

Proposed Minutes of the Regular Meeting
Alpena Community College Board of Trustees
Thursday, May 21, 2026
665 Johnson Street, Alpena, MI 49707

On Thursday, May 21, 2026, the Alpena Community College Board of Trustees held its regular monthly meeting in the Roger C. Bauer Board Room, 400 Natural Resources Center.

The meeting was brought to order at 6:00 p.m. by Chair John Briggs.

Trustees present in person: John Briggs, Teresa Duncan, Joseph Gentry II, Lisa Hilberg, Susan Stender, Florence Stibitz, and Tom Townsend. Absent trustees: none.

Also in attendance: Dr. Don MacMaster, ACC president; Denis (Jay) Walterreit, board secretary, and Alpena County Sheriff's Deputy Mike Lash.

After convening the meeting Chair Briggs announced a workshop session to hear details of the College's proposed Fiscal Year 2027 budget. Dr. Nick Brege, Vice President for Administration & Finance, went through a PowerPoint presentation detailing the expected revenues and expenses for the coming fiscal year.

After a short recess at the end of the workshop Chair Briggs reconvened the regular meeting at 7:00 p.m.

Pledge of Allegiance

Trustee Townsend led the Pledge of Allegiance.

Approval of Agenda

Trustee Stibitz made the motion to approve the agenda as presented; Trustee Stender seconded the motion. Ayes: 7. Nays: 0. Motion approved.

Approval of the Proposed Minutes of the April 16, 2026, Regular Meeting

Trustee Hilberg made the motion to approve the proposed minutes of the April 16, 2026, regular meeting; Trustee Duncan seconded the motion. Ayes: 7. Nays: 0. Motion approved.

Introduction of Guests and Public Comment

Guests attending the meeting in person were: Dr. Nick Brege, ACC administration; Dr. Paige Gordier, ACC administration; Nancy Seguin, ACC administration; Karen Bennett, ACC legal counsel; Reagan Voetberg, The Alpena News; Adam Keyes, ACC administration; Kurt Koneiczny, ACC administration; Lauren Mantlo, ACC administration; Mariel Carter; Kendra Lake; Patti Skinner; and Dawn Stone, ACC administration.

Guests attending via Webex were: Jess Haselhuhn, ACC staff; Alexis Young, ACC staff; Shawn Sexton, ACC faculty; Stephanie Collman; Kelly Lewis, ACC staff; Mary Eagan, ACC administration; Lisa Blumenthal, ACC staff; and Bob Tosch, community member.

Bob Tosch, Mariel Carter, Kendra Lake, Patti Skinner, Shawn Sexton, and Lauren Mantlo gave public comments.

Communication(s)

None.

Board Member and Subcommittee Reports

Trustee Duncan gave the following report on the ACC Foundation:

- This has been an incredibly busy time of year. We have presented the following awards:

Nursing Awards

- Jacquemin \$500 scholarship: Sarah Mulka
- Gouin \$1000 scholarship: Emma Meyer
- Malandrinis \$250 scholarship: Joshua Bristow
- Florence Nightingale (alumni award): Sally Jean Smith

All the pins for the Nurses Pinning Ceremony were provide by the ACC Foundation through the Taylor Agius Memorial Nursing Scholarship.

John M. Grant Front Runner Awards (\$500 awards)

- Hannah L. Grande
- Gabriel S. Trudeau

Fellows of the College

- Dr. Donald Newport
- Richard & Jeannine Boyce

Distinguished Graduate

- Donna Belusar
- John Berg fund requests continue to come in, including on the night of commencement.
- On Tuesday, May 19, the ACC Foundation Scholarship Committee awarded 110 scholarships in the first wave of awards. There are over 200 more awards to make between the Financial Aid Director and ACC Foundation Executive Director. We will open up a second round for scholarship applications in the summer to capture enrollees

who missed the first scholarship deadline. We will have a limited number of scholarships available, but there will be an opportunity for more financial assistance.

- The 31st Annual Robert M. Granum Scramble for Students will take place Saturday, July 18. We are in full planning mode and the office is very busy. Sponsorship flyers are going out soon, so please consider giving generously when you receive one. We would also love to have trustees golf or volunteer with us this year!

Student Report

None.

Faculty Report

None.

President's Report

President's Report to the Alpena Community College Board of Trustees
May 21, 2026

2026 Commencement Week Activities

On Wednesday, May 6, 2026, ACC held its Spring Semester Nurses Pinning Ceremony at 6:00 p.m. in Park Arena. This semester 11 LPN students and 22 RN students completed their programs of study. ACC invited alumni of the program back to campus to participate in this year's pinning ceremony. This was the third year the Florence Nightingale Award was presented; the award honors an outstanding alumnus of the ACC nursing program who has gone on to exemplify the qualities of the founder of modern nursing. This year's recipient was Sally Jean Smith.

Following are the nursing awards winners:

LPN:

1. Excellence in LPN Nursing Theory Award: Sarah Mulka (Alpena Campus)
2. Excellence in LPN Clinical Practice Award: Emily Martin (Alpena Campus) and Ava Gooch (Oscoda Campus)
3. LPN Classmate Appreciation Award: Tiffany Nelson (Oscoda Campus)
4. Judy Beyer Award: Sarah Mulka (Alpena Campus)
5. Barbara Jacquemin, BSN, RN \$500 Scholarship: Sarah Mulka (Alpena Campus)

RN:

1. Excellence in RN Nursing Theory Award: Joshua Bristow (Alpena Campus) & Emily Lockenour (Oscoda Campus)
2. Excellence in RN Clinical Practice Award: Emma Meyer (Alpena Campus)
3. Kathryn Riker Gouin \$1000 Scholarship: Emma Meyer (Alpena Campus)
4. Holistic Nurse Award: Joshua Bristow (Alpena Campus)
5. Helen Malandrinos \$250 Scholarship: Chelsea Marsh (Alpena Campus)

Thursday, May 7, 2026:

The Honors Breakfast was held at 9 a.m. at the APlex. This ceremony recognizes students who maintain a grade point average of 3.5 or better. Phi Theta Kappa, the community college honor society, and Sigma Zeta, the math honor society, recognize academically talented students. 102 candidates were eligible to participate in the Honors Breakfast this year and approximately 51 attended the Honors Breakfast.

The John M. Grant Front Runner Awards were presented at the Honors Breakfast. This award is given annually to a graduating male and female non-traditional student who has demonstrated unusual dedication in the pursuit of higher education. The two 2026 Front Runner Award recipients were Hannah Grande and Gabriel Trudeau.

This is the 11th year the Outstanding Student Awards have been presented at the Honors Breakfast.

ACC's 72nd Commencement Ceremony was held at 7:00 p.m. in Park Arena. The ceremony included the Commencement address, delivered this year by retiring ACC instructor Roy Smith. Other presentations include the Besser Awards, which are the highest recognition of academic achievement given at ACC, the Fellow of the College award, and the Distinguished Graduate award. 385 candidates are eligible to participate in the Commencement this year, up from 2025 (353). Approximately 150 students walked in the Commencement ceremony.

Jesse & Anna Besser Awards — The Besser Awards are the highest recognition of academic achievement given at Alpena Community College, and 2026 is the 54th year they were presented. This year's award winners were Valerie Binge and Charles Best.



Above: 2026 Besser Award winners Valerie Binge (second from left) and Charles Best (second from right). Also in the photo: Dr. Don MacMaster, ACC president, and Candie Dombrowski, Besser Company chief operating officer.

Fellow of the College — Each year the College recognizes someone who, through a sense of purpose, community concern and leadership, has enriched the educational, cultural and/or economic lives of the citizens of Northeast Michigan. This year's recipients were Richard and Jeannine Boyce, and Dr. Donald Newport. Mary Eagan, Executive Director of the ACC Foundation, presented the awards.

Distinguished Graduate — Another yearly Commencement activity is the presentation of the Distinguished Graduate Award, which is bestowed upon an ACC alumnus/ae who has impacted the world in their realm of expertise. This year's Distinguished Graduate Award was presented to Dr. Donna Belusar. Established in 1998 by the ACC Foundation, this award honors ACC graduates who have gone on to contribute to society through successful careers. Its recipients are examples of how a solid educational foundation from ACC can launch a lifetime of achievements. ACC Director of Alumni Relations Rob Enslin presented the award. The ceremony was livestreamed on the ACC YouTube page (<https://www.youtube.com/@alpenacc>). Links to the live stream can be found in the ACC homepage (www.alpenacc.edu) and ACC's Facebook page.

Esports Champions at ACC

By Allen Telgenhof, Athletic Director

The ACC esports team claimed the NECC Division VIII Rocket League national championship Tuesday night, outlasting Fanshawe College's FUEL squad in a seven-game series that came down to a Charlie Best goal 15 seconds into overtime of the deciding match.

The Lumberjacks took the championship series 4-3 in a back-and-forth final that saw ACC build a 3-1 lead, watch Fanshawe force a winner-take-all Game 7, and then close it out in dramatic fashion behind Best, Isaac Zocco, and Max McCarty.

Best, who plays under the gamertag Chuckles7557, opened the series by leading the Lumberjacks to a 2-1 victory in Game 1, finishing with a team-high 454 score and two goals. Fanshawe answered in Game 2, taking a 1-0 overtime decision in a defensive battle that exposed how tightly matched the two teams would be.

Game 3 belonged entirely to ACC. The Lumberjacks rolled to a 4-1 win, with Best posting a remarkable 670 score and four goals in the most lopsided match of the series. Game 4 followed with another 2-1 ACC victory, this time keyed by Zocco (gamertag Dazoc), whose 452 score and two goals gave the Lumberjacks a commanding 3-1 series lead.

Fanshawe refused to fold. Behind strong play from snipermcgee5, profit, and SP4ZZY, the FUEL squad took back-to-back 2-1 decisions in Games 5 and 6 to even the series at three games apiece and force a deciding Game 7. Zocco posted 485 in Game 5 and Best added 408 in Game 6, but Fanshawe's balanced attack carried both contests.

That set the stage for a Game 7 that lived up to every bit of the moment. The two teams battled to a tie in regulation before Best ended it just 15 seconds into overtime, sending the ACC team into celebration as national champions. Best finished the clincher with 487 points and two goals. Zocco added 410 with a goal and an assist. McCarty (gamertag NeatWall3) contributed 390 with a goal and two assists.

