

TRADE SECRET DATA EXCISED

60 MW ENERGY SALE AGREEMENT

between

THE MANITOBA HYDRO-ELECTRIC BOARD,

(hereinafter referred to as “MH”)

- and –

MINNESOTA MUNICIPAL POWER AGENCY,

(hereinafter referred to as “MMPA”)

DATED April 29, 2016

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MINNESOTA MUNICIPAL POWER AGENCY - MANITOBA HYDRO

60 MW ENERGY SALE AGREEMENT

This 60 MW 2016 Energy Sale Agreement is entered into April 29, 2016 (the “**Effective Date**”) between Minnesota Municipal Power Agency (“**MMPA**”), a Municipal Corporation and political subdivision of the State of Minnesota, and The Manitoba Hydro-Electric Board (“**MH**”), a Manitoba Crown Corporation.

RECITALS

WHEREAS, MMPA is an agency responsible for providing wholesale power to its members and wholesale customers located in the State of Minnesota;

AND WHEREAS, MH is the owner and operator of electric generation facilities in Canada and is engaged in the generation, distribution and sale of electric energy;

AND WHEREAS, MMPA agrees to purchase and MH agrees to sell the Energy and the Designated Environmental Attributes pursuant to the terms and conditions set forth in this Agreement;

AND WHEREAS, MH requires governmental permits and approvals for the export of electric energy;

AND WHEREAS, MMPA is a MISO Market Participant and is subject to applicable MISO tariffs and MH is a coordinating member of MISO;

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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 meaning:

[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 MMPA or MH, as the case may be, and shall include a wholly owned subsidiary of MMPA or MH.

“Agreement” shall mean this 60 MW Energy Sale Agreement and all amendments thereto.

“Allocated Environmental Attributes” shall have the meaning set forth in Section 7.1(1).

[TRADE SECRET DATA EXCISED]

“Ancillary Services” shall mean those Ancillary Services (as defined under the Tariff) and other reasonably similar services and products that may be included under the Tariff or an applicable OATT from time to time, which are associated, directly or indirectly, with the transmission of the energy but for greater certainty does not include Environmental Attributes.

“Bankruptcy Code” shall have the meaning set forth in Section 9.1(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

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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 11.1(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 May 1, 2017 through May 31, 2022.

“Contract Year” shall mean a twelve month period, June 1 through May 31 of the following calendar year, provided however that the first Contract Year of the Contract Term shall mean the thirteen month period from May 1, 2017 through May 31, 2018.

“Credit Rating” shall mean: (i) with respect to a Party (or its Guarantor, if applicable), the lower of the unsecured, senior long-term debt obligations of such entity or its issuer rating; and (ii) with respect to a financial institution, the lower of its long-term senior unsecured debt rating or its deposit rating. In either case the rating shall refer to the rating then assigned by S&P, Moody’s, DBRS, or any other rating agency agreed to by the Parties.

“Day Ahead Energy and Operating Reserve Market” shall have the meaning set forth in the Tariff.

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“**DBRS**” shall mean DBRS Limited or its successor, a credit rating agency.

“**Delivery Point**” shall have the meaning set forth in Section 2.2.

“**Designated Environmental Attributes**” shall have the meaning set forth in Section 7.1(2).

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

“**Early Termination Date**” shall mean the date specified in a notice as the effective early termination date of this Agreement designated by either Party in accordance with this Agreement pursuant to Section 14.2(2) or 14.2(4).

“**Effective Date**” shall have the meaning set forth in the Preamble.

“**Emergency Energy**” shall have the meaning set forth in the Tariff.

“**Energy**” shall mean both Firm Energy and Real Time Energy.

“**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.

“**Executive Officers**” shall be, in the case of MH the Vice President of Generation Operations, and in the case of MMPA the President, Avant Energy, Inc., or their respective successors or such other equivalent responsible position within each Party as may be designated by each Party from time to time.

[TRADE SECRET DATA EXCISED]

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

“**Financial Institution**” means any Canadian or US commercial bank or trust company or authorized foreign bank as defined by the Bank Act of Canada or organized under the laws of the United States.

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“**Firm Energy**” shall have the meaning set forth in Section 2.1(1).

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

“**Firm Transmission Service**” shall mean the 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.

“**Force Majeure**” shall mean an event or circumstance that prevents or delays one Party (the “**Claiming 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 the Claiming 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 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 the Claiming Party’s performance and/or renders the Claiming 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, if any, to the extent that any of the foregoing prevents or delays the performance of the Claiming Party’s obligations hereunder. As used in this Agreement, an event or circumstance can “prevent” a Party’s performance not only if it physically prevents such performance, but also if it renders such performance unlawful.

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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, bureau, department, commission or board of any of the foregoing, or any political subdivision thereof, or any court or administrative tribunal, or, without limitation, any other law, 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, Btu or energy, transmission, utility, gross receipts, privilege, sales, use, consumption, excise, goods and services, and other taxes, 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/or distribution provider or similar Person, however styled or payable.

“Guarantee Agreement” shall mean an agreement whereby a Guarantor unconditionally guarantees all payment obligations of MMPA under this Agreement, in a form reasonably acceptable to MH.

“Guarantor” shall mean a third party with an Investment Grade Credit Rating.

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“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” shall mean a Credit Rating equal to or greater than Baa3 from Moody’s, BBB- from S&P, or BBB Low from DBRS provided, further if the entity is rated by more than one of these rating agencies, then the lower of the ratings shall apply.

[TRADE SECRET DATA EXCISED]

“Letter(s) of Credit” shall mean one or more irrevocable, non-transferable standby letters of credit issued by a Qualified Institution, in a form acceptable to the requesting party. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

“Letter of Credit Default” shall mean with respect to an outstanding Letter of Credit, the occurrence of any of the following events:

- (i) the Qualified Institution that issued such Letter of Credit hereunder fails to meet the requirements of a Qualified Institution as specified herein or fails to comply with or perform its obligations under such Letter of Credit and such failure is not remedied within five (5) Business Days;
- (ii) the Qualified Institution that issued such Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;
- (iii) the Qualified Institution that issued such Letter of Credit shall become bankrupt;
- (iv) as of twenty (20) Business Days prior to the expiration or termination date of such Letter of Credit, such Letter of Credit has not been extended or replaced with a Letter of Credit for an amount at least equal to that of the Letter of Credit being replaced; or
- (v) the Letter of Credit delivered hereunder shall expire, terminate or otherwise fail to remain in full force and effect for any reason.

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“**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.

“**MH’s Curtailment of Cleared 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 the following obligations of MH: (a) MH’s End-Use Load; (b) all energy sales by MH that are associated with planning capacity; and (c) 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 the sources of generation identified in Appendix 1, as such Appendix is revised from time to time, [TRADE SECRET DATA EXCISED].

“**MH Event of Default**” shall have the meaning set forth in Section 14.1(1).

“**MH’s Firm Energy Sales**” shall mean those sales by MH described as “Firm Energy Sales” in agreements entered into between MH and third Persons, which for greater certainty includes the sale of Firm Energy in this Agreement.

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“MH’s Firm LD Energy Sales” shall mean those sales by MH described as “Firm LD Sales” in agreements entered into between MH and third Persons.

“MH’s Firm Transmission Service” shall have the meaning set forth in Section 3.1(1)(2).

“MH’s HVDC System” shall mean MH’s high voltage direct current transmission system and for greater certainty this includes MH’s HVDC converter stations.

“MH Minimum Annual Energy Decrement Event” shall have the meaning set forth in Section 3.4(2).

“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 such outages require electric service to be provided by MH until electric service is restored.

“MH Termination Event” shall have the meaning set forth in section 14.2(1).

“MH’s Wind Energy” shall mean all energy: (a) that is generated by a wind electrical generation facility that is part of MH’s integrated power system; or (b) was purchased by MH from a wind electrical generation facility.

[TRADE SECRET DATA EXCISED]

[TRADE SECRET DATA EXCISED]

“MISO” shall mean the Midcontinent Independent System Operator, Inc.

“MMPA Event of Default” shall have the meaning set forth in Section 14.1(2).

“MMPA Minimum Annual Energy Decrement Event” shall have the meaning set forth in Section 3.8(3).

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“**MMPA Termination Event**” shall have the meaning set forth in Section 14.2(3).

“**MMPA’s Curtailment of Cleared Energy**” shall have the meaning set forth in Section 3.8(2).

“**MMPA’s Existing Firm Transmission Service**” shall have the meaning set forth in Section 3.1(1)(b).

“**MMPA’s Firm Transmission Service**” shall have the meaning set forth in Section 3.1(1)(3).

“**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.

“**Market Participant**” shall have the meaning set forth in the Tariff.

“**Market Portal**” shall have the meaning set forth in the Tariff.

“**Median Water**” shall mean [TRADE SECRET DATA EXCISED].

“**Minimum Annual Energy Amount**” shall have the meaning set forth in Section 2.1(1).

“**Moody’s**” shall mean Moody’s Investors Service Inc. or its successor.

“**NERC**” shall mean the North American Electric Reliability Corporation.

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

[TRADE SECRET DATA EXCISED]

“**OASIS**” shall have the meaning set forth in the Tariff.

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“**OATT**” shall mean the open access transmission tariff as it may be in effect from time to time that: (a) in the case of MMPA’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 on sufficiently comparable and nondiscriminatory terms so as to entitle such entity to transmit electricity with entities whose transmission tariff has been filed with and accepted by FERC as a transmission tariff.

“**Operating Committee**” shall have the meaning set forth in Section 12.1(1).

“**Party**” shall mean either MH or MMPA and “**Parties**” means both MH and MMPA.

“**Performance Assurance**” shall mean collateral in the form of Letters of Credit, or other security acceptable to the requesting party.

“**Person**” shall mean an individual, partnership, corporation, trust, unincorporated association, limited liability company, syndicate, joint venture, or other entity or Governmental Authority.

“**Pricing Disruption Event**” shall mean:

[TRADE SECRET DATA EXCISED]

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

“**Prudent Hydropower System Operation**” shall mean the practices and procedures used by MH to operate and make decisions in respect of MH’s integrated power system.

“**Qualified Institution**” shall mean any Financial Institution having: (i) assets of at least ten billion dollars (\$10,000,000,000); (ii) a stand-alone Credit Rating of at least A3 by Moody’s and at least A- by S&P; and (iii) an office in Canada.

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“Real Time Energy” shall have the meaning set forth in Section 2.1(2).

