
QUICK-START CAPACITY AND ENERGY PURCHASE AGREEMENT

DATED AS OF OCTOBER __, 2025

BY AND BETWEEN

THE CITY OF NEW PRAGUE, MINNESOTA (“Member”)

AND

SOUTHERN MINNESOTA MUNICIPAL POWER AGENCY

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QUICK-START CAPACITY AND ENERGY PURCHASE AGREEMENT

THIS QUICK-START CAPACITY AND ENERGY PURCHASE AGREEMENT (this “Agreement”) dated as of October ___, 2025 (“Contract Date”), is entered into by and between SOUTHERN MINNESOTA MUNICIPAL POWER AGENCY, a municipal corporation and political subdivision of the state of Minnesota (“SMMPA”) and THE CITY OF NEW PRAGUE, MINNESOTA a municipal corporation and political subdivision of the State of Minnesota and a member of SMMPA (“Member”).

In consideration of the promises herein made, and intending to be legally bound, Member agrees to construct and install the Plant and to deliver and sell to SMMPA all of the Capacity and Energy of the Plant, subject to the limitations, terms and conditions contained herein, as follows:

ARTICLE I DEFINITIONS

Section 1.01 Parties. As used herein, the term “Party” or “Parties” shall mean Member, SMMPA and their respective permitted successors and assigns.

Section 1.02 Other Definitions. The following capitalized terms shall have the meanings set forth below:

“Accreditable” shall mean that the Plant satisfies the requirements imposed by the Accreditation Standards, other than any requirements therein that are contingent upon the availability of transmission capacity outside of the Member’s system, but including any requirements to have an adequate backup fuel supply.

“Accreditable Capacity” shall mean the summer rating of the generating unit or units included in the Plant, established according to the GVTC Test of the Plant performed in accordance with the procedures set forth in Article IV.

“Accreditable Capacity Limit” shall mean the maximum capacity that may be considered in determining Contract Capacity. The Accreditable Capacity Limit is specified in Part II of Attachment I.

“Accreditation Standards” shall mean Section 4 of the MISO Resource Adequacy Business Practice Manual or any comparable successor standards for accreditation of generating facilities, as the same may be in effect from time to time.

“Affiliate” shall mean, when used with reference to a specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such specified Person. For purposes of the foregoing, “control”, “controlled” and “under common control” with respect to any Person shall mean the possession, directly or indirectly, or the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or partnership interests, by contract or otherwise.

“Annual Energy Budget” for any Contract Year shall mean the product, expressed in kWh of the average Contract Capacity effective during such Contract Year times 500 hours.

“Applicable Laws” shall mean all laws, ordinances, rules, regulations, orders, interpretations, licenses, permits (including any air permits which may restrict the number of hours the Plant may be operated), judgments, decrees, injunctions, writs and orders of any court, arbitrator, or governmental agency, body, instrumentality or authority that are applicable to either or both of the Parties, the Plant or the terms of this Agreement.

“Capacity Charge” shall mean the payments made by SMMPA to Member pursuant to Section 6.01.

“Clean-Up” shall mean removal and/or remediation of, or other response to, Contamination in accordance with Environmental Laws and Prudent Utility Practice.

“Commercial Operation” shall mean that date when the Plant (including all Interconnection Facilities) is ready and capable of commercial operation and (a) SMMPA has accepted the results of the Start-Up Tests and (b) Member demonstrates to SMMPA’s satisfaction that it has obtained all permits including, but not limited to, air quality permits, required to operate the Plant (and all other facilities under the same permit) for at least 500 hours per year, in accordance with Applicable Laws.

“Commercial Operation Date” shall mean the date the Plant reaches Commercial Operation.

“Contamination” shall mean the presence of, disposal, discharge or release on, from or to the Plant Site of Hazardous Substances.

“Contract Capacity” shall mean the least of the following: (a) the Nameplate Capacity, (b) the Accreditable Capacity, as reflected by updates to Attachment I to this Agreement promulgated by SMMPA from time to time, or (c) the Accreditable Capacity Limit.

“Contract Date” has the meaning set forth in the preface to this Agreement.

“Contract Energy” shall mean, for any period of time, all energy (less Plant auxiliary energy and losses) generated by the Plant that is requested or dispatched by SMMPA.

“Contract Year” shall mean, as applicable, the period beginning on the Commercial Operation Date and ending on the next December 31 and each one-year period from January 1 to December 31.

“Day” shall mean a calendar day.

“Delivery Deficiency” shall mean the amount in kWh of Contract Energy requested or dispatched by SMMPA but not delivered by Member as the result of a Delivery Failure.

“Delivery Deficiency Incremental Cost” shall mean an amount equal to the positive difference, if any, between (a) the Delivery Deficiency Replacement Cost and (b) SMMPA’s good

faith estimate of what SMMPA's cost of Fuel would have been to generate the Delivery Deficiency at the Plant. In no event shall the Delivery Deficiency Incremental Cost be less than \$0.

"Delivery Deficiency Replacement Cost" shall mean SMMPA's good faith estimate of the cost (including any increased transmission costs) to SMMPA of generating, purchasing or otherwise acquiring energy in the amount of the Delivery Deficiency and at the time of the Delivery Deficiency. In computing such costs, the highest price energy used by SMMPA at the time of the Delivery Deficiency shall be used and there shall be added to such costs the costs of any increased transmission charges or other expenses in obtaining such energy.

"Delivery Excuse" shall mean: (a) an event of Force Majeure, (b) delay or failure of SMMPA to provide sufficient Fuel for operation of the Plant, or (c) a Scheduled Outage, all to the extent the same actually interrupts or prevents delivery of Contract Energy.

"Delivery Failure" shall mean the failure of the Plant to provide, or to have the capacity to provide, Contract Energy in an amount of up to (a) with respect to capacity, the total Contract Capacity, and (b) with respect to Contract Energy, the product of the Contract Capacity times the requested or dispatched hours, in each case whenever SMMPA requests Contract Energy, unless such failure is excused by a Delivery Excuse. A Delivery Failure expressly includes, without limitation, the failure of the Plant to provide such Contract Energy within the 10 minute required startup period, but failure in any period of determination to provide Contract Energy in excess of the product of the Contract Capacity times the requested or dispatched hours shall not be a Delivery Failure. Multiple failures during any 24 hours period shall be deemed a single Delivery Failure for purposes of this Agreement.

"Enforcement Proceedings" shall mean any claim, action, demand, investigation or proceeding in connection with or pursuant to any Environmental Law, brought or instigated by any governmental authority that relates to the presence, disposal, discharge or release of a Hazardous Substance at, on, under, from or to the Plant or the Plant Site, whether actual, threatened or alleged.

"Environmental Laws" shall mean any and all federal, state or other Applicable Laws, whether now in force or as amended or enacted in the future, pertaining to health or the environment.

"Force Majeure" shall mean flood, earthquake, storm, fire, explosion, lightning, epidemic, war, acts of the public enemy, riot, sabotage, civil disturbance or disobedience. Late delivery of plant, machinery, equipment, materials, spare parts and consumables for the Plant or a delay in the performance of any of the affected Party's contractors or suppliers shall not constitute Force Majeure unless the existence of such circumstance is the result of Force Majeure as described above.