The championship caps a dominant inaugural season in the NECC for the Lumberjacks, who finished with an 11-2 overall record. ACC went 5-2 in Division VIII East regular season play, swept their playoff bracket 3-0 to claim the East title, and then ran the table at nationals with three straight wins to capture the crown.

What makes the run all the more remarkable is the timeline. First-year coach Aaron Guitar didn't take over the program until after the fall semester was already underway, leaving him to build a roster, install a system, and prepare the team for

NECC competition all on a compressed schedule. The result was a national championship in his very first season behind the bench.

Guitar is no stranger to ACC athletics — he is a Lumberjack alumnus who played baseball during his time on campus, and he currently serves as an assistant baseball coach and athletic office coordinator in addition to leading the esports program.

Best, Zocco, and McCarty are all dual-sport athletes who also compete on the ACC baseball team that Guitar helps coach.

Lumberjacks athletics congratulates Coach Guitar and the entire esports program on bringing home a national championship in its first year competing in the NECC.



Above: ACC esports national champions (from left) Charlie Best, Max McCarty, Isaac Zocco, and Coach Aaron Guitar.

Postsecondary Success Data at ACC

The Center for Educational Performance and Information (CEPI) recently released its annual postsecondary success rate report. The report rates the 28 community colleges and three tribal schools on completion rates and successful transfer to a 4-year institution. The graph below shows ACC benchmarked against its community college peers across a 6-year longitudinal cycle.

Rate Year	ACC Place
Rate Year 2	1st
Rate Year 3	1st
Rate Year 4	2nd
Rate Year 5	5th
Rate Year 6	4th

Progress on Major Projects

Construction continues at the new College Park Apartments building.



Pavers are being removed in front of the World Center for Concrete Technology and the Electrical Power Technology Center in preparation for laying new sidewalks and entryways.



Power poles have been installed along Woodward Avenue to connect ACC's new solar array to the power grid.



Action Items

2.982 Labor Contract with the Alpena Community College Faculty Council MEA/NEA

The following resolution was proposed by Trustee Gentry and seconded by Trustee Townsend:

The Alpena Community College Board of Trustees approves the 2026-30 labor contract with the Alpena Community College Faculty Council MEA/NEA as presented.

Ayes: 7. Nays: 0. Motion approved.

2.983 Labor Contract with the Alpena Community College Educational Support Professionals MEA/NEA

The following resolution was proposed by Trustee Townsend and seconded by Trustee Stibitz:

The Alpena Community College Board of Trustees approves the labor contract with the Alpena Community College Educational Support Professionals MEA/NEA on which tentative agreement has been reached and ratification by the union has been accomplished.

Ayes: 7. Nays: 0. Motion approved.

2.984 Tuition and Fees Rate for Fiscal Year 2027

The following resolution was proposed by Trustee Stibitz and seconded by Trustee Townsend:

The Alpena Community College Board of Trustees approves the following tuition rate changes for Fiscal Year 2027 effective with Fall Semester 2026.

Tuition	From	To
In-District Tuition (per contact hour)	\$159.00	\$165.00
Out-of-District Tuition (per contact hour, applicable to students from the rest of Michigan, all other states, and foreign countries, with the exception of dual-enrolled and early college students, whose high schools are all charged In-District Tuition)	\$253.00	\$262.00

Ayes: 7. Nays: 0. Motion approved.

2.985 Fiscal Year 2027 Administrative Salary Schedule

The following resolution was proposed by Trustee Duncan and seconded by Trustee Hilberg:

The Board of Trustees approves the proposed Administrative Salary Schedule for Fiscal Year 2027 and authorizes the president to issue contracts to all affected parties in accordance with their performance at the College.

<u>Level</u>	<u>Positions</u>	<u>Lower End</u>	<u>Upper End</u>
A	Director of Alumni Relations; Assistant Controller/Payroll Manager; Director of Oscoda Campus; Director of Student Life Activities & Campus Housing; Simulation Lab Manager	\$60,875	\$95,212
B	Director of the Wellness Center; Director of Learning Technology; Director of Workforce Development Grants; Director of the RE-EIED Grant	\$66,894	\$102,431
C	Executive Director of ACC Foundation; Director of Admissions; Controller; Director of TRiO Talent Search; Director of Facilities Management; Director of Financial Aid; Director of Human Resources; Director of Information Technology; Director of Public Information & Marketing; Registrar; Dean of Workforce Development; Director of Nursing; Director of Institutional Research	\$78,298	\$114,309
D	Dean of Students	\$93,080	\$130,230
E	Vice Presidents	\$125,736	\$164,975
F	President	\$169,321	\$210,528

Ayes: 7. Nays: 0. Motion approved.

2.986 Solar Array Fence Bids

The following resolution was proposed by Trustee Stibitz and seconded by Trustee Stender:

The Alpena Community College Board of Trustees approves Northern Fence of Commerce Township, Michigan, as the solar array fence installation contractor at a cost not to exceed \$96,675.

Ayes: 7. Nays: 0. Motion approved.

2.987 Solar Array Fiber Internet Backbone Connection Bids

The following resolution was proposed by Trustee Gentry and seconded by Trustee Hilberg:

The Alpena Community College Board of Trustees approves Lakeshore Fiber, LLC, of Canton, Michigan, as the fiber installation contractor at a cost not to exceed \$101,686.12.

Ayes: 7. Nays: 0. Motion approved.

2.988 Power Purchase Agreement with Alpena Power Company

The following resolution was proposed by Trustee Stibitz and seconded by Trustee Hilberg:

The Alpena Community College Board of Trustees approves the proposed Power Purchase Agreement with Alpena Power Company. The agreement will have an initial five-year term and include automatic one-year renewals after the initial term unless terminated in accordance with the Power Purchase Agreement.

Ayes: 7. Nays: 0. Motion approved.

2.989 Nursing Computer Labs Equipment Bids

The following resolution was proposed by Trustee Duncan and seconded by Trustee Gentry:

The Alpena Community College Board of Trustees approves the purchase of computer equipment and furniture for a nursing computer lab from CDW-G for a cost not to exceed \$59,812.70.

Ayes: 7. Nays: 0. Motion approved.

Financial Report

General Fund Year-to-Year Actual Comparison through April 2026

- Property tax receipts total \$3,534,908, up \$183,647 from April 2025 due to taxable value adjustments.
- Tuition and fee revenue totals \$7,593,523, an increase of \$342,680 year-over-year, driven by higher Fall semester billable contact hours.
- State aid is consistent with last year and aligns with expected timing.
- Federal aid is lower due to timing. Last year included MPSC solar grant indirect cost recovery in April; this year's transfer from the Restricted Fund is delayed, creating a temporary variance.
- Interest income is lower than last year due to reduced interest rates and lower cash balances related to construction reimbursement timing. The Federal Reserve has reduced the federal funds rate by 0.75 basis points compared to the same period last year.
- Instructional Support expenses decreased due to internal staffing shifts and the associated benefit plan costs.
- Student Services expenses increased due to contractual wage adjustments and higher athletic waivers.
- Institutional Administration expenses increased due to filling the previously vacant Foundation Executive Director position, higher legal costs, and increased insurance premiums.
- Physical Plant expenses have risen slightly, primarily due to higher snow removal costs and contractual wage adjustments. Additional costs include the required installation of elevator door restrictors under the updated State Elevator Code.
- Activity through the first ten months shows a net income of \$2,338,439.

General Fund Comparative Income Statement Year-to-Date through April 2026

- All categories remain within acceptable ranges for this point in the fiscal year, except as noted above.

General Fund Month-to-Month Comparison through April 2026

- All Month-to-Month comparisons are tracking as expected, except as noted above.

Personnel Report

New hires, terminations, and status changes from April 2 to May 6, 2026.

New Hires:

- Christopher Kauffman, Transferred from Adjunct – Industrial Technology to FT Faculty – Utility Technology Technician, effective 08/01/2026.

Re-Hires:

- None.

Transfers:

- None.

Resignations:

- Alex Gorton, Director of Learning Technology, effective 03/27/2026.
- Sharlene Kozlowski, ESP Health Fitness/Activities Technician, effective 05/05/2026.
- Jillian Seguin, ESP Learning Technology Technician, effective 05/07/2026.

Terminations:

- None.

Inactive:

- None.

Retirements:

- None.

Name Changes:

- None.

Position Name Changes:

- None.

Gifts and Grants Report

This report reflects the following activity for pledges and gifts received by the ACC Foundation for the month of April 2026.

Total Donors: 61

Number of Gifts: 102

New Gifts: \$18,560.49

Board Discussion

Chair Briggs asked the trustees to consider moving the date of the August regular board meeting to accommodate Trustee Duncan's schedule. After discussion the trustees agreed to move the meeting date to Tuesday, August 18.

The next regular board meeting will be held on June 18, 2026. The meeting will begin at 6:00 p.m. and immediately go into closed session to conduct the president's evaluation. The regular part of the meeting will begin at approximately 7:00 p.m. Chair Briggs asked President MacMaster to forward his two evaluation documents to Secretary Walterreit for distribution to the trustees prior to the meeting.

New Business

None.

Suggested Future Agenda Items

None.

Next Regular Meeting

The next regular board meeting will be on Thursday, June 18, 2026. The meeting will start at 6:00 p.m. and immediately go into closed session to conduct the president's evaluation. The regular part of the meeting will begin at approximately 7:00 p.m. The meeting will be held in the Roger C. Bauer Board Room, Room 400 of the Charles R. Donnelly Natural Resources Center.

Adjournment

The regular meeting was adjourned at approximately 8:07 p.m.

