer in the Day-Ahead Energy and Operating Reserve Market in order to supply MH with MP's Energy under this Agreement. MH shall submit a Dispatchable

Interchange Schedule with a Bid, if applicable, in accordance with the timing requirements of the Market Business Practices Manuals.

MP's Pumped Energy and MH's Stored Energy

(9) (a) MP shall submit a Financial Schedule in the Day-Ahead Energy and Operating Reserve Market for the applicable quantity of MP's Pumped Energy specifying MP as the seller and MH as the buyer. **[TRADE SECRET DATA EXCISED]**

(b) MH shall submit a Financial Schedule in the Day-Ahead Energy and Operating Reserve Market for the applicable quantity of MH's Stored Energy specifying MH as the seller and MP as the buyer. **[TRADE SECRET DATA EXCISED]**

(c) MH shall approve for MP's Pumped Energy and MP shall approve for MH's Stored Energy, if required pursuant to the Market mechanisms in effect at the applicable time, the Financial Schedule submitted by the other Party pursuant to this Section 3.2(9)(a) and (b), as applicable and each Party shall take such other actions as may be reasonably requested by the other Party pursuant to the Market mechanisms in effect at the applicable time in respect of such Financial Schedule.

(10) The Parties acknowledge that pursuant to the TARIFF the Midwest ISO will: (i) charge MP and pay MH the **[TRADE SECRET DATA EXCISED]**for the quantity of MP's Pumped Energy; and (ii) charge MH and pay MP the **[TRADE SECRET DATA EXCISED]** for the quantity of MH's Stored Energy. The Parties also acknowledge that the Financial Schedules submitted in accordance with Section 3.2(9), together with: (A) MH's obligation to pay for the quantity of MP's Pumped Energy at the MP's Pumped Energy Price, shall satisfy MH's obligation(s) in respect of MP's offer of MP's Pumped Energy; and (B) MP's obligation to pay for the quantity of MH's Stored Energy at MH's Stored

Energy Price, shall satisfy MP's obligation(s) in respect of MH's offer of MH's Stored Energy.

(11) The Parties further acknowledge and agree that if: (i) either Party is no longer a Market Participant; or (ii) the Midwest ISO Market no longer exists; or (iii) the TARIFF no longer exists; or (iv) the TARIFF is amended or revised to the extent, that one or both of the Parties is or will be materially adversely impacted when such amendments or revisions are considered in the context of the impact they will have on the Parties continued compliance with the requirements of Sections 2.5, 3.2(9) and 3.2(10), and pursuant to Section 8.1(3) changes to Sections 2.5, 3.2(9) and 3.2(10) to address the material adverse impact such amendments or revisions to the TARIFF had on the Parties have not been developed and agreed to by the Parties; or (v) **[TRADE SECRET DATA EXCISED]** as referred to in Sections 4.1(2) and (3) is no longer available to be used in the establishment of the price for MP's Pumped Energy and MH's Stored Energy, then either Party shall on notice to the other Party have the right to immediately terminate the rights and obligations of the Parties pursuant to Section 2.5, 3.2(9) and 3.2(10), and the provisions of Sections 2.5, 3.2(9) and 3.2(10) shall no longer constitute a legally valid and binding obligation enforceable against either Party.

General

(12) As of the Effective Date, the Parties are Market Participants, and the terms of this Sections 3.2(8) and 3.2(9) reflect the Scheduling practices and procedures of the TARIFF. The Parties further acknowledge that in the event that at any time after the Effective Date and prior to the end of the Contract Term: (i) either one or both of the Parties is no longer a Market Participant; or (ii) the TARIFF or the Market Business Practices Manuals are no longer in effect or are revised, to the extent that the requirements of Sections 3.2(8) and 3.2(9) would, if complied with by either Party, achieve a result that would be materially inconsistent with

the rights and obligations of the Parties pursuant to the other provisions of this Agreement; or (iii) the Midwest ISO market no longer exists, the Parties agree that a new Scheduling mechanism that is consistent with the rights and obligations of the Parties pursuant to this Agreement shall be established and the Parties agree to direct the Operating Committee to immediately enter into good faith negotiations to establish such new Scheduling mechanism failing which the establishment of a new Scheduling mechanism shall be determined pursuant to Article XIV on the condition that it is consistent with the rights and obligations under this Agreement prior to the revision.

(13) The Parties further acknowledge and agree that in the event that, at any time after the Effective Date and prior to the end of the Contract Term either one or both of the Parties is no longer a Market Participant and one Party is a participant in a Centrally Operated Market that is different from the Centrally Operated Market in which the other Party participates: (i) where one Party is still a participant in the Midwest ISO market, the Party that is no longer a participant in the Midwest ISO market shall pay all Seams Costs incurred by the Parties in respect of the sale and purchase and delivery of all of the energy purchased and sold pursuant to the provisions of this Agreement; and (ii) where neither Party is a participant in the Midwest ISO market the Seams Costs incurred by the Parties in respect of the sale and purchase and delivery of all of the energy purchased and sold pursuant to the provisions of this Agreement shall be accounted for and allocated equally between the Parties.

(14) The Parties further acknowledge that in the event that at any time after the Effective Date and prior to the end of the Contract Term: (i) either one or both of the Parties is no longer a Market Participant; or (ii) the TARIFF or the Market Business Practices Manuals are no longer in effect or are substantially revised; or (iii) the Midwest ISO market no longer exists, the Operating Committee will meet, consult in good faith, and consistent with Section 8.1(3)(d), make recommendations to the Parties about what amendments or revisions to the

Agreement (if any) would be appropriate to address one or both Parties not being a Market Participant, the TARIFF changes or the end of the Midwest ISO market. The Operating Committee shall also keep a record of changes to the TARIFF that could impact on the scope and meaning of the Agreement, and consistent with Section 8.1(3) shall make recommendations to the Parties about what amendments or revisions to the Agreement (if any) would be appropriate to address the TARIFF changes.

(15) Capitalized terms used in this Section 3.2 and not otherwise defined in this Agreement shall have the meanings prescribed in the TARIFF or the Midwest ISO Market Initiative Business Practices Manual for Definitions.

3.3 Transmission System Operations

The Parties acknowledge that as of the Effective Date, their respective Transmission Providers operate their transmission systems pursuant to the provisions of an OATT. Nothing in this Agreement shall obligate either Party or its respective Transmission Providers to maintain an OATT in effect during the Contract Term.

3.4 MH's Energy Curtailments

MH shall have the right to curtail, restrict, or reduce the purchase and receipt of any of MP's Energy to the extent a Force Majeure event precludes MH's ability to accept any of MP's Energy under this Agreement.

3.5 Transmission Provider Curtailments

(1) In the event that the Transmission Provider(s) of MH and/or MP reduces or curtails the Firm Transmission Service designated, allocated or required for the delivery of MP's Energy the said energy shall be curtailed, restricted or reduced in accordance with the provisions of that Transmission Provider's OATT.

(2) Subject to Section 17.3, in the event MH or MP or its respective Transmission Provider ceases to have an OATT, curtailment or reduction of energy Schedules hereunder in order to maintain the reliable operation of the interconnected AC

transmission system, shall be implemented exclusively in accordance with this Section 3.5(2). Curtailment of energy deliveries under this Section 3.5(2) to accommodate such events shall be implemented as follows, in the order specified, until the required amount of loading relief has been obtained: (a) all transmission service or transactions, that are lower in curtailment priority than Firm Transmission Service and that contribute to the condition requiring curtailment shall be curtailed first; (b) the applicable Party shall use Commercially Reasonable Efforts to cause the curtailing Person to redispatch its generation system to continue the Schedules hereunder consistent with producing the desired loading mitigation upon the congested facility(s); and (c) to the extent all transactions identified in clause (a) of this Section 3.5(2) are curtailed and system redispatch is not sufficient to produce the necessary mitigation that would avoid curtailment of the schedules under this Agreement, the transaction curtailment priority used by the applicable Transmission Provider relative to all uses of such AC transmission system at the time shall be implemented in a comparable and non-discriminatory manner.