"Forced Outage" shall mean any circumstance, including a Force Majeure event, that causes the amount of energy capable of being delivered to the Point of Energy Delivery during an hour to be less than Contract Energy for reasons other than a Scheduled Outage.

"Fuel" shall mean fuel oil and, to the extent required, diesel exhaust fluid.

“GVTC” shall mean the Generator Verification Test Capacity, as defined in, and determined pursuant to, the Tariff.

“GVTC Tests” shall mean the tests and procedures conducted to determine the GVTC of the Plant in accordance with the Tariff.

“Hazardous Substances” shall mean asbestos, urea formaldehyde, polychlorinated biphenyls, chemical wastes, explosives, known carcinogens, petroleum products, hazardous ash or other pollutant, contaminant, chemical, material or substance defined as hazardous or as a pollutant or contaminant in, or the management, presence, release, discharge or disposal of which is regulated by any Environmental Law.

“Imbalance Charges” shall mean any charges, penalties or fees imposed by MISO arising from the failure to satisfy MISO balancing, nomination or scheduling requirements under the Tariff, however designated from time to time. As of the date of this Agreement, Imbalance Charges would include without limitation any excessive or deficient energy deployment charges imposed under the Tariff.

“Immediately Following Contract Year” shall mean with respect to any Day the Contract Year commencing on January 1 next following such Day.

“Interconnection Agreement” shall mean any agreement, tariff or other arrangement now or hereafter existing between SMMPA and the transmission service provider serving the connection between the Member’s generation and distribution system and the transmission network serving SMMPA and its other member cities.

“Interconnection Facilities” shall mean all facilities sufficient and adequate to deliver energy at the Point of Energy Delivery and all other facilities sufficient and adequate to connect the Plant and the Point of Energy Delivery to the Member’s distribution system and to the other Points of Delivery in such a manner as to permit the export of power and energy from the Plant throughout the Term. No transmission or distribution charges or losses shall be allocated to SMMPA by Member for the delivery of the power and energy to the Point of Energy Delivery or to any or all Points of Delivery.

“kW” shall mean kilowatt.

“kWh” shall mean Kilowatt-hour.

“kW/m Rate” shall mean \$10.76 per month for each kW of Contract Capacity, subject to adjustment as provided in this Agreement.

“Metering Equipment” shall mean the meters and measuring equipment at the Point of Energy Delivery to measure energy interchanged between Member and SMMPA.

“MISO” shall mean the Midcontinent Independent System Operator, Inc. or any successor organization thereto.

“MISO BPM Outage Requirements” shall have the meaning set forth in Section 4.03(a).

“Month” shall mean a calendar month during the Term.

“MW” shall mean megawatt.

“MWh” shall mean megawatt-hour.

“Nameplate Capacity” shall mean the aggregate manufacturer’s nameplate capacity of the generation included in the Plant, reduced by the estimated Plant auxiliary power and losses to the Point of Energy Delivery. The Nameplate Capacity is estimated on Attachment I attached hereto.

“Net MISO Revenues” shall mean the revenues SMMPA receives from MISO (a) for MISO-requested operation of the Plant and (b) when the Plant is called upon by MISO for supplemental reserve service, in each case net of associated MISO charges and SMMPA’s fuel expenses, as applicable; provided that Net MISO Revenues shall not include MISO costs or revenues for periodic operation of the Plant for exercise or testing that has not been requested by MISO, or the charges or expenses associated with any such operation.. Net MISO Revenues, or any component thereof, may from time to time be negative values, including due to the Plant’s failure to perform as requested by MISO.

“Non-Peak Hours” shall mean before 8 a.m. and after 8 p.m. on Monday through Friday and all day on Saturday and Sunday.

“Notice of Proposed Third Party Sale” shall have the meaning set forth in Section 9.02(c).

“Offered Interest” shall have the meaning set forth in Section 9.02(b).

“Outage Notice” shall have the meaning set forth in Section 4.08.

“Parties” shall have the meaning set forth in Section 1.01.

“Persons” shall mean an individual, a partnership, a corporation, a company, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization or a governmental entity or any department, agency or political subdivision thereof.

“Plant” shall mean the diesel engine(s) and electric generator(s) associated therewith, the Interconnection Facilities and the Protective Apparatus and any other facilities described in Part I of Exhibit A hereto.

“Plant Cost Adder” shall mean a rate to be paid by SMMPA to the Member that is intended as a partial cost recovery mechanism in the event that the Plant Work Costs during an extension period are anticipated to be in excess of the Capacity Charge, which shall be a rate negotiated in good faith by SMMPA and Member based on prevailing market factors at the time of any such extension and giving due consideration to Prudent Utility Practice.

“Plant Lender” shall mean any lender or other financing party (other than an Affiliate of Member) providing debt financing or refinancing for the development, construction or operation of the Plant, and any successors or assigns thereto.

“Plant Site” shall mean the land and improvements housing the Plant as described in Part II of Exhibit A hereto, together with any other lands, easements, rights and authorities that may from time to time be necessary or appropriate for the reasonable use and operation of the Plant and the delivery of capacity and energy therefrom.

“Plant Work” shall mean all of the services to or with respect to the Plant that Member is required to perform under this Agreement, and includes, without limitation, all aspects typically considered operation, maintenance, monitoring, repair, replacement and renewals of all or any part or property of the Plant necessary or appropriate to enable the Plant to reliably provide the Contract Capacity and Contract Energy.

“Plant Work Costs” shall mean all costs of the Plant Work.

“Point(s) of Delivery” shall mean the Point(s) of Delivery as defined in the Power Sales Contract.

“Point of Energy Delivery” shall mean the point, identified on Exhibit B hereto, at which the Plant synchronously interconnects, through the Interconnection Facilities, at the point where the metering facilities are installed as set forth in the Power Sales Contract.

“Power Sales Contract” shall mean the Power Sales Contract between SMMPA and Member dated as of April 1, 1981, as heretofore and hereafter amended from time to time.

“Proposed Purchase Notice” shall have the meaning set forth in Section 9.02(b).

“Proposed Sale Notice” shall have the meaning set forth in Section 9.02(b).

“Protective Apparatus” shall mean such equipment and apparatus, including protective relays, circuit breakers and the like, necessary or appropriate to isolate the Plant from the electrical system to which it is interconnected, consistent with Prudent Utility Practice.

“Prudent Utility Practice” shall mean those methods and that equipment, as amended or changed from time to time, within the spectrum of possible methods and equipment, that are commonly used and accepted in electric utility engineering and operations to operate and maintain electric equipment lawfully and with safety, dependability, and efficiency, including the requirements or guidance of (a) the National Electric Safety Code, (b) the National Electrical Code, (c) IEEE Standards, (d) MISO standards and procedures, (e) NERC standards and procedures, (f) Applicable Laws, (g) governmental agencies of competent jurisdiction, (h) insurers, (i) Financial Institutions, (j) manufacturers’ warranties and other contractual obligations, and (k) this Agreement. Prudent Utility Practice, as implemented by the Parties, shall mean such Prudent Utility Practices as are applied by the Parties such that in the exercise of reasonable judgment and in light of the information or facts known would have been likely to accomplish the desired result at a reasonable cost consistent with regulatory consideration, reliability, safety and expediency.

