

SOLAR GENERATION POWER PURCHASE AGREEMENT

This Solar Generation Power Purchase Agreement (this “Agreement”) is entered into this _____ day of _____, 20____ (the “Effective Date”) by and between Otter Tail Power Company, a Minnesota corporation (“OTP” or “Otter Tail”) and [Entity], a [State][Form of Organization] (“Seller”).

RECITALS

1. Seller has agreed to construct, own and operate a solar powered electric generating facility (the “Facility”) on a site located in [SITE], Minnesota with a net output of [1-10] MW to be operated in parallel with OTP’s transmission, distribution, and generation system. Seller has agreed to sell to OTP the output generated by the Facility, including the Net Nameplate Capacity and Net Energy.

2. This Facility is intended to and will comply with Minn. Stat. § 216B.1691(2)(h)’s distributed solar energy standard (“DSES”).

3. OTP has agreed to purchase the output generated by the Facility, including the Net Nameplate Capacity and Net Energy, and to achieve and maintain accreditation of that Capacity by MISO Resource Adequacy Requirements, DSES requirements, and other entities and agencies to which OTP may be obligated by contract or otherwise.

4. OTP is willing to purchase, and Seller is willing to sell all the Net Nameplate Capacity and Net Energy, of the Facility, subject to the terms and conditions and at the prices set forth in this Agreement.

NOW THEREFORE, in consideration of these premises and the mutual promises set forth below, Seller and OTP agree as follows:

AGREEMENT

ARTICLE I - DEFINITIONS

1.1 Acceptance Criteria: The criteria that will be used to determine whether and when the Facility is capable of producing Energy associated with the Accreditable Capacity and delivering such Energy to the Point of Delivery, as set forth in Appendix C.

1.2 Accreditable Capacity: The amount of net generating capability rounded to the nearest hundredth of a megawatt associated with the Facility for which capacity credit may be obtained under applicable MISO Resource Adequacy Requirements.

1.3 Agreement: This contract, including all appendices, for the purchase of Capacity and Energy entered into between Seller and OTP, as amended by the Parties from time to time in accordance with the Agreement.

1.4 Capacity: The output potential a machine or system can produce, or can produce under specified conditions. The capacity of generating equipment is generally expressed in MW. Capacity is also referred to as “capability” in the industry and for the purposes of the Agreement the terms are synonymous.

1.5 Commercial Operation: When (a) 100% of the Committed Nameplate Capacity of the Facility is installed; (b) the Facility has operated without experiencing any abnormal or unsafe operating conditions on any interconnected system; (c) Seller has obtained all permits necessary to authorize that production and delivery, (d) Seller has demonstrated compliance with the Prevailing Wage and Apprenticeship Requirements, and (e) Seller and/or the Facility have completed all other Acceptance Criteria set forth on Appendix C.

1.6 Commercial Operation Date: The first calendar day following a successful demonstration that the Facility has reached Commercial Operation and Seller has met the other criteria of Appendix C, which must take place prior to December 31, 2030.

1.7 Committed Nameplate Capacity: The total maximum designed power output, expressed in MW, of all installed solar generating equipment at the Facility as specified by the equipment manufacturer power curve. Such capacity is that which Seller agrees to construct and maintain at the Facility in order to sell and deliver Capacity and Energy to OTP pursuant to the Agreement.

1.8 Emergency: Any condition or situation which in the reasonable judgment of OTP MISO, MRO or any other entity with operational control or authority over the interconnected transmission and/or distribution system, (as communicated to OTP) (i) endangers or might endanger life or property or (ii) adversely affects or might adversely affect OTP’s ability, or the ability of any other entity associated with the interconnected transmission and/or distribution system, to maintain safe and reliable electric service to OTP’s customers and/or the customers of any such other entity.

1.9 Energy: The amount of electricity either used or generated over a period of time; expressed in terms of megawatt-hour (MWh).

1.10 Energy Resource: Interconnection service which allows the Seller to connect the Facility to the transmission or distribution system, as applicable, as an “Energy Resource” as defined by the MISO Open Access Transmission and Energy Markets Tariff, and be eligible to deliver the Facility’s output using the existing firm or nonfirm capacity on the transmission system on an as available basis.

1.11 Environmental Law: Any federal, state, and local laws including statutes, regulations, rulings, orders, administrative interpretations, and other governmental restrictions and requirements relating to the discharge of air pollutants, water pollutants or process wastewater, or otherwise relating to the environment or hazardous substances as amended from time to time.

1.12 Environmental Liability: Any and all liability arising under, resulting from, or imposed by any Environmental Law.

1.13 Facility: The generation, Seller's Collector System, transmission and distribution facilities owned by Seller and located on the Site and between the Site and the Point of Interconnection for the generation of solar powered electricity and delivery of such electricity to OTP. The Facility shall at all times consist of and be operated as [Describe Facility].

1.14 FERC: Federal Energy Regulatory Commission or its successor organization, if any.

1.15 Financier: Any individual or entity providing money or extending credit (including any capital lease) to Seller for (i) the construction, term, or permanent financing of the Facility; or (ii) working capital or other ordinary business requirements for the Facility. "Financier" shall not include common trade creditors of Seller.

1.16 Generator Interconnection Agreement: The agreement dated [] by and between OTP and Seller for interconnection to OTP's distribution system.

1.17 Governmental Authority: Any nation, government, state or other political subdivision thereof, whether foreign or domestic, including, without limitation, any municipality, township and county, and any entity exercising executive, legislative, judicial, regulatory, or administrative functions of or pertaining to government, including, without limitation, any corporation or other entity owned or controlled by any of the foregoing.

1.18 Guaranteed Price: The price expressed in dollars per MWh set forth in Section 2.3(a) and Appendix A of this Agreement and used as the basis for determining payments by OTP to Seller for the Net Energy, and all Net Nameplate Capacity of the Facility.

1.19 IEEE: Institute of Electrical and Electronic Engineers or its successor organization, if any.

1.20 Interconnection: Construction, installation, operation, and maintenance of all Interconnection Facilities in accordance with any Interconnection Agreement.

1.21 Interconnection Agreement: The separate agreement between Seller and Interconnection Provider for the interconnection of the Facility to the Interconnection Provider's System, as such agreement may be amended from time to time, that is described in Section 4.4.

1.22 Interconnection Facilities: All the facilities installed on the Seller's side of the Point of Interconnection for the purpose of interconnecting the Interconnection Provider's System and the Facility.

1.23 Interconnection Provider: The Person that owns and operates the transmission and distribution lines, Interconnection Facilities, and other equipment and facilities with which the Facility interconnects at the Point of Interconnection, and its successors and assignees.

1.24 Interconnection Provider's System: The transmission and distribution by which the Interconnection Provider provides interconnection and transmission of the Accreditable Capacity and Net Energy at and from the Point of Interconnection.

1.25 kW: Kilowatt.

1.26 MISO Procedures: Those procedures and guidelines established by MISO or its committees that are applicable to OTP generation and transmission and distribution system operations or the Facility, as amended from time to time.

1.27 MISO: Midwest Independent Transmission System Operator, Inc., a non-profit, non-stock corporation organized and existing under the laws of the State of Delaware and any successor organization. MISO has operational control of OTP's transmission system, and its directives may affect the distribution system (Interconnection Provider's System).

1.28 MISO Resource Adequacy Requirements: Those procedures and guidelines applicable to OTP owned or purchased generation set forth in, or in accordance with, Module E of the MISO Open Access Transmission and Energy Markets Tariff, as amended from time to time.

1.29 MPUC Approval: Shall have the meaning set forth in Section 5.3(a).

1.30 MRETS Program: The Midwest Renewable Energy Tracking System, MPUC Docket No. E-999/Cl-04-1616 and subsequent and related proceedings.

1.31 MRO: The Midwest Reliability Organization as a NERC regional electric reliability council, or any successor organization.

1.32 MVA: Megavolt amperes.

1.33 MW: Megawatt.

1.34 MWh: Megawatt hour.

1.35 NERC: North American Electric Reliability Corporation and any successor agency.

1.36 Net Energy: The actual number of MWh generated by the Facility during the period being considered less any generating output in MWh used for the Facility's Station Auxiliary and less any generating output in MWh consumed by Seller for its own use at the Site where the Facility is located as measured by the meter installed pursuant to Section 3.1 of this Agreement.

1.37 Net Nameplate Capacity: The total maximum power output, expressed in MW, that the Facility will provide to the Point of Delivery.

1.38 Network Resource: The applicable amount of Capacity for the Facility that has been designated for resource adequacy as a "Network Resource" under Module E of the MISO Open Access Transmission and Energy Markets Tariff.

1.39 Network Upgrades: All or a portion of the modifications or additions to transmission and distribution related facilities that are integrated with and support the

Interconnection Provider's System for the general benefit of all users of the transmission and distribution system.

1.40 New Joint Transmission Authority: Any independent service organization or other Person that may be created or becomes operational subsequent to the date of this Agreement and that is empowered or authorized to plan, coordinate, operate, regulate or otherwise manage any or all of the Interconnection Provider's System, whether in place of, or in addition to, MRO or MISO.

1.41 OATT: Any open access transmission tariff on file with FERC.

1.42 OTP: Otter Tail Power Company, a Minnesota corporation, and its successors and assignees.

1.43 Parties: OTP and Seller, and their respective successors and permitted assignees.

1.44 Party: OTP or Seller, and their respective successors and permitted assignees.

1.45 Permits: All state, federal, and local authorizations, certificates, permits, licenses, and approvals required by any Governmental Authority for the construction, operation, and maintenance of the Facility.