3.6 MP's Curtailments

MP shall have the right to curtail, restrict or reduce the sale and supply of any of MP's Energy, in accordance with either of the following provisions:

(a) to the extent a Force Majeure precludes MP's ability to supply any of MP's Energy under this Agreement; or

(b) to the extent necessary to avoid curtailing, restricting or reducing service to MP's End-Use Load, in a manner consistent with and to the extent authorized by "Requirement 6.3 of NERC Standard EOP-002" or its successor requirements.

3.7 Curtailment Notice

Each Party shall provide as much notice as practicable to the other Party regarding the curtailment, restriction or reduction or refusal of the supply or acceptance, as applicable, of MP's Energy pursuant to Section 3.4 or pursuant to Section 3.6. This

shall include the anticipated duration of the curtailment, restriction, or reduction or refusal of the supply or acceptance, as applicable, of MP's Energy and where practicable daily updates.

ARTICLE IV
ENERGY PRICING

4.1 Energy Pricing

(1) The price for MP's Energy for **[TRADE SECRET DATA EXCISED]**

(2) The price for MP's Pumped Energy for **[TRADE SECRET DATA EXCISED]** ("**MP's Pumped Energy Price**").

(3) The price for MH's Stored Energy for **[TRADE SECRET DATA EXCISED]**("**MH's Stored Energy Price**").

(4) **[TRADE SECRET DATA EXCISED]**

ARTICLE V
BILLING AND PAYMENT

5.1 Dollar Amounts

All dollar amounts set forth in this Agreement, monetary transactions, accounting and cost calculations between MH and MP shall be determined and stated in U.S. Dollars.

5.2 Payment in U.S. Dollars

Payment of all invoices pursuant to this Agreement shall be made in U.S. Dollars.

5.3 Method of Payment of Invoices

Payment of all invoices pursuant to this Agreement shall be made by the Party required to make the payment to the Party entitled to receive the payment by electronic bank transfer or by other mutually agreeable method(s), to the bank designated in Appendix A attached hereto. A Party may change the designation of the bank set out in Appendix A by notice to the other Party in accordance with Section 17.1 hereof. Payment shall be

deemed to be made when received by the bank designated in Appendix A.

5.4 Rendering Invoices

Unless otherwise specifically agreed upon by the Parties, the calendar month shall be the standard billing period for all invoices rendered under this Agreement. As soon as practicable after the end of each calendar month, each Party shall render to the other Party an invoice for the payment obligations, if any, incurred hereunder during the preceding month.

5.5 Payment Amounts

(1) Except as hereinafter expressly provided, the amount payable by MH to MP for each month during the Contract Term shall be determined as follows:

(a) the sum of the amount determined for each applicable hour that a quantity of MP's Energy was Scheduled for that month for each applicable hour as follows:

(i) MP's Energy Price (in U.S. Dollars per MWh) applicable for each hour of each applicable day in that month, determined in accordance with Section 4.1(1); multiplied by the applicable quantity of MP's Energy Scheduled for the corresponding applicable hour of the applicable day for that month, determined in accordance with Section 3.2 reduced by any amount MH has paid to the Midwest ISO in respect of the same quantity of MP's Energy that was Scheduled; less

(b) the sum of the amount determined for each applicable hour that a quantity of MP's Energy was curtailed, restricted or reduced pursuant to Sections 3.4, 3.5 or 3.6 that had been Scheduled during any day for that month and where a net amount was owed by MH pursuant to Section 5.5(1)(a), as follows:

(i) MP's Energy Price (in U.S. Dollars per MWh) applicable for each applicable hour of each applicable day, in that month,

determined in accordance with Section 4.1(1); multiplied by the applicable quantity of MP's Energy curtailed, restricted or reduced pursuant to Sections 3.4, 3.5 or 3.6 that had been Scheduled for the corresponding applicable hour of the applicable day for that month (but not to exceed the net amount owing by MH pursuant to Section 5.5(1)(a)); plus

(c) any costs and expenses associated with the supply and receipt of MP's Energy under the applicable OATT that were billed to and paid by MP but were amounts that were required to be paid by MH pursuant to Section 3.2(7); plus

(d) the sum of the amount determined for each applicable hour that a quantity of MP's Pumped Energy was offered for that month that MH is obligated to pay for as part of the financial settlement for that quantity of MP's Pumped Energy pursuant to Section 3.2(9) for that month determined as follows:

(i) MP's Pumped Energy Price (in U.S. Dollars per MWh) applicable for each applicable hour of each day in that month, determined in accordance with Section 4.1(2); multiplied by the quantity of MP's Pumped Energy that was offered and that MH is obligated to pay for as part of the financial settlement pursuant to Section 3.2(9) for that hour of that day for that month; less

(e) the sum of the amount determined for each applicable hour that a quantity of MH's Stored Energy was offered for that month that MP is obligated to pay for as part of the financial settlement for that quantity of MH's Stored Energy pursuant to Section 3.2(9) for that month determined as follows:

(i) MH's Stored Energy Price (in U.S. Dollars per MWh) applicable for each applicable hour of each day in that month, determined in accordance with Section 4.1(3); multiplied by the quantity of

MH's Stored Energy that was offered and that MP is obligated to pay for pursuant to Section 3.2(9) for that hour of that day for that month.

Provided that if during any particular month of the Contract Term the total of the amounts determined pursuant to Section 5.5(b) and (e) exceeds the total of the amounts determined pursuant to Sections 5.5(a), (c) and (d), MP shall pay MH the difference between the total of the said amounts.

5.6 Payment Date

Unless otherwise agreed by the Parties, all invoices under this Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the third (3rd) Business Day after receipt of the invoice. Any amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Interest Rate and such interest shall be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

5.7 Estimates

In the event that not all of the information necessary for the preparation of the monthly invoice is known in time for the preparation of the monthly invoice, estimates may be used on the monthly invoice to be followed with an adjustment to reflect actual charges on a future invoice. In the event that the amount paid or payable on any invoice or invoices delivered pursuant to this Agreement is based, in whole or in part, upon third party invoices and the third party subsequently adjusts their invoice, MP shall charge or credit MH for the change in such third party invoice within sixty (60) Business Days of MP's receipt of such adjusted third party invoice.

5.8 Billing Adjustments and Disputes

A Party may in good faith dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion

thereof, or any other claim or adjustment arising hereunder is disputed, payment of the invoice, as invoiced, shall be required to be made when due. Notice of the objection shall be given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Upon resolution of the dispute, any required payment shall be made within ten (10) Business Days of the receipt of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date the payment or reimbursement is paid. Inadvertent overpayments shall be deducted by the Party receiving such overpayment from subsequent monthly invoices rendered by such Party. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 5.8 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made.

5.9 Netting

(1) The billing departments of each of the Parties shall exchange settlement data under each of the MP/MH Agreements. A netting computation of the amount that each Party has determined is due and owing under each of the MP/MH Agreements for the applicable billing period shall be performed by each of the Parties by the third (3) Business Day following the last day of each month. If the Parties are in agreement as to the net amount owing by a Party under the MP/MH Agreements, that net amount shall be paid by that Party by the date referenced in Section 5.6. If the net amount agreed upon is not paid by that date, or if the Parties are unable to agree on the net amount to be paid, all of the provisions of each of the MP/MH Agreements, including the billing and payment provisions shall continue to govern the payment obligations of each Party, and all amounts due under this Agreement shall be paid in full on the date payment is required to be made under this Agreement.

(2) The payment by a Defaulting Party of any amounts due under each of the MP/MH Agreements shall be a condition precedent to the payment of any

amounts due by the Non-defaulting Party to the Defaulting Party under either of the MP/MH Agreements.

5.10 Payment in Full

If the Parties subsequently mutually agree not to net payments pursuant to Section 5.9 or only one Party owes a debt or obligation to the other during the applicable billing period, including, but not limited to, any interest, and payments or credits, that Party shall pay such sum in full when due.

5.11 Impact of Performance Assurance

Except in connection with a termination in accordance with Article XV in which circumstances the Party benefiting from the Performance Assurance notifies the other Party in writing, amounts invoiced pursuant to this Article V shall not take into account or include any Performance Assurance which may be in effect to secure a Party's performance under this Agreement.

5.12 Accounting and Billing Procedures

The Operating Committee may make and implement decisions regarding the creation and revision, from time to time, of accounting and billing procedures necessary to implement the terms and conditions of this Agreement including the provisions of Article V.