“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.

[TRADE SECRET DATA EXCISED]

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

“Representative” shall have the meaning set forth in Section 11.1(b)(i).

“Revenue Sufficiency Guarantee” shall mean either the Day-Ahead Revenue Sufficiency Guarantee Charge or the Real-Time Revenue Sufficiency Guarantee Charge as applicable as those terms are defined in the Tariff.

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

“Schedule” or **“Scheduled”** or **“Scheduling”** shall mean, as the context requires, the actions of the Parties and/or their designated representatives, if applicable, of notifying, requesting and confirming to each other the quantity of energy to be delivered on any given day or days during the Contract Term.

“Schedules” shall mean the result of Scheduling.

[TRADE SECRET DATA EXCISED]

“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 Energy that was curtailed.

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“**Tariff**” shall mean the Open Access Transmission, Energy and Operating Reserve Markets FERC Electric Tariff, including all schedules and attachments thereto, of MISO issued on November 19, 2013, as amended, supplemented, or replaced from time to time.

“**Transfer Date**” shall have the meaning set forth in Section 7.4(1).

“**Transfer System**” shall have the meaning set forth in Section 7.4(2).

“**Transmission Provider(s)**” shall mean, collectively, the Persons 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 Minimum Annual Energy Decrement Event**” shall have the meaning set forth in Section 3.7(3).

“**Transmission Service Reservation**” shall have the meaning set out in the applicable OATT.

“**U.S. Dollars**” shall mean lawful money of the United States of America.

“**Unavailability of MH’s Purchased Power**” shall mean: (a) when all or a portion of capacity and/or energy, purchased by MH from Persons, including from Markets outside the province of Manitoba, are unavailable to MH, due to curtailments, restrictions or reductions of the capacity and/or energy purchased in accordance with the provisions of one or more of the applicable power purchase agreements; or (b) where MH does not have access on commercially reasonable terms to Markets in the United States to purchase and import energy and/or capacity into MH’s integrated power system despite using Commercially Reasonable Efforts to gain such access.

1.2 INTERPRETATION

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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 in 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 recitals hereto shall form an integral part of this Agreement; and
- (j) the word "including" means "including without limitation".

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.

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ARTICLE II**SUPPLY AND PURCHASE OBLIGATIONS****2.1 OFFERS OF ENERGY**

- (1) Subject to as hereinafter provided, when MH determines in accordance with Prudent Hydropower System Operation that it has energy available, MH may offer, sell and make available during the Contract Term up to 60 MWh of energy in any hour to MMPA at the Delivery Point. The energy that is offered by MH, pursuant to this Section 2.1(1), shall be Scheduled by the Parties in the Day Ahead Energy and Operating Reserve Market and MMPA shall accept delivery of that amount of energy that is offered by MH to MMPA and clears the Day Ahead Energy and Operating Reserve Market (the “**Firm Energy**”). MMPA shall pay MH for the Firm Energy in accordance with Section 5.5. Provided that MH has experienced Median Water during a Contract Year as determined by MH [TRADE SECRET DATA EXCISED] (the “**Minimum Annual Energy Amount**”); provided however that the Minimum Annual Energy Amount in the first Contract Year of the Contract Term [TRADE SECRET DATA EXCISED].
- (2) In the event that on any day during the Contract Term not all of MH’s Firm Transmission Service and MMPA’s Firm Transmission Service is being utilized for delivery of the Firm Energy, MH may submit a Schedule for an amount of energy up to the difference between 60 MWh and the amount of Firm Energy that has cleared the Day Ahead Energy and Operating Reserve Market in any hour in the Real-Time Energy and Operating Reserve Market and, subject to the scheduling limitations of MMPA after normal business hours as described in Section 2.1(4) below, MMPA shall take all actions required to accept the Schedule of that amount of energy that is submitted by MH (the “**Real Time Energy**”). MMPA shall pay MH for the Real Time Energy in accordance with Section 5.5. MH’s obligation to sell Real Time Energy shall be subject to (a) MH paying all incremental Revenue Sufficiency Guarantee amounts, if any, charged to MMPA that were directly related to MH’s Schedule of Real Time Energy pursuant to this Section 2.1(2); and (b) MH receiving the benefit of any Revenue Sufficiency Guarantee amounts referred to in (a) above.

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- (3) MH shall have the right but not the obligation to settle financial obligations between MH and MMPA pursuant to this Agreement by utilizing any settlement mechanisms that are available to it, and MMPA shall cooperate with MH, to facilitate MH using these settlement mechanisms.
- (4) MMPA's normal business hours are Monday through Friday, 7:00 a.m. through 5:00 p.m. central prevailing time, excluding United States banking holidays (such banking holidays shall be as recognized by the Federal Reserve Board or successor agency). MH may contact MMPA after normal business hours once each day to communicate a Real Time Energy Schedule.

2.2 DELIVERY POINT

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

2.3 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 MMPA at the Delivery Point. Without limiting the foregoing, MMPA shall purchase and take title to all of the Energy at the Delivery Point.

2.4 ANCILLARY SERVICES

- (1) The Parties acknowledge and agree 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 in its sole discretion to offer and/or Schedule the Ancillary Services into the MISO Market utilizing MMPA's Firm Transmission Service; (c) the price for the Energy does not include any value in respect of or related to the Ancillary Services; and (d) MMPA shall receive no payments from MH for such Ancillary Services and shall have no responsibility to MH or MISO for any such Ancillary Services

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- (2) If MH's offer in respect of the Ancillary Services 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 MMPA and MMPA shall have no obligation to pay for such quantity of energy. For greater certainty, MH shall continue to otherwise have an obligation to make available in accordance with Articles II and III that portion, if any, of the Firm Energy that MH offered into and cleared the Day Ahead Energy and Operating Reserve Market and MMPA shall be obligated to pay for same.
- (3) If MH's offer in respect of the Ancillary Services clears the Real-Time Energy and Operating Reserve Market, the Parties acknowledge that MH shall have no obligation to make available such quantity of energy to MMPA and MMPA shall have no obligation to pay for such quantity of energy. For greater certainty, MH shall continue to otherwise have an obligation to make available in accordance with Articles II and III that portion, if any, of the Schedule for Real Time Energy that MH submitted into the Real-Time Energy and Operating Reserve Market and MMPA shall be obligated to pay for same.
- (4) MMPA shall pursuant to the Market mechanisms in effect at the applicable time, approve any valid NERC E-Tag (as that term is used in the MISO Business Practice Manuals), 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 either the Day Ahead Energy and Operating Reserve Market or the Real-Time Energy and Operating Reserve Market and MMPA shall take such other actions as may be reasonably required pursuant to the Market mechanisms in effect at the applicable time in respect of such offers. It is understood and agreed that MMPA shall only be required to approve the said NERC E-Tag during MMPA's normal business hours which are Monday through Friday, 7:00 a.m. through 5:00 p.m. central prevailing time, excluding United States banking holidays (such banking holidays shall be as recognized by the Federal Reserve Board or successor agency); provided however MH may request MMPA to approve a NERC E-Tag once each day outside of MMPA non-business hours and MMPA shall approve said NERC E-Tag.
- (5) It is the intention of the parties that all settlements for Ancillary Services will be between MH and MISO and MMPA shall not be responsible for any costs or compensation associated with the Ancillary Services. In the event that MMPA receives any

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compensation or payment from MISO or otherwise for Ancillary Services that were offered or Scheduled by MH, MMPA shall remit such compensation or payment to MH, net of any direct actual charges payable by MMPA to MISO in respect of such Ancillary Services.

- (6) MMPA shall use Commercially Reasonable Efforts to comply with all reasonable requests of MH concerning MH's participation in the Market in respect of or related to Ancillary Services.

2.5 ENERGY

Notwithstanding any other provision of this Agreement, MMPA acknowledges and agrees that:

- (a) MH shall not be obligated to manage the supply of the Energy in any particular manner;
- (b) no provision of this Agreement restricts or limits MH to any specific type(s) of generating resources to be used to supply the Energy, which for greater certainty includes 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 type of generating resources may have been attributable to the energy accessed through the Markets; and
- (c) no provision of this Agreement constitutes a representation or warranty by MH that the Energy is supplied from a particular generating resource.

ARTICLE III

SCHEDULING AND DELIVERY

3.1 TRANSMISSION

- (1) The Parties acknowledge that, as of the Effective Date:
- (a) MH has the rights to 60 MW of Firm Transmission Service on the Canadian side of the Delivery Point evidenced on MH's OASIS by Transmission Service Reservation number 76930982 for 30 MW and Transmission Service Reservation number 76899586, 30 MW of which comprises the balance of the 60 MW total; and

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- (b) MMPA has the rights to 60 MW of Firm Transmission Service on the United States side of the Delivery Point evidenced on the MISO OASIS by Transmission Service Reservation numbers 81974689 and 81102432, each for 30 MW (“**MMPA’s Existing Firm Transmission Service**”).
- (2) MH agrees to use Commercially Reasonable Efforts to:
- (a) rollover Transmission Service Reservation number 76930982 to May 31, 2022 by exercising its rights of first refusal in accordance with its OATT; and
- (b) redirect the sink for 30 MW of Transmission Service Reservation number 76899586 to NSP, to May 31, 2022, in accordance with its OATT and OASIS procedures,
- resulting in Firm Transmission Service for the delivery to the Delivery Point of the Energy made available and sold pursuant to this Agreement (“**MH’s Firm Transmission Service**”); provided, however, that these obligations shall not be construed as requiring that MH construct new transmission facilities.
- (3) MMPA agrees to use Commercially Reasonable Efforts to rollover MMPA’s Existing Firm Transmission Service to May 31, 2022 by exercising its rights of first refusal in accordance with its OATT resulting in Firm Transmission Service for the receipt at the Delivery Point of the Energy made available and purchased pursuant to this Agreement (“**MMPA’s Firm Transmission Service**”); provided, however, that this obligation shall not be construed as requiring that MMPA construct new transmission facilities.
- (4) MH shall arrange and pay for MH’s Firm Transmission Service. Without limiting the generality of the foregoing, MH shall be responsible for the payment of any and all transmission charges and associated charges, congestion charges, transmission loss charges and/or transmission energy losses, and all other charges assessed by MH’s Transmission Provider for the delivery of the Energy made available and sold by MH pursuant to this Agreement to the Delivery Point.
- (5) MMPA shall arrange and pay for MMPA’s Firm Transmission Service. Without limiting the generality of the foregoing, [TRADE SECRET DATA EXCISED], MMPA shall be

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responsible for the payment of any and all transmission charges associated with the delivery of the Energy received and purchased by MMPA pursuant to this Agreement from the Delivery Point.