1.46 Person: An individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trusts, unincorporated association, joint venture, Governmental Authority, or other entity.

1.47 Point of Delivery: The point at which OTP accepts title to and risk of loss for the Net Energy and Net Nameplate Capacity sold and delivered by Seller to OTP, and the amount of Net Energy delivered and purchased is established for purposes of billing. The Point of Delivery is as shown in Appendix B.

1.48 Point of Interconnection: The point on the electrical system where the Facility is physically interconnected with the interconnection provider's System. The Point of Interconnection is shown in Appendix B.

1.49 Prevailing Wage and Apprenticeship Requirements: The prevailing wage and apprenticeship requirements described in Appendix G.

1.50 Prudent Electric Industry Practice: Those methods, practices, and use of equipment, as changed from time to time, that are commonly used and accepted in electrical engineering and operations to operate electric equipment lawfully and with safety, dependability and efficiency, including, but not limited to, the requirements of the National Electric Safety Code, the National Electrical Code, NERC, MRO, MISO Procedures, NERC standards and procedures, and any governmental code or regulations.

1.51 PTC: The federal production tax credit for the production of electricity from solar pursuant to 26 U.S. C. §45, as amended.

1.52 Qualifying Production Loss Event: This term is defined in Section 5.5(b).

1.53 Renewable Energy Credits (RECs): All attributes of an environmental or other nature that are created or otherwise arise from the Facility's generation of Energy using solar as a fuel in contrast to the generation of electricity using nuclear or fossil fuels or resources, including, but not limited to, tags, certificates or similar products or rights associated with solar as a "green" or "renewable" electric generation resource. These attributes include any and all environmental air quality credits, emissions reductions, carbon offsets, allowances or other benefits related to the generation of energy at the Facility that reduces, displaces or offsets emissions resulting from fuel combustion at another location pursuant to any existing or future international, federal, state or local legislation or regulation or voluntary agreement, and the aggregate amount of credits, offsets or other benefits related to the MRETS Program or other environmental or renewable energy credit trading program derived from the use, purchase or distribution of Energy generated at the Plant, including, but not limited to, credits, allowances, offsets or similar rights which can be used to claim responsibility for any avoidance or reduction of emissions or pollutants such as mercury, nitrogen oxide, sulfur dioxide, carbon dioxide, carbon monoxide, particulate matter, or other contaminants of air, water or soil under any international regulatory or voluntary program, including the United Nations Framework Convention on Climate Change and related Kyoto Protocol and similar or successor programs.

"RECs" does not include production tax credits or any similar tax credits, cash grants, production incentives or similar tax or cash benefits for which Seller, the Facility or any financier is eligible or which any of them receives.

1.54 Requirements of Law: Collectively, the certificate of incorporation and bylaws or other organizational or governing documents of Seller or OTP and any United States or Canadian federal, state or provincial law, treaty, franchise, rule, regulation, order, writ, judgment, injunction, decree, award or determination of any arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon Seller or any of its property or to which Seller or any of its respective properties are subject.

1.55 Seller: [ADD], and any permitted successor or assignee.

1.56 Seller's Collector System: The electric power substation and collection facilities owned, operated and maintained by Seller, which shall include, without limitation, the transformer and the circuit reinforcements, extensions and associated terminal facility reinforcements or additions required to complete the Interconnection between the Facility and the Interconnection Provider's System.

1.57 Seller's Contractual Obligations: As to Seller, any provision of any security issued by it or any material agreement, instrument or undertaking to which Seller is a party or by which it or any of its property is bound.

1.58 Site: The real property on which the Facility is located, including all related solar easements and on which the Seller receives retail electric service from OTP. The legal description of the Site is set forth in Appendix D and incorporated by reference.

1.59 Station Auxiliary: Energy used by Seller to operate the Facility.

1.60 Term: The period of time during which the Agreement is in effect.

1.61 Transmission Provider: MISO and its successors and permitted assignees.

1.62 Trial Energy: Any Net Energy generated by the Facility and delivered to the Point of Interconnection prior to the Commercial Operation Date for the Facility.

1.63 Unavailable: A physical state in which the Facility is not capable of providing Net Energy or Net Nameplate Capacity to the Point of Interconnection, or in which any other equipment or facility is not capable of performing its intended purpose.

1.64 Utility Regulatory Commissions or URC: Means the Minnesota Public Utilities Commission (MPUC) or any successor agencies.

ARTICLE II - PURCHASE AND SALE

2.1 Term. This Agreement shall be effective upon execution by authorized representatives of both Parties and shall continue until Seller no longer has an obligation to sell, and OTP has no obligation to buy, power hereunder unless earlier terminated as set forth herein. OTP's obligation to purchase the Net Nameplate Capacity and Net Energy of the Facility, as set forth herein, shall be effective on the Commercial Operation Date and end on the date that is 35 years after the Commercial Operation Date unless earlier terminated as set forth herein.

2.2 Sale and Purchase. OTP agrees to purchase the entire Net Nameplate Capacity and Net Energy of the Facility during the Term and to accept delivery of the Net Nameplate Capacity and Net Energy, at the Point of Delivery during the Term, subject to the terms of the Agreement (including, without limitation, the contingencies and termination rights set forth in Sections 5.3 and 5.4 of this Agreement). Seller agrees to deliver and sell the entire Net Nameplate Capacity and Net Energy, from the Facility to OTP at the Point of Delivery for the Term. Seller shall not contract to sell any Net Nameplate Capacity and Net Energy from the Facility to any Person other than OTP for the Term and Seller acknowledges that OTP is entitled to receive all Net Nameplate Capacity and Net Energy, from the Facility during the Term.

2.3 Purchase Price.

(a) **Guaranteed Price.** From and after the Commercial Operation Date, OTP shall pay Seller the Guaranteed Price as specified in Appendix A per MWh delivered for the Net Nameplate Capacity, and Net Energy that Seller delivers to OTP at the Point of Delivery. OTP and Seller agree that the applicable Guaranteed Price is intended to compensate Seller for the Net Nameplate Capacity and Net Energy delivered to OTP, and that Seller is not entitled to a separate price or payment for the Capacity of the Facility to which OTP is entitled. The Guaranteed Price is inclusive of the price for any RECs generated by the Facility.

(b) **Trial Energy.** OTP shall purchase all Trial Energy produced by the Facility during startup and testing and delivered to OTP at the Point of Delivery at the price specified in Appendix A.

(c) **Qualified Production Loss Event.** If delivery of Net Energy is curtailed by OTP pursuant to a Qualified Production Loss Event (as defined in Section 5.5 below), OTP shall make payments to the extent provided in, and in accordance with, Section 5.5 below.

2.4 Tax Credits. Seller is responsible to apply and qualify for the federal production tax credit pursuant to 26 U.S.C. Section 45 and any other production tax credits or payments or other assistance, grants or financial credits which might be available to Seller or the Facility from any Governmental Authority, and OTP agrees that Seller is entitled to receive any such credits, assistance, or grants. Seller and OTP agree that the Guaranteed Price and other pricing set forth in this Agreement are not subject to adjustment or amendment due to Seller's receipt, or failure to receive, any such credits, assistance or grants, in whole or in part, after the date of this Agreement, including without limitation failure of the Facility to qualify to receive the PTC or ITC tax credits for any reason.

2.5 Net Nameplate Capacity. Seller agrees that the Net Nameplate Capacity shall be [insert] kW, and that the Net Nameplate Capacity shall include only Capacity from the Facility.

2.6 Capacity Accreditation. Each year Seller shall collect hourly data in accordance with OTP procedures, MISO Resource Adequacy Requirements and MISO Procedures to determine the Accreditable Capacity of the Facility. OTP shall determine if the Facility will be registered with MISO to obtain Accreditable Capacity and shall advise Seller of the applicable MISO Resource Adequacy Requirements and MISO Procedures. Seller shall comply with all MISO and OTP requirements regarding determination of Accreditable Capacity.

2.7 RECs. The Parties agree that the Guaranteed Price includes compensation for the RECs associated with the Energy and Capacity purchased by OTP pursuant to this Agreement. All RECs shall be owned and controlled by OTP and may be used, sold, or transferred as OTP may decide in its sole and absolute discretion.

ARTICLE III - MEETING AND BILLING

3.1 Metering Requirements. The transfer of electric Capacity and Energy between Seller and OTP shall be measured by metering equipment owned by the Seller and compensated to the Point of Delivery. The Seller shall install a revenue quality meter on the Seller's Facility. Seller shall arrange and maintain metering and SCADA communication as identified in the Generator Interconnection Agreement.

If Seller's test shows a meter to have an average error of more than 2% fast or 2% slow, Seller shall make an adjustment to the metered data during the period of registration error, if known. The adjustment to the metered data shall be based on corrected meter readings for a period equal to one-half the time elapsed since the last testing of the meter, but not to exceed six (6) months, unless it can be established that the error was due to some cause, the date of which can be

fixed with reasonable certainty, in which case meter adjustments will be calculated to that date, but in no event for a period longer than one (1) year. When the average error cannot be determined by test because the meter is not found to register or is found to register intermittently, OTP may choose to use the best information available to adjust the metered data.