5.13 Preliminary Billing Information

The Parties shall exchange preliminary billing information in accordance with the accounting and billing procedures established by the Operating Committee.

ARTICLE VI
GOVERNMENTAL CHARGES

6.1 Governmental Charges

Each Party shall be solely responsible for and shall pay or cause to be paid all

Governmental Charges imposed on that Party in respect of any matters related to this Agreement. In the event MH is required by law or regulation to remit or pay Governmental Charges that are MP's responsibility hereunder, MP shall promptly reimburse MH for such Governmental Charges. In the event MP is required by law or regulation to remit or pay Governmental Charges that are MH's responsibility hereunder, MH shall promptly reimburse MP for such Governmental Charges. For greater certainty, the Parties agree and acknowledge that, as of the Effective Date, MP is a non-resident, non-registrant not carrying on business in Canada in respect of all supplies hereunder for Canadian federal goods and services tax purposes.

6.2 Assistance

Each Party shall provide reasonable assistance to the other Party in connection with and for the purpose of enabling due compliance with Governmental Charges and all associated information, documentation and reporting obligations. Each Party shall provide to the other and to a Governmental Authority having jurisdiction such forms, returns, reports, documents, elections, written declarations, certificates, etc. as the other Party may reasonably request, including without limitation any documentation that may be required to substantiate any available exemptions or relief from Governmental Charges.

ARTICLE VII
METERING

7.1 Metering

All applicable matters relating to the metering of MP's Energy shall be determined in accordance with the applicable provisions of agreements between the Parties Transmission Providers relating to revenue metering and the application of the provisions of such agreements shall, if necessary, be referred to the Operating Committee.

ARTICLE VIII

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OPERATING COMMITTEE

8.1 Operating Committee

(1) A committee (the "**Operating Committee**") is hereby constituted consisting of the Division Manager of Power Sales & Operations for MH or a duly authorized delegate from MH and the Director of Energy Supply and Asset Optimization or a duly authorized delegate from MP. Both MH and MP shall have one vote, and all decisions of the Operating Committee must be unanimous to be effective.

(2) The Operating Committee shall meet at the written request of either of its members within ten (10) Business Days of receipt of such request. Written minutes shall be kept of all meetings and decisions and copies of such minutes shall be distributed to the Operating Committee members and the Parties within five (5) Business Days after each meeting.

(3) The Operating Committee may:

(a) make and implement decisions regarding the creation and revision, from time to time, of accounting and billing procedures necessary to implement the terms and conditions of this Agreement in accordance with Section 5.12 and Section 5.13;

(b) make and implement decisions and procedures regarding Scheduling, from time to time as necessary to implement the terms and conditions of this Agreement in accordance with Section 3.2;

(c) make and implement decisions for operating procedures for the conduct of meetings and the recording of minutes;

(d) make recommendations to the Parties concerning amendment and revision of this Agreement;

(e) perform any other obligations expressly provided for in this Agreement to be performed by the Operating Committee and any other matters as the Parties may agree from time to time;

(f) settle any controversy, claim or dispute prior to referring such matters to

the Executive Officers of MP and MH for resolution in accordance with Section 14.1; and

(g) make and implement decisions concerning Section 17.1 and the form of notices being provided by the Parties pursuant to the provisions of this Agreement,

provided that the Operating Committee shall not have authority to modify the terms and conditions of this Agreement.

ARTICLE IX
REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 General and US Bankruptcy Representations and Warranties

(1) Each Party makes the following representations and warranties to the other Party, which representations and warranties will be deemed to be repeated, if applicable, by each Party throughout the Contract Term:

(a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

(b) subject to Article XI, it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;

(c) subject to Article XI, the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;

(d) subject to Article XI, this Agreement and each other document executed and delivered in accordance with this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms subject to any equitable defences;

(e) it is a Market Participant as of the date of the execution of this Agreement;

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(f) it or its Credit Support Provider, if any, is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it or its Credit Support Provider, if any, being or becoming bankrupt;

(g) there is not pending or, to its knowledge, threatened against it or any of its Affiliates or its Credit Support Provider, if any, any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;

(h) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing and understanding the merits, and understands and accepts, the terms, conditions and risks of this Agreement. It is also capable of assuming, and assumes, the risks of this Agreement. Information and explanations related to the terms and conditions of this Agreement will not be considered advice or a recommendation to enter into this Agreement. No communication (written or oral) received from the other Party will be deemed to be an assurance or guarantee as to the expected results of this Agreement, unless such communication is expressly stated in writing to be a "guarantee" and is signed by the Party providing the statement;

(i) it has entered into this Agreement in connection with the conduct of its business and it has, subject to the provisions of this Agreement, the capacity or ability to make available or take delivery of all of MP's Energy, as applicable;

(j) the other Party is not acting as a fiduciary for or an adviser to it in respect of this Agreement;

(k) this Agreement constitutes a "master netting agreements" and all

transactions pursuant to it constitute "forward contracts" within the meaning of the United States Bankruptcy Code ("**Bankruptcy Code**") or a "swap agreement" within the meaning of the Bankruptcy Code;

(l) it is a "forward contract merchant" within the meaning of the Bankruptcy Code with respect to any transactions that constitute "forward contracts" and a "swap participant" with respect to any transactions that constitute "swap agreements";

(m) all payments made or to be made by one Party to the other Party pursuant to this Agreement constitute "settlement payments" within the meaning of the Bankruptcy Code;

(n) all transfers of Performance Assurance by one Party to the other Party under this Agreement constitute "margin payments" within the meaning of the Bankruptcy Code;

(o) it is a "master netting agreement participant" within the meaning of the Bankruptcy Code;

(p) certain provisions of this Agreement grants each Party the contractual right to "cause the liquidation, termination or acceleration" of the transactions under this Agreement within the meaning of Sections 556, 560 and 561 of the Bankruptcy Code, as they may be amended superseded or replaced from time to time;

(q) upon a bankruptcy of the other Party, a Non-defaulting Party shall be entitled to exercise its rights and remedies under this Agreement in accordance with the safe harbour 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;

(r) it is an "eligible contract participant" as defined in Section 1a(18) of the Commodity Exchange Act, as amended, 7 U.S.C. § 1a(18);

(s) it (i) is a producer, processor, or commercial user of, or a merchant

handling, the commodity which is the subject of this Agreement, or the products or by products thereof; and (ii) is offered or enters into this Agreement solely for purposes related to its business as such;

(t) for the purposes of this Agreement, it is not a "utility" as such term is used in 11 U.S.C. Section 366. Each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. Section 366 in any bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort;

(u) no Event of Default or potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement; and

(v) all transactions under this Agreement and this Agreement itself are not "swaps" as defined in Section 1a(47)(A) of the Commodity Exchange Act, as amended, 7 U.S.C. § 1 et. seq. (the "Act"), but rather all transactions under this Agreement and this Agreement itself are excluded from the term "swap" under Section 1a(47)(B)(ii) or lawful Commodity Futures Trading Commission ("CFTC") regulations promulgated thereunder ("Regulations") as contracts of sale of nonfinancial commodities for deferred shipment or delivery intended to be physically settled. In the event that any particular transaction is deemed by an agency of competent jurisdiction (whether or not in a final adjudication) to be a "swap" as defined above, or not to be qualified for the exclusion under Section 1a(47)(B) described above, any attendant recordkeeping, reporting or other regulatory obligations shall be timely and completely fulfilled by MP; and consistent therewith, in such event, MP and MH have elected, under Section 4r(a)(3)(C) of the Act (7 U.S.C. Section 6r(a)(3)(C)), that MP shall fulfill all counterparty reporting obligations of

either party under the Act and the interim and final Regulations. Notwithstanding the above, MH shall meet all its own then applicable recordkeeping obligations under the Act and interim and final Regulations (i) which are not the exclusive responsibility of MP under the Act or as provided above, and (ii) which are applicable to MH under the Act despite MH not being a U.S. person. Further, MH will cooperate in a reasonably timely and complete manner in such event to provide MP information to enable MP to meet its responsibilities under the Act.