3.2 OFFERS AND SCHEDULING

- (1) The Parties acknowledge and agree that:
 - (a) MH shall, subject to the provisions of this Agreement, offer into the Day Ahead Energy and Operating Reserve Market, up to 60 MWh of energy in any hour over the Contract Term that MH has determined that it has energy available in accordance with Section 2.1. MMPA shall, as the owner of MMPA's Firm Transmission Service, take all such actions reasonably requested or required by MH in respect of any of MH's offers of energy pursuant to this Agreement;
 - (b) the price at which MH offers energy pursuant to this Agreement into the Day Ahead Energy and Operating Reserve Market shall be at the sole discretion of MH;
 - (c) if MH's offer in respect of any amount of energy is not cleared in the Day Ahead Energy and Operating Reserve Market during any applicable hour during the Contract Term, MH shall have no obligation to sell and MMPA shall have no obligation to purchase that quantity of energy but such energy amount shall be considered energy offered and made available by MH for purposes of the Minimum Annual Energy Amount; and
 - (d) MH may during the Contract Term, subject to the provisions of this Agreement, submit into the Real-Time Energy and Operating Reserve Market, Schedules for up to 60 MWh of energy in accordance with Section 2.1, in any hour of the Contract Term. MMPA shall, as the owner of MMPA's Firm Transmission Service, take all such actions reasonably requested or required by MH in respect of any of MH's Scheduling of Real Time Energy pursuant to this Agreement.
- (2) The Parties further acknowledge and agree that:

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- (a) during the Contract Term, the Parties shall 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 MISO Market. MMPA acknowledges that MH shall be entitled to Schedule Ancillary Services in conjunction with energy Schedules into the MISO Market; however, it is understood that MH retains and is entitled to all rights to the proceeds, if any, attributable to the Ancillary Services. The Parties further agree that if: (i) MH offers and/or Schedules a quantity of energy pursuant to this Agreement through the Market Portal; and (ii) the said energy clears the Day-Ahead Energy and Operating Reserve Market or the Real-Time Energy and Operating Reserve Market and (iii) MH receives payment from MISO for the said energy, MMPA shall not be required to make a payment to MH for the said energy; and
- (b) each Party shall be responsible for and pay its costs and expenses associated with the purchase and sale of the Energy under the applicable OATT and/or Tariff.
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The Parties further acknowledge and agree that:

- (a) MH shall, where submitting an offer in the Day-Ahead Energy and Operating Reserve Market, subject to the provisions of Section 3.2(3)(e), 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. Notwithstanding the foregoing, MH may in its sole discretion utilize the Market Portal to Schedule and/or offer into the MISO Market;

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- (b) MH shall, subject to the provisions of Section 3.2(3)(e), submit such Dispatchable Interchange Schedule with an Offer in accordance with the timing requirements of the Business Practices Manuals. MMPA 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;
- (c) MH shall, where submitting a Schedule in the Real-Time Energy and Operating Reserve Market, subject to the provisions of Section 3.2(3)(e), use a Fixed Interchange Schedule, in the Real-Time 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. Notwithstanding the foregoing, MH may in its sole discretion, utilize other Market mechanisms including the Market Portal to Schedule and/or offer into the MISO Market;
- (d) MH shall, subject to the provisions of Section 3.2(3)(e), submit such Fixed Interchange Schedule in accordance with the timing requirements of the Business Practices Manuals. Subject to Section 2.1(2), MMPA shall approve, if required pursuant to the Market mechanisms in effect at the applicable time, the Fixed Interchange 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 Fixed Interchange Schedule;
- (e) 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 including but not limited to revisions that are made such that the requirements of Sections 3.2(3)(a), (b), (c) and (d) 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 MISO Market no longer exists, the

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Parties agree to direct the Operating Committee to immediately enter into good faith negotiations in accordance with the provisions of subparagraph (f) below;

- (f) in the event of any of the changes described in subparagraph (e) above, the Parties shall convene a meeting of the Operating Committee who will meet, consult in good faith, and consistent with Section 12.1(3)(f), make recommendations to the Parties about what amendments or revisions to the Agreement (if any, and including termination of the Agreement) would be appropriate. 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 12.1(3)(f) make recommendations to the Parties about what amendments or revisions to the Agreement (if any) would be appropriate to address the Tariff changes. In the event that the Operating Committee is unable to come to an agreement regarding what amendments or revisions to the Agreement if any (including an agreement to terminate the Agreement) would be appropriate within forty-five (45) calendar days, the matter shall be referred to the Executive Officers for review and decision. If the Executive Officers are unable to agree upon what amendments or revisions to the Agreement if any (including an agreement to terminate the Agreement) would be appropriate within 15 calendar days after referral to the Executive Officers, [TRADE SECRET DATA EXCISED]; and
 - (g) 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 MISO Business Practices Manuals.
- (3) Energy, where applicable, shall be Scheduled using MH's Firm Transmission Service and MMPA's Firm Transmission Service.

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 their respective Transmission Providers to maintain an OATT in effect during the Contract Term. In the event that either Party's Transmission Provider

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ceases to maintain an OATT at any time during the Contract Term, that Party agrees that it shall use Commercially Reasonable Efforts to obtain the highest priority transmission service available to either Party for the delivery or receipt of the Energy to or from the Delivery Point, as applicable.

3.4 MH's CURTAILMENTS AND DECREMENTS

- (1) MH shall have the right to curtail, restrict, or reduce the sale and supply of any of the Energy 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 or a portion thereof, 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 if 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, then the Energy may be curtailed, restricted or reduced by MH for that period by the amount, if any, determined after application of the Priority Criteria; and
 - (b) during any period(s) of time during the Contract Term, if and to the extent an event of Force Majeure otherwise precludes MH's ability to make or continue to make available any of the Energy in accordance with this Agreement, then and to that extent Energy may be curtailed, restricted or reduced by MH for that period, by the amount, if any, determined after application of the Priority Criteria.

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- (2) MH shall have the right to decrement the Minimum Annual Energy Amount, if applicable for a Contract Year, when during that Contract Year:
- (a) there is either an: (A) Unavailability of MH's Purchased Power; or (B) all or a portion of MH's Electrical Generation Facilities are 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 if 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; or
 - (b) a Force Majeure event or circumstance precludes MH's ability to have Firm Energy available to offer to MMPA in accordance with this Agreement,

(each of the events referred to in (a) and (b) of this Section 3.4(2) is referred to as an **"MH Minimum Annual Energy Decrement Event"**).

MH shall decrement the Minimum Annual Energy Amount by the amount, if any, determined in accordance with the provisions of Section 3.10(a). For greater certainty, a MH Minimum Annual Energy Decrement Event can occur and continue only during a period of time when MH has not offered energy to MMPA pursuant to this Agreement but cannot occur during a period of time for which MH has offered energy to MMPA in accordance with this Agreement. The Parties also acknowledge and agree that any Firm Energy amount that is offered by MH and curtailed pursuant to Section 3.4(1) shall, notwithstanding such curtailment, be credited to MH as being offered with respect to the Minimum Annual Energy Amount, if applicable, for that Contract Year, in accordance with Section 2.1.

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- (3) In the event of the exercise by MH of the right pursuant to Section 3.4(1) to curtail, restrict or reduce any of the Energy, MH shall:
- (a) exercise that right only for an amount and for the applicable time period(s), after application of the Priority Criteria, that MH determines, in accordance with this Agreement, is necessary to respond to the circumstance giving rise to this right to curtail, restrict or reduce any of the Energy;
 - (b) upon the request of MMPA acting reasonably provide MMPA with information concerning MH's determination of the: (i) amount of Energy that was curtailed, restricted or reduced; and (ii) applicable time period during which the Energy was curtailed, restricted or reduced, in each instance after application of the Priority Criteria, as referred to in Section 3.4(3)(a) above; provided however MH shall not be required to release any information that is proprietary, confidential or trade secret information to MH, and
 - (c) exercise Good Utility Practice to overcome the circumstances giving rise to this right, provided however that MMPA hereby acknowledges and agrees that the exercise of Good Utility Practice would not include or 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 Energy that has cleared the Day-Ahead Energy and Operating Reserve Market or has been submitted into the Real-Time Energy and Operating Reserve Market, as applicable (“MH's **Curtailement of Cleared Energy**”), [TRADE SECRET DATA EXCISED].

3.5 CURTAILMENT PRIORITY CRITERIA

In the event of the exercise by MH of the right granted pursuant to Section 3.4(1) to curtail, restrict or reduce any of the Energy for a Contract Year, then the following priority criteria (the “**Priority Criteria**”) shall be used by MH to determine the amount of Energy, for the applicable time period(s) that shall be subject to curtailment, restriction or reduction, if applicable, for a Contract Year:

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- (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 by 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 by MH, except for those referred to in (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 shall have the lowest priority; and
- (e) in the event that more than one power and/or energy sale of the same types referred to in (b), (c), or (d) of this Section 3.5 exists and pursuant to the Priority Criteria some, but not all, of the power and energy sales within one of those categories must be curtailed the curtailment, restriction or reduction with respect to such power or energy sales within that category shall be determined on a pro rata basis.

3.6 OPTION TO CONTINUE DELIVERIES

MMPA acknowledges and agrees that: (a) no provision in this Agreement requires MH to implement the right granted pursuant to Section 3.4(1) 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 Sections 3.4(1), 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; and (c) in conjunction with the implementation of the right granted pursuant to Section 3.4(1) to curtail, restrict or reduce any of the applicable amount of the Energy and MH's covenant to do so in accordance with the provisions of Sections 3.4(1), 3.4(3), 3.4(4) and 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

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that was curtailed had a higher priority, subject to MH continuing to provide service through purchases made from third parties, Markets and/or Market mechanisms available to MH, to the power and/or energy sale that was not curtailed despite having a lower priority; provided, however, that if a power and/or energy sale having a lower priority than the sale of the Energy to MMPA under this Agreement is not curtailed pursuant to this clause (c), the sale of the Energy to MMPA under this Agreement shall not be curtailed by MH in this situation unless such sale of the Energy to MMPA would have been curtailed whether or not the lower priority power and/or energy sale was curtailed. For greater certainty the exercise of this right does not restrict or limit MH's right granted pursuant to Section 3.4(1) to curtail, restrict or reduce the applicable amount of the Energy.