3.2 Billing. Seller shall provide the ability for OTP to read the meter per the Generator Interconnection Agreement.

3.3 Billing and Payment Records. To facilitate payment and verification, Seller shall maintain all books and records necessary for billing and payments, including without limitation copies of all invoices and curtailment data with respect to the Facility for a period of at least two (2) years, and Seller shall grant OTP reasonable access to those books, records and data on the premises of the Facility or at the principal place of business of the Seller. OTP may examine such books and records relating to transactions under and administration of this Agreement, at any time during the period the records are required to be maintained, upon request with reasonable notice and during normal business hours.

3.4 Payment. OTP's payment to Seller for Net Nameplate Capacity and Net Energy delivered shall be posted, if by mail, twenty (20) days following the date of the bill. If such due date falls on a weekend or legal holiday, such due date shall be the next working day. Payments posted after the due date shall be considered late and shall bear interest on the unpaid balance at a rate equal to four percent (4%).

3.5 Wire Transfer. OTP shall make payment of bills via wire transfer of funds if requested in writing by Seller, at Seller's sole expense, and if the request contains adequate payment information. OTP shall be entitled to conclusively presume, without any liability whatsoever, that the payment information furnished by Seller (for example, name, financial institution, account numbers, and payee) is accurate. In no event will OTP be required to pay any bill more than once where the invoice was first paid in accordance with Seller's instructions.

ARTICLE IV – SELLER'S OBLIGATIONS

During the Term of the Agreement, Seller hereby agrees to be bound by and to perform the following affirmative obligations:

4.1 Design, Construction and Operation of the Facility.

Seller shall:

(a) At its sole expense, design and construct the Facility and any related facilities in accordance with Prudent Electric Industry Practice and in accordance with the Generator Interconnection Agreement.

(b) In a timely manner, seek, obtain, maintain, comply with and, as necessary, renew and modify, at Seller's sole expense, the Permits and all other permits, certificates or other authorizations which are required by any Requirement of Law or Governmental Authority as prerequisites to engaging in the activities envisioned by the Agreement and to

meeting Seller's obligation to operate the Facility consistently with the terms of the Agreement.

(c) At Seller's sole expense, operate, maintain, and repair the Facility in accordance with this Agreement, all Requirements of Law, Seller's Contractual Obligations, Permits, the practices and requirements of OTP, MISO, MRO and any New Joint Transmission Authority, and in accordance with Prudent Electric Industry Practice.

(d) At Seller's sole expense, obtain and maintain the coverages in the initial amount specified in Appendix E during the Term of the Agreement.

(e) Comply with MISO, MRO and NERC Procedures and the requirements of any New Joint Transmission Authority and cooperate with all reasonable requests by OTP relating to OTP's compliance with such entities.

4.2 General Obligations.

(a) Seller, during the Term of the Agreement, shall pay all present or future federal, state, municipal, or other lawful taxes or fees applicable to Seller or the Facility or by reason of the sale of Energy or Capacity under the Agreement. Seller shall receive the benefit of any tax credits, allowances, or other financial credits related to the Facility.

(b) Seller shall obtain in its own name and at its own expense any and all pollution or environmental credits or offsets necessary to operate the Facility in compliance with the Environmental Laws. Seller agrees to execute an Indemnity Agreement in the form set forth in Appendix F in favor of OTP that shall protect OTP against any Environmental Liability relating to or arising from the Site and the Facility.

(c) Unless otherwise agreed by the Parties, Seller shall provide its own Station Auxiliary power and Energy from the gross output of its on-site generators when they are operating. At Seller's option, OTP shall provide Seller with standby power and Energy in accordance with then effective retail tariffs.

(d) Seller shall keep complete and accurate operating and other records and all other data for the purposes of proper administration of the Agreement, including such records as may be required by any Governmental Authority, MISO, MRO, any New Joint Transmission Authority, OTP, the Parties and as otherwise required by Prudent Electric Industry Practice. OTP shall provide reasonable notice of OTP's specific requirements of Seller.

(e) Seller shall continue to (i) preserve, renew and keep in full force and effect its organizational existence and good standing, and take all reasonable action to maintain all permits, rights, privileges, licenses, and franchises necessary or desirable in the ordinary course of its business; and (ii) comply with all Seller's Contractual Obligations and Requirements of Law.

(f) Seller shall provide to OTP such other information regarding the permitting, engineering, construction, condition and operations, of Seller or the Facility, financial or

otherwise or other data concerning the Seller or the Facility as OTP may, from time to time, reasonably request.

4.3 Sale of Assets.

(a) Seller shall not lease, sell, agree to sell, convey or otherwise transfer or dispose of (in one or a series of related transactions) any of its interest or title in any material portion of its Facility assets, now owned or hereafter acquired, except as part of a collateral assignment or other security instruments in favor of a Financier, or in the ordinary course of business as parts need repair or replacement, without OTP's consent, which shall not be unreasonably withheld, conditioned, or delayed.

4.4 Interconnection Agreement; Separation of Functions.

(a) Seller shall be responsible for submitting an Interconnection Agreement to the Interconnection Provider and for negotiating, entering into, and performing the Interconnection Agreement with the Interconnection Provider and any other necessary Persons for design, installation and operation of the necessary facilities to permit delivery of the Net Energy and Capacity on Seller's side of the Point of interconnection.

(i) Seller shall provide the Transmission Provider, the Interconnection Provider and any applicable transmission owners written permission to release transmission study results to OTP.

(b) The Parties acknowledge that OTP's responsibilities and obligations under this Agreement are those of OTP's merchant function, not of its transmission function, and that this Agreement imposes no responsibilities or obligations on OTP's transmission function. The Parties recognize that Seller has or will enter into a separate Interconnection Agreement with the Interconnection Provider, which may be OTP, will be a separate and free-standing contract. Seller expressly recognizes that, for purposes of this Agreement, the Interconnection Provider shall be deemed to be a separate entity and separate contracting party whether or not the Interconnection Agreement is entered into with Otter Tail or an affiliate of Otter Tail. Notwithstanding any other provision in this Agreement, nothing in the Interconnection Agreement shall alter or modify Seller's or OTP's rights, duties and obligations under this Agreement. Furthermore, this Agreement shall not be construed to create any rights between Seller and the Interconnection Provider.

(c) The Parties further recognize that OTP's functionally separate transmission organization offers transmission service on its system pursuant to the terms of the relevant OATT and that this Agreement does not impose any responsibilities, obligations or terms on OTP's functionally separate transmission organization.

ARTICLE V - OTP OBLIGATIONS; TRANSMISSION SERVICE; CURTAILMENT

5.1 Cooperation. OTP agrees to cooperate with Seller in any applications that Seller is making for tax credits, grants, or assistance as described in Section 2.4, at Seller's expense. OTP's obligation shall consist only of providing nonproprietary information in its possession, custody, or

control necessary to complete any such applications, responding to requests from the relevant Governmental Authorities, and similar activities.

5.2 Collateral Assignments. OTP shall not be required to enter into collateral assignments of the Agreement.

5.3 Condition Precedent; Utility Regulatory Commission Approvals.

(a) To the extent OTP deems it necessary, in its sole discretion, OTP shall request approval of this Agreement and the payments to be made to Seller pursuant to this Agreement from the MPUC. No earlier than fifteen (15) days prior to the Effective Date and no later than thirty (30) days after the Effective Date, OTP may request an affirmative determination from the MPUC that OTP's execution of this PPA is reasonable, in the public interest, and all costs incurred under this PPA are recoverable from OTP's retail customers; *provided, however*, that such MPUC approval shall not be deemed to fail to satisfy the requirement of this paragraph merely because it provides that the MPUC retains ongoing prudency review of OTP's performance hereunder (generally, "MPUC Approval"). OTP shall use commercially reasonable efforts to obtain MPUC Approval, if requested, and Seller shall cooperate reasonably with Company's efforts to seek MPUC Approval. If OTP fails to apply for MPUC Approval within sixty (60) days following the effective date of this PPA, OTP shall be deemed to have waived its rights under this Section. Seller agrees to cooperate with OTP with respect to any such request by providing information reasonably necessary to support the request and to respond to discovery requests by parties to the proceeding to the extent requested by OTP. If the MPUC declines to approve this Agreement, or approves this Agreement subject to conditions which alter the material terms of the Agreement, as reasonably determined by OTP, then OTP may terminate this Agreement upon written notice to Seller within thirty (30) days after the MPUC decision, with no further obligations under this Agreement.

(b) In the event that OTP timely applies for MPUC Approval under paragraph (a) of this Section, OTP shall have the right to terminate this PPA, without any further financial or other obligation to Seller as a result of such termination, by notice to Seller at any time after the earlier of (i) ten (10) Days following receipt of written orders from the MPUC, or (ii) six (6) months following the filing of this PPA with the MPUC; in either case that OTP has been unable to obtain MPUC Approval without conditions unsatisfactory to OTP. Absent such notice of termination by OTP on or before the referenced date, Company shall be deemed to have waived its rights under this Section, and this PPA shall remain in full force and effect thereafter.

(c) In the event that OTP timely applies for MPUC Approval under paragraph (a) of this Section, Seller shall have the right to terminate this PPA, without any further financial or other obligation to OTP as a result of such termination, by notice to OTP at any time after the earlier of (i) ten (10) days following receipt of written orders from the MPUC, or (ii) six (6) months following the filing of this PPA with the MPUC; in either case that OTP has been unable to obtain MPUC Approval without conditions reasonably unsatisfactory to Seller. Absent such notice of termination by Seller on or before the

referenced date, Seller shall be deemed to have waived its rights under this Section, and this PPA shall remain in full force and effect thereafter.