Respectfully submitted by:
Denis J. Walterreit,
Secretary of the Board of Trustees
(989) 358-7215

POWER PURCHASE AGREEMENT

BETWEEN

ALPENA POWER COMPANY

AND

ALPENA COMMUNITY COLLEGE

POWER PURCHASE AGREEMENT

PART I COVERSHEET

This *Power Purchase Agreement* (“PPA”) is made as of the following date: _____ . The PPA, together with the exhibits, schedules and any written supplements hereto, any designated collateral, credit support or margin agreement or similar arrangement between the Parties shall be referred to as the “Agreement.” The Parties to this PPA are the following:

Alpena Power Company or (“Buyer”)

Alpena Community College (“Seller”)

All Notices: Alpena Power Company

Street: 401 N. Ninth Avenue

City: Alpena State: MI Zip: 49707

Attn: Kenneth A. Dragiewicz

President & COO

Phone: 9879-358-4945

Email : kd@alpenapower.com

All Notices: Alpena Community College

Street: 665 Johnson Street

City: Alpena State: MI Zip: 49707

Attn: Nicholas Brege

VP for Administration and Finance

Phone: 989-358-7368

Email: bregen@alpenacc.edu

Invoices:

Attn: Danielle Green

Phone: 989-358-4931

Email: green@alpenapower.com

Invoices:

Attn: Lyn Kowalewsky

Phone: 989-358-7280

Email: kowalewl@alpenacc.edu

Scheduling:

Attn: Kenneth A. Dragiewicz

Phone: 989-358-4945

Email: kd@alpenapower.com

Scheduling:

Attn: Kurt Konieczny

Phone: 989-358-7202

Email: konieczk@alpenacc.edu

Contract Characteristics

Plant Name:	ACC Solar
Plant Type:	Inverter Based Solar
Plant Nameplate Capacity (MW _{AC}):	1.5 MW
Plant Location:	3301 Woodward Avenue Alpena MI, 49707
Contract Capacity (MW _{AC}):	<u>1.5 MW</u>
Contract Capacity Target (ZRCs):	MISO Accredited Capacity
Expected Delivered Energy (MWh/yr):	2,492 MWh
Earnest Money Deposit:	N/A
Early Termination Security Amount:	\$7,500
	<u>X</u> Monthly Escrow Payments
Expected Start Date:	8/1/2026
Expected Termination Date:	N/A
Initial Contract Term:	8/1/2026 through 5/31/2032
Renewal Terms:	Automatic annual renewal, beginning on 6/1/3032
Termination Option:	Both parties have the right to terminate this agreement with 90 days' written notice to the other party prior to the expiration of the initial or a renewal term.

or defend. The parties acknowledge, however, that rights and remedies which may exist under applicable statutory law, common law, or equitable principles, including principles of comparative fault, contribution, indemnification, or equitable restitution, are preserved and shall apply according to applicable law.

To the extent provided by law, Seller shall remain legally responsible for damages caused by the negligent acts or willful misconduct of Seller, its officers, agents and employees, in the maintenance, possession or operation of the Plant (except damages caused by the negligence or willful acts of Buyer.) If any claims, demands or proceedings are brought against Buyer for any of the above-named reasons, Buyer shall notify Seller in writing of any such claim. Seller may elect, at its option, to participate in or assume the defense of such claim with Seller's choice of counsel, at its own expense. To In such event, Buyer shall cooperate with Seller, in defending such claim. Seller may not settle any such claim without Buyer's prior written consent. Principles of Indemnification, if applicable, shall not include damage and injuries occurring on Buyer's own system after the Point of Delivery, unless the damage to or injuries occurring on such system are caused by the negligence or willful misconduct of Seller.

To the extent provided by law, Buyer shall be responsible for damages and injuries occurring on Buyer's own system after the Point of Delivery, except those caused solely by the negligence or willful misconduct of Seller. In the event of any claim, suit or proceeding brought against Seller for any of the above-named reasons, Seller shall notify Buyer in writing of any such claim. Buyer may elect, at its option, to participate in or assume the defense of such claim with Buyer's choice of counsel, at its own expense. In such event, Seller shall cooperate with Buyer, in defending such claim. Buyer may not settle any such claim without Seller's prior written consent.

Nothing contained herein shall be construed to expand the liability of either party beyond that imposed by applicable law.

Terms and Conditions attached and all Exhibits are part of this Agreement. BUYER AND SELLER EACH ACKNOWLEDGE HAVING READ SAID DEFINITIONS AND TERMS AND CONDITIONS AND AGREE TO SAID TERMS AND CONDITIONS.

Alpena Power Company
401 N. Ninth Avenue
Alpena, MI 49707
(Buyer)

Alpena Community College
665 Johnson Street
Alpena, MI 49707
(Seller)

By: _____

By: _____

(Signature)

(Signature)

Printed Name: **Kenneth A. Dragiewicz**

Printed Name: **Dr. Donald C. MacMaster**

Title: **President & COO**

Title: **President**

Date: _____

Date: _____

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EXHIBIT A – Energy Purchase Price

EXHIBIT B – Form of Collateral Assignment

EXHIBIT C– Monthly Escrow Payment

PART III
TERMS AND CONDITIONS

This Power Purchase Agreement, herein called "Agreement", is made and entered into as of the date identified in Part I, between "Buyer" and "Seller", both identified in Part I. Buyer and Seller are herein sometimes referred to individually as "Party" and collectively as "Parties", where appropriate.

WITNESSETH:

WHEREAS, this Agreement has been prepared pursuant to the Public Utility Regulatory Policies Act of 1978 as amended and as implemented by the State of Michigan; and

WHEREAS, Buyer owns electric facilities and is engaged in the generation, purchase, distribution and sale of electric energy in the State of Michigan; and

WHEREAS, Seller owns and operates, or intends to build the generating plant identified in Part I; and

WHEREAS, Seller wishes to deliver and sell and Buyer is obligated to receive and purchase from the Plant, electric capacity and electric energy associated with such Plant in the quantities specified herein on and after the Start Date (as defined below).

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, the Parties hereto agree as follows:

1. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings unless specifically stated otherwise in this Agreement:

"Affiliate" – Means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

"Agreement" – Defined in Part I.

"Bankrupt" – Means with respect to either Party, such Party (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition remains undismissed for a period of sixty (60) Days, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii)

otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

“Billing Month” – Means the Calendar Month. The first Billing Month with respect to capacity and energy shall commence with the Initial Operation Date and end on the last day of the Calendar Month in which the Initial Operation Date occurs.

“Business Day” – Means a Calendar Day other than Saturday, Sunday or a holiday observed by MISO.

“Buyer” – Means the party so specified in Part I.

“Calendar Day” or “Day” – Means a Calendar Day or Day and shall be the twenty-four (24) hour period beginning at 12:00 a.m. midnight Eastern Standard Time and ending at 11:59:59 p.m. Eastern Standard Time. The terms Day and Calendar Day may be used interchangeably and shall have the same meaning.

“Calendar Month” or “Month” – Means a Calendar Month or Month and shall begin on the first Day of a Month and end on the last Day of the Month. The terms Month and Calendar Month may be used interchangeably and shall have the same meaning.

“Calendar Year” or “Year” – Means a Calendar Year or Year and shall be the twelve (12) Month period beginning January 1 and ending the next subsequent December 31. The terms Year and Calendar Year may be used interchangeably and shall have the same meaning.

“Capacity Purchase Price” – Means the \$/ZRC-month as identified in Part I.

“Contract Capacity” – Means the amount of MW_{AC} identified in Part I.

“Contract Capacity Target” – Means quantity of ZRCs identified in Part I.

“CPNode” – Has the meaning ascribed to such terms in the MISO Rules.

“Compensated Curtailment” – Means a curtailment of energy from Seller’s Plant for which Seller is entitled to payment for Lost Production, and which excludes Uncompensated Curtailments.

“Contract Term” – Means the period of time specified in Part I.

“Defaulting Party” – Defined in Section 9, Events of Default.

“Delivered Energy” – Means the electric energy produced by the Plant and delivered by Seller at the Point of Delivery as such amount of electric energy delivered is determined on an hourly basis pursuant to Section 5, Metering, but not to exceed Contract Capacity during any hour.

“Early Termination Security Amount” – Means the amount as prescribed in Part I in U.S. dollars.

“Earnest Money Deposit” – Defined in Subsection 4.3, Start Date.

“Effective Date” – Defined in Subsection 2.1, Effective Date and Term.

“Emergency or Emergencies” – A condition or conditions on the Buyer’s distribution system which in the Buyer’s sole reasonable judgment either has, or is likely to, result in significant imminent disruption of service to Seller, or imminent endangerment to life or property.

“Energy Purchase Price” – Means the \$/MWh price as selected and defined in Part I.

“Environmental Attribute(s)” – Means an instrument used to represent the environmental benefits associated with a fixed amount of electricity generation; excluding Renewable Energy Credits for the purpose of the Agreement. Environmental Attributes represent the general environmental benefits of renewable generation such as air pollution avoidance. The exact quantity of the environmental benefit (e.g. pounds of emission reductions of a given pollutant) may not be indicated by an Environmental Attribute, though it can be quantified separately in pollution trading markets and through engineering estimates. The Environmental Attribute represents all environmental benefits, whether or not trading markets for such pollutants or benefits exist.

“Escrow Account” – Means an account used to retain the monthly or one-time payment as selected in Part I, and described in Subsection 2.2 Payment Security.

“Event of Default” – Defined in Section 9, Events of Default.

“Exempt Operational Periods” – Those periods described in 18 CFR § 292.304(f) as in effect as of the date of this Agreement, wherein Buyer has notified Seller in a timely manner to cease delivery of electric energy hereunder during a specified period in which Seller would otherwise have electric energy available for delivery but, due to operational circumstances, purchases from Seller would in Buyer’s reasonable judgment result in costs greater than those that would result if Buyer generated an equivalent amount of energy through its own facilities. Exempt Operational Periods are applicable to this Agreement only if energy rate option 1: Actual MISO Day Ahead LMP is selected as identified in Part 1 and described in Exhibit A.

“Expected Start Date” – Means the date in Part 1 as the expected start date.

“Federal Funds Effective Rate” - Means, for any Day, the interest rate per annum equal to the rate published as the Federal Funds Effective Rate by the Federal Reserve Bank in its release H.15 (519) (or, if such Day is not a Business Day, for the preceding Business Day).

“Force Majeure” – Defined in Subsection 11.1, Definition, of Section 11, Force Majeure.

“Incidental Energy” – Means both i) any electric energy delivered hourly in excess of Delivered Energy, and ii) Test Energy, as such amount of electric energy delivered is determined on an hourly basis pursuant to Section 5, Metering.

“Incidental Energy Price” – Means the real-time LMP for the Buyer’s load CPNode for the hour that Incidental Energy is delivered.

“Initial Operation Date” – Defined in Subsection 4.3, Start Date.