3.7 TRANSMISSION PROVIDER CURTAILMENTS AND DECREMENTS

- (1) In the event that the Transmission Provider(s) of MH or the Transmission Provider(s) of MMPA reduces or curtails the Firm Transmission Service designated, allocated or required for the delivery of the Energy offered by MH to MMPA pursuant to this Agreement, the Energy that is to be supplied by MH and received by MMPA shall be curtailed, restricted or reduced in accordance with the provisions of that Transmission Provider's OATT.
- (2) In the event that the Transmission Provider(s) of MH or the Transmission Provider(s) of MMPA reduces or curtails the Firm Transmission Service designated, allocated or required for the delivery of the Energy offered by MH to MMPA pursuant to this Agreement, [TRADE SECRET DATA EXCISED].
- (3) In the event that the Transmission Provider(s) of MH or the Transmission Provider(s) of MMPA reduces or curtails the Firm Transmission Service designated, allocated or required for the delivery of the Firm Energy offered by MH to MMPA pursuant to this Agreement (“**Transmission Minimum Annual Energy Decrement Event**”), the Minimum Annual Energy Amount, if applicable for a Contract Year, shall be decremented by the amount determined in accordance with Section 3.10(b), during the period of such Transmission Minimum Annual Energy Decrement Event. For greater

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certainty, a Transmission Minimum Annual Energy Decrement Event can occur and continue only during a period of time when MH has not offered energy to MMPA pursuant to this Agreement but cannot occur during a period of time for which MH has offered energy to MMPA in accordance with this Agreement. The Parties also acknowledge and agree that any Firm Energy amount that is offered by MH and curtailed pursuant to Section 3.7(1) shall, notwithstanding such curtailment, be credited to MH as having been offered with respect to the Minimum Annual Energy Amount, if applicable, for that Contract Year, in accordance with Section 2.1.

- (4) In the event MH's or MMPA's respective Transmission Provider(s) 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. Curtailment of energy deliveries under this section 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 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(3) are curtailed and system redispatch in accordance with clause (b) of this Section 3.7(3) is not sufficient to produce the necessary mitigation that would avoid curtailment of the schedules under this Agreement, the transaction curtailment priority used by MH relative to all uses of such AC transmission system at the time shall be implemented in a comparable and non-discriminatory manner.

3.8 MMPA's CURTAILMENTS AND DECREMENTS

- (1) MMPA shall have the right to refuse to accept and not to Schedule and purchase such quantity of energy offered by MH pursuant to this Agreement to the extent a Force

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Majeure precludes MMPA's ability to accept such quantity of energy that is offered by MH.

- (2) In the event MMPA refuses to accept any of the energy, pursuant to Section 3.8(1), that has already been accepted into the MISO Market or cleared the Day-Ahead Energy and Operating Reserve Market or Real-Time Energy and Operating Reserve Market, as applicable ("**MMPA's Curtailment of Cleared Energy**"), MMPA shall be responsible for any Revenue Sufficiency Guarantee amounts charged to MH that were directly related to the curtailment, restriction or reduction in the supply of the Energy due to MMPA's Curtailment of Cleared Energy under the applicable OATT and/or Tariff.
- (3) The Minimum Annual Energy Amount for a Contract Year shall be decremented when a Force Majeure event or circumstance would preclude MMPA from accepting Firm Energy from MH under this Agreement ("**MMPA Minimum Annual Energy Decrement Event**"), during the period of such MMPA Minimum Annual Energy Decrement Event, by the amount determined in accordance with Section 3.10(c). For greater certainty, a MMPA Minimum Annual Energy Decrement Event: (i) can occur and continue only during a period of time when MH has not offered energy to MMPA pursuant to this Agreement; (ii) will occur if MH has not offered energy to MMPA, if MMPA has advised MH that a Force Majeure event or circumstance, in accordance with the provisions of this Agreement, would prevent MMPA from accepting energy from MH under this Agreement; and (iii) cannot occur during a period of time for which MH has offered energy to MMPA in accordance with this Agreement. The Parties also acknowledge and agree that any Firm Energy amount that is offered by MH and is curtailed pursuant to Section 3.8(1) shall, notwithstanding such curtailment, be credited to MH as having been offered with respect to the Minimum Annual Energy Amount, if applicable, for that Contract Year, in accordance with Section 2.1.

3.9 CURTAILMENT AND/OR DECREMENTING NOTICES

Each Party shall provide as much notice as practicable to the other Party regarding: (i) the curtailment, restriction or reduction or refusal of the supply or acceptance, as applicable, of the

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Energy offered by MH, as applicable; and/or (ii) the decrementing of the Minimum Annual Energy Amount, if applicable for a Contract Year, in each instance pursuant to the applicable subsections of Sections 3.4, 3.7 and 3.8. This shall include the anticipated duration and amount of: (a) the curtailment, restriction, or reduction or refusal of the supply or acceptance, as applicable, of the Energy and where practicable, daily updates; and/or (b) the decrementing of the Minimum Annual Energy Amount, if applicable for a Contract Year, and where practicable, daily updates.

3.10 MINIMUM ANNUAL ENERGY

The Minimum Annual Energy Amount for a Contract Year shall be decremented:

- (a) for each MH Minimum Annual Energy Decrement Event that occurs during the applicable Contract Year, that MH has determined it will exercise its right to decrement the Minimum Annual Energy Amount, by the amount determined from multiplying: (i) the duration (in hours) of the applicable MH Minimum Annual Energy Decrement Event; and (ii) 60 MW;
- (b) for each Transmission Minimum Annual Energy Decrement Event that occurs during the applicable Contract Year, by the amount determined from multiplying: (i) the duration (in hours) of the Transmission Minimum Annual Energy Decrement Event; and (ii) 60 MW; and
- (c) for each MMPA Minimum Annual Energy Decrement Event that occurs during the applicable Contract Year, by the amount determined from multiplying (i) the duration (in hours) of the MMPA Minimum Annual Energy Decrement Event; and (ii) 60 MW.

3.11 EMERGENCY POWER

The Parties acknowledge and agree that:

- (a) Contingency Reserves and Contingency Reserves Emergency Energy made available by MH to MISO during the Contract Term pursuant to MH's NERC Contingency Reserve obligations shall not be considered to be Energy;
- (b) Emergency Energy made available by MH to MISO during the Contract Term shall not be considered to be Energy;

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- (c) MH shall have the right to deliver Contingency Reserves, Contingency Reserves Emergency Energy and Emergency Energy during the Contract Term using MH's Transmission Service and MMPA's Firm Transmission Service;
- (d) all payments received by MMPA from a Transmission Provider for Contingency Reserves, Contingency Reserves Emergency Energy and/or Emergency Energy made available to MISO by MH during the Contract Term which are received by MMPA by virtue of MMPA's rights in and to MMPA's Transmission Service or otherwise shall be remitted by MMPA to MH in the month following MMPA receipt of said payments.

ARTICLE IV**PRICING****4.1 ENERGY PRICING**

- (1) Subject to Section 4.2, the price for Firm Energy [TRADE SECRET DATA EXCISED].
- (2) Subject to Section 4.2, the price for Real Time Energy [TRADE SECRET DATA EXCISED].

4.2 PRICING DISRUPTION EVENT

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ARTICLE V**BILLING AND PAYMENT****5.1 DOLLAR AMOUNTS**

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

5.2 PAYMENT IN U.S. DOLLARS

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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 2 attached hereto. A Party may change the designation of the bank set out in Appendix 2 by notice to the other Party in accordance with Section 16.1. Payment shall be deemed made when received by the bank designated in Appendix 2.

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. Within 5 (five) Business Days of the end of each calendar month, MH shall render to MMPA an invoice for the payment obligations, if any, incurred by MMPA hereunder during the preceding month.

5.5 PAYMENT AMOUNTS

The amount payable by MMPA to MH in each month shall be:

- (a) the sum of the amount determined for each applicable hour that a quantity of Energy was sold by MH to MMPA during any day for that month determined for each applicable hour as follows:
 - (i) **[TRADE SECRET DATA EXCISED]**

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 tenth (10th) Business Day after receipt of the invoice. Any amounts not paid by the due date shall be deemed

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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 a 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 on a future invoice to reflect actual charges as soon as they are known. 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 MMPA for the change in such third party invoice within thirty (30) Business Days of MH's receipt of such adjusted third party invoice.

5.8 PAYMENT IN FULL

Each Party shall pay amounts owed by it in full when due.

5.9 GOVERNMENTAL CHARGES

- (1) Except as set forth to the contrary in Sections 3.2(2)(b), 3.4(4) and 3.8(2), and subject to the following provisions of this Section 5.9(1), 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. Any Governmental Charge in respect of any matters related to this Agreement that is imposed on MH by a Governmental Authority located in the United States shall be the responsibility of, and shall be paid by, MMPA if MH would not have been subject to the imposition by such Governmental Authority of a Governmental Charge of this type but for a change in law that occurs after the Effective Date. Any Governmental Charge in respect of any matters related to this Agreement that is imposed on MMPA by a Governmental Authority located in Canada shall be the responsibility of, and shall be paid by, MH if MMPA would not have been subject to the imposition by such Governmental Authority of a Governmental Charge of this type but for a change in law that occurs after the Effective Date. If MH is required by

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law or regulation to remit or pay Governmental Charges in respect of any matters related to this Agreement, then if and to the extent that such remittance or payment results in MMPA obtaining (from the Governmental Authority that imposes such Governmental Charges on MH) a credit with respect to MMPA's obligation to pay Governmental Charges to such Governmental Authority, MMPA shall promptly reimburse MH for such Governmental Charges paid or remitted by MH in respect of that same matter. If MMPA is required by law or regulation to remit or pay Governmental Charges in respect of any matters related to this Agreement, then if and to the extent that such remittance or payment results in MH obtaining (from the Governmental Authority that imposes such Governmental Charges on MMPA) a credit with respect to MH's obligation to pay Governmental Charges to such Governmental Authority, MH shall promptly reimburse MMPA for such Governmental Charges paid or remitted by MMPA in respect of that same matter. For greater certainty, the Parties agree and acknowledge that, as of the Effective Date, MMPA 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.

- (2) 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 any Governmental Authority having jurisdiction such forms, returns, reports, documents, elections, written declarations, certificates, etc. as the other Party or such Governmental Authority may reasonably request, in writing from time to time, including without limitation any documentation that may be required to substantiate any available exemptions or relief from Governmental Charges.