(2) MH makes the following additional representations and warranties to MP as of the Effective Date and which will be deemed to be repeated throughout the Contract Term:

(a) no Event of Default with respect to MH and no MH Termination Event has occurred and is continuing; and

(b) no Event of Default with respect to MH and no MH Termination Event would occur as a result of its entering into or performing its obligations under this Agreement.

(3) MP makes the following additional representations and warranties to MH as of the Effective Date and which will be deemed to be repeated throughout the Contract Term:

(a) no Event of Default with respect to MP and no MP Termination Event has occurred and is continuing; and

(b) no Event of Default with respect to MP and no MP Termination Event would occur as a result of its entering into or performing its obligations under this Agreement.

9.2 <u>MH Tax Representations and Warranties</u>

MH makes the following representations and warranties to MP, which representations and warranties will be deemed to be repeated, if applicable, by MH throughout the Contract Term:

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(a) it is a foreign person (as that term is used in section 1.6041-4(a)(4) of the United States Treasury Regulations) for United States federal income tax purposes and its U.S. Taxpayer identification number is 98-0126210; and

(b) no part of any payment received or to be received by MH in connection with this Agreement is attributable to a trade or business carried on by it in the United States of America.

9.3 MP Tax Representations

MP makes the following representations and warranties to MH, which representations and warranties will be deemed to be repeated, if applicable, by MP throughout the Contract Term:

(a) it is a "U.S. person" (as that term is used in section 1.1441-4(a) (3) (ii) of the United States Treasury Regulations) for United States federal income tax purposes and its U.S. Taxpayer identification number is 41-04181150; and

(b) no part of any payment received or to be received by MP in connection with this Agreement is attributable to a trade or business carried on by it or in respect of services rendered by it in Canada.

ARTICLE X
CONFIDENTIALITY

10.1 Confidentiality

The Parties confirm that Confidential Information (as defined in the "Non-Disclosure Agreement") had been disclosed by each Party to the other Party during the course of negotiating this Agreement and acknowledge that the provisions of the Non-Disclosure Agreement governs the disclosure of all such Confidential Information that was disclosed up to the date this Agreement is executed. The Parties (each a "**Discloser**") also recognize that there is a need pursuant to this Agreement for each Party to disclose Confidential Information, after the date this Agreement is executed, to the other Party

(each a "**Recipient**") and that the provisions of this Agreement will govern the disclosure of such information not the Non-Disclosure Agreement and the Parties wish to protect the Confidential Information in the following manner and agree as follows:

(a) **"Confidential Information"** shall mean all non-public and confidential information which information is treated by the Discloser and its representatives as confidential and which is conspicuously marked "Confidential" if in written or printed form, or if oral, which is specifically identified as confidential at the time of disclosure and is confirmed in writing to each other party as "Confidential" within five (5) Business Days after disclosure, unless: (i) the information is or becomes publicly known through lawful means; (ii) the information was rightfully in Recipient's possession or part of Recipient's general knowledge prior to the date of this Agreement; or (iii) the information is disclosed to Recipient without confidential restriction by a third party who rightfully possesses the information (without confidential restriction) and did not learn of it, directly or indirectly, from Recipient.

(b) Except as hereinafter provided, Recipient shall hold all Confidential Information in strict confidence and shall not disclose any Confidential Information to any third party. Recipient shall take all reasonable measures to protect the confidentiality of, and avoid the unauthorized use, disclosure, publication, or dissemination of Confidential Information. Recipient may disclose Confidential Information:

(i) to its directors, officers, employees, members, agents or advisors, including, without limitation, its attorneys, accountants, consultants and financial advisors who need to know such information for the purposes of the transactions contemplated by this Agreement (each a "**Representative**"); and

(ii) to any other third parties, only with the prior written consent of

the Discloser.

(c) If the Recipient or its Representatives are required to disclose the Confidential Information by law, regulation, ruling of a governmental agency or by court order, before the Recipient or its Representatives disclose any Confidential Information, the Recipient or its Representatives shall give the Discloser timely written notice (at least 10 Business Days) of the requirement for disclosure and assist the Discloser to secure a protective order to limit disclosure of such Confidential Information only to parties agreeing to be bound by the terms of a confidentiality agreement in a form and content satisfactory to the Discloser, acting reasonably. Recipient shall cooperate reasonably in any such efforts to secure a protective order; provided, however, Recipient shall not be required to take, or refrain from taking, any action if it would cause Recipient or its Representatives to be in violation of the terms of a required disclosure described in this Section 10.1(c).

(d) Notwithstanding the foregoing, the Parties acknowledge that if MP files this Agreement with the Minnesota Public Utilities Commission, MP agrees to seek protection of the Confidential Information in this Agreement under the Minnesota Public Utilities Commission's Minnesota Rule 7829.0500. The Parties will cooperate reasonably to prepare a public version of this Agreement for inclusion in the public record at the Minnesota Public Utilities Commission. The Parties agree that the public version of this Agreement will redact only such Confidential Information that properly constitutes proprietary information, trade secrets, or other privileged information as defined by applicable Minnesota laws.

(e) Recipient shall be liable for any use or disclosure of Confidential Information by its Representatives, which is not in compliance with the

obligations imposed upon the Recipient pursuant to this Agreement.

(f) All rights, title and interest in and to the Confidential Information are reserved by, and remain the sole property of the Disclosing Party. The Recipient does not acquire any intellectual property rights under this Agreement. Nothing in this Agreement shall be construed as a grant of, or intention or commitment to grant any right, title or interest of any nature whatsoever in or to the Confidential Information.

(g) Recipient agrees that the unauthorized disclosure or use of Confidential Information could cause irreparable harm and significant injury to the Discloser, the amount of which may be difficult to ascertain or quantify, thus, making any remedy at law or in damages inadequate. Therefore, Recipient agrees that Discloser shall have the right to apply to any court of competent jurisdiction for an order restraining any breach or threatened breach of this Section and for any other relief Discloser deems appropriate. This right shall be in addition to any other remedy available to Discloser in law or equity.

(h) This Section 10.1 shall survive any termination of this Agreement for a period of three (3) years.

ARTICLE XI
CONDITIONS PRECEDENT

11.1 MH's Condition Precedent

The obligation of MH to complete the transactions referenced herein shall be subject to and contingent upon the fulfillment of the following condition precedent ("**MH's Condition Precedent**") to the satisfaction of MH, as certified or waived in writing by MH, by the dates specified:

(a) the Parties executing on the Effective Date the 250 MW SPSA and all conditions precedent to that agreement being satisfied by the dates

specified in that agreement.

11.2 MP's Condition Precedent

The obligation of MP to complete the transactions referenced herein shall be subject to and contingent upon the fulfillment of the following condition precedent ("**MP's Condition Precedent**") to the satisfaction of MP, as certified or waived in writing by MP, by the dates specified:

(a) the Parties executing on the Effective Date the 250 MW SPSA and all conditions precedent to that agreement being satisfied by the dates specified in that agreement.

11.3 Conditions Precedent Notices

Each Party shall notify the other Party as soon as practicable following the satisfaction or the failure to satisfy MH's Condition Precedent or MP's Condition Precedent, as applicable. This Agreement shall, subject to the obligations of the Parties in Article X, terminate on the date notice has been received by one Party from the other Party that MH's Condition Precedent or MP's Condition Precedent have not been satisfied and will not be waived.

ARTICLE XII
FORCE MAJEURE

12.1 Force Majeure

(1) Neither Party shall be in breach or liable for any delay or failure in its performance under this Agreement to the extent such performance is prevented or delayed due to a Force Majeure event or circumstance, provided that:

(a) the non-performing Party shall give the other Party notice promptly (and within forty-eight (48) hours if possible) after the non-performing Party's knowledge of the commencement of the Force Majeure, with written confirmation to be supplied within ten (10) calendar days after the commencement of the Force Majeure further describing the

particulars of the occurrence of the Force Majeure;

(b) the delay in performance due to the Force Majeure shall be of no greater scope and of no longer duration than is directly caused by the Force Majeure;

(c) the Party whose performance is delayed or prevented: (i) shall proceed with Commercially Reasonable Efforts to overcome the Force Majeure which is preventing or delaying performance; and (ii) shall provide weekly written progress reports to the other Party during the period that performance is delayed or prevented describing actions taken and to be taken to remedy the consequences of the Force Majeure, the schedule for such actions and the expected date by which performance shall no longer be affected by the Force Majeure; and

(d) when the performance of the Party claiming the Force Majeure is no longer being delayed or prevented, that Party shall give the other Party notice to that effect.