“Interconnection Agreement” – Means the agreement between Seller and the applicable electric system owner and/or operator which describes the terms and conditions regarding the connection of Seller’s Plant to such electric system owner and/or operator.

“Interest Rate” – Means the Federal Funds Effective Rate.

“Joint Banking Day” – Means a Calendar Day on which the banks used by both Parties for financial settlement hereunder are open for business.

“Late Payment Interest Rate” – Means the lesser of (a) the per annum rate of interest equal to the prime lending rate as may be from time to time published in The Wall Street Journal under Money Rates on such Day (or if not published on such Day on the most recent preceding Day on which published), plus two (2%) percent or (b) the maximum rate permitted by applicable law.

“Letter of Credit” – Means an irrevocable, transferable, standby letter of credit, issued by a major U.S. commercial bank or the U.S. branch office of a foreign bank with, in either case, a credit rating of at least (a) “A-” by S&P and “A3” by Moody’s, if such entity is rated by both S&P and Moody’s or (b) “A-” by S&P or “A3” by Moody’s, if such entity is rated by either S&P or Moody’s but not both, in a form reasonably acceptable to Buyer, with such changes to the terms in that form as the issuing bank may require and as may be acceptable to the beneficiary thereof.

“Locational Marginal Price” or “LMP” – Has the meaning ascribed to such term in the MISO Rules.

“Lost Production” means for any applicable period the quantity, if any, of Delivered Energy Seller could have produced and delivered to Buyer at the Point of Delivery during such period but that was not produced and delivered as a result of a Compensated Curtailment.

“Lost Production Damages” means the amount of compensation, if any, Seller is entitled to receive as a result of a Compensated Curtailment, calculated as follows:

$$LPD = LP * EPP$$

Where “LPD” means the Lost Production Damages in respect to any applicable Calendar Month (expressed in dollars);

“LP” means the aggregate quantity of Lost Production during such Month (expressed in MWh) and

“EPP” means the Energy Purchase Price applicable during such Month (expressed in \$/MWh).

“MISO” – Means the Midcontinent Independent System Operator, Inc. including any successor thereto.

“MISO Rules” – Means the Open Access Transmission, Energy and Operating Reserve Markets Tariff, including all schedules or attachments thereto, of MISO, as amended from time to time, including any successor tariff or rate schedule approved by the Federal Energy

Regulatory Commission, together with any applicable MISO Business Practice Manual as amended from time to time.

"Monthly Escrow Payment" – Defined in Subsection 2.2.4, Monthly Escrow Payment.

"MPSC" – Defined in Section 2.1, Effective Date and Term.

"NERC" – Means the North American Electric Reliability Corporation, including any successor thereto.

"Non-Defaulting Party" – Defined in Section 10.1, Early Termination.

"Off-Peak Hours" – Means all hours that are not On-Peak Hours.

"On-Peak Hours" – Means the hours associated with the On-Peak period as defined by MISO.

"Outside Start Date" – Defined in Section 4.3, Start Date.

"Planning Resource Auction" – Has the meaning ascribed to such term in the MISO Rules

"Planning Resource Auction Clearing Price" – Has the meaning ascribed to such term in the MISO Rules, as pertaining to the Buyer's CONS.ALPENA load node.

"Planning Year" – Has the meaning ascribed to such term in the MISO Rules.

"Plant" – Means the generating facility identified in Part I, including, but not limited to: generating equipment, including auxiliary and back-up transformers; electric delivery facilities; fuel handling equipment; administrative structures; and such other necessary and related facilities, equipment and structures associated with the generation of electricity.

"Plant Nameplate Capacity" – Means the potential output capacity of the Plant in MW_{AC} as specified in Part I.

"Point of Delivery" – Means the location at which Seller shall deliver electric energy from the Plant to the applicable electric distribution system owner and/or operator as established in the Interconnection Agreement.

"Prudent Utility Practices" – Means the practices generally followed by the electric utility industry, as changed from time to time, which generally include, but are not limited to, engineering, operating, safety, reliability, equipment, and adherence to applicable industry codes, standards, regulations and laws.

"Reliability Authority" – Means MISO, International Transmission Company, Michigan Electric Transmission Company, NERC, Reliability First Corporation, and any successor entity to the foregoing entities, and any other regional reliability council and any other regional transmission organization, in each case having jurisdiction over either or both of the Parties, the Plant, or MISO's transmission system, whether acting under express or delegated authority.

“Renewable Energy Credit(s)” or “REC(s)” – has the meaning specified in Act MCL460.1033.

“Resource Adequacy Capacity” – Means the Unforced Capacity value for the Plant for each Planning Year as determined by MISO under the MISO Rules on an annual basis and converted to ZRCs by Buyer.

“Seller” – Means the party so specified in Part I.

“Start Date” – Defined in Subsection 4.3, Start Date.

“Statement” – Defined in Subsection 8.1, Billing Procedure.

“Supplemental Power Capacity Price” – as shown on Alpena tariff sheet no. D-36.00

“Surety Bond” – means a bond that is issued by a surety or insurance company with, in either case, a credit rating of at least (a) “A-“ by S&P and “A3” by Moody’s, if such entity is rated either by both S&P or Moody’s or (b) “A-“ by S&P or “A3” by Moody’s, if such entity is rated by either S&P or Moody’s but not both, in a form reasonably acceptable to Buyer.

“System Access Charge” – Defined in Section 8.4.

“Test Energy” – Means electric energy delivered to Buyer prior to Start Date as Incidental Energy in accordance with Subsection 4.4, Test Energy.

“Uncompensated Curtailment” – Defined in Section 6.7, Emergencies and Exempt Operational Periods.

“Unforced Capacity” - Has the meaning ascribed to such term in the MISO Rules.

“Zonal Resource Credits” or “ZRCs”– Has the meaning ascribed to such term in the MISO Rules at the time the contract is executed.

2. GENERAL PROVISIONS

2.1 Effective Date and Term

This Agreement shall be effective upon execution by both Parties (“Effective Date”); provided, however that the Parties’ rights and obligations under this Agreement shall be contingent upon the approval of this Agreement by the Michigan Public Service Commission (“MPSC”). Within thirty (30) days of the Effective Date, Buyer shall submit this Agreement to the MPSC for approval of the capacity and energy payments set out herein for the purposes of Michigan Public Act 304 of 1982, as amended (“Act 304”), Michigan Public Act 81 of 1987, as amended (“Act 81”), and all other applicable law. The foregoing submission shall specifically request MPSC approval of cost recovery of all payments set forth in this Agreement, as well as approval of the portion of such payments that is recovered as a booked cost of purchased and net interchanged power pursuant to 1982 Public Act 304, as amended.

In the event the MPSC denies Buyer’s request to approve this Agreement

or a portion of the recovery requested in the application for approval of this Agreement or the MPSC otherwise does not approve this Agreement as described herein within six (6) months of Buyer's request for approval, this Agreement shall be void ab initio. Once effective, unless terminated as provided in this Agreement, this Agreement shall continue for the number of years identified in Part I from the Start Date and continuing through the end of the MISO Planning Year not to exceed the initiation of the following planning year of MISO. Unless terminated, under no circumstances, shall the term of this Agreement expire prior to the end of a MISO planning period. Buyer may also seek financial recovery available to Buyer under MCL 460.6s or MCL 460.6t. MPSC disapproval of Buyer's request for financial recovery available to Buyer under MCL 460.6s or MCL 460.6t shall not render this Agreement void ab initio or otherwise affect this Agreement.

2.2 Payment Security.

Seller shall provide and maintain, as described herein, the Early Termination Security Amount specified in Part I for compliance with its payment obligations, for the term of the Agreement. Such Early Termination Security Amount shall be provided via one of the forms provided for in this Subsection 2.2. As detailed in Exhibit C, a portion of the Early Termination Security Amount in the Escrow Account will be returned to Seller beginning with the first month of the Planning Year that occurs one year after three fifths (3/5ths) of the contract term has concluded. Any portion of the Early Termination Security Amount, including accumulated interest above the Early Termination Security Amount, remaining upon expiration or termination of this Agreement, after deduction for any payment obligations still owing to Buyer, shall be returned to Seller by Buyer within sixty (60) Days of such expiration or termination. The Early Termination Security Amount is intended to safeguard Buyer against undue financial risk associated with loss of Seller-provided capacity during the Contract Term of the Agreement as indicated in Part 1. Notwithstanding the aforementioned referenced safeguard for financial risk associated with loss of capacity provided by Seller, Seller shall also be responsible for other damages it may cause to Buyer unrelated to financial risk associated with loss of capacity provided by Seller.

2.2.1 Surety Bond

If Seller selects the Surety Bond form of payment security as identified in Part I, Seller shall provide a Surety Bond to Buyer in the amount of the Early Termination Security Amount by the date that is thirty (30) Days after the Start Date. All Surety Bonds provided in accordance with this Agreement shall be subject to the following provisions:

Unless otherwise agreed to in writing by the Parties, each Surety Bond shall be maintained for the benefit of Buyer. Seller shall (i) if necessary to maintain a Surety Bond throughout the term of this Agreement, renew or cause the renewal of each outstanding

Surety Bond on a timely basis as provided in the relevant Surety Bond, ii) if the institution that issued an outstanding Surety Bond has indicated its intent not to renew such Surety Bond, provide either a substitute Surety Bond, a Letter of Credit in accordance with Subsection 2.2.2 below, or cash in accordance with Subsection 2.2.3 below, in each case at least twenty (20) Business Days prior to the expiration of the outstanding Surety Bond, iii) replace a Surety Bond in full in the event such Surety Bond is drawn upon to satisfy the provisions of Subsection 7.1 herein, and (iv) if an institution issuing a Surety Bond shall fail to honor Buyer's properly documented request to draw on an outstanding Surety Bond, provide cash within one (1) Business Day after such refusal.