5.10 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, or adjust any invoice for any arithmetic or computational error, within twelve (12) months after 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

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hereunder, is disputed, payment of the invoice, as invoiced, shall be required to be made when due. Notice of the dispute 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 or reimbursement shall be made within ten (10) Business Days after the date of such resolution, along with interest accrued at the Interest Rate from and including the date the payment was originally to be made by the disputing Party to but excluding the date the payment or reimbursement is paid. Inadvertent overpayments shall be deducted by the Party receiving such overpayment from subsequent invoices rendered in the next succeeding calendar month by such Party. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 5.10 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made.

5.11 IMPACT OF PERFORMANCE ASSURANCE

Except in connection with a termination in accordance with Article XIV in which circumstance 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 that 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.

5.14 [TRADE SECRET DATA EXCISED]

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ARTICLE VI

CREDITWORTHINESS

6.1 CREDIT REVIEW PROCEDURES

Unless such financial statements are available on “EDGAR”, “EMMA” or “SEDAR”, MMPA shall deliver to MH: (a) within 180 calendar days following the end of its fiscal year, a copy of MMPA’s (or its Guarantor) 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 MMPA’s (or its Guarantor) fiscal year, a copy of the 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, international financial reporting standards or such other principles then in effect, however, should any such statements not be available on a timely basis due to a delay in preparation or release, such delay shall not be an MMPA Event of Default so long as MMPA diligently pursues the preparation, audit and release of the statements.

6.2 PERFORMANCE ASSURANCES

Should the creditworthiness, financial strength, or performance viability of MMPA become unsatisfactory to MH in MH’s commercially reasonably exercised discretion with regard to any transaction pursuant to this Agreement, MH may require MMPA to post Performance Assurance. MMPA may request from MH that the Performance Assurance be returned or reduced, on the condition that such a request shall only be made once every thirty (30) days during any period when a Performance Assurance has been provided. MH shall be required to return or reduce the Performance Assurance, after receipt of the request from MMPA, if, considering whether the factors that justified MH’s request for Performance Assurance have been removed or improved, it is commercially reasonable to do so.

6.3 GRANT OF SECURITY INTEREST

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- (1) To secure its obligations under this Agreement, and to the extent that MMPA (or its Guarantor, if applicable) delivers Performance Assurance hereunder, MMPA hereby grants to MH a present and continuing security interest in, and lien on (and right of setoff against), all Performance Assurance delivered by MMPA to MH hereunder and held by, on behalf of, or for the benefit of, MMPA, and all proceeds of such Performance Assurance; and MMPA agrees to take such actions as MH reasonably requires in order to perfect MH'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, as expressly provided in this Agreement) and during the continuation of an MMPA Event of Default, as applicable, MH 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 MMPA, including any such rights and remedies under law then in effect; (b) exercise its rights of setoff against any and all Performance Assurance of MMPA in the possession of MH or its agent up to the amount then owed to it by MMPA; (c) draw on any outstanding Letter of Credit issued for its benefit up to the amount then owed to it by MMPA; and (d) liquidate all Performance Assurance then held by or for the benefit of it as the secured party up to the amount owing by MMPA to MH, free from any claim or right of any nature whatsoever of MMPA, including any equity or right of purchase or redemption by MMPA. MH shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce MMPA's obligations under this Agreement (MMPA remaining liable for any amounts remaining owing to MH after such application), subject to MH's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

ARTICLE VII**ENVIRONMENTAL ATTRIBUTES**

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7.1 ENVIRONMENTAL ATTRIBUTES OF ENERGY

- (1) MH shall allocate that amount of Environmental Attributes (the “**Allocated Environmental Attributes**”) determined by MH, only for the purposes of allocating Environmental Attributes pursuant to Section 7.2, from that portion of the MWh of Energy that was: (a) Supplied Energy; and (b) allocated by MH as being sourced from **[TRADE SECRET DATA EXCISED]**.
- (2) MH shall pursuant to Section 7.4 transfer to MMPA that amount of the Allocated Environmental Attributes determined by MH as being sourced from **[TRADE SECRET DATA EXCISED]** (“**Designated Environmental Attributes**”).
- (3) For environmental reporting purposes:
 - (a) the Environmental Attributes of that component of the Energy, that is Supplied Energy and is not allocated by MH as having been sourced from **[TRADE SECRET DATA EXCISED]** in accordance with this Article VII shall be reported as being electrical energy that is sourced from the **[TRADE SECRET DATA EXCISED]** stipulated by MH in accordance with this Article VII; and
 - (b) the Environmental Attributes of that component of the Energy that is not Supplied 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 MMPA’s load 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 the Energy pursuant to this Agreement.
- (4) Except as specifically set forth in this Agreement, MH shall not be obligated to manage the supply of the Energy in any particular manner. This Agreement does not 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

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resources.

- (5) Without limiting the reporting requirements referred to in Section 7.1(3), the Parties further acknowledge and agree that MH has retained all Environmental Attributes for the Energy allocated by MH for the purposes of this Article VII to be sourced from **[TRADE SECRET DATA EXCISED]**. In the event that the Environmental Attributes of energy from **[TRADE SECRET DATA EXCISED]**, including any form of credits are, notwithstanding the provisions of this Article VII, received by MMPA, MMPA agrees: (i) to assign and transfer the said Environmental Attributes of **[TRADE SECRET DATA EXCISED]** to MH, in such manner as MH may request, acting reasonably; (ii) to cooperate with MH in making any required filing with any Governmental Authority or other Person in respect of the assignment and transfer referred to in (i); and (iii) in the event applicable laws or rules governing any applicable Market prevents or restricts the assignment or transfer referred to in (i), MMPA agrees to **[TRADE SECRET DATA EXCISED]**.
- (6) The Parties acknowledge and agree that MH shall be entitled to revise or amend Appendix 1, with reasonable notice to MMPA, to **[TRADE SECRET DATA EXCISED]**.
- (7) The Parties acknowledge and agree that MH shall **[TRADE SECRET DATA EXCISED]**.

7.2 CALCULATION OF ENVIRONMENTAL ATTRIBUTES

- (1) MH shall calculate the Allocated Environmental Attributes of the Supplied Energy to be purchased by MMPA by **[TRADE SECRET DATA EXCISED]**.
- (2) **[TRADE SECRET DATA EXCISED]**

7.3 REPORTING OF ENVIRONMENTAL ATTRIBUTES

- (1) On or before March 31st of each calendar year during the Contract Term and on or before March 31, 2023, MH shall provide MMPA with a report, for each preceding calendar year or applicable portion thereof, that identifies the MWh of Supplied Energy that was allocated as being supplied from MH's Energy Resources, the Allocated Environmental

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Attributes of each of MH's Energy Resources and the Designated Environmental Attributes for that calendar year.

- (2) The Parties acknowledge and agree that the report referred to above shall be used by MH and MMPA when reporting the Allocated Environmental Attributes of the Supplied Energy and the Designated Environmental Attributes for that calendar year.

7.4 TRANSFER OF ENVIRONMENTAL ATTRIBUTES

- (1) MH shall transfer to MMPA the Designated Environmental Attributes applicable for each calendar year during the Contract Term, on or before March 31st of each subsequent calendar year (the "**Transfer Date**").
- (2) For MH's Energy Resources [**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**"), MMPA shall receive the transfer of the applicable amount of Designated Environmental Attributes through the Transfer System. MH's transfer through the Transfer System will be conditional upon MMPA complying, at its own expense, with the Transfer System requirements concerning the acceptance of the transferred Designated Environmental Attributes. The Parties acknowledge that, as of the Effective Date, the Transfer System is the Midwest Renewable Energy Tracking System.
- (3) If MH's Energy Resources that [**TRADE SECRET DATA EXCISED**] are not registered by MH on a Transfer System, MMPA shall receive the transfer of the applicable amount of the Designated Environmental Attributes from MH, by MH providing a transfer substantially in the form used by MH generally for the transfer of Environmental Attributes.
- (4) Subject to Section 7.4(5), MH shall be responsible for all costs required for MH to be a member, access and utilize the Transfer System for the recording, transfer and receipt of the Designated Environmental Attributes.
- (5) MMPA shall be responsible for all costs required for MMPA to be a member, access and utilize the Transfer System for the recording, transfer and receipt of the Designated Environmental Attributes.

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- (6) No actions shall be required to be undertaken by MH in respect of the transfer to MMPA of the Designated Environmental Attributes, except as expressly provided herein.

7.5 DESIGNATED ENVIRONMENTAL ATTRIBUTES PRICE

The Parties acknowledge and agree that [TRADE SECRET DATA EXCISED].

7.6 USE

MMPA may use any of the Designated Environmental Attributes transferred to it at its sole discretion and for MMPA's sole benefit, including without limitation the re-sale of the Designated Environmental Attributes.

7.7 RIGHTS CONFERRED BY LAW

In the event that the Environmental Attributes are conferred by law or statute to MH, MH shall transfer the Designated Environmental Attributes to MMPA in accordance with the terms of this Agreement, provided that MH has the legal authority for so doing. If MH does not have the legal authority to transfer the Designated Environmental Attributes to MMPA, then MH shall use Commercially Reasonable Efforts to obtain such legal authority.

7.8 MMPA QUALIFICATION

To the extent allowed by applicable law, MMPA may have the Designated 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 Article VII, 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 Designated Environmental Attributes.

7.9 DISCLAIMER

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WITH RESPECT TO THE DESIGNATED 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 DESIGNATED 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 DESIGNATED ENVIRONMENTAL ATTRIBUTES COULD BE SOLD, TRANSFERRED OR USED FOR COMPLIANCE.

ARTICLE VIII**CONDITIONS OF SALE AND PURCHASE****8.1 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 reasonable satisfaction of MH, as certified or waived in writing by MH, by the dates specified:

- a) approval by MH’s Transmission Provider of the rollover in Section 3.1(2) on or before August 31, 2016;
- b) approval by MH’s Transmission Provider of the redirect in Section 3.1(2)(b) on or before August 31, 2016; and
- c) approval by MH’s Export Power Risk Management Committee by September 30, 2016.

8.2 MMPA’S CONDITION PRECEDENT

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The obligation of MMPA to complete the transactions referenced herein shall be subject to and contingent upon the fulfillment of the following condition precedent (“**MMPA’s Condition Precedent**”) to the reasonable satisfaction of MMPA, as certified or waived in writing by MMPA, by the date specified:

- (a) approval by MMPA’s Transmission Provider of the rollover in Section 3.1(3) on or before August 31, 2016.