(2) For greater certainty, the Parties acknowledge and agree that:

(a) provided all of the requirements of a Force Majeure have otherwise been met, a Force Majeure event or circumstance may be based on any of the following: (i) if the Parties are to Schedule MP's Energy in accordance with this Agreement using the Transmission Service, the Transmission Interconnection not being commissioned and available for the delivery and receipt of MP's Energy by the scheduled in-service date for such interconnection; or (ii) if the Parties are to Schedule MP's Energy, in accordance with this Agreement using the Transmission Service, the Transmission Interconnection not being commissioned and available for the delivery of and receipt of MP's Energy by the scheduled in-service date for such interconnection;

(b) the Force Majeure event or circumstance referred to in Sections 12.1(2)(a)(i) or 12.1(2)(a)(ii), as applicable, may include a Force

Majeure event or circumstance that is being relied on by one of the Parties pursuant to a provision in an arm's length agreement with another Person or Persons providing for the construction of the said transmission interconnection, conditional on such provision being reasonable and in accordance with Good Utility Practice.

(3) The Parties agree that if the Force Majeure is based on the event or circumstance described in Sections 12.1(2)(a)(i) or 12.1(2)(a)(ii), while the Party or Parties relying on the Force Majeure event shall use its best efforts to overcome the said Force Majeure and to have the said transmission service in-service and available for use under this Agreement, each of the Parties shall use Commercially Reasonable Efforts to obtain alternative Firm Transmission Service during the duration of the Force Majeure event.

(3) For greater certainty, the Parties further acknowledge that the following events or circumstances shall not constitute or form the basis for Force Majeure: (a) the loss of MH's markets; (b) MH's inability to economically use or resell MP's Energy, including MH's ability to purchase MP's Energy, at a price less than the prices provided for in this Agreement; and (c) MP's ability to sell MP's Energy at a price greater than the prices provided for in this Agreement.

ARTICLE XIII
CREDITWORTHINESS

13.1 Credit Review Procedures

For the purpose of determining whether a Party is able to meet its obligations pursuant to this Agreement, a Party may require commercially reasonable credit review procedures. If requested by a Party, the other Party shall deliver, unless such financial statements are available on "EDGAR" or "SEDAR" or on such other Party's internet website: (a) within 150 calendar days following the end of each fiscal year, a copy of such Party's annual report containing audited consolidated financial statements for such fiscal year; and (b) within 90 calendar days after the end of each of its first three fiscal

quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles or such other principles then in effect, provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such Party shall diligently pursue the preparation, certification and delivery of the statements.

13.2 Performance Assurances

(1) Should the creditworthiness, financial strength, or performance viability of a Party (the "**Second Party**") become unsatisfactory to the other Party (the "**Requesting Party**") in such Requesting Party's commercially reasonably exercised discretion with regard to any transaction pursuant to this Agreement, the Requesting Party may require the Second Party to post or provide at the Second Party's option: (a) a Letter of Credit; (b) other collateral or security by the Second Party that is acceptable to the Requesting Party in its commercially reasonably exercised discretion; (c) a Guarantee Agreement; or (d) some other mutually agreeable method of satisfying the Requesting Party (the items described in (a) through (d) are referred to as "**Performance Assurance**"). The Requesting Party may only request, and the Second Party shall only be required to provide, Performance Assurance in a commercially reasonable amount under the circumstances. The Second Party may request from the Requesting Party that the Performance Assurance be returned or reduced, on the condition that such a request shall only be made once every sixty (60) days during any period when a Performance Assurance has been provided. The Requesting Party shall be required to return or reduce the Performance Assurance, after receipt of the request from the Second Party, if, considering whether the factors that justified the Requesting Party's request for Performance Assurance have been removed or improved, it is commercially reasonable to do so.

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(2) Events which may cause the Requesting Party to question the Second Party's financial strength, or performance viability as set out in Section 13.2(1) above, include, but are not limited to, any of the following:

(a) The Requesting Party having knowledge that the Second Party (or its Credit Support Provider, if applicable) is failing to perform or defaulting under terms of other contracts;

(b) The Second Party, or its Credit Support Provider has an Investment Grade Credit Rating (unenhanced by unaffiliated third Party support) and the credit rating falls below an Investment Grade Credit Rating according to at least one of S&P, Moody's or DBRS;

(c) The Second Party, or its Credit Support Provider is rated BBB- by S&P (or the equivalent rating from Moody's or DBRS) and the Second Party or its Credit Support Provider (as applicable) has been either placed on negative credit watch or negative outlook by at least one such rating agency; or

(d) Other material adverse changes in the Second Party's financial condition.

(3) If the Second Party fails to provide Performance Assurance within five (5) Business Days of written demand therefore, such failure will be considered an Event of Default under Article XV of this Agreement and the Requesting Party shall have the right to exercise any of the remedies provided for under that Article XV. Nothing contained in this Article XIII shall affect any other credit agreement or arrangement, if any, between the Parties.

(4) If the Second Party provides a Letter of Credit, the Second Party shall: (i) renew the Letter of Credit on a timely basis; and (ii) provide a substitute Letter of Credit at least twenty (20) Business Days prior to the expiration of the outstanding Letter of Credit if the issuer has indicated its intent not to renew such Letter of Credit.

13.3 <u>Grant of Security Interest</u>

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(1) To secure its obligations under this Agreement and to the extent either or both Parties (or their Credit Support Provider, if applicable) deliver Performance Assurance hereunder, unless prohibited by applicable law, each Party (a "**Pledgor**") hereby grants to the other Party (the "**Secured Party**") a present and continuing security interest in, and lien on (and right of setoff against), all Performance Assurance delivered by the Pledgor to the Secured Party hereunder and held for the benefit of, such Secured Party, and all proceeds of such Performance Assurance (subject to any secured interest held or maintained by the Pledgor's lender), and Pledgor agrees to take such actions as the Secured Party reasonably requires in order to perfect the Secured Party's security interest in, and lien on (and right of setoff against), such Performance Assurance and any and all proceeds resulting there from or from the liquidation thereof.

(2) Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default, or an uncured event of default under the 250 MW SPSA, the Non-defaulting Party may do any one or more of the following: (a) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance delivered by the Defaulting Party, including any such rights and remedies under law then in effect; (b) exercise its rights of setoff against any and all Performance Assurance of the Defaulting Party in the possession of the Non-defaulting Party or its agent up to the amount then owed to it by the Defaulting Party; (c) draw on any outstanding Letter of Credit issued for its benefit up to the amount then owed to it by the Defaulting Party; and (d) liquidate all Performance Assurance then held by or for the benefit of the Secured Party, free from any claim or right of any nature whatsoever of the Defaulting Party, including any equity or right of purchase or redemption by the Defaulting Party. The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Pledgor's obligations under this Agreement (the Pledgor remaining liable for any amounts owing to the Secured Party after such application),

subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

(3) In addition to and not in limitation of any other right or remedy (including any right to setoff, counterclaim, or otherwise withhold payment) under applicable law, the Non-defaulting Party may, at its option and in its commercially reasonably exercised discretion and without prior notice to the Defaulting Party, setoff any amounts payable by it to the Defaulting Party under this Agreement (irrespective of currency, place of payment or booking office of obligation) against amounts that the Defaulting Party may owe it under this Agreement and the 250 MW SPSA. The obligations of the Parties under this Agreement in respect of such amounts shall be deemed satisfied and discharged to the extent of any such setoff.

(4) The payment by the Defaulting Party of any amounts due under this Agreement and under the 250 MW SPSA shall be a condition precedent to the payment of any amounts due by the Non-defaulting Party to the Defaulting Party under either of the MP/MH Agreements.

(5) The Non-defaulting Party shall use Commercially Reasonable Efforts to provide notice to the Defaulting Party as to the nature and amount of any setoff and recoupment after it is effected, but failure to give notice shall not impair the validity of any setoff.