(d) Seller represents to OTP that (i) the Net Nameplate, Capacity of the Facility is, and will be, less than or equal to 10 MW during the Term; and (ii) for purposes of the representation in 5.3(d)(i), Seller as a single seller or as part of an affiliated group of sellers, including any individuals, members, equity or tax investors of Seller, is not a party, participant, investor or part of an affiliated group to any other small solar project or power purchase agreement from a small solar project with OTP.

5.4 Transmission Service. Seller shall be solely responsible for obtaining and paying for transmission and delivery of any and all Energy and Capacity produced by the Facility to the Point of Delivery. OTP shall be solely responsible for obtaining and paying for transmission and delivery of Net Energy and Accreditable Capacity from the Point of Delivery (including ancillary services) to any other location or any other Person. In the event that the Facility has not reached Commercial Operation within the time frame set forth in Section 1.6 of this Agreement and fails to cure the breach during the cure period, OTP may terminate this Agreement upon written notice to Seller without further obligation by OTP.

5.5 Curtailment; Production Losses.

(a) The Parties acknowledge that there may be circumstances in which OTP, MRO, MISO, the Interconnection Provider or a New Joint Transmission Authority will direct Seller to curtail deliveries of Energy and Capacity from the Facility in accordance with applicable laws, tariffs or agreements. If and to the extent a curtailment is due to an (i) Emergency, (ii) Force Majeure, (iii) failure of Seller to maintain all permits or authorizations necessary to deliver to the Point of Delivery, (iv) the operation of Seller's system protection equipment or any malfunction of Seller's equipment that causes the Facility to be disconnected from the system, (v) the lack of available transmission capacity at the time of the curtailment, (vi) the lack of transmission service, (vii) low load conditions that require curtailment of generation for system stability purposes, (viii) transmission loading relief or comparable procedures implemented under an OATT, unless such curtailment is the result of market mechanisms, or (ix) any curtailments arising out of maintenance outages of any part of the transmission and/or distribution systems or any testing of the transmission and/or distribution system, Seller shall not be entitled to any compensation for any lost production. Seller shall meet all terms and conditions of this agreement in the course of any such curtailments and Seller shall not be compensated for any lost production due to such curtailments. For the avoidance of doubt, curtailments resulting directly from OTP's day ahead and intra-day offer price of the Facility on the MISO marketplace shall be compensated.

(b) In the event that OTP refuses or fails to accept delivery of Net Energy and Net Nameplate Capacity at the Point of Delivery for reasons other than as set forth in Section 5.5(a), (hereinafter a "Qualifying Production Loss Event"), and the Facility was otherwise capable of providing and delivering Energy and Capacity to the Point of Delivery, then Seller shall be able to claim compensation pursuant to Section 5.5(c).

(c) Upon the occurrence of a Qualifying Production Loss Event, Seller shall calculate the amount of Net Energy and Net Nameplate Capacity which it would have produced and delivered to OTP at the Point of Delivery but for the Qualifying Production Loss Event, using the manufacturer's power curve for the solar modules and inverter (adjusted for actual operating experience at the Facility, as necessary) and the recorded irradiance at the Facility for each hour during the duration of the Qualifying Production Loss Event. For each hour during a Qualifying Production Loss Event, the lost production shall be based on the actual availability of all solar resources during the hour, excluding any solar resources being unavailable for outages and reflecting any other operating restrictions applicable to any solar resources during the hour (the "Available Capacity"). The Available Capacity shall be multiplied by the product of hourly average solar resources as measured at the Site and the power curve specified by the manufacturer for each applicable solar equipment and summed to equal the lost production of the Facility for that hour. Any actual Net Energy produced by the Facility and delivered to the Point of Delivery during the applicable hour shall be subtracted from the estimated lost production for that hour to obtain the amount in MWh of lost production experienced by Seller for that hour. The Parties may revise the calculation of Available Capacity and lost production based on changes in the actual operational characteristics of the Facility and other circumstances.

(d) Upon the occurrence of a Qualifying Production Loss Event, OTP shall be obligated to pay Seller an amount equal to the Guaranteed Price that Seller would have received under this Agreement for the Net Energy, measured in megawatt-hours, which Seller would have otherwise produced and delivered to the Point of Delivery but for the Qualifying Production Loss Event, plus, if the facility qualified for PTCs, the value of such lost PTCs, in an amount of the PTCs that Seller would have been entitled to receive for production of renewable Energy had such production not been so curtailed but that Seller did not receive.

(e) Seller shall invoice OTP for amounts due as a result of Qualifying Production Loss Events together with its regular monthly invoices for the applicable month as set forth in Section 3.2. Seller shall include information with the invoice documenting (i) the nature and duration of the Qualifying Production Loss Event, (ii) meteorological data gathered at the Site for the period during such Qualifying Production Loss Event used to calculate the lost production amounts, including cloud cover, (iii) if PTC payments are included on such invoice, evidence that Seller would have otherwise been qualified to receive such payments but for the Production Loss, and (iv) the computation of amounts due under this Section for the invoiced lost production, all in a format provided by OTP. OTP shall notify Seller within thirty (30) days of receipt if OTP believes that the circumstances described do not constitute a Qualifying Production Loss Event and the reason for that conclusion. If the Parties cannot resolve the difference of opinion by negotiation, either Party may utilize the dispute resolution procedures in the Agreement.

(f) Seller and OTP shall each use commercially reasonable effort is to develop a mutually acceptable procedure for OTP to notify Seller of curtailments.

ARTICLE VI - FORCE MAJEURE

6.1 Force Majeure. The performance of each Party under the Agreement may be subject to interruptions or reductions due to an event of Force Majeure. The term “Force Majeure” shall mean an event or circumstance beyond the control of the Party claiming Force Majeure, which, by exercise of due diligence and foresight, could not reasonably have been avoided, including, but not limited to an Emergency, a Force Majeure event on the Interconnection Provider’s System as defined in the Interconnection Agreement to the extent it causes the Facility to be physically incapable of delivering energy or OTP from receiving energy at the Point of Delivery; a Force Majeure event (or comparable uncontrollable circumstances as may be defined in the applicable OATT) on the regional transmission and/or local distribution system to the extent it causes OTP to be unable to accept delivery of Energy at the Point of Delivery or to transmit such energy from and after the Point of Delivery, flood, earthquake, storm, tornado, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, strike, and act of God or any other cause beyond the control of the Party claiming Force Majeure. However, the obligation to use due diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty.

6.2 Remedial Action. A Party shall not be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to an event of Force Majeure. The Party rendered unable to fulfill any obligation by reason of a Force Majeure shall take all action necessary to remove such inability with all due speed and diligence. The nonperforming Party shall be prompt and diligent in attempting to remove the cause of its failure to perform, and nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed.

6.3 Exclusions from Definition of Force Majeure. Notwithstanding anything in the Agreement to the contrary, “Force Majeure” shall not mean:

- (a) General inclement weather normally experienced within the vicinity of the Site and affecting construction, start-up, operation, or decommissioning of the Facility or related facilities.
- (b) Changes in market conditions, governmental action, or weather conditions that affect the cost of Seller’s supply of Energy from the Facility.
- (c) Unavailability of solar resource.
- (d) Unavailability of equipment, repairs or spare parts for the Facility, except to the extent due to a qualifying event of Force Majeure.
- (e) Inability to obtain, maintain or renew any Permit or any delay in obtaining, maintaining, or renewing any Permit.
- (f) Litigation or administrative or judicial action pertaining to the Agreement after the Commercial Operation Date, the Site, the Facility, the acquisition, maintenance or renewal of financing or any Permits, or the design, construction, maintenance or operation of the Facility.

(g) Any acts or omissions of any third party, including, without limitation, any vendor or supplier of Seller, except to the extent due to a qualifying event of Force Majeure.

(h) Any mechanical or equipment breakdown or other mishap at the Facility or events or conditions attributable to normal wear and tear or flaws or failure to operate or maintain such component in accordance with Prudent Electric Industry Practice, unless such mishap is caused by a qualifying event of Force Majeure.

6.4 Notice. In the event of any delay or nonperformance resulting from Force Majeure, the Party suffering the event of Force Majeure shall, promptly notify the other Party in writing of the nature, cause, date of commencement thereof, and the anticipated extent of any delay or interruption in performance.

ARTICLE VII - TERMINATION/DEFAULT/REMEDIES

7.1 Events of Default by OTP. The following shall each constitute an Event of Default by OTP:

(a) OTP breaches any curable non-monetary material obligation under this Agreement and fails to cure such breach within thirty (30) days after written notification by Seller of the breach.

(b) After the Commercial Operation Date, for any reason other than an event of Force Majeure or an Event of Default by Seller, and except as allowed pursuant to Sections 5.4 and 5.5 of this Agreement, OTP refuses to purchase Energy after the Commercial Operation Date for either ninety (90) consecutive days or one hundred and twenty (120) nonconsecutive days in any three hundred sixty-five (365) day period.

(c) OTP fails to make any material payment due under the Agreement within thirty (30) days after written notice from Seller that such payment is past due, unless such payment is contested or a right of set-off has been claimed by OTP.