2.2.2 Letters of Credit

If Seller selects the Letter of Credit form of payment security as identified in Part I, Seller shall provide a Letter of Credit to Buyer in the amount of the Early Termination Security Amount by the date that is thirty (30) Days after the Start Date. All Letters of Credit provided in accordance with this Agreement shall be subject to the following provisions:

Unless otherwise agreed to in writing by the Parties, each Letter of Credit shall be maintained for the benefit of Buyer. Seller shall (i) if necessary to maintain a Letter of Credit throughout the term of this Agreement, renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit, ii) if the bank that issued an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, provide either a substitute Letter of Credit, a Surety Bond in accordance with Subsection 2.2.1 above, or cash in accordance with Subsection 2.2.3 below, in each case at least twenty (20) Business Days prior to the expiration of the outstanding Letter of Credit, iii) replace a Letter of Credit in full in the event such Letter of Credit is drawn upon to satisfy the provisions of Subsection 7.1, Capacity Payment, and (iv) if a bank issuing a Letter of Credit shall fail to honor Buyer's properly documented request to draw on an outstanding Letter of Credit, provide cash within one (1) Business Day after such refusal.

2.2.3 One-Time Escrow Payment

If Seller selects the One-Time Escrow Payment form of payment security as identified in Part I, Seller shall provide a cash payment to Buyer in the amount of the Early Termination Security Amount within thirty (30) days of Start Date. Buyer shall establish an Escrow Account with the administrative costs incurred by that account to be borne by the account with the cash payment provided by Seller. In the event the funds in the Escrow Account are drawn upon to satisfy the provisions of Subsection 7.1, Capacity Payment, Seller shall provide Buyer with a cash payment in an amount sufficient to restore the amount of funds in the Escrow Account to the amount prior to the draw within two (2) Business Days of the draw. Interest on cash provided in accordance with this Subsection 2.2.3 shall accrue at a rate per annum equal to

the interest rate

2.2.4 Monthly Escrow Payment

If Seller selects the Monthly Escrow Payment form of payment security, Buyer will retain during each Billing Month a portion of capacity charges equal to the monthly payment determined in Exhibit C. In the event the funds in the Escrow Account are drawn upon to satisfy the provisions of Subsection 7.1, Capacity Payment, Seller shall provide Buyer with a cash payment in an amount sufficient to restore the amount of funds in the Escrow Account to the amount prior to the draw within two (2) Business Days of the draw. Interest on cash provided in accordance with this Subsection 2.2.4 shall accrue at a rate per annum equal to the Interest Rate.

2.3 "Qualifying Facility" Status and Seller's Warranty

Seller hereby represents to Buyer that the Plant has or will achieve qualifying status by the Start Date as a "cogeneration facility" or a "small power production facility" under 18 CFR §§ 292.201-292.207.

Seller will use commercially reasonable efforts to ensure that the Plant will maintain its status as a "Qualifying Facility" under the Public Utility Regulatory Policies Act of 1978, Public Law 95-617, 92 Stat 3117 and the implementing Federal Regulations promulgated thereunder as such are amended to the Effective Date of this Agreement and appear at 18 CFR §§ 292.101 through 292.602, throughout the term of this Agreement. In the event Seller fails to maintain such "Qualifying Facility" status, Buyer shall have the option of terminating this Agreement by giving Seller one hundred eighty (180) Days written notice.

3. CAPACITY AND ENERGY TO BE SUPPLIED

During Contract Period 1, subject to the terms and conditions of this Agreement, and beginning with the Start Date and continuing until January 1, 2025, Seller agrees to sell and supply to Buyer, and Buyer agrees to accept and purchase from Seller, all Supplemental Power Capacity and Delivered Energy that Seller supplies and/or delivers to Buyer under this Agreement. Compensation for such Supplemental Power Capacity and Delivered Energy shall be paid for in accordance with Section 7, Compensation. Supplemental Power Capacity purchased by Buyer from Seller can be used by Buyer to satisfy any part of the Buyer's annual capacity demonstration requirements for the State of Michigan during Contract Period 1. Renewable Energy Credits and Environmental Attributes generated by Seller's Plant will be owned by Seller and are not subject to this Agreement.

During Contract Period 2, beginning on January 1, 2025, subject to the terms and conditions of this Agreement, and continuing until the termination of this Agreement, when the

Buyer has a capacity need, Seller agrees to sell and supply to Buyer, and Buyer agrees to accept and purchase from Seller, an amount of Resource Adequacy Capacity equal to amount of the Buyer's capacity need and all Delivered Energy that Seller supplies and/or delivers to Buyer under this Agreement. Compensation for such Resource Adequacy Capacity and Delivered Energy shall be paid for in accordance with Section 7, Compensation. Failure by Buyer to receive Resource Adequacy Capacity after Seller's delivery of such capacity has been affected shall not excuse Buyer's obligation to pay for such capacity.

Seller shall accomplish delivery of Resource Adequacy Capacity hereunder by (i) cooperating with Buyer, as provided in Subsection 6.3, Capacity Data, so that Buyer can obtain and submit the appropriate capacity data for the Plant to MISO and (ii) delivery of electric energy from the Plant in the form of Delivered Energy. Buyer shall accomplish receipt of Resource Adequacy Capacity by (i) ensuring that the Plant's capacity data is appropriately represented in MISO's Module E capacity tracking system, or any successor system ("MECT"), and converting the Unforced Capacity value determined from such data to ZRCs or MW/day, and (ii) acknowledging receipt of the Capacity in Module E. At Buyer's sole discretion, Seller's Plant may be aggregated with like technologies to determine the ZRC or MW/day value. In the event Seller's facility is aggregated with other like technologies for the purpose of awarding ZRCs or MW/day, Seller will receive the ZRC or MW/day value pro-rata, on a percentage basis, for its contribution to the aggregated facilities.

3.1 Permits and Laws

Seller shall secure all licenses and permits required by law, regulation or ordinance, including, but not limited to, those pertaining to the generation of electric energy, the sale of capacity. Seller shall maintain all such licenses and permits throughout the term of this Agreement. In addition, Seller shall comply with all applicable ordinances, laws, orders, rules and regulations, including, but not limited to, those pertaining to the above licenses and permits made by any governmental authority or public regulatory body. At any time during the term of this Agreement, Buyer may request that Seller provide copies of any such licenses and permits, and Seller shall so provide them within five (5) Business Days.

3.2 Emission Allowances/Environmental Attributes

All emission allowances and Environmental Attributes, including but not limited to, (i) all federal production tax credits, (ii) any and all state and federal investment tax credits which are generated by the Plant or attributed to the Plant or Delivered Energy, (iii) any and all ownership benefits accruing to the Seller pursuant to applicable state and federal tax laws and associated accounting rules that are established for the Plant, and (iv) all Environmental Attributes, remain the property of the Seller.

4. PLANT CONSTRUCTION AND START DATE

4.1 Seller's Responsibility

Seller shall have sole responsibility for the planning, design, procurement, construction, start-up, testing, and licensing of the Plant subject to: (1) meeting all appropriate electrical and other applicable codes and regulations required by federal, state, municipal, or any other governmental agencies; and (2) obtaining all necessary authorizations and permits.

4.2 Seller's Obligation With Respect to Construction Start

Seller shall provide Buyer with written confirmation of the construction start date and written confirmation from the contractor that work on the Plant construction has begun. After the construction start date and until the Start Date, Seller shall submit to Buyer, prior to the tenth (10th) Business Day of each Month, construction progress reports in a form satisfactory to Buyer. Unless due to delays caused solely by Buyer, if the construction start date fails to occur on or before 90 days after the Expected Start Date, Buyer may, at its option, terminate this Agreement by giving Seller written notice within thirty (30) Business Days after such Date, unless Seller has commenced construction prior to the issuance by Buyer of such notice.

4.3 Start Date

The Start Date of this Agreement will be the date identified by Seller to Buyer in writing pursuant to this Subsection 4.3 which is on or after the Expected Start Date after which Seller has provided Buyer proof that all of the following conditions precedent have been satisfied:

- (i) Seller has obtained all necessary licenses, permits, certificates and approvals in accordance with Subsection 3.1, Permits and Laws;
- (ii) Seller has executed an Interconnection Agreement and received written authorization to operate Seller's Plant in parallel with applicable electric distribution or transmission system;
- (iii) The Plant is a Qualifying Facility, in accordance with Subsection 2.3, "Qualifying Facility" Status and Seller's Warranty.
- (iv) Seller has arranged for electric service at the Plant including having paid any and all fees as defined in the Alpena Power Company's rate book or other applicable tariff if the Plant is connected to Buyer's system.
- (v) Seller is capable of commencing delivery of energy from Seller's Plant to Buyer.

Within five (5) Business Days of Seller having notified Buyer that all of the above conditions precedent have been satisfied, Buyer shall provide written notice to Seller either (i) that Buyer agrees that the conditions precedent have been satisfied, or (ii) that Buyer disagrees that the conditions precedent have been satisfied, in which case Buyer shall identify with specificity any claimed deficiencies. Following receipt of notice from Buyer that it agrees that the conditions precedent have been satisfied, Seller may declare to Buyer orally an Initial Operation Date (such date to be no earlier than the date upon which all of the above conditions precedent have been satisfied) to provide for testing Plant equipment prior to the Start Date in accordance with Subsection 4.4, Test Energy, and shall provide written confirmation of such date to Buyer within ten (10) Days. Upon completion of Plant testing, Seller shall notify Buyer orally of the Start Date (such date to be no earlier than the date upon which written confirmation of such oral notice is provided) and shall provide written confirmation of such date to Buyer within ten (10) Days. If Seller elects not to declare an Initial Operation Date, Seller shall notify Buyer orally of the Start Date (such date to be no earlier than the date upon which all of the above conditions precedent have been satisfied, the Expected Start Date, and the date upon which written confirmation of such oral notice is provided) and shall provide written confirmation of such date to Buyer within ten (10) Days. Unless due to delays caused solely by Buyer, if the Start Date fails to occur within two-hundred forty (240) days after the Expected Start Date (the "Outside Start Date") (which shall not be subject to extension by Force Majeure pursuant to Section 11, Force Majeure), Buyer shall have the right to terminate this Agreement upon written notice to Seller, to be effective as of the date specified in such notice, and shall have the right to retain the Earnest Money Deposit as provided for in this subsection as its sole damages caused by Seller's failure to place the Plant in service by the Outside Start Date and to deliver energy and capacity to Buyer pursuant to this Agreement.