ARTICLE XIV
DISPUTE RESOLUTION

14.1 Condition Precedent to Arbitration

Prior to initiation of arbitration, any controversy, claim or dispute between the Parties shall be first referred in writing to the Operating Committee for review and attempted resolution. If the controversy, claim or dispute is not resolved within thirty (30) calendar days after referral to the Operating Committee, the matter will be referred to the Executive Officers for review and decision. Any decision by the Executive Officers

to resolve a controversy, claim or dispute must be unanimous. If the controversy, claim or dispute is not resolved within thirty (30) calendar days after referral to the Executive Officers, either Party may proceed to arbitration.

14.2 Initiation

Arbitration proceedings must be initiated within one hundred and twenty (120) calendar days of the date the controversy, claim or dispute was first referred to the Executive Officers and shall be initiated by written notice to the other Party setting forth the point or points in dispute. Unless otherwise agreed to in writing by the Parties, failure to initiate arbitration within such one hundred and twenty (120) day period shall be deemed a waiver of the right to arbitrate that controversy, claim or dispute. Provided however, that any such waiver shall not preclude a Party from initiating arbitration proceedings in respect of a similar claim, controversy or dispute based on facts that arise subsequent to the date the controversy, claim or dispute was first submitted to the Executive Officers.

14.3 Arbitration Proceedings

Subject to Section 14.1 above and Section 8.1(f), any and all controversies, claims or disputes between the Parties arising out of or relating to this Agreement or an alleged breach thereof, shall be settled by arbitration. For greater clarity and certainty, arbitration shall not be available to anyone who is not a party to this Agreement, and the aforesaid requirement to arbitrate shall not preclude a Party from seeking contribution, indemnification or damages from another Person in proceedings instituted by third parties in courts of competent jurisdiction. Unless otherwise provided in this Article, the arbitration shall be conducted before three arbitrators and shall be conducted in accordance with the International Commercial Arbitration Act (Ontario), RSO 1990, c.I9 and the UNCITRAL model Law on International Commercial Arbitration as amended and then in effect. Each Party shall select one arbitrator, and the two selected arbitrators shall jointly agree, within 30 days after the last of the two arbitrators have been appointed, on a third arbitrator who shall chair the arbitration. All arbitrators

shall be competent by virtue of education and experience in the particular matter subject to arbitration. Before proceeding with the first hearing, each arbitrator shall take an oath of office. The arbitrators shall require witnesses to testify under oath administered by a duly qualified person. The arbitrators shall have jurisdiction and authority only to interpret, apply or determine compliance with the provisions of this Agreement insofar as shall be necessary to determine the particular matter subject to arbitration. The arbitrators shall not have jurisdiction or authority to add to, detract from, or alter the provisions of this Agreement or any applicable law or rule of civil procedure. The arbitrators shall have the power to order specific performance under any and all provisions of this Agreement and no Party can avoid specific performance based on an argument that the other Party has an adequate remedy at law. All arbitrations shall be held in Toronto, Ontario.

14.4 Jurisdiction

The arbitrators may rule on their own jurisdiction, including any objections with respect to the existence or validity of this Agreement. For that purpose, this Article shall be treated as an agreement independent of the terms of the balance of this Agreement. A decision by the arbitrators that this Agreement is null and void shall not entail *ipso jure* the invalidity of this Article. If a Party disputes the authority or jurisdiction of the arbitrators, it shall notify the other Party as soon as the matter alleged to be beyond the authority or jurisdiction of the arbitrators is raised during the arbitration proceedings. The arbitrators may rule on the issue as to whether or not they have the authority or jurisdiction in dispute, either as a preliminary question or in an award on the merits.

14.5 Discovery

Each Party shall have the rights of discovery in accordance with the applicable rules of the Court of Queen's Bench of Manitoba. All issues subject to discovery shall be determined by order of the arbitrators upon motion made to them by any Party. When a Party is asked to reveal material which the Party considers to be proprietary or confidential information or trade secrets, the Party shall bring the matter to the attention

of the arbitrators who shall make such protective orders as are reasonable and necessary or as otherwise provided by law.

14.6 Continuation of Performance

Pending the final decision of the arbitrators, the Parties agree, subject to Section 15.2, to diligently proceed with the performance of all obligations, including the payment of all sums required by this Agreement. Payment of any interest shall be as determined by the arbitrator.

14.7 Costs

All fees, costs and expenses of the arbitrators incurred in connection with the arbitration shall be allocated among the Parties by the arbitrators. The nature of the dispute and the outcome of the arbitration shall be factors considered by the arbitrators when allocating such fees, costs, and expenses. Each Party shall be responsible for the fees, costs, and expenses of its own employees, expert consultants and attorneys, and for the costs of exhibits and other incidental costs.

14.8 Enforcement

Any decision (including orders arising out of disputes as to the scope or appropriateness of a request for, or a response to, discovery) of an arbitrator may be enforced in a court of competent jurisdiction with all costs, including court costs and attorney's fees and disbursements, paid by the Party found to be in default or in error. Judgment upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction and may be enforced in accordance with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

14.9 Correction and Interpretation of Award

Within thirty (30) calendar days after receipt of an arbitration award, a Party, with notice to the other Party, may request the arbitrators to correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature, or may request the arbitrators to give an interpretation of a specific point or a part of the award.

If the arbitrators consider the request to be justified, they shall make the correction or give the interpretation within thirty (30) calendar days after receipt of the request. The interpretation shall form part of the award. The arbitrators may correct any error as herein-before referred to on their own initiative within thirty (30) calendar days after the date of award. In addition, within thirty (30) calendar days after receipt of an award, a Party with notice to the other Party may request the arbitrators to make an additional award as to claims presented in the arbitration but omitted from the award. If the arbitrators consider the request to be justified, they shall make an additional award within sixty (60) calendar days after receipt of the request. The arbitrators may extend, at their sole discretion if necessary, the period of time within which it shall make a correction, interpretation or an additional award.

ARTICLE XV
DEFAULT/TERMINATION

15.1 Events of Default

If any of the following events, conditions, or circumstances (each an "**Event of Default**") shall occur and be continuing:

(a) the failure of either Party or any Credit Support Provider of either Party to make any payment to the other Party as required by this Agreement if such amount remains unpaid for a period of five (5) Business Days after the date the Defaulting Party receives written notice from the Non-defaulting Party that the amount is overdue;

(b) the failure by either Party to perform or observe any material obligation to the other Party under this Agreement, that is not excused by an event of Force Majeure, other than obligations for the payment of money, if such failure is not remedied within thirty (30) calendar days after written notice thereof shall have been given by the Non-defaulting Party to the Defaulting Party;

(c) the insolvency or bankruptcy of a Party or its Credit Support Provider or its inability or admission in writing of its inability to pay its debts as they mature, or the making of a general assignment for the benefit of, or entry into any contract or arrangement with, its creditors;

(d) the 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 thirty (30) calendar days;

(e) the authorization or filing by a Party or its Credit Support Provider 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 or its Credit Support Provider without such authorization, application or consent, which proceedings remain undismissed or unstayed for thirty (30) calendar days or which result in adjudication of bankruptcy or insolvency within such time;

(f) in the event that a Party fails to provide Performance Assurance within five (5) Business Days of the date the Performance Assurance was to have been provided in accordance with Section 13.2;

(g) a Party or its Credit Support Provider consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to or reorganizes or reincorporates or reconstitutes into or as another entity and, at the time of such consolidation, amalgamation, merger, transfer, reorganization, reincorporation or reconstitution, the resulting, surviving

or transferee entity fails to assume, if applicable, all the obligations of such Party or such Party's Credit Support Provider under this Agreement to which it or its predecessor was a party and, in the case of a Credit Support Provider, such Party has failed to provide a replacement Guarantee Agreement (if a Guarantee Agreement is outstanding) within five (5) Business Days

(h) the occurrence of a Letter of Credit Default that remains uncured for five (5) Business Days;

(i) the occurrence of an uncured Event of Default (as such term is defined in the 250 MW System Power Sale Agreement) provided that the Non-defaulting Party shall have the unfettered discretion whether to declare an Event of Default under this Agreement associated with such occurrence; or

(j) any material representation or warranty made by the Defaulting Party in this Agreement that is proven to have been false in any material respect when made,

then, and in any such event, the Non-defaulting Party shall have all the rights and remedies available to it at law or in equity, including the right to terminate this Agreement by written notice to the Defaulting Party in accordance with Section 15.3.