(d) Any other material breach of the Agreement not specifically enumerated, which is not cured within thirty (30) days after written notification of default by the non-defaulting Party.

7.2 Events of Default by Seller. The following shall each constitute an Event of Default by the Seller:

(a) For any reason other than an event of Force Majeure or an Event of Default by OTP, the Facility being Unavailable to provide Energy for either ninety (90) consecutive days or one hundred and twenty (120) non-consecutive days in any three hundred sixty-five (365) day period.

(b) Seller breaches any curable material obligation under this Agreement and fails to cure the breach within thirty (30) days after written notification by OTP of the breach.

(c) Any other material breach of the Agreement not specifically enumerated, which is not cured within thirty (30) days after written notification of default by the non-defaulting Party.

(d) The Facility shall fail to achieve Commercial Operation on or before sixty (60) days following the latest authorized Commercial Operation Date for reasons other than Force Majeure, or failure to achieve Commercial Operation prior to December 31, 2030, for any reason.

7.3 Termination.

(a) In the event the defaulting Party fails to cure the Event of Default within the period for curative action under Sections 7.1 or 7.2, as applicable, or upon the occurrence of an incurable Event of Default, the non-defaulting Party may terminate the Agreement by notifying the defaulting Party in writing of the decision to terminate and the effective date of the termination.

(b) Upon termination of the Agreement by OTP due to an Event of Default by Seller pursuant to Section 7.3(a), OTP shall have no future or further obligation to purchase the Net Nameplate Capacity and Net Energy of the Facility or to make any payment whatsoever under this Agreement, except for payments for obligations arising or accruing prior to the effective date of termination. Upon termination of the Agreement by Seller due to an Event of Default by OTP pursuant to Section 7.3(a), Seller shall have no future or further obligation to deliver the Capacity and Net Energy of the Facility to OTP or to satisfy any other obligation of this Agreement, except for payments or other obligations arising or accruing prior to the effective date of termination. After the effective date of termination, the Agreement shall not be construed to provide any residual value to either Party or any successor or any other Person, for rights to, use of, or benefits from the Facility or the Interconnection Provider's System.

(c) Nothing in this Agreement prohibits Seller from terminating this Agreement with ninety (90) days' written notice or on a later date stated in the notice, because (1) funding from federal, state or other sources is not obtained and continued at levels sufficient to allow Seller to maintain its obligations under this Agreement; (2) federal or state laws or rules are modified or interpreted in such a way that it is no longer allowable or appropriate for Seller to engage in this Agreement, or the sales and services authorized by this Agreement are no longer eligible for the funding necessary to support obligations of Seller under this Agreement; or (3) any license, permit or certificate required by law or rule, or by the terms of the Agreement, to be obtained or maintained by Seller is for any reason denied, revoked, suspended or not renewed.

7.4 Other Damages.

(a) For all claims, causes of action and damages the Parties shall be entitled to the recovery of actual damages allowed by law unless otherwise limited by the Agreement. Neither the enumeration of Events of Default in Sections 7.1 and 7.2, nor the termination of this Agreement by a non-defaulting Party pursuant to Section 7.3(a), shall limit the right

of a non-defaulting Party to rights and remedies available at law, including, but not limited to, claims for breach of contract or failure to perform by the other Party and for direct damages incurred by the non-defaulting Party as a result of the termination of this Agreement.

(b) Except as otherwise specifically and expressly provided in the Agreement, no Party shall be liable to the other Party under the Agreement for any indirect, special, punitive, exemplary, incidental or consequential damages, including, without limitation, loss of use, loss of revenues, loss of profit, interest charges, cost of capital, or claims of customers to which service is made, whether arising under statute or in equity or contract. Notwithstanding the foregoing, in the event that OTP breaches this Agreement by failing to purchase or accept delivery of Net Energy and Net Nameplate Capacity (except for curtailments allowed pursuant to Sections 5.4 and 5.5 or as otherwise excused pursuant to the terms of this Agreement), Seller shall be entitled to seek damages measured by the difference between the amounts Seller would otherwise have been paid under this Agreement for such Energy and Capacity if it had been purchased or accepted for delivery by OTP and the costs saved by (A) not being required to produce and deliver such Energy and Capacity or (B) in the event Seller sells such Energy and Capacity to a third party following OTP's default, the price Seller received for such Energy and Capacity sold to a third party. In no event shall one Party's liability to the other exceed any limit of liability established for either Party under any Requirement of Law.

(c) Except as otherwise provided in this subsection (c) Seller's aggregate financial liability to OTP for damages shall not exceed \$[XX]/kW times Net Nameplate Capacity (\$[\$\$\$\$]). If at any time during the Term OTP incurs damages in excess of the limitations set forth above that Seller does not agree to pay when billed by OTP, OTP shall have the right to declare a termination of this Agreement under Section 7.3. The limitations on damages set forth in this Section shall not apply to damages arising out of any of the following events:

- (i) Actual fraud or other material intentional misrepresentation or material misconduct sanctioned by, or at the direction of, Seller in connection with this Agreement or the operation of the Facility;
- (ii) The sale by Seller to a third party, or unauthorized diversion by Seller, of Net Energy and Capacity committed to OTP under this Agreement, except during an Event of Default by OTP;
- (iii) Seller's failure to apply any property insurance proceeds to reconstruction of the Facility following a casualty;
- (iv) Any Environmental Liability caused by Seller;
- (v) Failure of Seller to achieve Commercial Operation by December 31, 2030; or
- (vi) The filing of an involuntary bankruptcy petition against Seller (other than by OTP), which petition is not dismissed within sixty (60) days

of its filing, or the filing of a voluntary petition in bankruptcy by Seller.

7.5 Indemnification. To the extent permitted under Minnesota law, and subject to available appropriations or limits of liability insurance, Seller and OTP agree to defend, indemnify, and hold each other, and their respective officers, directors, employees, and agents, harmless from and against all claims, demands, losses, liabilities, and expenses (including reasonable attorneys' fees) (collectively "Damages") for personal injury or death to Persons and damage to each other's physical property or facilities or the property of any other Person or corporation to the extent arising out of, resulting from, or caused by the negligent or intentional acts, errors, or omissions of the indemnifying Party. Furthermore, each Party shall defend, indemnify, and hold the other harmless from and against all damages that are or were incurred or suffered by the indemnified Party and which relate to the indemnifying Party's breach or failure to perform any of the covenants, agreements, obligations, representations, or warranties contained in the Agreement. Nothing in this section shall relieve Seller or OTP of any liability to the other for any breach of the Agreement. This indemnification obligation shall apply notwithstanding any negligent or intentional acts, errors or omissions of the indemnitees but the indemnifying Party's liability to pay Damages to the indemnified Party shall be reduced in proportion to the percentage by which the indemnitees' negligent or intentional acts, errors or omissions caused the Damages. Neither Party shall be indemnified for its Damages resulting from its sole negligence or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

ARTICLE VIII - MISCELLANEOUS

8.1 No Assignment. Except as provided in Sections 4.3 and 5.2, the rights and obligations of this Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed. Seller's consent shall not be required for OTP to assign this Agreement to an Affiliate of OTP, provided that OTP provides assurances and executes documents reasonably required by Seller and the Financier regarding OTP's continued liability for all of OTP's obligations under this Agreement in the event of any nonperformance on the part of such assignee. OTP's consent shall not be required for Seller to assign this Agreement to an Affiliate of Seller, provided that Seller provides assurances and executes documents reasonably required by OTP and the Financier regarding Seller's continued liability for all of Seller's obligations under this Agreement in the event of any nonperformance on the part of such assignee. Such assignments are subject to URC approval, including the MPUC. In the event that the assignee has or obtains an investment grade unsecured bond rating equivalent to or better than the unsecured bond rating of OTP (but in no event worse than the equivalent of BBB, then Seller agrees to relieve OTP from its obligations under this Agreement if OTP requests to be so relieved in a written notice provided to Seller. Any purported assignment of this Agreement in the absence of the required consent as required by this Section 8.1 shall be void.

8.2 Notices. Any notice, demand, request, or communication required or authorized by the Agreement shall be delivered either by hand, facsimile, overnight courier or mailed by certified mail, return receipt requested, with postage prepaid, to:

Randy Synsteliën
Principal Resource Planner
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56537

with a copy to:

Office of General Counsel
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56537

on behalf of OTP; and to:

[INSERT]

on behalf of Seller. The designation and titles of the person to be notified or the address of such person may be changed at any time by written notice. Any such notice, demand, request, or communication shall be deemed delivered on receipt if delivered by hand or facsimile and on deposit by the sending party if delivered by courier or U.S. mail.

8.3 Captions. All titles, subject headings, section titles and similar items are provided for the purpose of reference and convenience and are not intended to be inclusive, definitive or to affect the meaning of the contents or scope of the Agreement.

8.4 No Third-Party Beneficiary. No provision of the Agreement is intended to nor shall it in any way inure to the benefit of any customer, property owner or any other third party, so as to constitute any such Person a third-party beneficiary under the Agreement, or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any Person not a Party hereto.

8.5 No Dedication. No undertaking by one Party to the other under any provision of the Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of OTP as an independent public utility corporation or Seller as an independent individual or entity and not a public utility.

8.6 Integration; Amendment. The Agreement, together with all Appendices attached hereto, constitutes the entire agreement between the Parties relating to the transaction described herein and supersedes any and all prior oral or written understandings. No amendment, addition to, or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived any provision or any remedy available to it unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the applicable Party or Parties.