“Reliability Rate” shall mean \$0.036 per kWh.

“Scheduled Outages” shall mean planned outages or reductions in availability or output in order to perform maintenance in accordance with manufacturers’ recommendations and Prudent Utility Practices scheduled pursuant to Section 4.03.

“Scope” shall mean, in regards to a Scheduled Outage, (i) the expected timing and duration of such Scheduled Outage and (ii) a description of the major maintenance or overhaul activities to be performed during such Scheduled Outage.

“Seasonal Accredited Capacity” shall mean the Seasonal Accredited Capacity as determined pursuant to the MISO Resource Adequacy Business Practice Manual or any comparable successor standards for seasonal accredited capacity for generating facilities, as the same may be in effect from time to time.

“Start-Up Tests” shall mean (a) the tests to calibrate and certify the accuracy of the Metering Equipment, (b) the GVTC Tests, and (c) the continuous operation of the Plant at the Nameplate Capacity for up to six additional hours, as scheduled by SMMPA, in each case as confirmed to the reasonable satisfaction of SMMPA.

“Summer Months” shall mean May, June, July, August, September and October.

“Tariff” shall mean MISO’s Open Access Transmission, Energy and Operating Reserve Markets Tariff, including all schedules or attachments thereof, as amended from time to time, and including any successor tariff or rate schedule approved by the Federal Energy Regulatory Commission (or its successor).

“Taxes” shall mean any or all federal, state and/or local, municipal, ad valorem, property, occupation, severance, generation, fuel use, emissions, fuel conversion, Btu or power, transmission, utility, gross receipts, privilege, sales, use, consumption, excise, lease, transaction, and other taxes, governmental charges, license fees, permit fees, assessments, or increases in or interest on or penalties relating to any of the foregoing, other than taxes based on net income or net worth.

“Term” shall mean the period commencing on the Commercial Operation Date and ending on the last Day of the Contract Year that includes the twentieth anniversary of the Commercial Operation Date, unless earlier terminated or extended as provided in this Agreement.

“Terminating Party” shall have the meaning set forth in Article III.

“Third Party Claims” shall mean claims (other than Enforcement Proceedings) based on any claim of Contamination, whether such claim is made based upon alleged negligence, trespass, strict liability, nuisance, toxic tort, workers compensation law, employee liability claims, violation of Environmental Laws or detriment to human health or welfare.

Section 1.03 Interpretation. Unless the context otherwise requires:

- (a) Words singular and plural in number will be deemed to include the other.

(b) Any reference in this Agreement to any Person, including a Party, includes, its permitted successors and assigns and, in the case of any government agency, any Person succeeding to its functions and capacities.

(c) Any reference in this Agreement to any Article, Section, Exhibit or Attachment means and refers to an Article or Section contained herein or an Exhibit attached to this Agreement or an Attachment to this Agreement as such Attachment may be updated from time to time by notice from SMMPA to Member, and in the case of an Article shall include all Sections thereof and in the case of a Section shall include all subsections or subparagraphs thereof.

(d) Other grammatical forms of defined words or phrases shall have corresponding meanings.

(e) A reference to a document or Agreement, including this Agreement, includes a reference to that document or Agreement as amended, modified, supplemented or restated from time to time.

(f) Any item or list of items set forth following the word “including,” “include” or “includes” is set forth only for the purpose of indicating that, regardless of whatever other items are in the category in which such item or items are “included,” such item or items are in such category, and shall not be construed as indicating that the items in the category in which such items are “included” are limited to such items or to items similar to such items.

ARTICLE II ROLES, PLANT REQUIREMENTS

Section 2.01 Roles. Pursuant to the terms of this Agreement, Member shall, at its sole cost and expense, design, engineer, finance, construct and own or otherwise contractually control use of the Plant.

(a) Member shall submit appropriate applications for, seek authorizations to, and shall construct, operate, and maintain the Plant and shall sell power and energy to SMMPA in accordance with this Agreement. Each of Member and SMMPA will endeavor in good faith to acquire all other necessary permits or approvals in order to meet its obligations hereunder, and shall advise each other of the status of all authorizations, permits and approvals promptly upon request of the other Party.

(b) Member shall be responsible to make the Plant Accreditable on the Commercial Operations Date and conducting the Start-Up Tests. Upon the successful completion of the Start-Up Tests, SMMPA shall then accept the Contract Capacity by written notice to Member, which notice shall become an update to Attachment I to this Agreement.

(c) SMMPA shall be responsible for obtaining the Plant’s MISO accreditation (other than the GVTC Test).

(d) SMMPA shall be solely responsible for (i) arranging and paying for any transmission of the Contract Energy outside of the Member’s transmission and distribution system, (ii) paying any Imbalance Charges and (iii) compensating transmission providers for the cost of

such transmission service including the scope and cost of any upgrades to such transmission provider's system which the transmission provider determines to be necessary to provide transmission service from such Points of Delivery. Member shall be responsible for transmission and distribution within its system and all losses related thereto.

(e) SMMPA shall be the exclusive recipient of all capacity and energy available from the Plant during the Term.

(f) SMMPA shall provide all Fuel to be used to generate electricity in the Plant during the Term, in the manner and to the extent set forth in the Agreement.

Section 2.02 Plant Requirements.

(a) All or a material portion of the units comprising the Plant shall qualify as a "Blackstart Unit," as defined in the Tariff.

(b) The Plant shall be capable of unattended operation and remote start from locations determined by SMMPA.

(c) SMMPA shall have direct control of the Contract Capacity by, at SMMPA's option, either operating the Plant by remote control, which could include unattended operation, or by requesting the Member to operate the Plant.

(d) The Plant shall be capable of being started, synchronized and injecting Contract Energy within ten minutes of SMMPA's dispatch, which includes the time for notification and ramp-up (i.e., it shall be a "Quick-Start Resource" as defined in the Tariff).

ARTICLE III TERM AND TERMINATION

Section 3.01 Effectiveness. This Agreement shall become effective upon execution and delivery hereof by both Parties and shall continue for the Term, as it may be extended or earlier terminated as provided in this Agreement.

Section 3.02 Extension.

(a) Subject to Section 3.02(b), SMMPA shall have the right and option, from time to time, to extend the Term hereof for successive periods of 5 years (or less at SMMPA's option) each, by giving Member written notice of such election not less than 6 months before the expiration of the initial Term or any subsequent extension term, provided that no such extension may extend more than 30 days beyond the then-effective term of the Power Sales Contract.

(b) Following receipt of an extension election notice, SMMPA and Member shall in good faith negotiate a Plant Cost Adder that will be in effect for such extension period. In the event the parties are unable to agree to a Plant Cost Adder within thirty (30) days prior to the end of the then-current Term (without giving effect to the elected extension), then the election notice shall be deemed to have been withdrawn and this Agreement will terminate at the end of the then-current Term, subject to provisions that survive such termination, including Section 9.02.

For the avoidance of doubt, SMMPA and Member may agree that no Plant Cost Adder is necessary.

Section 3.03 Termination Option - Permits. In the event that Member is unable, after reasonable efforts, to obtain any necessary permits, authorizations or other required permissions to construct and operate the Plant, either Party may terminate this Agreement by providing fifteen (15) Days prior written notice of such termination to the other Party given not more than 18 months after the Contract Date.