To ensure that the Seller will perform all of its obligations under this Agreement and that the Plant will be complete and ready to operate no later than two-hundred forty (240) days after the Expected Start Date, Seller shall either pay Buyer an earnest money cash deposit, or Seller shall provide to Buyer either (i) a surety bond maintained for the benefit of Buyer; or (ii) an unconditional and irrevocable direct pay letter of credit in Buyer's name, in an amount equal to Five Thousand Dollars (\$5,000.00) per megawatt times Contract Capacity identified in Part I (the 'Earnest Money Deposit'), on or before the date that is thirty (30) Days after the Effective Date. Seller shall earn interest on the cash Earnest Money Deposit it provides to Buyer from and including the date of deposit to but excluding the date such cash is returned at a rate per annum equal to the Interest Rate. If the Seller fails to provide such Earnest Money Deposit by the date specified herein, then this Agreement shall be rendered void ab initio.

If the MPSC fails to approve this Agreement or associated recovery

requested pursuant to Section 2.1 Effective Date and Term (other than financial recovery available to Buyer under MCL 460.6s or MCL 460.6t), or if the MPSC's approval of the Agreement is rescinded as a result of a final appeal of the MPSC's order approving this Agreement, then this Agreement shall be rendered void ab initio and either the cash Earnest Money Deposit and any accumulated interest thereon, or the letter of credit or surety bond, will be returned or released to Seller, whichever is applicable.

If the Start Date occurs within the time period specified in this subsection, either the entire cash Earnest Money Deposit and any accumulated interest, or the letter of credit or surety bond, will be returned or released to Seller, as applicable, by Buyer within sixty (60) Days of said Start Date.

4.4 Test Energy

At least seven (7) Days prior to the delivery of Test Energy, Seller shall provide Buyer with a projection of the Plant's expected electric energy output during a test period to be purchased by Buyer as Test Energy. Both twenty-four (24) hours and one (1) hour prior to the start of a test period, Seller shall provide Buyer with verbal confirmation of the Plant's expected electric energy output during such test period. During such test period, Seller shall orally notify Buyer of any unanticipated changes to the Plant's expected electric energy output.

5. METERING

All electric energy associated with Delivered Energy or Incidental Energy that is delivered by Seller to the applicable electric distribution system owner and/or operator shall be metered at the billing meter installation(s) provided pursuant to the Interconnection Agreement and shall be separately metered from electric energy generated by generating facilities other than the Plant. Interval registering meters are required for each generating unit served. To determine the amount of electric energy delivered, the metered values shall be adjusted for transformer losses and line losses, if applicable, between the metering location and the Point of Delivery.

6. OPERATION OF PLANT

6.1 Seller's Operating Obligations

Seller shall operate and maintain the Plant in accordance with Prudent Utility Practices and MISO (or any successor thereto) standards and tariff requirements which apply to generating units such as Seller's Plant.

Seller shall, promptly inform Buyer as to changes in the operating status of the Plant, including, but not limited to, Plant outages pursuant to Subsection 6.2, Outages of Generating Equipment.

6.2 Outages of Generating Equipment

Seller shall promptly provide to Buyer all material information relating to Plant outages and significant derates of Plant generating capacity which would affect Seller's ability to deliver electric energy from the Plant to the Point of Delivery. Such material information shall be sufficient for Buyer to determine and verify the severity and extent of such outages and derates, including at a minimum, the date and time when the outage or derate began, the cause of the outage or derate, and the anticipated date and time the outage or derate will end.

Seller shall promptly provide to Buyer an oral report of any outages of Plant electric generating capacity as a result of (1) Seller's compliance with the provisions of Subsection 3.1, Permits and Laws, (2) interruptions or other distribution system limitations from the Plant to the Point of Delivery which would restrict the flow of Delivered Energy, or (3) any other circumstance or event that would prevent electric energy from being delivered from the Plant to the Point of Delivery, and their anticipated duration.

Seller shall confirm its schedule of generating capacity outages planned by Seller for a Calendar Year with Buyer in writing by August 1st of the prior Calendar Year. At least seven (7) Days prior to any scheduled outage and/or planned outage, Seller shall confirm with Buyer the expected start date of such outage and the expected completion date of such outage. Seller shall notify Buyer of any subsequent changes to the outage. As soon as practicable, any oral notifications shall be confirmed in writing.

6.3 Capacity Data

Seller shall comply with all requirements established by (a) any regulatory agency and/or (b) any electric power reliability organization (including, but not limited to, MISO, Reliability First Corporation, or NERC), that has jurisdiction over Buyer to enable the Buyer to receive the Plant's Resource Adequacy Capacity from MISO. Seller shall submit, if necessary, applicable data to Buyer by the dates established by the Parties, but in no event shall any such dates be later than one (1) week prior to the deadlines established by MISO for such data.

6.4 Communications

Seller shall cooperate with Buyer to enable Buyer to monitor, in real time, all electric energy generated by the Plant. If, after the start date of this agreement, any new real-time meter and related communications equipment is required to enable such monitoring by Buyer, Buyer shall pay for such equipment. If the applicable distribution system owner or operator requires a release by Seller or permission from Seller to disclose such real-time information or to install real-time meter and related communications equipment, Seller shall provide such release or grant such permission.

6.5 Contract Termination Requirements

If required by the MISO Rules, Seller shall inform Buyer via written notice

if Seller plans, upon expiration of this Agreement, to (i) register the Plant with MISO or (ii) mothball or retire the Plant. Such notice shall be provided by Seller to Buyer on or before the end of October in the year prior to the termination of this Agreement, or within twenty (20) Days of any notice provided in accordance with Section 10, Early Termination After Start Date. The Parties shall cooperate with each other to undertake the activities necessary to register, mothball, or retire the Plant in accordance with the MISO Rules. Seller shall indemnify Buyer against any costs, charges or penalties imposed on Buyer as a result of Seller's failure to comply or cooperate with Buyer to comply with the MISO Rules as described in this Subsection 6.5.

6.6 New Regulations

In the event that the United States government, including, but not limited to the Environmental Protection Agency, and/or any other governmental entity, implements regulations during the term of this Agreement and such regulations make continued operation of the Plant materially and substantially uneconomical such that continued operation is no longer feasible, prudent and/or sustainable, Seller shall provide twelve (12) months' written notice to Buyer of such fact, and provide sufficient supporting information to evaluate this claim (unless twelve (12) months' notice is not commercially and/or legally feasible under the circumstances, in which case Seller shall provide such notice as is commercially and/or legally feasible under the circumstances). This Agreement will terminate at the time specified in such notice and neither Party shall have any further obligations hereunder except for those obligations which survive such termination, including, but not limited to, the indemnity provided in Subsection 6.5.

6.7 Emergencies and Exempt Operational Periods

Buyer shall not be obligated to accept electric energy or make payments based on electric energy delivered pursuant to Section 7, Compensation, for any electric energy which Seller may have available at the Plant during any of the following events which in each case shall be deemed to constitute an Uncompensated Curtailment: (i) Emergencies after Buyer has given Seller timely notice of such Emergencies; (ii) events of Force Majeure, (iii) Exempt Operational Periods, or (iv) Seller's scheduled outages of the Plant. Notwithstanding the above, should Buyer fail to receive verification of its determination of an Exempt Operational Period from the MPSC as described in 18 CFR § 292.304(f)(4), if applicable, then such determination shall be deemed to be a Compensated Curtailment and Buyer shall be obligated to make such payments for all electric energy which Seller had available at the Plant, whether or not delivery of such electric energy was suspended due to Buyer's notification to Seller under 18 CFR § 292.304(f)(4).

7. COMPENSATION

7.1 Capacity Payment

During Contract Period 1, commencing with the first Billing Month after the Start Date and continuing until January 1, 2025, Buyer shall pay Seller the Supplemental Power Capacity Price, as indicated on Page 2 of this Agreement. Such payments shall be made on a monthly basis pursuant to Subsection 8.1, Billing Procedure.

During Contract Period 2 if the Buyer has a capacity need remaining after a competitive bidding process issued by the Buyer then the remaining capacity will be awarded to a Qualifying Facility on a first-come first-serve basis at the Company's full avoided cost rates that match the highest priced proposal that received a contract in the Company's competitive bidding process and the contract term will be the same as offered in that competitive solicitation.

Seller shall receive a monthly capacity payment based on the Capacity Purchase Price as indicated in Part I. The current resource planning period is the Planning Year which runs from June 1st of each year through May 31st of the following year. Payments shall be reduced by (1) any applicable monthly interconnection cost owed by Seller to Buyer, and (2) the Monthly Escrow Payment identified in Part I, if applicable. The Capacity Purchase Price identified in Part I, will be applicable for the term of this Agreement.

In the event that Resource Adequacy Capacity for any Planning Year during the term of this Agreement fails to be greater than or equal to Contract Capacity Target, including but not limited to such failure that results from an early termination of this Agreement in accordance with the first paragraph under Section 10, Early Termination After Start Date, Seller shall pay Buyer as liquidated damages for such failure, by the May 1st immediately preceding the Planning Year for which the failure occurred, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Capacity Purchase Price from the Planning Resource Auction Clearing Price for such Planning Year and multiplying such result by the difference obtained by subtracting Resource Adequacy Capacity from Contract Capacity Target. For example, if the Resource Adequacy Capacity for a Planning Year was 0.4 ZRCs, the Contract

Capacity Target is 0.6 ZRCs, Purchase Price was \$150,000/ZRC- Year, and the Auction Clearing Price was \$175,000/ZRC-Year, then Seller would owe Buyer an amount equal to \$5,000.00 (i.e., $[\$175,000/\text{ZRC-Year} - \$150,000/\text{ZRC-Year}] \times [0.6 \text{ ZRCs} - 0.4 \text{ ZRCs}]$). In the event that Seller fails to make the foregoing payment by the date set forth above, to satisfy Seller's payment obligation under this paragraph, Buyer shall have the right to (i) draw upon the Letter of Credit, Surety Bond and/or funds in the Escrow Account established in accordance with Subsection 2.2, Payment Security, and/or (ii) to offset the foregoing payment against Buyer's payment and obligations.

7.2 Energy Payment

Commencing with the Start Date and continuing for the term of this Agreement, Buyer shall pay Seller the Energy Purchase Price identified in Part I for Delivered Energy for the applicable Billing Month. Such payments shall be made on a monthly basis, pursuant to Subsection 8.1, Billing Procedure.