8.7 Governing Law. The Agreement is made in the State of Minnesota and shall be interpreted and governed by the laws of the State of Minnesota and/or the laws of the United States, as applicable. Any action brought with respect to the Agreement shall be venued in Minnesota State Court, Otter Tail County.

8.8 Relationship of Parties.

(a) The duties, obligations, and liabilities of the Parties are intended to be several and not joint or collective. The Agreement shall not be interpreted or construed to create an association, joint venture, fiduciary relationship or partnership between Seller and OTP or to impose any partnership obligation or liability or any trust or agency obligation or relationship upon either Party. Seller and OTP shall not have any right, power, or authority to enter into 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.

(b) The relationship between OTP and Seller shall be that of contracting party to independent contractor. Accordingly, subject to the specific terms of the Agreement, OTP shall have no general right to prescribe the means by which Seller shall meet its obligations under the Agreement.

(c) Seller shall be solely liable for the payment of all wages, taxes, and other costs related to the employment of persons to perform Seller's obligations under the Agreement, including all federal, state, and local income, social security, payroll, and employment taxes, and statutorily mandated workers' compensation coverage. None of the persons employed by Seller shall be considered employees of OTP for any purpose; nor shall Seller represent to any Person that he or she is or shall become an OTP employee or agent.

8.9 Good Faith and Fair Dealing; Reasonableness. The Parties agree to act reasonably and in accordance with the principles of good faith and fair dealing in the performance of the Agreement. Unless expressly provided otherwise in this Agreement, (i) wherever the Agreement requires the consent, approval, or similar action by a Party, such consent, approval or similar action shall not be unreasonably withheld or delayed, and (ii) wherever the Agreement gives a Party a right to determine, require, specify or take similar action with respect to matters, such determination, requirement, specification or similar action shall be reasonable.

8.10 Severability. Should any provision of the Agreement be or become void, illegal, or unenforceable, the validity or enforceability of the other provisions of the Agreement shall not be affected and shall continue in force. The Parties will, however, use their best endeavors to agree on the replacement of the void, illegal, or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and the Agreement as a whole.

8.11 Cooperation. The Parties agree to reasonably cooperate with each other in the implementation and performance of the Agreement. Such duty to cooperate shall not require either Party to act in a manner inconsistent with its rights under the Agreement.

8.12 Counterparts. This Agreement may be executed in two (2) or more counterparts and by different parties on separate counterparts, all of which shall be considered one and the same agreement and each of which shall be deemed an original.

8.13 Standard of Review. This Agreement may be contingent upon appropriate authorization from the Federal Energy Regulatory Commission under Section 205 of the Federal Power Act. The terms and conditions and the rates for service specified in this Agreement shall remain in effect for the term of the transaction described in this Agreement. Absent the Parties' written agreement, this Agreement shall not be subject to change by application of either Party pursuant to Section 205 or 206 of the Federal Power Act. Absent the agreement of Seller and OTP to a proposed change, the standard of review for changes to the Guaranteed Price under this Agreement proposed by OTP, Seller, a non-party or FERC acting *sua sponte* shall be the public interest standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

8.14 Use of OTP's Name. Seller shall not use OTP's (or any of its affiliates') name, logos or other marks in connection with this Agreement or otherwise, without the prior written consent of OTP, which consent shall be within OTP's sole discretion.

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

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IN WITNESS WHEREOF, the Parties have caused the Agreement to be duly executed as of the date and year first above written.

[NAME]

By: _____

Name: _____

Its: _____

Otter Tail Power Company, a Minnesota Corporation

By: _____

Name: _____

Its: _____

APPENDIX A

GUARANTEED PRICE

The Guaranteed Price shall be \$[xx.xx] MWh.

APPENDIX B

POINTS OF INTERCONNECTION AND DELIVERY

[INSERT]

APPENDIX C

ACCEPTANCE CRITERIA

Seller and the Facility shall be deemed to have reached Commercial Operation when (in addition to the occurrence of all factors set forth in Section 1.5 of the Agreement) each of the following has occurred:

1. The Facility and Interconnection Facilities are physically complete as required by this Agreement and the Interconnection Agreement and are capable of transmitting, transforming and delivering the Capacity and Net Energy, to the Point of Delivery in accordance with the Interconnection Agreement, and Seller is both obligated under, and in compliance with the Interconnection Agreement.
2. The metering devices pursuant to Section 3.1 of this Agreement have been installed and identified by OTP.
3. Seller has provided OTP with written notice that the preceding three criteria have been met and a certificate of financial responsibility reflecting compliance with Section 4.1(d) and Appendix E, and OTP has confirmed in writing to Seller that the Facility has reached Commercial Operation. OTP shall confirm or dispute that the Facility has reached Commercial Operation within ten (10) business days of receipt of Seller's notice. OTP's failure to provide confirmation or other response to Seller's notice within ten (10) business days after receipt of Seller's notice shall constitute confirmation of Commercial Operation.

APPENDIX D

LEGAL DESCRIPTION OF SITE

[INSERT]

APPENDIX E

INSURANCE REQUIREMENTS

1. Seller shall procure and maintain through the Tenn, at its own expense, the following policies of insurance:

a. Worker's Compensation and Employer's Liability insurance that complies with the laws of Minnesota to the extent of statutory limits;

b. Comprehensive or Commercial General Liability coverage with bodily injury and property damage combined single limits of at least \$1,000,000 per occurrence. Such coverage shall include, but not necessarily be limited to, specific coverage for contractual liability, broad form property damage liability, personal injury liability, explosion and collapse hazard coverage, and products/completed operation liability coverage.

c. Comprehensive automobile liability coverage to the extent applicable with bodily injury and property damage combined single limits of at least \$1,000,000 per occurrence covering vehicles owned, hired, or non-owned; and

d. All other insurance required by regulation or law as deemed appropriate by Seller.

2. The structure of the coverage is Seller's option, as long as the total amount of insurance meets the requirements of this Agreement.

3. Seller shall provide OTP with certificates of insurance evidencing the coverage described herein within thirty (30) days of the Commercial Operation Date. Failure to obtain the liability coverage required shall in no way relieve or limit Seller's obligations and liabilities under other provisions of this Agreement.

APPENDIX F

FORM OF ENVIRONMENTAL INDEMNITY AGREEMENT

This Agreement is entered into this _____ day of _____, 20____ by and between [NAME], a [STATE] Limited Liability Corporation (“Seller” and Otter Tail Power Company, a Minnesota corporation (“OTP”).

RECITALS

A. OTP is a public utility providing electricity to retail customers in Minnesota, South Dakota and North Dakota. Seller is a Delaware Limited Liability Corporation, and is the owner and operator of a solar electric generating facility.

B. OTP and Seller have entered into a Power Purchase Agreement dated _____, 20____, as amended (the “Agreement”) pursuant to which Seller agrees to construct and install the Facility (as defined in the Agreement) and related facilities on real property owned or leased by Seller and described in Appendix D of the Agreement (the “Site”).

C. As a condition to its entry into and performance under the Agreement, OTP requires that Seller execute and deliver in its favor an agreement indemnifying OTP against any claims for environmental emissions, releases or other sources of potential liability related to or arising from the Facility or the Site.

D. To the extent permitted under Minnesota law, and subject to available appropriations or limits of liability insurance, Seller agrees to indemnify OTP in order to obtain the benefits of the Agreement.

NOW, THEREFORE, in consideration of these premises, the mutual promises in the Agreement and other good and valuable consideration, the receipt and adequacy of which are acknowledged, Seller and OTP agree as follows:

AGREEMENT

1. Definitions. All capitalized terms used herein shall have the meaning given to them in the Agreement, unless otherwise expressly defined herein.

2. Seller represents and warrants that, to the best of its knowledge, and except as set forth on *Exhibit A*, no portion of the Site and the improvements thereon has ever been used by previous or current owners or operators or Seller to generate, manufacture, refine, transport, treat, store, handle or dispose of toxic material, hazardous substances, solid waste or hazardous wastes, as the terms are defined in any applicable Environmental Law, and Seller does not intend to use any of the Site for such purposes. To the best of Seller’s knowledge, the Site does not contain, through the action or inaction of previous owners or operators or Seller, asbestos, urea formaldehyde foam insulation, PCB’s, other toxic materials, hazardous substances, or any other chemical, material, or substance exposure to which may or could pose a health hazard whether or not the substance is prohibited, limited or regulated by any Governmental Authority, whether used in the Facility or stored on the Site.

3. Seller represents and warrants that Seller has not received a summons, citation, directive, letter, or other communication, written or oral, from any Governmental Authority concerning the existence of any condition on or affecting the Site which currently violates, or which, with the passage of time, will violate, any applicable Environmental Law, or which otherwise indicates that Seller may be subject to any Potential Environmental Liability with respect to the Site or the Facility. To the best of Seller's knowledge, Seller, the Facility and the Site are not subject to any existing or pending investigation or inquiry by any Governmental Authority or to any remedial obligations under any applicable Environmental Law. These representations and warranties would continue to be true and correct following disclosure to the applicable Governmental Authority of all relevant facts, conditions and circumstances pertaining to Seller, the Facility, and the Site.