Section 3.04 Termination Option - Delay. If the Commercial Operation Date does not occur by [*], SMMPA may terminate this Agreement by providing fifteen (15) Days prior written notice of such termination to Member.

Section 3.05 Termination Option - Following Event of Default. Should any event of default described in Article XI not be cured by the defaulting Party within the period, if any, set forth therein, or if any Party should wrongfully repudiate this Agreement and fail to withdraw such repudiation within five (5) Days of receipt of notice from the other Party requesting such withdrawal, then, the other Party (the “Terminating Party”) may, at its sole option, terminate this Agreement without further notice. Nothing herein shall be construed to restrict the right of a Party to elect to assert its claims and rights at law or in equity under this Agreement and under Applicable Law in lieu of or in addition to termination of this Agreement.

Section 3.06 Termination Option - Following Expiration of Power Sales Contract. In the event that the Power Sales Contract is no longer in effect, this Agreement may be terminated by either Party, effective thirty days after written notice of termination is given to the other Party.

Section 3.07 SMMPA’s Right to Perform Member Obligation. If Member fails to perform any Plant Work required under this Agreement, SMMPA may demand that Member make or perform the same forthwith, and if Member refuses or neglects to commence such Plant Work and complete the same with reasonable dispatch after such demand, SMMPA may enter the Plant and the Plant Site and may make or cause such Plant Work to be performed and shall not be responsible to Member for any loss or damage that may accrue to property by reason thereof. Member hereby grants SMMPA an easement in the Plant and Plant Site for such purposes. If SMMPA makes, performs or causes such Plant Work to be made or performed, Member shall forthwith, on demand, pay to SMMPA the costs thereof.

ARTICLE IV OPERATION OF THE PLANT

Section 4.01 SMMPA Scheduling for Delivery. SMMPA shall have the sole authority to offer, schedule and dispatch the Plant into the MISO energy market in accordance with MISO’s and SMMPA’s operating practices and Prudent Utility Practice. Such scheduling and dispatching may be provided verbally, by telephone or electronically via facsimile or email or other reasonable method, or by an electronic instruction sent to the Plant for remote starting of the Plant. Member shall generate electricity from the Plant pursuant to such dispatch instructions, including schedules for testing or exercising the generating units. SMMPA will use good faith efforts to advise Member at least one hour in advance if it elects to run the Plant during Non-Peak Hours, but

SMMPA shall not be required to use alternate sources of power or energy to assure that Member receives such advise one hour in advance and no failure to so advise Member one hour in advance shall be deemed a Delivery Excuse.

Section 4.02 Plant Work. Member shall perform and be responsible for all operation, maintenance, monitoring, repair replacement and renewals of and to the Plant at its own expense, including the following, all of which shall be deemed Plant Work:

(a) Member shall maintain and operate the Plant with its own personnel and shall maintain a staff or personnel capable of operating the Plant at all times. Member shall be responsible for ensuring that all of its operating personnel have been given, and continue to receive, the training required to operate and maintain the Plant using Prudent Utility Practice consistent with MISO's operating standards.

(b) Member shall maintain the Plant in readily operable condition so it can be placed into service, synchronized in parallel with the interconnected MISO electrical system, and be loaded to full Contract Capacity within ten minutes following notice by SMMPA.

(c) Member shall operate the Plant in accordance with operating procedures from time to time reasonably promulgated by SMMPA, in addition to MISO's standard operating procedures.

(d) Member shall have personnel available to operate the Plant when called upon by SMMPA to do so.

(e) In the event of an operating emergency on its electric distribution or transmission system, Member shall take such action as it, in its sole discretion, may deem prudent or necessary to terminate such operating emergency so as to preserve and maintain the safety, integrity, and operability of the Plant, to protect the health and safety of the public and its own personnel, and to minimize any adverse environmental effects of the emergency.

(f) Member shall operate the Plant only for SMMPA's use and only when dispatched by SMMPA.

(g) Monitor Plant facilities and operation, including compression pressures, injection nozzles, firing pressures and deflection readings in accordance with Prudent Utility Practice.

(h) Comply with all Applicable Laws, including all Environmental Laws and all applicable provisions of any workers' compensation laws, and the terms and conditions of any contract, permit or license relating to the Plant.

(i) Purchase and procure services, equipment, apparatus, machinery, tools, materials, and supplies necessary or appropriate for the Plant Work in the exercise of Prudent Utility Practice.

(j) Prepare and submit to SMMPA monthly reports concerning the Plant as may be reasonably requested and on forms provided by SMMPA.

(k) Install or cause to be installed the Protective Apparatus.

(l) Notify SMMPA as soon as is feasible under the circumstances whenever anything is discovered which might affect the availability or capacity of the Plant or any of its generating units.

(m) Notify SMMPA of all authorized personnel and designated representatives empowered to carry out the provisions of this Agreement on behalf of Member.

(n) At least once a month, or more often as reasonably necessary, Member shall do at least the following to ensure the Plant's readiness:

- (1) record Watt and Watt-hour meter(s);
- (2) check fuel levels, recording usage or meter readings, and notify SMMPA of amount used and remaining;
- (3) check the physical security of the Plant; and
- (4) otherwise maintain the unit(s) and perform safety checks using Prudent Utility Practices.

Section 4.03 Scheduled Maintenance.

(a) Scheduled Outages shall be scheduled in accordance with the then-current MISO Outage Operations Business Practice Manual BPM-008, Generation Outage Exemption Requirements (or any comparable successor requirements for generation outage exemptions) (the "MISO BPM Outage Requirements"). As of the Effective Date, such requirements provide in relevant part as follows:

Time Requirement Exemption (TRE) will be provided if the Generator Owner or Generator Operator schedules its first Generator Planned Outage 120 days or more in advance of the outage start date and 120 days or more beyond the end date of any previously scheduled outages for the unit. Maintenance Margin Exemption (MME) will be provided if the Maintenance Margin in the subregion containing the generator unit is greater than or equal to 0 MW for the duration of the outage at the time of submission, after subtracting the outage capacity unavailable from the request

(b) Member shall provide SMMPA notice of all Scheduled Outages within 130 days of the outage start date. Within ten (10) days following receipt by SMMPA of Member's proposed Scheduled Outage, SMMPA shall notify Member whether SMMPA approves the Scheduled Outage. The Scheduled Outage shall be deemed approved by SMMPA if SMMPA does not notify Member of its disapproval within the time limit set forth above in this Section. If SMMPA objects to the Scheduled Outage, SMMPA shall provide Member with proposed changes to the Scheduled Outage. If the Parties do not agree on SMMPA's proposed changes, SMMPA will enter the Member's proposed Scheduled Outage in the MISO Outage Scheduler to meet the current 120 day time requirement in accordance with the MISO BPM Outage Requirements, and

the matter shall be resolved by mediation in the manner set forth in this Agreement, having regard for the operating history of the Plant, the manufacturer's recommendations and Prudent Utility Practice.

(c) Except as otherwise approved in writing by SMMPA or required by MISO, following the Commercial Operations Date, Member shall undertake or shall cause to be undertaken all Scheduled Outages at times other than peak hours (as defined by MISO) on Monday through Friday during Summer Months.