15.2 Suspension of Performance

Notwithstanding any other provision of this Agreement, if an Event of Default has occurred and is continuing beyond any applicable cure period, the Non-defaulting Party, upon notice to the Defaulting Party, shall have the right: (a) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than (10) Business Days unless an Early Termination Date has been declared and notice thereof given pursuant to Section 15.3; and (b) to the extent an Event of Default has occurred and is continuing beyond any applicable cure period, to exercise any remedies available at law or in equity.

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15.3 Right to Terminate Following an Event of Default

(1) If at any time an Event of Default with respect to a Party (the "**Defaulting Party**") has occurred and is then continuing beyond any applicable cure period, the other Party (the "**Non-defaulting Party**") may, by not less than twenty (20) calendar days notice to the Defaulting Party specifying the relevant Event of Default, designate a Business Day not earlier than the day such notice is effective as termination of this Agreement prior to the expiry of the Contract Term (such designated Business Day will constitute an "**Early Termination Date**").

(2) In addition to and not in limitation of any other right or remedy (including any right to setoff, counterclaim, or otherwise withhold payment) available to the Non-defaulting Party at law or in equity, the Non-defaulting Party may, at its option and in its commercially reasonably exercised discretion and without prior notice to the Defaulting Party, setoff any amounts payable by it to the Defaulting Party under this Agreement (irrespective of currency, place of payment or booking office of obligation) against amounts that the Defaulting Party may owe it under the 250 MW SPSA. The obligations of the Parties under this Agreement in respect of such amounts shall be deemed satisfied and discharged to the extent of any such setoff and recoupment.

(3) The payment by the Defaulting Party of any amounts due under either of the MP/MH Agreements shall be a condition precedent to the payment of any amounts due by the Non-defaulting Party to the Defaulting Party under either of the MP/MH Agreements.

(4) The Non-defaulting Party shall use Commercially Reasonable Efforts to provide notice to the Defaulting Party as to the nature and amount of any setoff and recoupment after it is effected, but failure to give notice shall not impair the validity of any setoff and recoupment.

15.4 MH Termination Events

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MH has the right, but not the obligation, to terminate this Agreement (a "**MH Termination Event**") immediately upon notice to MP upon the termination of the 250 MW SPSA prior to the expiry of the term of that agreement, unless the termination occurred due to occurrence of an uncured Event of Default (as such term is defined in the 250 MW SPSA) by MH.

15.5 MP Termination Events

MP has the right, but not the obligation, to terminate this Agreement (a "**MP Termination Event**") immediately upon notice to MH upon the termination of the 250 MW SPSA prior to the expiry of the term of that agreement, unless the termination occurred due to occurrence of an uncured Event of Default (as such term is defined in the 250 MW SPSA) by MP.

15.6 Payment on Termination

On or as soon as practicable following the effective designation of either an MH Termination Event or an MP Termination Event, MH shall calculate the amounts due and owing by MP to MH, and MP shall calculate the amounts due and owing by MH to MP, as applicable, for the period up to and including the termination date, and each Party shall deliver an invoice to the other Party for the amount due which shall be payable in accordance with Article V.

ARTICLE XVI
LIMITATION OF LIABILITY

16.1 **Limitation of Liability**

THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR

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WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF THE EXPRESS REMEDY OR MEASURE OF DAMAGES PROVIDED IS ALL RIGHTS OR REMEDIES AVAILABLE TO A PARTY AT LAW OR IN EQUITY, SUCH PARTY SHALL BE ENTITLED TO SEEK ALL OR ANY SUCH RIGHTS AND DAMAGES OR REMEDIES. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

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ARTICLE XVII
GENERAL

17.1 Notices

Any notices, demands or requests (other than those operational matters identified by the Operating Committee), required or authorized by this Agreement shall be in writing and may be delivered by hand delivery, mail, electronic mail, confirmed fax, or overnight courier service to:

if to the Manitoba Hydro-Electric Board:

Division Manager
Power Sales & Operations
Manitoba Hydro
360 Portage Avenue
Post Office Box 815
Winnipeg, Manitoba
R3C 2P4
Fax 204-360-6137

with copies to:

General Counsel
Manitoba Hydro
360 Portage Avenue
Post Office Box 815
Winnipeg, Manitoba
R3C 2P4
Fax 204-360-6147

if to Minnesota Power:

Senior Vice-President Strategy & Planning
Minnesota Power
30 West Superior St.
Duluth, MN 55802

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Fax (218) 723-3915

with copies to:

General Counsel
Minnesota Power
30 West Superior Street
Duluth, MN 55802
Fax (218) 723-3955

Notice by hand delivery shall be effective at the close of business on the day actually received, if received during the recipient's business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight mail, or courier, shall be effective on the next Business Day after it was sent. Notice by electronic mail or confirmed fax shall be effective at the close of business on the day actually received, if received during the recipient's business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. The designation of the persons to be notified or the address of such persons may be changed at any time by similar notice.

17.2 Operational Matters

All issues related to operational matters and notices in respect thereto, as identified by the Operating Committee shall be directed to the appropriate operations personnel at MH and MP. Each Party shall each provide to the other Party a list of contacts for notification on the said operational matters that shall be updated from time to time as required.

17.3 MH's Marketing and Sales Function and MP's Merchant Function

The Parties acknowledge that MH has established an open access transmission tariff and MP is subject to the TARIFF, and MH has adopted, and MP is subject to, the FERC "Standards of Conduct" which require that MH's and MP's respective employees engaged in transmission system operations function independently from MH's and MP's respective marketing and sales employees, and that MH and MP treat all of their

respective transmission customers on a non-discriminatory basis. This Agreement is entered into by MH and MP on behalf of their respective marketing and sales functions. Nothing in this Agreement shall obligate either MH's or MP's transmission function to take or refrain from taking any action.

17.4 Records

Each Party shall keep complete and accurate records and memoranda of its operations hereunder and shall maintain such data as may be necessary to determine with reasonable accuracy any item required hereunder. With respect to invoicing records, each Party shall maintain such records, memoranda and data for the current calendar year plus a minimum of five (5) previous calendar years. Each Party or its respective designee, shall each have the right, at its sole expense, upon reasonable prior notice during the other Party's regular business hours at such Party's primary place of business, to inspect, review and take copies of the other Party's records as far as such records concern monetary matters or other issues under this Agreement and may be reasonably necessary for the purpose of ascertaining the reasonableness and accuracy of any statements of cost, bills or invoices relating to transactions hereunder. Each Party shall treat and shall take reasonable steps to cause its designee to treat such information so inspected, reviewed, or copied as Confidential Information.

17.5 Indemnity

(1) Each Party shall indemnify and save harmless the other Party from and against all claims, actions, suits, proceedings, demands, assessments, judgments, charges, penalties, costs, and expenses which arise or are made or claimed against or suffered or incurred by the other as a result of:

(a) any breach by it of or any inaccuracy of any representation or warranty contained in this Agreement or in any agreement, instrument, certificate or other document delivered pursuant hereto; and

(b) any breach or non-performance by it of any covenant to be performed by it that is contained in this Agreement or in any agreement, certificate or

other document delivered pursuant hereto.

(2) The Parties agree:

(a) MP shall be deemed to be in exclusive control of the MP's Energy prior to the delivery by MP and receipt by MH of MP's Energy at the Delivery Point and MP shall be responsible for, and shall indemnify MH from, any damages or injury MH or any third party may suffer or incur, caused thereby except to the extent such damages or injury were caused by the gross negligence or wilful misconduct of MH; and

(b) MH shall be deemed to be in exclusive control of MP's Energy from and after delivery by MP and receipt by MH of MP's Energy at the Delivery Point and shall be responsible for, and shall indemnify MP from, any damages or injury MP or any third party may suffer or incur, caused thereby except to the extent such damages or injury is caused by the gross negligence or wilful misconduct of MP.

For the purposes of this Section 17.5(2) "gross negligence or wilful misconduct" does not include acts or omissions by a Party that constitute ordinary negligence, and "damages or injury" does not include indirect, incidental, and consequential damages, and without restricting generality of the foregoing, "damages or injury" does not include expenses or liabilities associated with the interruption of power, energy or related services to any third Person.