8.3 REQUIRED APPROVAL

MH shall use Commercially Reasonable Efforts to fulfill the condition listed in Section 8.1 and MMPA shall use Commercially Reasonable Efforts to fulfill the condition listed in Section 8.2 (these conditions for each Party collectively referred to as the “**Required Approval**”). Each Party agrees to cooperate with and provide reasonable assistance to the other Party, if requested, in order to assist that Party in obtaining the Required Approval.

8.4 CONDITION PRECEDENT NOTICES

Each Party shall notify the other Party as soon as practicable following the satisfaction or waiver or the failure to satisfy or waive MH’s Condition Precedent or MMPA’s Condition Precedent, as applicable, including the failure to obtain the Required Approval. This Agreement shall, subject to the obligations of the Parties in Section 8.3 and Article XI, terminate on the date notice has been received by one Party from the other Party either that MH’s Condition Precedent or MMPA’s Condition Precedent has not been satisfied and will not be waived by the specified date.

ARTICLE IX

REPRESENTATIONS & WARRANTIES

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9.1 GENERAL 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 and validly existing under the laws of the jurisdiction of its formation;
 - (b) subject to Section 8.1 it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;
 - (c) subject to Section 8.1, as applicable, 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) this Agreement and each other document executed and delivered by it in accordance with this Agreement constitutes its 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 Guarantor, if any, is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it that would result in it or its Guarantor, 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 Guarantor, 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

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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 (as applicable) all of 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 agreement” 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 under this Agreement that constitute "forward contracts" and a “swap participant” with respect to any transactions under this Agreement that constitute “swap agreements”, all within the meaning of the Bankruptcy Code;
- (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 grant each Party the contractual right to "cause the liquidation, termination, or acceleration" of this Agreement or the

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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) it intends and agrees that, if it goes into bankruptcy, the other 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 of the Commodity Exchange Act, as amended, 7 U.S.C. § 1a;
- (s) it (i) is a producer, processor, or commercial user of, or a merchant handling, the commodity that is the subject of this Agreement, or the products or by products thereof; and (ii) enters into this Agreement solely for purposes related to its business as such;
- (t) (i) for the purposes of this Agreement, neither it nor the other Party is a “utility” as such term is used in 11 U.S.C Section 366; and (ii) it waives and agrees not to assert against the other Party the applicability of the provisions of 11 U.S.C. Section 366 in any bankruptcy proceeding wherein it is a debtor, and in any such proceeding it further waives the rights to assert that the other Party is a provider of last resort; and
- (u) the Parties acknowledge that all transactions executed under this Agreement, and this Agreement itself, are commercial merchandizing contracts that are not (or will not be upon implementation of statutory amendments enacted on July 21, 2010) regulated under the Commodity Exchange Act, as amended, 7 U.S.C. Sec. 1, et seq. (the “**Act**”) and lawful Commodity Futures Trading Commission (“**CFTC**”) regulations promulgated thereunder (“**Regulations**”), as "swaps" as defined in Sec. 1a(47)(A) of the Act or as contracts for the sale of a commodity for future delivery under Sec. 2(a)(1)(A) of 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) and from the term “future delivery” under

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Sec. 1a(27) or 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 Sec. 1a(47)(B) described above, each Party is responsible for performing its attendant recordkeeping, reporting or other regulatory obligations, provided that if such requirements do not prescribe which of the Parties is responsible for reporting such transactions to a swap data repository or the CFTC (as applicable), the Parties shall determine at such time which of them shall be responsible for reporting the transaction.

- (2) MH makes the following additional representations and warranties to MMPA as of the Effective Date and which representations and warranties will be deemed to be repeated throughout the Contract Term:
 - (a) no MH Event of Default has occurred and is continuing; and
 - (b) no MH Event of Default would occur as a result of its entering into or performing its obligations under this Agreement.

- (3) MMPA makes the following additional representations and warranties to MH as of the Effective Date and which representations and warranties will be deemed to be repeated throughout the Contract Term:
 - (a) no MMPA Event of Default has occurred and is continuing; and
 - (b) no MMPA Event of Default would occur as a result of its entering into or performing its obligations under this Agreement.

9.2 MH TAX REPRESENTATIONS AND WARRANTIES

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MH makes the following representations and warranties to MMPA, 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.

9.3 MMPA TAX REPRESENTATIONS AND WARRANTIES

MMPA makes the following representations and warranties to MH, which representations and warranties will be deemed to be repeated, if applicable, by MMPA 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 41-1833968; and
- (b) no part of any payment received or to be received by MMPA in connection with this Agreement is attributable to a trade or business carried on by it in Canada or in respect of services rendered by it in Canada.

ARTICLE X

FORCE MAJEURE PROCEDURES

10.1 FORCE MAJEURE PROCEDURES

- (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, provided that:
 - (a) the Party whose performance is delayed or prevented shall give the other Party notice promptly (and within forty-eight (48) hours if possible) after it gains

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- 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 and providing a good faith estimate of the duration of the period during which its performance will be affected by the Force Majeure;
- (b) the delay in performance due to 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 that is preventing or delaying performance; (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 (iii) shall provide daily reports on 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 prompt notice to that effect and resume performance in accordance with this Agreement.
- (2) The Party not claiming Force Majeure shall be excused from and not in breach of or liable for any delay or failure in its performance under this Agreement to the extent such performance corresponds or relates to non-performance by the Party claiming Force Majeure that is excused pursuant to Section 10.1(1) until the Party claiming Force Majeure has given notice in accordance with Section 10.1(1)(d) and resumed performance in accordance with this Agreement, or until the Party claiming Force Majeure is otherwise required in accordance with Article XIII to resume performance in accordance with this Agreement.
- (3) A Force Majeure event or circumstance that precludes: (i) MH's ability to supply any of the Energy in accordance with Section 3.4(1) or MH's ability to have energy available to

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offer to MMPA in accordance with Section 3.4(2); or (ii) MMPA's ability to accept the Energy in accordance with Section 3.8(1), shall be governed by the provisions of Article III, to the extent that such provisions may conflict with the provisions set forth in this Article X.

- (4) For purposes of certainty, the Parties acknowledge that the following events or circumstances shall not constitute or form the basis for Force Majeure: (a) the loss of MMPA's markets; (b) MMPA's inability to economically use or resell the Energy, including MMPA's ability to purchase the Energy at a price less than the prices provided for in this Agreement; or (c) MH's ability to sell the Energy or any Designated Environmental Attributes at a price greater than the prices provided for herein.
- (5) For purposes of certainty, the Parties acknowledge that, provided all of the requirements set forth in the definition of Force Majeure have been met, a Force Majeure event or circumstance can be based on a Party's loss of Firm Transmission Service for the delivery of Energy to be made available and sold by MH and to be received and purchased by MMPA pursuant to this Agreement, as applicable.

ARTICLE XI

CONFIDENTIALITY

11.1 CONFIDENTIALITY

The Parties acknowledge that there is a need pursuant to this Agreement for each Party (each a "**Discloser**") to disclose Confidential Information to the other Party (each a "**Recipient**"). The Parties wish to protect their Confidential Information and therefore 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 the other Party as "Confidential" within five (5) Business Days after disclosure, unless (i) the information is or becomes publicly known through no act or

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- omission of the Recipient; (ii) the information was rightfully in Recipient's possession or part of Recipient's general knowledge prior to the date of receipt from the Discloser; 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 of the Discloser in strict confidence and shall not disclose any such Confidential Information to any third party. Recipient shall use such Confidential Information solely for the purposes of the transactions contemplated by this Agreement or other written contracts between the Parties. Recipient shall take all reasonable measures to protect the confidentiality of, and avoid the unauthorized use, disclosure, publication, or dissemination of Confidential Information of the Discloser. Recipient may disclose Confidential Information of the Discloser:
- (i) to those of its directors, officers, employees, 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 any of the Discloser's Confidential Information by law, regulation, ruling of a Governmental Authority or by court order, then to the extent legally permissible, before the Recipient or its Representatives disclose any such Confidential Information, the Recipient or its Representatives shall give the Discloser timely written notice (at least 10 Business Days prior to the required disclosure) of the requirement for disclosure so as to allow the Discloser to seek a protective order to limit disclosure of such Confidential Information only to the Persons 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

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- the Recipient or its Representatives to be in violation of the terms of a required disclosure described in this Section 11.1(c);
- (d) Notwithstanding the foregoing, the Parties acknowledge that MH may be required to file a copy of this Agreement with the National Energy Board and, if so, MH agrees to seek protection of the Confidential Information under the *National Energy Board Act*, R.S.C., 1985, c. N-7 Section 16.1. The Parties will cooperate reasonably to prepare a public version of this Agreement for inclusion in the public record at the National Energy Board, if required. 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 Canadian laws;
 - (e) Recipient shall be liable for any use or disclosure of the Discloser's Confidential Information by its Representatives or by any other Persons who receive any such Confidential Information from or through Recipient or 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 Discloser's Confidential Information are reserved by, and remain the sole property of, the Discloser. 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 the Discloser's 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 remedies available to Discloser in law or equity; and
 - (h) This Section 11.1 shall survive any termination of this Agreement for a period of three (3) years.

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ARTICLE XII**OPERATING COMMITTEE****12.1 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 Vice President of Operations, Avant Energy, Inc. for MMPA or a duly authorized delegate from MMPA. Both MH and MMPA shall have one vote on the Operating Committee, 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 after receipt of such request, provided that in the case of those matters referred to in Section 5.14 the Operating Committee shall meet within one (1) Business Day. 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;
 - (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) **[TRADE SECRET DATA EXCISED]**;
 - (d) **[TRADE SECRET DATA EXCISED]**;
 - (e) make and implement decisions for operating procedures for the conduct of meetings and the recording of minutes;
 - (f) make recommendations to the Parties concerning amendment and revision of this Agreement;

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- (g) 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; and
- (h) attempt to resolve any controversy, claim or dispute prior to referring such matters to the Executive Officers of MMPA and MH for resolution in accordance with Section 13.1,

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

ARTICLE XIII

DISPUTE RESOLUTION

13.1 CONDITION PRECEDENT PRIOR TO ARBITRATION

Prior to initiation of arbitration, any controversy, claim or dispute (except for those matters referred to in Section 5.14) between the Parties arising out of or relating to this Agreement or an alleged breach thereof shall be first referred in writing to the Operating Committee for review and attempted resolution. If the controversy, claim or dispute (except for those matters referred to in Section 5.14) is not resolved within thirty (30) calendar days after referral to the Operating Committee, the matter shall 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 (except for those matters referred to in Section 5.14) is not resolved within sixty (60) calendar days after referral to the Executive Officers, either Party may proceed to arbitration.