4. To the extent permitted under Minnesota law and subject to available appropriations or limits of liability insurance, Seller agrees to defend, indemnify and hold OTP and its officers, directors, employees, agents and representatives, and their respective successors and assigns, from and against all claims, actions, demands, losses, liabilities, damages, judgments, penalties, injuries, and expenses arising from or related to any Environmental Liability concerning Seller, the Facility or the Site, including, but not limited to, (1) any claim for personal injury or property damage by any Person arising out of, resulting from or caused by any violation of any applicable Environmental Law by Seller or concerning the Facility or the Site; (2) any assessment, fine, penalty, lien or other imposition by any Governmental Authority; and (3) any liability, losses, or remedial costs suffered because a Governmental Authority finds OTP to be a responsible party, owner or operator of the Facility or Site.

5. The release and return of this Indemnity Agreement shall not affect or impair any rights or remedies or claims OTP may have outside the scope of this Indemnity Agreement, at law or in equity, with respect to Seller or other Persons. The obligations of this Indemnity Agreement shall survive the termination of the Agreement.

6. This Indemnity Agreement shall inure to the benefit of OTP and any successor or assignee of OTP and shall be binding upon Seller and its successors and assignees.

7. OTP shall not be required to resort first to any other indemnitors or other Persons or their respective properties or estates or to any collateral, property, liens or other rights or remedies available to OTP before seeking indemnification hereunder from Seller.

8. This Indemnity Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. Any action brought with respect to the Agreement shall be venued in Minnesota State Court, Otter Tail County.

9. No provision of this Indemnity Agreement, whether express or implied, is intended to nor shall it in any way inure to the benefit of any third Person, so as to constitute any such Person a third-party beneficiary under the Indemnity Agreement, or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any Person other than OTP, and neither this Indemnity Agreement nor any provision thereof is intended to confer any rights or remedies of any sort on any Person other than OTP. Nothing in this Indemnity Agreement is intended to relieve or discharge any obligation or liability of any

Person to any party to this Indemnity Agreement or to the Agreement, and no provision of this Indemnity Agreement shall give any Person other than a Party any right of Subrogation or cause of action over and against any Party.

[NAME]

By: _____

Name: _____

Its: _____

Otter Tail Power Company, a Minnesota Corporation

By: _____

Name: _____

Its: _____

APPENDIX G

PREVAILING WAGE AND APPRENTICESHIP REQUIREMENTS

Article I. Prevailing Wage and Apprenticeship Requirements

Section 1.01 Prevailing Wage Compliance. [Seller] (“Seller”) shall ensure (and require each subcontractor to ensure) that any Laborer or Mechanic Employed by it or any subcontractor in the Construction, Alteration, or Repair of the Project during the Prevailing Wage Term shall be paid wages at rates not less than Prevailing Wage Rates.

Section 1.02 Prevailing Wage Requirements. During the Prevailing Wage Term, Seller shall, and require and ensure that all its subcontractors shall:

- (a) apply each applicable prevailing wage determination published on www.sam.gov and/or the Minnesota Department of Labor and Industry for the geographic area and type or types of construction applicable to the Project, where available, including all labor classifications for the Construction, Alteration or Repair that will be done on the Project by Laborers or Mechanics;
- (b) confirm at least monthly that such prevailing wage determinations reflect the prevailing rates for the Laborers or Mechanics who perform work on the Project by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code or Chapter 177.42 of the Minnesota Statutes as of the Effective Date;
- (c) in the event the Secretary of Labor has not published a prevailing wage determination for the geographic area and type of construction for the Project on www.sam.gov, or the Secretary of Labor has issued a prevailing wage determination for the geographic area and type of construction, but one or more labor classifications for the Construction, Alteration or Repair that will be done on the Project by Laborers or Mechanics is not listed, utilize the Contact Procedures to obtain such unlisted information, and rely on and implement the Department of Labor, Wage and Hour Division’s determination as to the labor classifications and wage rates to be used for the type of work in question in the area in which the Project is located. Seller shall, at least once every 90 days, review all pertinent and available prevailing wage determinations to update the relied-upon characterization. If new information or classification rates are available, Seller shall promptly pay, for the entire Prevailing Wage Term including retroactively, the rates identified for such Laborers or Mechanics previously not listed.
- (d) post information about prevailing wage rates in a prominent and accessible location or otherwise provide written notice of prevailing wage rates to laborers and mechanics;
- (e) establish procedures for individual to report suspected failures to comply with the Prevailing Wage Requirements, as defined in Section 1.03 below, without fear of retaliation or adverse action and investigate all reports of suspected failures to comply with the Prevailing Wage Requirements; and
- (f) provide a schedule to be attached to each Purchase Document that includes its baseline prevailing wage assumptions for the labor classifications included therein as of the Effective Date of such Purchase Document (the “Prevailing Wage Assumptions Schedule”) and promptly notify OTP of any updates to such prevailing wage determinations promptly update the wage rates paid to such Laborers or Mechanics and the Prevailing Wage Assumptions Schedule as necessary to stay in compliance with the Prevailing Wage Requirements.

The collective requirements in Sections 1.01 and this Section 1.02 are referred to herein as the “Prevailing Wage Requirements” including all applicable Treasury Regulations as may be updated from time to time.

Section 1.03 Apprenticeship Compliance. Seller shall ensure (and require each subcontractor to ensure) that, during the period commencing on the Effective Date and ending on the [*Final Completion Date*], not less than 15% of the total Labor Hours of the Work constituting Construction, Alteration or Repair prior to the facility being placed into service (including such work performed by any subcontractor) with respect to the Project, shall be performed by Qualified Apprentices in a manner so that the Project will satisfy the “apprenticeship requirements” described in chapter 178 of Minnesota Statutes and sections 45(b)(8) or 45Y(g)(10) of the Code with respect to the production tax credit, or sections 48(a)(11) or 48E(d)(4) with respect to the investment tax credit, as applicable, and all Minnesota and Treasury Regulations applicable with respect to the foregoing (the “Apprenticeship Requirements”). As part of ensuring compliance with the Apprenticeship Requirements, Seller shall ensure that:

- (a) with four or more individuals performing Labor Hours has at least one Qualified Apprentice,
- (b) satisfy applicable requirements for “apprentice-to-journey worker ratios” of the U.S. Department of Labor or the applicable state government agency that has responsibility and accountability for apprenticeship within the state where the Project is located,
- (c) have developed and are implementing a plan to utilize Qualified Apprentices to perform the Work; including but not limited to contacting the Department of Labor’s Office of Apprenticeship or relevant State apprenticeship agency for assistance in locating a registered apprentice program, contacting the registered apprenticeship programs regarding requests for qualified apprentices, following up with registered apprenticeship programs regarding requests for Qualified Apprentices,
- (d) forward to OTP a copy of each request to registered apprenticeship programs for Qualified Apprentices within five business days of when such requests are made to such registered apprenticeship programs; and
- (e) establish procedures for individuals to report suspected failures to comply with the Apprenticeship Requirements, without fear of retaliation or adverse action and investigate all reports of suspected failures to comply with such Apprenticeship Requirements.

To the extent Seller is relying on the good faith exception set forth in Section 45(b)(8)(D)(ii) of the Code, Seller must provide supporting documentation pursuant to Section 1.04 below reasonably satisfactory to OTP establishing such Seller or subcontractor’s compliance with such exception.

Section 1.04 Additional Documentation. Seller agrees to provide such documentation as may be requested by OTP from time to time to substantiate compliance with Seller’s obligations hereunder. Seller will maintain and preserve sufficient records, including books of account or records for Work performed by subcontractors of the Seller, to establish that Laborers and Mechanics were paid wages not less than such prevailing rates, and in sufficient form to establish that the Prevailing Wage Requirements and the Apprenticeship Requirements have been satisfied and/or compliance with applicable laws and the obligations of Seller and/or subcontractor under this Contract. Such records will include (a) identifying the applicable prevailing wage determination, the names of Laborers and Mechanics who performed Work constituting Construction, Alteration or Repair, the classifications of work they performed, their hours worked in each classification, the wage rates paid for the work, copies of any certified payroll and U.S. Department of Labor Wage Hour Form 347, and (b) the Labor Hours performed by Qualified Apprentices, the total Labor Hours, and records sufficient to identify all applicable registered apprenticeship programs

(and all correspondence to and from each such registered apprenticeship programs). Seller will maintain such documentation for a period of four years after the later of (i) the Final Completion Date or (ii) the end of the Prevailing Wage Term.

Section 1.05 Right to Audit Compliance. OTP and its Affiliates and designees (including, for the avoidance of doubt, a third-party accounting firm selected by OTP) shall have the right to audit all information (including supporting documentation) provided by Seller, or that otherwise is capable of being verified by audit to ensure that Seller and its subcontractors are in compliance in all respects with the Prevailing Wage Requirements and the Apprenticeship Requirements. Seller shall, to the maximum extent possible, cooperate in good faith with any such audits, including making available to OTP (and its Affiliates and designees, as applicable) a representative of Seller to answer questions related to the Prevailing Wage Requirements and the Apprenticeship Requirements. OTP shall have the right to share the results of any audit.

Section 1.06 Prompt Remedies. If OTP identifies a failure of Seller or any subcontractor to comply with the Prevailing Wage Requirements or Apprenticeship Requirements, Seller shall within five (5) Business Days of notice of such failure correct, pay or reimburse OTP or an Affiliate for any Cure Payment required to be made. If Seller or subcontractor is unable to remedy any such failure with that time period or there is a good faith dispute as to whether such failure has occurred, then Seller and OTP agree to work in good faith to resolve any such findings by OTP. For the avoidance of doubt, Seller agrees that it shall bear the costs of any solutions to such failure as agreed to by OTP and Seller.