Section 4.04 Delivery of Fuel. Except to the extent some or all of such responsibility is delegated to the Member by SMMPA, in accordance with Prudent Utility Practice and after conferring with Member concerning fuel quality, fuel testing and compliance with Environmental Laws, SMMPA shall have sole authority to procure all Fuel for the Plant and shall take all steps that it deems necessary or appropriate for that purpose. Without limiting the generality of the preceding sentence, SMMPA shall have the right to enter into any agreements on behalf of Member and SMMPA for the purchase and delivery of such Fuel that SMMPA in its sole discretion shall deem desirable. SMMPA shall be responsible for the cost of the Fuel and the cost of delivering the Fuel to the Plant, including any third party charges for the unloading of the Fuel at the Plant. In accordance with Prudent Utility Practice, Member shall have sole authority to manage all Fuel upon its arrival at the Plant according to its discretion and judgment including unloading, handling and storage. Costs incurred by Member for Fuel handling at the Plant will be the responsibility of Member without reimbursement by SMMPA.

Section 4.05 Test Fuel and Delivered Energy.

(a) SMMPA shall (i) provide and pay for the Fuel needed to conduct Start-Up Tests and (ii) accept the energy generated by the Plant in such Start-Up Tests; provided that Member shall reimburse SMMPA for the cost of any Fuel needed to conduct any such tests and activities that do not result in the production of energy from the Plant. Member or its designee shall provide SMMPA a good faith estimate of the quantity of Fuel required in connection with any such tests and activities that will result in the production of energy from the Plant pursuant to a written notice no later than 24 hours before such delivery.

(b) For all tests and preventive maintenance activities approved or ordered by SMMPA that take place after the Commercial Operation Date, SMMPA shall provide Fuel and accept energy at the Point of Energy Delivery. Member shall give SMMPA notice of any such test and activities (including estimated amounts of Fuel to be used and energy to be produced) at least 24 hours before Member commences any test or preventive maintenance activities under this Section.

Section 4.06 Station Power. To the extent the Plant does not otherwise provide such energy, Member shall arrange for all energy required for the day-to-day operations of the Plant.

Section 4.07 Delivery of Energy.

(a) Subject to the provisions of this Section, Member shall sell all of the capacity and deliver all energy generated by the Plant during the Term, net of that required for

operation of the Plant and losses, to SMMPA at the Point of Energy Delivery and SMMPA shall purchase Contract Capacity and accept Contract Energy from Member.

(b) Member shall not be required to generate power in violation of Applicable Law, in contravention of Prudent Utility Practice or at a level in excess of that which SMMPA can prudently receive as a result of any prohibition or limitation of SMMPA's ability to receive such power, whether as a result of Force Majeure or otherwise.

(c) For each request for energy from SMMPA, Member shall endeavor in good faith to supply the exact amount of Contract Energy requested by SMMPA.

Section 4.08 Outage Notices. As soon as practical after a Forced Outage, Member shall provide SMMPA with notice (the "Outage Notice") of such Forced Outage providing its best estimate of the length of such Forced Outage.

Section 4.09 Insurance. Member shall obtain and maintain in force casualty, general liability and excess liability insurance, without reimbursement from SMMPA. All such insurance shall be carried with such insurers, and upon such terms and with such limits and deductibles, as SMMPA shall from time to time specify in its sole discretion. Both SMMPA and Member shall be named insureds on such policies. Losses on casualty policies shall be payable to SMMPA and Member as their respective interests in the damaged property may appear. Member shall provide SMMPA with Certificate of Insurance, or upon request, duplicate insurance policies, on each insurance policy so carried. Such policies shall require notice to both Member and SMMPA prior to any cancellation, material change or non-renewal.

In the event of damage to any of the property included in the Plant covered by insurance carried by Member pursuant to this Agreement, Member shall repair or replace such damaged property promptly. Proceeds of such insurance shall be applied to fund such repairs or replacements. If the proceeds of such insurance are less than required to correct the damage, Member shall provide the shortfall.

Section 4.10 Retesting. Member shall, from time to time, upon request by SMMPA, conduct GVTC Tests. Such requests will be made at least two weeks in advance and, to the extent possible, for a time reasonably convenient to the Member. If a change in Accreditable Capacity results from any of these tests, SMMPA shall give notice to Member thereof and such notice shall be deemed to amend Attachment I to change the Contract Capacity in accordance with the revised Accreditable Capacity, effective the first day of the month following the month during which the test is conducted, provided that in no event shall the Accreditable Capacity exceed the Accreditable Capacity Limit. In connection with such tests, Member shall furnish the personnel and equipment necessary to operate the generating facilities of the Plant, measure and record the results of any GVTC Tests, and report operating results to SMMPA. SMMPA reserves the right to be present at all tests. If the GVTC standards are modified, or should SMMPA for whatever reason become associated with another organization to establish, maintain and coordinate reliability in the region, the new criteria applicable to testing or accreditation of generation resulting from such changes shall replace those of GVTC for purposes of this Agreement.

ARTICLE V AVAILABILITY

Section 5.01 Availability Adjustments. In the event after the Commercial Operation Date, one or more Delivery Failures shall occur, the following adjustments will be made to the Capacity Charge for the Month in which such Delivery Failure(s) occur (and, if necessary, the following months):

(a) On the second and on each subsequent Delivery Failure in any Month, the kW/m Rate used for computation of the Capacity Charge for such Month shall be reduced by the sum of \$3.59, but not below \$0.

(b) In addition to any reduction under (a) above, SMMPA shall be entitled to a credit against the Capacity Charge for such Month and subsequent Months in an amount (the “Non-Delivery Credit”) equal to the sum of (i) the Delivery Deficiency Incremental Cost for the Month in which the Delivery Failure(s) occur plus (ii) the product of the Reliability Rate times the Delivery Deficiency for such Month. To the extent the Non-Delivery Credit exceeds the Capacity Charge for any Month such excess shall be credited against the Capacity Charge for subsequent Months.

Notwithstanding the foregoing, in no event shall adjustments under this Section 5.01 resulting from Delivery Failures in any particular calendar year result in reduction or abatement of the Capacity Charges for more than the amount of six times the full unabated monthly Capacity Charge (although the timing of such adjustments and credits may result in Capacity Charges paid during a calendar year being less than six times the monthly Capacity Charge).

ARTICLE VI PAYMENTS

Section 6.01 Capacity Charge. SMMPA shall, during the Term, pay to Member a monthly charge in the amount of the kW/m Rate multiplied by the then-effective Contract Capacity (the “Capacity Charge”), not later than 10 days following the end of such Month. Such Capacity Charge is subject to adjustment pursuant to Section 5.01 above. The Member shall charge no transmission or distribution charges or loss compensation to SMMPA for the delivery of the power and energy to SMMPA.

Section 6.02 Imbalance Charges. SMMPA shall pay all Imbalance Charges incurred directly or indirectly by the Plant. Without limiting the foregoing, SMMPA shall reimburse Member for any Imbalance Charges incurred by the Plant paid by Member.