13.2 INITIATION

Arbitration proceedings must be initiated within 365 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 365 calendar day period shall

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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 which arise subsequent to the date the controversy, claim or dispute was first submitted to the Executive Officers.

13.3 ARBITRATION PROCEEDINGS

Subject to Sections 13.1, 13.2, 12.1(3)(h) and 11.1(f) above and Section 13.10 below, any and all controversies, claims or disputes between the Parties arising out of or relating to this Agreement or an alleged breach thereof that have not been resolved pursuant to Section 13.1, shall be resolved by binding 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 on a third neutral 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 arbitration proceedings instituted by: (i) MMPA shall be held in Winnipeg, Manitoba; and (ii) MH shall be held in Minneapolis, Minnesota, unless otherwise mutually agreed by the Parties.

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13.4 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.

13.5 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.

13.6 CONTINUATION OF PERFORMANCE

Pending the final decision of the arbitrators in respect of any bona fide controversy, claim or dispute and provided the said arbitration was initiated in good faith, the Parties agree to diligently proceed with the performance of all obligations, including without limitation the payment of all sums and the performance of all duties required by this Agreement. Payment of any interest shall be as determined by the arbitrators subject to the provisions of this Agreement.

13.7 COSTS

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All fees, costs and expenses of the arbitrators incurred in connection with the arbitration shall be reasonably allocated between 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 its own exhibits and other incidental costs.

13.8 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 the arbitrators may be enforced in any court of competent jurisdiction with all costs of enforcement, including court costs and reasonable attorney's fees and disbursements, paid by the Party found to be in default or in error by the arbitrators. 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.

13.9 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 hereinbefore 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

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discretion if necessary, the period of time within which they shall make a correction, interpretation or an additional award.

13.10 INTERLOCUTORY RELIEF

Notwithstanding anything to the contrary in this Article XIII, each Party shall have the right to seek interlocutory relief from a court of competent jurisdiction pending and/or in aid of arbitration, in the event that Party is confronted with a genuine risk that it will suffer irreparable harm before relief can reasonably be anticipated in the arbitral forum.

ARTICLE XIV**DEFAULT/TERMINATION****14.1 EVENTS OF DEFAULT AND TERMINATION****(1) MH Events of Default Defined**

If any of the following events, conditions, or circumstances shall occur with respect to MH (each an “**MH Event of Default**”):

- (a) the failure by MH to perform or observe any of its material obligations under this Agreement, that is not excused by an event of Force Majeure, other than obligations for the payment of money or obligations the failure to perform which constitutes a separate MH Event of Default, if such failure is not remedied within thirty (30) calendar days after written notice thereof shall have been given by MMPA;
- (b) the insolvency or bankruptcy of MH or the inability or admission in writing of the inability of MH 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, the creditors of MH;
- (c) 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 MH for all or substantially all of its assets, or its authorization of such application or consent,

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- 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;
- (d) the authorization or filing by MH of a voluntary petition in bankruptcy with itself as the debtor, or the 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 by MH with itself as the debtor or the institution of involuntary bankruptcy, reorganization, readjustment of debt, insolvency, dissolution or liquidation proceedings against MH as debtor 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;
 - (e) MH 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 MH under this Agreement to which it or its predecessor was a party;
 - (f) any material representation or warranty made by MH in this Agreement is proven to have been false in any material respect when made, and which falsity has had, or could reasonably be expected to have, a material adverse impact on MMPA's rights under this Agreement or on MH's ability to perform its obligations under this Agreement,

then, and in any such event, and as long as such MH Event of Default has not been cured (including the payment of damages that had accrued to MMPA in respect of such MH Event of Default) in accordance with this Agreement, if applicable, MMPA 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 MH in accordance with Section 14.1(3).

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(2) MMPA Events of Default Defined

If any of the following events, conditions, or circumstances shall occur with respect to MMPA (each an “**MMPA Event of Default**”):

- (a) the failure of MMPA or any Guarantor of MMPA to make any payment to MH as and when required by this Agreement if such amount remains unpaid for a period of five (5) Business Days after the date MMPA receives written notice from MH that the amount is overdue;
- (b) the failure by MMPA to perform or observe any of its material obligations under this Agreement, that is not excused by an event of Force Majeure, other than obligations for the payment of money or obligations the failure to perform which constitutes a separate MMPA Event of Default, if such failure is not remedied within thirty (30) calendar days after the date written notice thereof shall have been given by MH;
- (c) the insolvency or bankruptcy of MMPA or its Guarantor or the inability or admission in writing of the inability of MMPA or its Guarantor 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, the creditors of MMPA or its Guarantor;
- (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 MMPA or its Guarantor 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 MMPA or its Guarantor of a voluntary petition in bankruptcy with itself as the debtor, or the 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,

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liquidation or other similar law of any jurisdiction by MMPA or its Guarantor with itself as the debtor or the institution of involuntary bankruptcy, reorganization, readjustment of debt, insolvency, dissolution or liquidation proceedings against MMPA or its Guarantor as debtor 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) MMPA or any Guarantor of MMPA 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 MMPA or such Guarantor (as applicable) under this Agreement to which it or its predecessor was a party and, in the case of a Guarantor, MMPA has failed to provide a replacement Guarantee Agreement (if a Guarantee Agreement is outstanding) within five (5) Business Days after such transaction occurs;
- (g) the failure of MMPA to establish, maintain, extend or increase Performance Assurance when required pursuant to this Agreement;
- (h) the failure of MMPA's Guarantor, if any, to perform any covenant set forth in any Guarantee Agreement delivered pursuant to this Agreement;
- (i) the failure of MMPA or Guarantor, as applicable, to timely provide financial information as required in this Agreement, and such failure is not remedied within 30 calendar days after written notice of such failure is given to MMPA;
- (j) the occurrence of a Letter of Credit Default; or
- (k) any material representation or warranty made by MMPA in this Agreement is proven to have been false in any material respect when made, and which falsity has had, or could reasonably be expected to have, a material adverse impact on MH's rights under this Agreement or on MMPA's ability to perform its obligations under this Agreement,

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then, and in any such event, and as long as such MMPA Event of Default has not been cured (including the payment of damages that had accrued to MH in respect of such MMPA Event of Default) in accordance with this Agreement, if applicable, MH 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 MMPA in accordance with Section 14.1(4).

(3) Right to Terminate following an MH Event of Default

If at any time an MH Event of Default has occurred and is then continuing, MMPA may, by written notice to MH specifying the relevant MH Event of Default, designate the day that is twenty (20) calendar days after the day such notice is effective as the date this Agreement is terminated prior to the expiry of the Contract Term and shall be able to exercise any other remedies available to it at law or in equity. For greater certainty, once the said notice has been delivered to MH this Agreement will terminate on the said designated early termination date, notwithstanding any attempts by MH to remedy or otherwise cure the MH Event of Default, unless MMPA has in its sole discretion determined it will rescind the said termination of this Agreement and delivers a written notice to MH expressly rescinding the termination of this Agreement prior to the said early termination date.

(4) Right to Terminate following an MMPA Event of Default

If at any time a MMPA Event of Default has occurred and is then continuing, MH may, by written notice to MMPA specifying the relevant MMPA Event of Default, designate the day that is twenty (20) calendar days after the day such notice is effective as the date this Agreement is terminated prior to the expiry of the Contract Term and shall be able to exercise any other remedies available to it at law or in equity. For greater certainty, once the said notice has been delivered to MMPA this Agreement will terminate on the said designated early termination date, notwithstanding any attempts by MMPA to remedy or otherwise cure the MMPA Event of Default, unless MH has in its sole discretion determined it will rescind the said termination of this Agreement and delivers a written

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notice to MMPA expressly rescinding the termination of this Agreement prior to the said early termination date.

(5) Suspension of Performance and Remedies following an MH Event of Default

Notwithstanding any other provision of this Agreement, if an MH Event of Default has occurred, and is continuing, MMPA, upon notice to MH, shall have the right:

- (a) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days unless MMPA has provided written notice to MH pursuant to and in accordance with Section 14.1(3) terminating this Agreement; and
- (b) to exercise any remedies available at law or in equity.

(6) Suspension of Performance and Remedies following an MMPA Event of Default

Notwithstanding any other provision of this Agreement, if a MMPA Event of Default has occurred, and is continuing, MH, upon notice to MMPA, shall have the right:

- (a) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days unless MH has provided written notice to MMPA pursuant to and in accordance with Section 14.1(4) terminating this Agreement; and
- (b) to exercise any remedies available at law or in equity.

14.2 TERMINATION EVENTS

(1) MH Termination Events

MH has the right, but not the obligation, to terminate this Agreement when and in the manner described in this Section 14.2 following an occurrence of any of the events, conditions or circumstances specified below (each an “**MH Termination Event**”);

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provided however, if such event, condition, or circumstance constitutes an MH Event of Default, then the Parties' rights and obligations shall be governed by Section 14.1:

- (a) immediately upon providing written notice to MMPA, if after giving effect to any applicable provisions in this Agreement, due to an event or circumstance (other than any action taken by MH) it becomes unlawful under any applicable law for MH: (i) to perform any absolute or contingent obligation under this Agreement, (ii) to make a payment or delivery in respect of this Agreement, (iii) to receive a payment or delivery in respect of this Agreement or (iv) to comply with any other material provision of this Agreement; or
- (b) immediately upon providing written notice to MMPA, if, after giving effect to any applicable provisions in this Agreement, either Party is by reason of Force Majeure prevented from complying with any material provision of this Agreement for a period of 180 consecutive calendar days; or
- (c) **[TRADE SECRET DATA EXCISED]**; or
- (d) **[TRADE SECRET DATA EXCISED]**.

(2) Right of MH to Terminate Following an MH Termination Event

If an MH Termination Event occurs, MH shall, promptly upon becoming aware of it, notify MMPA, specifying the nature of that MH Termination Event and shall give MMPA such other information about that MH Termination Event as MMPA may reasonably require. If an MH Termination Event has occurred and is then continuing, MH may, by providing written notice to MMPA, designate a Business Day not earlier than the day such notice is given as an Early Termination Date.