(3) Each Party shall promptly notify the other Party of claims, demands or actions that may result in a claim for indemnity. Failure to be provided with notice will not relieve a Party from indemnification liability unless, and then only to the extent that, such failure results in the forfeiture by such Party of a substantial right or defense. No settlement of any claim which may result in a claim for indemnity may be made by either Party without the prior consent of the other Party, which consent may not be unreasonably withheld. Neither Party shall be liable under this Agreement in respect of any settlement of a claim unless it has consented in writing to such settlement.

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17.6 Governing Law

(1) In respect of matters under this Agreement relating to or arising out of the sale of MP's Energy and MP's Pumped Energy, the Parties acknowledge that those matters and the applicable provisions of this Agreement concerning same shall be governed and construed in accordance with the laws of the state of Minnesota and United States. Any disputes arising under this Agreement that are not resolved by arbitration shall be subject to the exclusive jurisdiction of the courts of the state of Minnesota and the Supreme Court of the United States.

(2) In respect of matters under this Agreement relating to or arising out of the offering and all other matters in respect of the MH's Stored Energy, the Parties acknowledge that those matters and the applicable provisions of this Agreement concerning same shall be governed and construed in accordance with the laws of the province of Manitoba and Canada. Any disputes arising under this Agreement concerning same that are not resolved by arbitration shall be subject to the exclusive jurisdiction of the courts of the province of Manitoba and the Supreme Court of Canada.

17.7 Waiver of Right to Trial by Jury

Each Party hereby irrevocably waives to the fullest extent permitted by applicable law, any and all rights it may have to trial by jury with respect to any legal proceeding arising out of or relating to this Agreement and any agreement executed or contemplated to be executed in conjunction with this Agreement. This provision is a material inducement to each of the Parties for entering into this Agreement. Each Party hereby waives any right to consolidate any action, proceeding, or counterclaim arising out of or in connection with this Agreement and any other agreement executed or contemplated to be executed in conjunction with this Agreement, or any matter arising hereunder or thereunder in which a jury trial has not or cannot be waived.

17.8 Foreign Sovereign Immunities Act

MH irrevocably agrees to waive the protections of the Foreign Sovereign Immunities

Act, 28 U.S.C. §1602, et seq., in connection with this Agreement.

17.9 No Representation or Warranty for Injury

It is acknowledged and agreed that MP's Energy and related services are inherently dangerous, MP offers no warranty, or representation, express or implied, that MP's Energy or related services will not cause injury to Person, property or business.

17.10 Surviving Termination

All provisions of this Agreement which by their nature are intended to survive the termination of this Agreement, including, the provisions relating to: (a) the billing by MP to MH of and payment from MH to MP for or related to MP's Energy and MP's Pumped Energy; (b) the billing by MH to MP of and payment from MP to MH for or related to MH's Stored Energy; (c) the confidentiality provisions pursuant to Article 10 of this Agreement; (d) Section 17.5, shall survive the Contract Term or the earlier termination of this Agreement as the case may be for a period of three (3) years following the expiration of the Contract Term or the earlier termination of this Agreement.

17.11 Enurement

This Agreement shall be binding upon and its benefits enure to the Parties and their permitted successors and assigns. This Agreement shall not create the relationship between the Parties of a joint venture or a partnership.

17.12 Assignment

Neither this Agreement nor any interest or obligation in or under this Agreement may be assigned (whether by way of security or otherwise) by either Party without the prior written consent of the other Party, except that either Party may, without consent of the other Party, assign this Agreement (in whole and not in part only) to any of their respective Affiliates, including any newly formed Affiliate pursuant to either Party reorganizing its corporate structure, on sixty (60) days advance notice to the other Party provided that:

(a) prior to the effective date of the assignment, Performance Assurance, if required by the non-assigning Party, has been provided to the non-assigning Party in an amount and upon terms satisfactory to the non-assigning Party, in its sole discretion, acting reasonably;

(b) the non-assigning Party shall not be required to pay to the assignee an amount in respect of any Governmental Charges which the non-assigning Party would not have been required to pay to the assigning Party in the absence of such assignment;

(c) the non-assigning Party shall not receive a payment from which an amount has been withheld or deducted, on account of a withholding tax in excess of that which the assigning Party would have been required to so withhold or deduct in the absence of such assignment;

(d) it does not become unlawful for either Party or the assignee to perform any obligation under this Agreement as a result of such assignment; and

(e) no Event of Default or MH Termination Event or MP Termination Event, as applicable, occurs as a result of such assignment.

With respect to the results described in clauses (b) and (c) above, the non-assigning Party will cause the assignee to make, and the assigning Party will make, such reasonable representations as may be mutually agreed upon by the assigning Party, the assignee and the non-assigning Party in order to permit such parties to determine that such results will not occur upon or after the assignment.

17.13 Waiver and Amendment

Unless otherwise specifically provided herein, this Agreement may be altered, modified, varied, or waived, in whole or in part, only by a supplementary written document executed by the Parties.

17.14 Counterparts

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

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17.15 Recording of Communications

The Parties agree: (a) that each may electronically monitor or record, at any time and from time to time, any and all communications between them; (b) to waive any further notice of such monitoring or recording; (c) to notify and obtain any necessary consents of its officers and employees of such monitoring or recording; (d) that any such monitoring or recording may be offered into evidence in any such suit, trial, hearing, arbitration, or other proceeding; and (e) to furnish appropriately redacted copies of recordings to the other Party within ten (10) Business Days of the other Party's written request.

17.16 Existing Agreements

Each of the Parties are parties to existing agreements with each other and with other third parties. This Agreement shall not affect the obligations and rights of a Party with respect to such existing agreements, except as expressly provided for herein.

17.17 No Other Rights

This Agreement is not intended to and shall not create rights of any character whatsoever in favour of any Person, other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third Persons to any Party, nor shall any provision of this Agreement give any third Persons any right of subrogation or action over against any Party.

17.18 Entire Agreement

Subject only to the provisions of the Non-Disclosure Agreement, this Agreement represents the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral and written proposals and communications pertaining hereto, including the term sheet entered into by the Parties on December 12, 2007. There are no representations, conditions, warranties or agreements, express or implied, statutory or otherwise, with respect to or collateral to this Agreement other

than contained herein or expressly incorporated herein.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed on the date first above written.

THE MANITOBA HYDRO-ELECTRIC BOARD

_____

By: A.D. Cormie, Division Manager Power Sales & Operations

I HAVE AUTHORITY TO BIND THE MANITOBA HYDRO-ELECTRIC BOARD

MINNESOTA POWER, an operating division of ALLETE, Inc.

_____

By: Eric R. Norberg
Senior Vice President
Strategy and Planning

I HAVE AUTHORITY TO BIND ALLETE, INC.

APPENDIX A
INTERBANK TRANSFER OF FUNDS ACCOUNT DESIGNATIONS

For <u>The Manitoba Hydro-Electric Board:</u>

By Bank Wire Transfer to: **[TRADE SECRET DATA EXCISED**

TRADE SECRET DATA EXCISED]

For Transfer to: **[TRADE SECRET DATA EXCISED**

TRADE SECRET DATA EXCISED]

For Credit to: **[TRADE SECRET DATA EXCISED**

TRADE SECRET DATA EXCISED]

As per invoice:

By Bank Wire Transfer to:	For Transfer to:	For Credit to:
[TRADE SECRET DATA EXCISED	**[TRADE SECRET DATA EXCISED**	**[TRADE SECRET DATA EXCISED** The Manitoba
TRADE SECRET DATA EXCISED]	**TRADE SECRET DATA EXCISED]**	**TRADE SECRET DATA EXCISED]**

For <u>Minnesota Power:</u>

Bank wire transfer to:	**[TRADE SECRET DATA EXCISED**
	TRADE SECRET DATA EXCISED]
For credit to:	**[TRADE SECRET DATA EXCISED**
	TRADE SECRET DATA EXCISED]

As per invoice:

By Bank Wire Transfer to:	For Credit to:
[TRADE SECRET DATA EXCISED	**[TRADE SECRET DATA EXCISED**
TRADE SECRET DATA EXCISED]	**TRADE SECRET DATA EXCISED]**