Section 6.03 Reliability Payment. In the event that SMMPA shall schedule, and the Plant shall have delivered, Contract Energy in excess of Annual Energy Budget for any Contract Year, SMMPA shall pay Member within 30 days after the end of such Contract Year a Reliability Payment equal to the product of the amount of Contract Energy actually delivered to SMMPA in excess of the Annual Energy Budget times the Reliability Rate.

Section 6.04 Taxes. Subject to the succeeding provisions of this Section, SMMPA shall pay, or reimburse Member for, all Taxes applicable to the Fuel delivered to and received by Member, including sales taxes, if any. Member shall be responsible for and pay all ad valorem, property, and similar taxes and assessments assessed by any taxing authority, based upon the ownership of the Plant and the Plant Site. Each Party shall indemnify, defend, and hold harmless the other Party for any claims for Taxes for which such Party is responsible hereunder. Each Party agrees to cooperate with the other in obtaining available tax exemptions and minimizing Taxes payable with respect to all transactions contemplated herein. The Party responsible for paying the Taxes shall remit the Tax to the appropriate taxing authority and file the required returns unless otherwise provided by Applicable Law or upon Agreement of the Parties. In such case, the Party otherwise responsible for payment of the Tax shall provide to the Party responsible for remitting the Tax all information necessary to make proper and timely payments and to file the required returns.

Section 6.05 Plant Work Costs. Member shall pay all Plant Work Costs.

Section 6.06 Fuel. Except as expressly otherwise provided in this Agreement, SMMPA shall pay for all Fuel it provides under this Agreement. In the event that SMMPA shall delegate responsibility to obtain Fuel to Member, SMMPA shall reimburse Member for the cost (without markup) of Fuel allocable to the Plant within 30 days after monthly billing by Member.

Section 6.07 Plant Cost Adder. During any extension of the Term pursuant to Section 3.01, SMMPA shall pay to Member the Plant Cost Adder, if any, agreed to for such extension period.

ARTICLE VII METERING

Section 7.01 Metering Equipment. Contract Energy shall be metered at the Point of Energy Delivery on a continuous real-time basis using the Metering Equipment, which shall be provided and installed by SMMPA in the manner contemplated for metering of energy deliveries to the Member under the Power Sales Contract.

Section 7.02 Operation, Maintenance. The Metering Equipment shall be operated, maintained, calibrated and tested in the manner contemplated for the meters measuring energy deliveries to the Member under the Power Sales Contract. Member shall be responsible for the maintenance and testing of the electrical facilities and Protective Apparatus, including any transmission equipment and related facilities, necessary to interconnect the Plant to the Points of Delivery.

ARTICLE VIII RECORDS

Section 8.01 Records. Member shall maintain records needed to reflect billings and payments under this Agreement. All such records will be maintained in accordance with industry accepted procedures consistently applied and will be, for a period of two (2) calendar years after the respective records are created, subject to inspection and audit by SMMPA during normal business hours upon reasonable advance written notice.

ARTICLE IX
ASSIGNMENT; ROFO

Section 9.01 Assignment.

(a) This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns; provided, however, that this Agreement shall not be assigned by either Party hereto without the consent in writing of the other Party hereto, which consent may be withheld at its sole discretion, and any attempted assignment without such consent shall be void, except that such consent shall not be required for any assignment made in connection with the sale, lease or other disposition of all or substantially all of Member's electric system pursuant to Section 7(c) of the Power Sales Contract so long as the assignee assumes the obligations of Member hereunder. No assignment or transfer of this Agreement shall relieve the Parties of any obligation hereunder.

(b) Nothing contained in this Section shall be construed to prevent the Parties from making a collateral assignment of the revenues due under the terms of this Agreement.

(c) Except as provided above, no assignment, merger or consolidation shall relieve any Party of any obligation under this Agreement. Subject to the foregoing restrictions in this Section, this Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and assigns.

Section 9.02 Right of First Offer.

(a) At any time after the Commercial Operation Date or within twelve (12) months following the expiration or termination of this Agreement, except pursuant to an exercise of remedies by a Plant Lender under an applicable financing document related to the Plant or this Agreement, if Member (or any Affiliate of Member) proposes to sell the Plant (or any interest in the Plant or, following a withdrawal of an extension election pursuant to Section 3.02(b), the output of the Plant) to a third party, Member shall first offer to sell the Plant (or any interest in the Plant or, following a withdrawal of an extension election pursuant to Section 3.02(b), the output of the Plant) to SMMPA pursuant to the terms of this Section 9.02.

(b) Prior to Member commencing the negotiation of a sale of the Plant (or any interest in the Plant or, following a withdrawal of an extension election pursuant to Section 3.02(b), the output of the Plant) (the "Offered Interest"), Member shall provide written notice to SMMPA of Member's intention to sell the Offered Interest (a "Proposed Sale Notice"). Upon receipt of such Proposed Sale Notice, SMMPA shall have sixty (60) days in which to provide notice to Member indicating whether SMMPA is interested in negotiating with the Member to purchase the Offered Interests (a "Proposed Purchase Notice"). If SMMPA provides such Proposed Purchase Notice, then the Member and SMMPA shall undertake for a period of up to ninety (90) days from the date of SMMPA's Proposed Purchase Notice to negotiate in good faith and use commercially reasonable efforts to determine if they are able to reach mutual agreement on a term sheet that sets forth the fundamental terms and conditions of a sale of the Offered Interests to SMMPA.

(c) If (i) SMMPA does not provide such Proposed Purchase Notice to Member

within the time frame set forth in Section 9.02(b), or (ii) Member and SMMPA negotiating in good faith are unable to execute a term sheet that sets forth the fundamental terms and conditions of a sale of the Offered Interests to SMMPA within the time frame set forth in Section 9.02(b), then the Member shall be free to negotiate the sale of the Offered Interests to a third party; provided, however, that prior to consummating any such sale Member shall provide SMMPA with a concise summary of the commercial terms negotiated by Member with such third party (a “Notice of Proposed Third Party Sale”). Each Notice of Proposed Third Party Sale constitutes an offer by the Member to enter into an agreement with SMMPA on the same commercial terms outlined in the Notice of Proposed Third Party Sale, and SMMPA shall have thirty (30) days following receipt of the Notice of Proposed Third Party Sale to accept the offer consistent with the commercial terms set forth in the Notice of Proposed Third Party Sale, the acceptance of which shall be binding and SMMPA and Member shall thereafter diligently consummate the sale of the Plant pursuant to the terms of the Notice of Proposed Third Party Sale. If SMMPA does not provide such written notice to Member within the thirty (30) day period following receipt of the Notice of Proposed Third Party Sale, then Member may proceed with the proposed third-party transaction with respect to the Offered Interests, subject to Section 9.02(e).

(d) If Member fails to (i) present a Notice of Proposed Third Party Sale within six (6) months after the expiration of the ninety (90) day period set forth in Section 9.02(b), or (ii) consummate the sale of the Offered Interest to a third party consistent with the terms of the Notice of Proposed Third Party Sale within three hundred sixty five (365) days after the expiration of the ninety (90) day period set forth in Section 9.02(b), then Member shall provide another Proposed Sale Notice hereunder (and go through the process described in this Section 9.02) before commencing or continuing negotiations with any third party or consummating a sale of the Offered Interests.

(e) Notwithstanding any provision herein to the contrary, any sale of an Offered Interest to a third party shall be subject to the assumption by the third party of Member’s obligations under this Agreement.