Section 1.07 Cure Payments. If the Department of Labor, the IRS, or other competent authority determines that Seller or any of its subcontractors failed to comply with the Prevailing Wage Requirements or the Apprenticeship Requirements, Seller shall within five (5) Business Days of written demand following a final and unappealable finding of violation, correct, pay or reimburse OTP or Affiliate for any Cure Payment required to be made (whether to any Laborer or Mechanic or to the Secretary of the Treasury) as well as any reasonable attorneys' fees incurred by OTP or an Affiliate due to such failure. Any payment or reimbursement by Seller to OTP or an Affiliate shall be, to the extent permitted by applicable law, treated as non-taxable to such recipient, and otherwise shall be grossed up by the amount of additional U.S. federal income taxes due by such recipient on account of such payment or reimbursement, net of any credits, deductions, or other tax benefits actually realized by recipient that are attributable to such base amount or tax. Seller's obligations under this Section 1.08 shall survive until the date that is ninety (90) days after the expiration of the relevant statute of limitations (as it may be extended). Notwithstanding anything else in the Contract to the contrary, any Cure Payments made shall not be subject to or contribute towards any limitations of liability.

Section 1.08 Cooperation. Seller and OTP agree to cooperate to the extent necessary to ensure the Prevailing Wage Requirements and Apprenticeship Requirements continue to be met following the issuance of Future Guidance by addressing any necessary updates in a mutually agreed Change Order.

Article II. Definitions

The following definitions and terms shall be incorporated in the Agreement. Terms not otherwise defined in this Attachment G shall be as defined in the Agreement. If there is a conflict between the Agreement and this Attachment, then the definition set forth in the Agreement shall prevail.

“Apprenticeship Cure Payment” means with respect to any failure to satisfy the Apprenticeship Requirements, a payment to the U. S. Department of the Treasury in an amount equal to the product of \$50 multiplied by the total Labor Hours which were insufficient to meet the Apprenticeship Requirements;

provided, that \$500 is substituted for \$50 in the calculation above if the failure to satisfy the Apprenticeship Requirements is due to intentional disregard as determined by OTP or a taxing authority, plus any cure payment required by the Minnesota Department of Labor and Industry.

“Apprenticeship Requirements” is defined in Section 1.03 hereof.

“Apprenticeship Term” means the period commencing on the Effective Date and ending on the commercial operations of the Project.

“CFR” means the Code of Federal Regulations.

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

“Contact Procedures” means requesting a wage determination or wage rates for unlisted labor classifications applicable to the Construction, Alteration, or Repair of the Project by contacting the Department of Labor, Wage and Hour Division via email at IRAprevailingwage@dol.gov or successor location as identified in Future Guidance, and providing the Wage and Hour Division with the type of facility, facility location, proposed labor classifications, proposed prevailing wage rates, job descriptions and duties, and any rationale for the proposed classifications.

“Construction, Alteration, or Repair” means all types of Work done on the Project or Work performed at the [Site], including Work at a facility which is deemed a part of the Site of the Work by Laborers and Mechanics Employed by Seller or any subcontractor, including without limitation: (a) altering, remodeling, installation (where appropriate) on the Site of the Work of items fabricated off-site, (b) painting and decorating, (c) manufacturing or furnishing of materials, articles, supplies or equipment on the Site; (d) transportation between the Site of the Work and a facility which is dedicated to the construction of the Project or Work and deemed a part of the Site of the Work, and (e) transportation of portion(s) of the Project or Work between a site where a significant portion of such Project or Work is constructed, which is a part of the Site of the Work, and the physical place or places where the Project or Work will remain; *provided*, that except as provided in (d) above, the transportation of materials or supplies to or from the Site of the Work by employees of the Seller or a subcontractor is not “Construction, Alteration, or Repair.”

“Cure Payment” means the sum of any Apprenticeship Cure Payment and Prevailing Wage Cure Payment.

“Employed” means an arrangement in which an individual performs services for the Seller or any subcontractor in exchange for remuneration, regardless of whether the individual would be characterized as an employee or an independent contractor for federal tax purposes. For the avoidance of doubt, independent contractors are included in this definition of “Employed” per IRS Notice 2022-61, Section 3.03(1).

“Future Guidance” means any guidance issued after the Effective Date by the Secretary of the U.S. Department of the Treasury (including any guidance issued by the IRS) or the U.S. Department of Labor interpreting the requirements under Sections 45(b)(7) and 45(b)(8) or 45Y(g)(9) and 45Y(g)(10) of the Code with respect to a production tax credit, or Sections 48(a)(10) and 48(a)(11) or 48E(d)(3) and 48E(d)(4) with respect to the investment tax credit of the Code, as applicable.

“IRS” means the United States Internal Revenue Service.

“Labor Hours” means the total number of hours devoted to the performance of Construction, Alteration, or Repair work by any individual Employed by the Seller or any subcontractor, excluding any hours worked by foremen, superintendents, owners or persons employed in a bona fide executive, administrative or professional capacity (within the meaning of those terms in 29 CFR 541).

“Laborers or Mechanics” or “Laborers and Mechanics” means at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial, and includes apprentices, trainees, helpers, working foremen who do not meet the criteria of 29 CFR 541 and devote more than twenty percent (20%) of their time during a work week to mechanic or laborer duties, and in the case of contracts subject to the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332), watchmen or guards. The term does not apply to workers whose duties are primarily administrative, executive, or clerical, rather than manual, or persons employed in a bona fide executive, administrative, or professional capacity (as defined in 29 CFR 541).

“Prevailing Wage Cure Payment” means with respect to any failure to satisfy the Prevailing Wage Requirements, (a) a payment to any Laborer or Mechanic who was paid wages at a rate below that required under the Prevailing Wage Requirements for any period during the Prevailing Wage Term in an amount equal to the sum of (i) the difference between (A) the aggregate wages paid to such Laborer or Mechanic during such period, and (B) the aggregate wages required to have been paid to such Laborer or Mechanic during such period under the Prevailing Wage Requirements, plus (ii) interest on the amount described in subclause (i) at the federal underpayment rate established in Section 6621 of the Code plus six percentage points (6%), and (b) a payment to the U.S. Department of the Treasury in an amount equal to the product of \$5,000 and the total number of Laborers and Mechanics who were paid wages below those required to have been paid under the Prevailing Wage Requirements for any period during the Prevailing Wage Term; *provided*, that (x) the sum of the amounts described in clause (a)(i) and (ii) is multiplied by three, and (y) \$10,000 is substituted for \$5,000 in clause (b) above if the failure to satisfy the Prevailing Wage Requirements is due to intentional disregard as determined by OTP, an Affiliate, or a taxing authority, plus any cure payment required by the Minnesota Department of Labor and Industry.

“Prevailing Wage Rates” means the prevailing rates for Construction, Alteration or Repair of a similar character in the locality in which such Project is located as most recently determined by the Secretary of Labor and the Minnesota Department of Labor and Industry. Federal rates shall be determined in accordance with subchapter IV of chapter 31 of title 40, United States Code, in each case in a manner so that the Project will satisfy the “prevailing wage requirements” described in sections 45(b)(7) or 45Y(g)(9) of the Code with respect to the production tax credits, or sections 48(a)(10) or 48E(d)(3) of the Code with respect to the investment tax credits, as applicable, IRS Notice 2022-61 and any Future Guidance with respect to the foregoing, and Minnesota rates in accordance with Chapter 177.42 of the Minnesota Statutes.

“Prevailing Wage Term” means the period commencing on the Effective Date and ending on the latest to occur of (a) the last date on which Work is required to be performed under this Contract, (b) if OTP or its Affiliates claim the production tax credits, the 10th anniversary of the date on which the Project is placed in service for U.S. federal income tax purposes, or (c) if OTP or its Affiliates claim the investment tax credits, the 5th anniversary of the date on which the Project is placed in service for U.S. federal income tax purposes.

“Qualified Apprentice” means an individual who is Employed by the Seller or by any subcontractor and who is participating in an apprenticeship registered under the National Apprenticeship Act (29 U.S.C. 50 *et seq.*) that meets the standards of subpart A of part 29 and part 30 of title 29, CFR and chapter 178 of Minnesota Statutes.

“Site of the Work” means (a) the physical place or places where the Project or Work called for in a contract (including the Contract) will remain, and any other site where a significant portion of the Project or Work is constructed, provided that such site is established specifically for the performance of the contract or the Project, and (b) job headquarters, tool yards, batch plants, borrow pits, etc. that are (i) dedicated exclusively, or nearly so, to the performance of the contract or the Project, and (ii) are adjacent or virtually adjacent to

a site described in part (a) above. The term does not include (A) permanent home offices, branch plant establishments, fabrication plants, tool yards, etc., of Seller or a subcontractor whose location and continuance in operation are determined wholly without regard to a particular contract or the Project, or (B) fabrication plants, batch plants, borrow pits, job headquarters, tool yards, etc., of a commercial or material supplier, which are established by a supplier of materials for the Project before opening of bids, even if operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract.

“Treasury Regulations” means Title 26 of the Code of Federal Regulations, including 89 Fed. Reg. 53184 (published June 25, 2024, effective August 26, 2024, and codified at 26 C.F.R. pt 1).