(3) MMPA Termination Events

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MMPA has the right, but not the obligation, to terminate this Agreement when and in the manner described in this Section 14.2 following an occurrence the events, conditions or circumstances specified below (each an “**MMPA Termination Event**”); provided however, if such events, conditions, or circumstances constitutes an MMPA Event of Default, then the Parties’ rights and obligations shall be governed by Section 14.1:

- (a) immediately upon providing written notice to MH, if after giving effect to any applicable provisions in this Agreement, due to an event or circumstance (other than any action taken by MMPA) it becomes unlawful under any applicable law for MMPA: (i) to perform any absolute or contingent obligation under this Agreement, (ii) to make a payment or delivery in respect of this Agreement, (iii) to receive a payment or delivery in respect of this Agreement or (iv) to comply with any other material provision of this Agreement; or
- (b) immediately upon providing written notice to MH, if, after giving effect to any applicable provisions in this Agreement, either Party is by reason of Force Majeure prevented from complying with any material provision of this Agreement for a period of 180 consecutive calendar days.
- (c) **[TRADE SECRET DATA EXCISED]**; or
- (d) **[TRADE SECRET DATA EXCISED]**.

(4) Right of MMPA to Terminate Following an MMPA Termination Event

If an MMPA Termination Event occurs, MMPA shall, promptly upon becoming aware of it, notify MH, specifying the nature of that MMPA Termination Event and shall give MH such other information about that MMPA Termination Event as MH may reasonably require. If an MMPA Termination Event has occurred and is then continuing, MMPA may, by providing written notice to MH, designate a Business Day not earlier than the day such notice is given as an Early Termination Date.

(5) Effect of Designation of an Early Termination Date

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- (a) If notice designating an Early Termination Date is properly given in accordance with the terms of this Agreement, the termination of the Agreement will occur on the date so designated, whether or not the relevant MH Termination Event or MMPA Termination Event is continuing on such Early Termination Date.
- (b) Upon the effective designation of an Early Termination Date, MH shall have no further obligation to offer or Schedule, and MMPA shall have no further obligation to accept or Schedule Energy pursuant to the terms hereof, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date arising out of either the MH Termination Event or the MMPA Termination Event shall be determined pursuant to Section 14.2(6).

(6) Payment on Early Termination

On or as soon as practicable following the effective designation of an Early Termination Date arising out of either the MH Termination Event or the MMPA Termination Event, MH shall calculate the amounts due and owing by MMPA to MH for the period up to and including the Early Termination Date, and MH shall deliver an invoice to MMPA for the amount due which shall be payable in accordance with Article V.

ARTICLE XV**LIMITATIONS****15.1 LIMITATION OF LIABILITY**

THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. 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 IF AND 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

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RIGHTS OR REMEDIES AVAILABLE AT LAW OR IN EQUITY, SUCH PARTY SHALL BE ENTITLED TO SEEK ALL OR ANY SUCH RIGHTS AND REMEDIES SUBJECT TO THE DISCLAIMERS AND LIMITATIONS CONTAINED IN THIS AGREEMENT. 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. 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. 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 ACTUAL DAMAGES ARE OR WOULD BE 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 XVI**GENERAL**

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16.1 NOTICE

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, electronic mail, confirmed fax, or reputable overnight courier service to:

if to the Manitoba Hydro-Electric Board:

Division Manager
Power Sales & Operations
Manitoba Hydro
360 Portage Avenue
Winnipeg, Manitoba R3C 0G8
Fax: (204) 360-6137

with copies to:

Vice President General Counsel and Corporate Secretary
Manitoba Hydro
360 Portage Avenue
Winnipeg, Manitoba R3C 0G8
Fax: (204) 360-6147

if to Minnesota Municipal Power Agency:

Vice President Operations
Avant Energy, Inc.
220 S. 6th Street
Suite 1300
Minneapolis, Minnesota 55402
Fax: (612) 349-6108

with copies to:

Laurance R. Waldoch, LLC
c/o Laurance Waldoch
2597 Parkview Drive
St. Paul, MN 55110
Email: larrywaldoch@gmail.com

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

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at the close of business on the next Business Day. Notice by 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 to the other Party.

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 MMPA. Each Party shall 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.

16.2 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 during the calendar year in which they were originally generated and, at a minimum, during the five (5) year period immediately following the calendar year in which they were originally generated. Each Party or its respective designee, shall each have the right from time to time, 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 or billing 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 take reasonable steps to cause its designee to treat such information so inspected, reviewed, or copied as Confidential Information.

16.3 RECORDING OF COMMUNICATIONS

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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 suit, trial, hearing, arbitration, or other proceeding, on the condition that the admissibility of such monitoring or recording remains subject to any objection that would be applicable to written records; 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.

16.4 METERING

All applicable matters relating to the metering of the Energy shall be determined in accordance with the applicable provisions of the agreements, if any, 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.

16.5 INDEMNITY

(1) The Parties agree:

- (a) MH shall be deemed to be in exclusive control of the Energy prior to the delivery by MH and receipt by MMPA of the Energy at the Delivery Point, and MH shall be responsible for, and shall indemnify MMPA from, any damages or injury MMPA or any third party may suffer or incur prior to the Delivery Point caused by said Energy, except to the extent such damages or injury were caused by the gross negligence or willful misconduct of MMPA; and
- (b) MMPA shall be deemed to be in exclusive control of the Energy from and after delivery by MH and receipt by MMPA of the Energy 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 from the Delivery Point caused by said Energy, except to the extent such damages or injury were caused by the gross negligence or willful misconduct of MH.

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For the purposes of this Section 16.5, “gross negligence or willful misconduct” does not include acts or omissions by a Party that constitute ordinary negligence, and “damages or injury” does not include indirect, incidental, or consequential damages, except for such damages arising from personal injury, death or property damage suffered by third Persons, and without restricting the 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. In the event of any conflict between this Section 16.5(1) and Article XV, Article XV shall control.

- (2) Each Party (in such capacity, the “**Indemnitor**”) shall indemnify and save harmless the other Party from and against all claims, actions, suits, proceedings, demands, assessments, judgments, charges, penalties, costs, and expenses to the extent same arise or are made or claimed against or suffered or incurred by the other Party as a result of:
- (a) any breach by the Indemnitor of or any inaccuracy of any representation or warranty made by Indemnitor that is contained in this Agreement or in any agreement, instrument, certificate or other document delivered pursuant to this Agreement; and
 - (b) any breach or non-performance by the Indemnitor of any covenant to be performed by it that is contained in this Agreement or in any agreement, instrument, certificate or other document delivered pursuant to this Agreement.

In the event of any conflict between this Section 16.5(2) and Article XV, Article XV shall control.

- (3) Each Party shall promptly notify the other Party of claims, demands or actions which 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 defence. 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 or

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delayed. 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.

16.6 GOVERNING LAW

This Agreement shall be governed and construed in accordance with the laws of the Province of Manitoba and Canada.

16.7 NO REPRESENTATION OR WARRANTY FOR INJURY

It is acknowledged and agreed that energy is inherently dangerous, and MH offers no warranty or representation, express or implied, that the Energy will not cause injury to Person, property or business.

16.8 SURVIVING TERMINATION

All provisions of this Agreement which by their nature are intended to survive the termination of this Agreement, including without limitation, the provisions relating to: (a) the billing of and payment for Energy sold by MH; (b) transfer of Designated Environmental Attributes; and (c) the confidentiality provisions pursuant to Article XI of this Agreement; (d) Article XV; (e) Section 16.5; and (f) Section 16.2 and this Section 16.8, shall survive the Contract Term or the earlier termination of this Agreement, as the case may be, until they are satisfied in full or by their terms or nature expire but in any event not less than for a period of three (3) years following the expiration of the Contract Term or the earlier termination of this Agreement.

16.9 ENUREMENT

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

16.10 ASSIGNMENT

Neither this Agreement nor any interest or obligation in or under this Agreement may be assigned (whether by way of security, voluntarily, by operation of law, or otherwise) by either Party without the prior written consent of the other Party, except that either Party may, without

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recourse, assign this Agreement (in whole and not in part only) to any of its respective Affiliates on 60 days' advance written 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, which amount is 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 MH Event of Default or MMPA Event of Default, as applicable, occurs as a result of such assignment.

With respect to the results described in clauses (b) and (c) above, the assigning Party shall cause the assignee to make, and the assigning Party shall make, such reasonable representations or covenants 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.

16.11 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 signed by both of the Parties.

16.12 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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16.13 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.

16.14 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.

16.15 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.

16.16 NO OTHER RIGHTS

This Agreement is not intended to and shall not create rights of any character whatsoever in favor of any Person other than the Parties and their respective permitted successors and permitted assigns, 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 to this Agreement, nor shall any provision of this Agreement give any third Persons any right of subrogation or action over against any Party.

16.17 ENTIRE AGREEMENT

This Agreement represents the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral and written understandings, proposals and

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communications pertaining hereto. There are no representations, conditions, warranties or agreements, express or implied, statutory or otherwise, with respect to or collateral to this Agreement other than those contained herein or expressly incorporated herein.

IN WITNESS WHEREOF, The Manitoba Hydro-Electric Board has caused this Agreement to be duly executed at the City of Winnipeg, in the Province of Manitoba, Canada 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

IN WITNESS WHEREOF, Minnesota Municipal Power Agency has caused this Agreement to be duly executed at the City of Minneapolis, in the State of Minnesota, United States of America on the date first above written.

MINNESOTA MUNICIPAL POWER AGENCY

By: Derick O. Dahlen, President Avant Energy, Inc. Agent for MMPA

I HAVE AUTHORITY TO BIND MINNESOTA MUNICIPAL POWER AGENCY

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APPENDIX 1

**to the 60 MW Energy Sale Agreement made between the Manitoba Hydro-Electric Board
and the Minnesota Municipal Power Agency Effective April 29, 2016**

MH's Energy Resources

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APPENDIX 2

**to the 60 MW Energy Sale Agreement made between the Manitoba Hydro-Electric Board
and the Minnesota Municipal Power Agency Effective April 29, 2016**

INTERBANK TRANSFER OF FUNDS ACCOUNT DESIGNATIONS

For The Manitoba Hydro-Electric Board:

[TRADE SECRET DATA EXCISED]

For Minnesota Municipal Power Agency:

[TRADE SECRET DATA EXCISED]