(f) This Section 9.02 shall be specifically enforceable by SMMPA, without bond and without the need to prove irreparable harm.

(g) Member shall cooperate in all respects reasonably necessary for SMMPA to exercise its rights pursuant to this Section 9.02 and shall operate the Plant in the ordinary course of business following the date of issuance of a Proposed Sale Notice.

(h) This Section 9.02 shall survive the expiration or termination of this Agreement.

ARTICLE X INDEMNITIES

Section 10.01 Indemnification.

(a) Each Party will each protect and indemnify the other Party (including Affiliates, owners, subsidiaries, directors, officers, stockholders, employees and agents of such other Party and its Affiliates) from and against any liability or loss (including reasonable expenses and attorneys’ fees) because of bodily injury or property damage arising out of or in connection

with SMMPA's or Member's, respective performance hereunder; except that neither shall be obligated to indemnify the other for injury or damage caused by the negligence or willful misconduct of the other Party. This provision is for the sole benefit of the Parties hereto and other Persons named herein and is not intended and shall not be construed to confer any rights or benefits on any third party.

(b) In addition, Member shall indemnify SMMPA and hold SMMPA harmless against and reimburse SMMPA for all costs, expenses and/or liabilities incurred by SMMPA as a result of any Contamination and/or Clean-Up, imposition of liens, and/or Third Party Claims arising out of the existence or claimed existence of Hazardous Substances in the Plant or the Plant Site, or arising out of any Hazardous Substances placed in the Plant or the Plant Site whether or not released as the result of negligence of Member and shall include, without limitation, all costs of Clean-Up and all costs of defense of and compliance with any remediation or other requirements imposed under Enforcement Proceedings related thereto.

ARTICLE XI DEFAULT

Section 11.01 Events of Default. Events that shall be considered defaults under this Section are as follows:

(a) Abandonment by Member of the construction or any future repair of the Plant for any period in excess of thirty (30) consecutive Days and does not resume construction within twenty (20) Days after notice thereof by SMMPA.

(b) Abandonment by Member of the operation of the Plant for any period in excess of ten (10) consecutive Days and does not resume operation within five (5) Days after notice thereof by SMMPA.

(c) The Seasonal Accredited Capacity of the Plant is at any time (i) less than 50% of the Contract Capacity in any single season or (ii) less than 75% of the Contract Capacity for the annual average of four consecutive seasons.

(d) Any other material breach by Member or SMMPA of any material provision under this Agreement if such breach is not cured within sixty (60) Days following notice of such breach by the other Party. If, however, such default cannot be cured within sixty (60) Days of receipt of such notice with the exercise of reasonable diligence, the defaulting Party shall have the right to provide the non-defaulting Party with a plan within such sixty (60) Day period for the appropriate actions to cure the breach or default, which plan shall be subject to the approval of the non-defaulting Party, said approval not to be unreasonably withheld. Immediately following the submission of the plan to the non-defaulting Party, the defaulting Party must diligently commence pursuit of the appropriate action under the plan to cure and so long as it does so, it shall be granted the additional time to cure in accordance with the plan.

ARTICLE XII FORCE MAJEURE

Section 12.01 Force Majeure.

(a) In the event either Party to this Agreement is rendered unable, wholly or in part, by Force Majeure or a breach of this Agreement by the other Party to perform any of its obligations under this Agreement (other than obligations to make payments), such Party shall provide notice and the full particulars of such Force Majeure or such breach in writing or by telephone to the other Party as soon as practical after the occurrence of the event of Force Majeure or such breach. Telephone notices, allowable under the provisions of this Section, shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure or such breach, the time and date when the Force Majeure or such breach occurred. The obligations of the Party giving such notice with respect to matters for which Force Majeure constitutes an excuse for non-performance under other terms hereof, so far as they are affected by such Force Majeure or such breach shall be suspended from the inception and throughout the period of continuance of any inability of performance so caused, but for no longer period and any scheduled dates for performance shall be adjusted to the extent necessary to enable the affected Party to meet such a date after resuming performance.

(b) Any Party rendered unable to fulfill any of its obligations under this Agreement by reason of Force Majeure shall exercise due diligence to remove such inability with all reasonable dispatch. SMMPA's obligation to pay Capacity Charges and the Parties' obligations to pay other amounts due under this Agreement shall not be excused by Force Majeure.

ARTICLE XIII COOPERATION

Section 13.01 Cooperation. The Parties shall cooperate in good faith in all reasonable respects in matters involving the construction, financing, dispatch and operation of the Plant. Each Party shall act, in all reasonable respects, in good faith toward the other Party and when dealing with governmental regulatory bodies and other third parties regarding matters arising under or in connection with this Agreement. The Parties shall cooperate in good faith in all reasonable respects in matters involving environmental or regulatory permits and each Party shall act in good faith to assist the other Party with the maintenance of all environmental or regulatory permits during the Term. The Parties agree that such permits shall be maintained and renewed so as to maintain at least 500 hours of permitted run time each year, so long as such a permit is obtainable with the exercise of all reasonable efforts.

Section 13.02 Right of Entry. Member shall permit SMMPA or its agents to enter the Plant and Plant Site during reasonable business hours, or otherwise upon reasonable notice, for the purpose of inspection thereof and for performance of any acts required or permitted under this Agreement.

ARTICLE XIV MISCELLANEOUS

Section 14.01 Limitation on Punitive and Consequential Damages.

(a) Neither Party shall be liable to the other for indirect, consequential, or punitive damages. For the purpose of this Section, remedies specified in this Agreement shall not be deemed as a compensation for punitive, indirect or consequential damage. The limitation in this Section shall not apply in the case of bad faith, gross negligence or willful misconduct.

(b) Notwithstanding any provision of this Agreement to the contrary, Member shall not be liable for, and shall be held harmless against, any claims damages or liabilities of any kind resulting from a Forced Outage or other failure to make Contract Capacity or Contract Energy available to SMMPA other than as expressly provided in Article V or pursuant to Section 4.02 or Section 11.01(c). Notwithstanding any provision of this Agreement to the contrary, SMMPA's remedy for Member's Delivery Failure under Section 5.01 shall be limited to the remedies provided in Section 5.01 (which, for the avoidance of doubt, shall not limit SMMPA's remedies in the event of a breach of Article IV (including Section 4.02(b)) or Section 11.01(c).)

Section 14.02 Notices. Any notices, elections, demands or requests required or authorized by this Agreement, or any other instrument or document or information required to be tendered or delivered by either Party, shall be in writing and personally delivered or sent by certified mail, return receipt requested, postage prepaid, or by facsimile or electronic mail (confirmed by regular mail) to:

(a) If to SMMPA, at

500 First Avenue SW
Rochester, Minnesota 55902-3303
Attention: Executive Director & CEO
Facsimile number: (507) 292-6413

and

(b) If to Member, at

118 Central Avenue N.
New Prague, Minnesota 56071-1534
Attention: General Manager
Facsimile number: (952) 758-1149

or such other address as either Party shall provide by similar notice. Any notice given hereunder shall be deemed to be given upon the earlier of (a) actual receipt or (b) three Days after deposit in a properly addressed envelope in the U.S. mail, postage prepaid, certified mail, return receipt requested. Routine operational notices and communications and notices during an Emergency or other unforeseen event may be made in person or by telephone. Scheduling and dispatching communications from SMMPA are not subject to this Section 14.02 and shall be effective if given in accordance with the procedures from time to time promulgated by SMMPA for such purposes.