Seller shall receive a monthly energy payment equal to the Energy Purchase Price as indicated in Part I multiplied by the Delivered Energy for the applicable Billing Month. The Energy Purchase Price, as selected by the Seller and described in Exhibit A, will be applicable for the term of the contract.

In the event the delivery of energy is curtailed due to a reason that qualifies as a Compensated Curtailment, and such curtailment results in Lost Production, Seller shall be entitled to Lost Production Damages on a monthly basis as its sole and exclusive remedy and Buyer's sole and exclusive liability. Seller shall provide to Buyer relevant data and supporting documentation so that Buyer can verify the calculation of Lost Production. Lost Production must be calculated using data from the SCADA System and based on actual measurements during the applicable time as recorded by the Plant's measurement instrumentation. Buyer is not obligated to arrange alternative transmission services during any such event. Seller is not entitled to compensation for Lost Production if Energy is curtailed due to any reason that qualifies as an Uncompensated Curtailment.

7.3 Incidental Energy and Test Energy Payment

Commencing with the Initial Operation Date and continuing for the term of this Agreement, Buyer shall pay Seller, for each hour that the Incidental Energy Price is a positive value, the product of such Incidental Energy Price and the Incidental Energy delivered for each such hour. Commencing with the Initial Operation Date and continuing for the term of this Agreement, Seller shall pay Buyer, for each hour that the Incidental Energy Price is a negative value, the product of such Incidental Energy Price and the Incidental Energy delivered for each such hour. The Monthly net amount due shall be paid by the Party who owes it.

7.4 Regulatory Disallowance

If the MPSC has ruled in an order that Buyer will not be permitted complete

recovery from its customers of the capacity and energy charges to be paid pursuant to Section 7, Compensation, then Buyer shall have the right to require that the charges to be paid by Buyer under Section 7 be adjusted to the charges which the MPSC indicates Buyer can recover from its customers. Any such adjustment shall be effective no earlier than the date of such MPSC order. Pending appellate review of such order and final determination of the charges that may be recovered by Buyer pursuant to this Agreement, the amounts not paid to the Seller due to any such adjustment shall be placed by Buyer in an interest-bearing separate account with the administrative costs incurred by that account to be borne by the account. The balance in the separate account, less administrative costs, shall be paid to the appropriate Party upon the completion of appellate review which establishes the charges that Buyer will be permitted to recover from its customers. Future capacity and energy charges to be paid by Buyer shall be no greater than will be recoverable from Buyer's customers pursuant to such final appellate determination.

Seller shall refund to Buyer any portions of the capacity and energy charges paid by Buyer to Seller under this Agreement which Buyer is not permitted, for any reason, to recover from its customers through its electric rates, or at Buyer's sole option, Buyer shall offset said amounts against amounts owed Seller by Buyer as provided in Section 8, Billing.

Buyer shall not seek a Disallowance Order and shall use goodfaith, commercially reasonable efforts to oppose any proposal to disallow costs included in the Agreement. Nothing in the Agreement shall constitute a waiver of any rights Seller may have to appeal or collaterally challenge a Disallowance Order as a violation of Seller's rights or as otherwise unlawful.

Notwithstanding the foregoing, Seller shall have the right to terminate this Agreement without further liability at any time following a Disallowance Order up to sixty (60) Days following final resolution of any appeal of or collateral challenge to such order by giving Buyer thirty (30) days' notice of such termination.

The provisions of this Subsection 7.4 shall govern over any conflicting provisions of this Agreement.

8. BILLING

8.1 Billing Procedure

As soon as practicable after the end of each Billing Month, but in no event later than the twenty-eighth (28th) Day of the Month following the Billing Month, Buyer shall submit to Seller a statement ("Statement") which shall identify any amounts owed by Buyer or Seller pursuant to Section 7, Compensation, and Subsection 8.3, Administrative Charge, during such Billing Month. Such Statement shall use metered data obtained in accordance with Section 5,

Metering. At least three (3) Days prior to the payment due date, the Parties will review the final billing data and confirm the final amount owed by Buyer or Seller, as applicable. If necessary, Buyer shall submit a revised Statement to Seller.

The net amount due shall be paid by the owing Party via electronic funds transfer of said amount by the last Joint Banking Day of the Calendar Month following the Billing Month. Any amounts not paid when due shall bear interest until paid at the Late Payment Interest Rate. Notwithstanding the previous sentence, in no event will either Party be required to pay interest on any amounts owed to the other Party as a result of adjustments made pursuant to the following paragraph.

If metered data is unavailable, Buyer may render a Statement based on its best estimate of the amount owed by Buyer or Seller to meet the payment deadline in the second paragraph of this Subsection 8.1. Such a Statement shall indicate that it represents a best estimate of the amount owed. Such an estimate may utilize Seller's metered data, if available. If an estimate is used, an adjustment shall be made if necessary to the next Billing Month Statement issued after the date upon which actual data is determined to correct the prior Billing Month estimate.

8.2 Disputes

Seller may, in good faith, dispute the correctness of any Statement or any adjustment to a Statement, rendered under this Agreement and Buyer may adjust any Statement for any arithmetic or computational error within three hundred sixty-five (365) Days of the date the Statement, or adjustment to a Statement, was rendered. Any Statement dispute or Statement adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is fully resolved, including any associated appeals. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Late Payment Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments where Buyer pays Seller an amount greater than the Statement amount shall be returned within two (2) Business Days upon request or deducted by Buyer, including the date of such overpayment to but excluding the date repaid. Any dispute with respect to a Statement is waived unless the other Party is notified in accordance with this Subsection 8.2 within three hundred sixty-five (365) Days after the Statement is rendered or any specific adjustment to the Statement is made.

8.3 Administrative Charge

Seller is responsible for reimbursement of the administrative costs incurred by Buyer in administering this Agreement in accordance with this Subsection 8.3. For all energy supplied by Seller, an administrative fee of \$1.00/MWh will apply. The monthly administrative charge calculated in accordance with this Subsection shall be not more than the base rate of \$1,000.00 subject to adjustment by the Consumer Price Index-Urban Wage Earners and Clerical Workers as published by

the Bureau of Labor and Statistics (“CPI”), or any successor publication, using a January 2020 base. Beginning with the Start Date and each April thereafter during the term of this Power Purchase Agreement, said base rates shall be adjusted by the year to year CPI value for the most recent month of January. The above administrative charges may, all or in part, at the Buyer’s sole discretion, be offset against amounts owed Seller by Buyer, or charged under a separate billing, as provided in Subsection 8.1, Billing Procedure.

8.4 System Access Charge

Each Billing Month, Seller shall pay Buyer a System Access Charge equal to the System Access Charge according to the Buyer’s electric rate book, but not in excess of \$50, assessed per generator meter. If both the generation delivered to the Buyer and the energy delivered to the Seller can be measured with a single meter, the System Access Charge will be waived.

9. EVENTS OF DEFAULT

An Event of Default shall mean, with respect to a Party (“Defaulting Party”) the occurrence of any of the following:

- a. The failure to make, when due, any payment required pursuant to this agreement if such failure is not remedied within five (5) Business Days after written notice;
- b. Such Party becomes Bankrupt (whether voluntarily or involuntarily);
- c. Such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting surviving or transferee entity fails to assume all of the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;
- d. The failure of Seller, after the year in which the Start Date occurs, to supply any Delivered Energy to the Buyer hereunder for any period of seven hundred thirty (730) consecutive Days;
- e. The making of a representation or warranty that is false or misleading in any material respect when made or when deemed or repeated that is not cured within the cure period identified by the affected Party, such period to be not less than ten (10) Business Days;

- f. The failure of a Party to perform or observe any material term or condition of the Agreement or the applicable tariffs which is not cured within thirty (30) Calendar Days of written notification thereof by the other Party, including, but not limited to:
- (i) Failure of either Party to comply with the terms and conditions of this Agreement;
 - (ii) An attempted assignment of the Agreement by Seller without Buyer's consent;
 - (iii) Failure of Seller to provide Buyer commercially reasonable access rights to the Plant, or Seller's attempt to revoke or terminate such access rights;
 - (iv) Failure of either Party to provide information or data to the other Party as required under this agreement;
 - (v) Delivered Energy exceeding the Plant Nameplate Capacity MW_{AC} as identified in Part 1;
 - (vi) Material modification of the Plant equipment which changes the Plant's maximum electric output after the Start Date, without the prior written consent of Buyer, such consent not be unreasonably withheld

10. EARLY TERMINATION

10.1 Early Termination

If an Event of Default with respect to a Party (the "Defaulting Party") shall have occurred, the other Party (the "Non-Defaulting Party") shall have the right to terminate this Agreement upon thirty (30) Business Days' written notice to the Defaulting Party, as provided herein. In the event of the failure by the Defaulting Party to make timely payment due under this Agreement, the Non-Defaulting Party shall have the right, as an alternative or in addition to early termination, to recover from the Defaulting Party all amounts due, plus interest.

Seller shall have the right to terminate the Agreement if both (a) the Seller has not received a final engineering review (as defined in the MPSC's Electric Interconnection and Net Metering Standards) as of the date of the Agreement's execution; and (b) interconnection costs as estimated in the subsequently delivered final engineering review, accounting for all interdependent costs allocated to the Seller, exceed \$75,000.00 per MW_{ac} of Plant Nameplate Capacity, provided that the Seller must give notice to the Buyer of Agreement termination under this paragraph within thirty (30) days of receiving the final engineering review, and Seller shall remain responsible for the cost of the engineering review consistent with the MPSC's Electric Interconnection and Net Metering Standards.

If Buyer is subsequently determined to have a capacity need during the Term of this Agreement, Seller shall have the right to participate in Buyer's competitive bidding process, and if Seller secures a winning bid, amend this Agreement to modify the Capacity Purchase Price to conform to the capacity cost of Buyer's winning bid, expressed in \$/ZRC-month.

10.2 Early Termination Payment

Upon termination by Buyer pursuant to Subsection 2.3 or this Section 10, Seller shall owe Buyer the Early Termination Security Amount. As applicable, the Letter of Credit, Surety Bond and/or funds in the Escrow Account established in accordance with Subsection 2.2, Payment Security, shall be applied toward satisfying such amount. Within twenty (20) Days after Buyer has provided notice of termination to Seller pursuant to this Section 10, Buyer shall draw upon the Letter of Credit or Surety Bond or withdraw the funds in the Escrow Account and apply such funds toward the satisfaction of Seller's obligation to pay the Early Termination Security Amount. The provisions of this Section 10 regarding payments shall survive any termination of this Agreement by Buyer pursuant to this Section 10.