Section 14.03 No Rights of Third Parties. This Agreement is intended for the benefit of the Parties. Except for the express indemnification provisions of this Agreement, nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to, any Person not a party to this Agreement.

Section 14.04 Subject to Applicable Laws. This Agreement is subject to Applicable Laws. Nothing herein contained shall be construed as a waiver of any right to question or contest any such Applicable Law.

Section 14.05 No Partnership. This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter in any Agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

Section 14.06 Amendment. This Agreement may be amended only upon written agreement of the Parties.

Section 14.07 No Waiver. Failure of a Party to insist, on any occasion, upon strict performance of this Agreement shall not be a waiver of the right to insist upon strict performance of any provision on any other occasion.

Section 14.08 Captions. The captions of the various articles and sections of this Agreement are for convenience and reference only and shall not limit or define any of the terms and provisions hereof.

Section 14.09 Complete Agreement. This Agreement embodies the complete Agreement between the Parties hereto and supersedes all other oral or written understandings and Agreements. Each Party acknowledges that no representations, inducements, promises, or Agreements, oral or otherwise, have been relied upon or made by any Party, or anyone on behalf of a Party, which are not embodied herein, and that no other Agreement, statement, or promise not contained in this Agreement shall be valid or binding. The schedules and exhibits attached to this Agreement are incorporated herein by reference and made a part of this Agreement as if fully set forth herein.

Section 14.10 Currency of Account. All payments hereunder shall be made in United States Dollars.

Section 14.11 Choice of Laws. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

Section 14.12 Severability. If any term or provision of this Agreement, or the application thereof to any Person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

Section 14.13 Continued Performance. The Parties shall continue to perform their respective obligations under this Agreement during the pendency of any dispute, including a dispute regarding the effectiveness of this Agreement or the purported termination of this Agreement.

Section 14.14 Survival. The provisions of Sections 3.02(b), 9.02, 10.01 and Article XIV shall survive the expiration or termination of this Agreement.

Section 14.15 Power Sales Contract. The Power Sales Contract is a separate and distinct agreement between the parties hereto, but the parties agree to amend Schedule A of the Power Sales Contract to make the Point of Energy Delivery a Point of Delivery. In all other respects the parties do not intend this Agreement to amend or modify the Power Sales Contract. In the event that this Agreement is terminated or is not in effect for any reason, or if Member for any reason is not entitled to payment for services rendered hereunder, the Power Sales Contract shall remain in full force and effect.

Section 14.16 Counterparts; Electronic Signature. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature (including portable document format) by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

[The next page is the signature page.]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

SOUTHERN MINNESOTA MUNICIPAL
POWER AGENCY

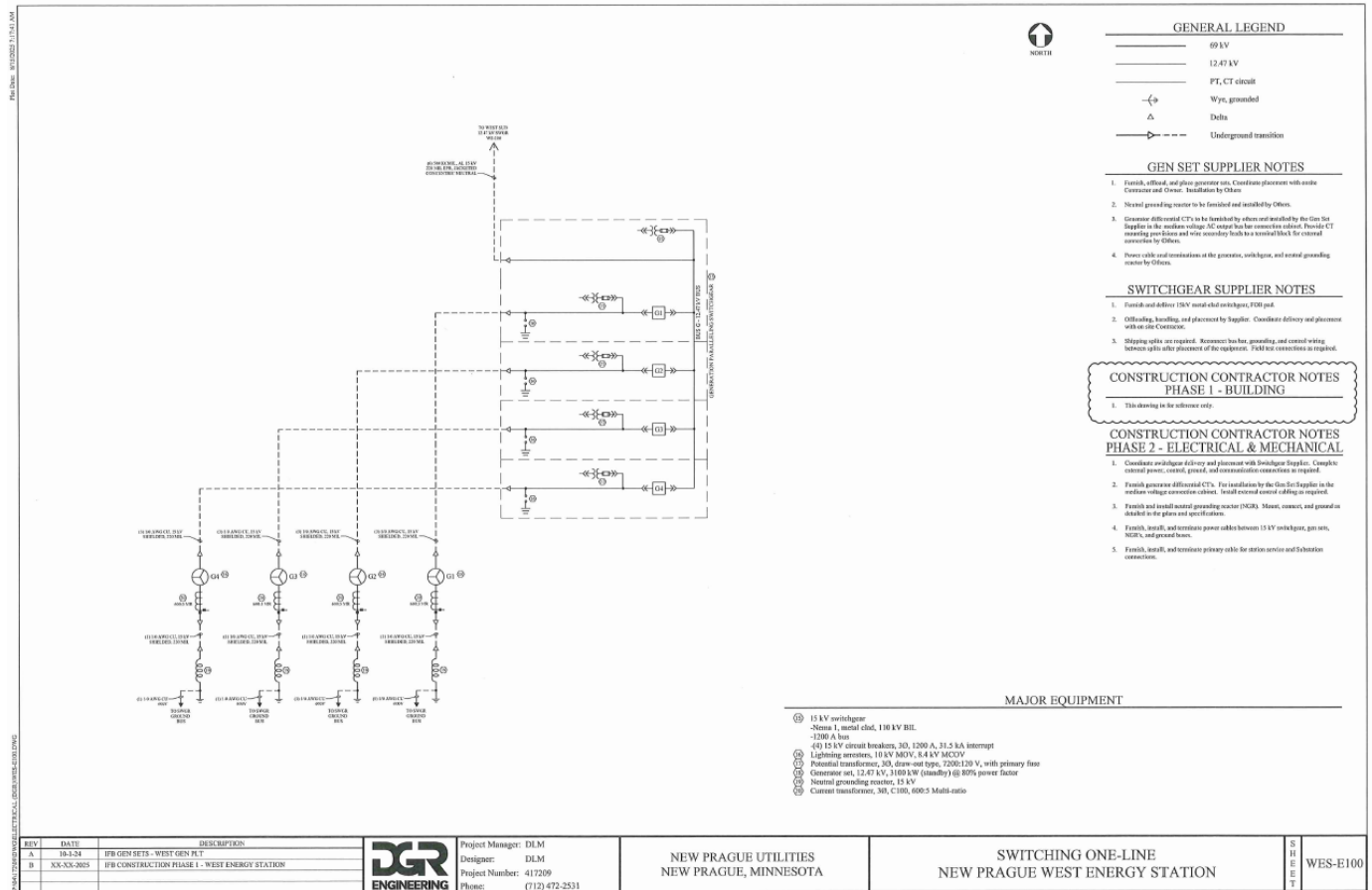
By: _____
David P. Geschwind
Executive Director and CEO

CITY OF NEW PRAGUE, MINNESOTA

By: _____

By: _____

Part I



Part II

Physical address

West Energy Station

507 6th Avenue

New Prague 56071

Attachment I

Part I

Nameplate Capacity: _____ kW

Part II

Accreditable Capacity: _____ kW

Part III

Accreditable Capacity Limit: 11,300 kW