Buyer shall have no obligation to enter into any subsequent Power Purchase Agreement(s) with Seller until such time that any and all amounts owed to Buyer, including any applicable early termination payment, are paid. In any such subsequent Power Purchase Agreement, Seller shall not be entitled to a more favorable Capacity Purchase Price or Energy Purchase Price than would have been in effect during any remaining term of this Agreement, Either Party's obligation to make payments already due associated with deliveries received prior to the date of termination of the Agreement will survive any termination initiated under Subsection 2.3, "Qualifying Facility" Status and Seller's Warranty or Section 10, Early Termination .

11 FORCE MAJEURE

11.1 Definition

The term "Force Majeure" means acts or actions beyond the reasonable control of the affected Party, including without limitation, acts of God; flood, earthquake, storm or other natural calamity; war; insurrection; riot; curtailment (including any curtailment ordered by any Reliability Authority), order, regulation or restriction imposed by governmental authority; fire or explosion not caused by the Party claiming Force Majeure; transportation accidents or perils at sea; or other similar cause beyond the reasonable control but not due to negligence of the Party

affected. Notwithstanding the foregoing, for purposes of this Agreement, the term “Force Majeure” shall not include: (1) shortages of supplies and shortages of fuel, other than shortages of fuel occurring in time of calamity which is preventing the Seller from obtaining fuel for its operations; (2) mechanical breakdown of equipment; and (3) strikes or labor disturbances of employees of the Party affected.

11.2 Obligations Under Force Majeure

Force Majeure shall apply to the following situations:

(a) If Seller is rendered wholly or partially unable by the occurrence of a Force Majeure event to supply Resource Adequacy Capacity and/or Delivered Energy, in accordance with Section 3, Capacity And Energy To Be Supplied, then, for the duration of the Force Majeure event, subject to the conditions below, Seller’s obligations to supply Resource Adequacy Capacity and/or Delivered Energy to Buyer and Buyer’s obligation to pay for Resource Adequacy Capacity and/or Delivered Energy pursuant to Section 7, Compensation, shall be limited to the amount of Resource Adequacy Capacity and/or Delivered Energy that Seller actually supplies.

(b) If Buyer is rendered unable by the occurrence of a Force Majeure event to receive Resource Adequacy Capacity and/or Delivered Energy supplied by Seller, then, for the duration of the Force Majeure event, subject to the conditions below, Buyer’s obligation to pay Seller for Resource Adequacy Capacity, and/or Delivered Energy pursuant to Section 7, Compensation, and Seller’s obligations to supply Resource Adequacy Capacity and/or Delivered Energy to Buyer shall be suspended to the extent that Buyer is unable to receive Resource Adequacy Capacity and/or Delivered Energy supplied by Seller.

The Party rendered wholly or partially unable to perform because of a Force Majeure event shall promptly give written notice to the other Party, including a description of such Force Majeure event, an estimate of the anticipated duration of such Force Majeure event, and the effect of the Force Majeure event on the Party’s performance obligation. Unless performance has already resumed, the Party rendered wholly or partially unable to perform because of a Force Majeure event shall, within thirty (30) Days of the date upon which such notice of Force Majeure was provided, and at Monthly intervals thereafter, submit to the other Party an update of the Force Majeure event including a summary of the activities necessary for the Party to resume performance. Upon the conclusion of the Force Majeure event, the Party heretofore unable to perform shall resume performance of the obligation previously suspended and provide notice to the other Party of when the Force Majeure event ceased.

Notwithstanding any of the foregoing provisions, neither Party shall claim Force Majeure for more than a total of one hundred eighty (180) Days during any consecutive five

(5) year period during the term of this Agreement; provided, however, that Seller may claim up to an additional one hundred eighty (180) Days of Force Majeure, during said five (5) year period, in the event of significant damage to Seller's Plant resulting from an event of Force Majeure.

11.3 Continued Payment Obligation

Any Party's obligation to make payments already due under this Agreement shall not be suspended by Force Majeure.

12 INDEMNITY

Seller shall indemnify, defend and hold Buyer and its officers, agents and employees harmless from any and all liability, claims, demands, costs, judgments, loss or damage, including attorney fees, attributable to or resulting from the maintenance, possession or operation of the Plant, except those caused solely by the negligence or willful misconduct of Buyer. Without limiting the foregoing, Seller shall at Buyer's request, defend at Seller's expense any suit or proceeding brought against Buyer for any of the above-named reasons; provided that Buyer notifies Seller in writing of any such claim and promptly tenders to Seller the control and defense of any such claim with Seller's choice of counsel. Buyer shall cooperate with Seller, at Seller's expense, in defending such claim and Buyer may join in defense with counsel of its choice at its own expense. Buyer may not settle any such claim without Seller's prior written consent. Seller's indemnification shall not include damage and injuries occurring on Buyer's own system after the Point of Delivery, unless the damage to or injuries occurring on such system are caused by the negligence or willful misconduct of Seller.

Buyer shall indemnify, defend and hold the Seller, its officers, agents and employees harmless from any and all liability, claims, demands, costs, judgments, loss or damage, including attorney fees, resulting from damage or injuries occurring on Buyer's own system after the Point of Delivery, except those caused solely by the negligence or willful misconduct of Seller. Without limiting the foregoing, Buyer shall at Seller's request, defend at Buyer's expense any suit or proceeding brought against Seller for any of the above-named reasons; provided that Seller notifies Buyer in writing of any such claim and promptly tenders to Buyer the control and defense of any such claim with Buyer's choice of counsel. Seller shall cooperate with Buyer, at Buyer's expense, in defending such claim and Seller may join in defense with counsel of its choice at its own expense. Seller may not settle any such claim without Buyer's prior written consent.

13 ARBITRATION

Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall first be referred in writing to a senior representative of each Party for resolution. If the senior representatives are unable to resolve the dispute within thirty (30) Days after the date of the

written notice of referral, the parties shall submit to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (in doing so the Parties are not agreeing to use the American Arbitration Association).

The Parties shall endeavor to agree upon and appoint one person to act as sole arbitrator. The arbitration shall be conducted before a single competent and disinterested arbitrator in accordance with the Commercial Rules of the American Arbitration Association. Such arbitrator shall have professional experience in energy related transactions, shall not be, or have previously been, employed by either Party, nor have a direct or indirect interest in either Party or the subject matter of the arbitration.

Such arbitration shall be held at any mutually agreed upon location. The award of the arbitration shall be final and binding on the Parties, the Parties shall abide by the award and perform in accordance with the terms and conditions of the award, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction.

At all times, pending the resolution of any disagreement, the Parties shall continue to perform their obligations pursuant to this Agreement.

14 CHANGES IN LAW

In the event that there is a change in applicable law or regulation, including but not limited to laws and regulations of the State of Michigan, the Federal Energy Regulatory Commission or MISO, or in the event MISO ceases or modifies its operation or rules such that such modifications have a material effect on this Agreement or either Party's obligation hereunder, then Seller and Buyer shall amend this Agreement or enter into other agreements reasonable necessary to preserve and maintain the business agreement between the Parties described herein as of the Effective Date and the material terms and provisions of such relationship contemplated herein.

15 SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Parties. This Agreement shall not be assigned by a Party without the other Party's prior written consent, which consent shall not be unreasonably withheld, but provided that (i) any assignee shall expressly assume assignor's obligations under this Agreement; and (ii) no such assignment shall impair any security given by Seller under this Agreement. Any attempted assignment or transfer without such consent shall be void and not merely voidable. Notwithstanding the foregoing, and provided that Seller is not relieved of liability hereunder, Seller shall not require Buyer's consent for assignment of this Agreement to an Affiliate of Seller provided that such Affiliate's creditworthiness (as determined by Buyer in Buyer's sole discretion) is equal to

or higher than that of Seller

If it is necessary for Seller to assign this Agreement in connection with any loan, lease or other financing arrangement for the Plant, Buyer shall enter into a collateral assignment of this Agreement with Seller and its lenders substantially in the form of Exhibit B hereto. Changes to the form of collateral assignment must be agreed to by Buyer in Buyer's sole discretion.

16 GOVERNING LAW

This Agreement shall be deemed to be a Michigan contract and shall be construed in accordance with and governed by the laws of Michigan, without regard to principles of conflicts of law.

17 HEADINGS

The various headings set forth in this Agreement are for convenience only and shall not affect the construction or interpretation of this Agreement.

18 NOTICE TO PARTIES

Unless otherwise provided in this Agreement, any notice, consent or other communication required to be made under this Agreement shall be effective if it is in writing and delivered personally, by certified mail (postage prepaid and return receipt requested), reputable overnight delivery service, or other confirmable form of electronic delivery to the address set forth in Part I or to such other address as the receiving Party may designate in writing.

19 WAIVER

No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other Party, whether express or implied, shall not constitute a continuing waiver of, or consent to, or excuse any subsequent or different breach, nor in any way affect the validity of this Agreement or any part of it, or the right of any Party to thereafter enforce any provision of this Agreement.

20 NONSEVERABILITY

If any essential provision of this Agreement is declared invalid in whole or in part in a final, non-appealable order by a court or other tribunal of competent jurisdiction, then a Party adversely affected by such invalidation shall have the right to terminate this Agreement by giving the other Party thirty (30) days' notice of such termination. Concurrently with, and as a condition of,

termination of this Agreement, the Parties shall enter into good faith negotiations to amend this Agreement to remedy the invalidated provision(s) or enter into a new agreement that reasonably preserves the rights, obligations and economic positions of the parties under this Agreement in light of the invalidated provision(s). If the parties cannot reach an agreement, they shall submit any disputed matters to the Michigan Public Service Commission for binding resolution. If any non-essential provision in this Agreement is held to be invalid or unenforceable, it shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or provisions of this Agreement and without giving rise to any right of termination.

21 MISCELLANEOUS

21.1 No Third-Party Beneficiaries

This Agreement is intended solely for the benefit of the Parties. Nothing in this Agreement shall be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a Party to this Agreement.

21.2 Disclaimer of Joint Venture, Partnership and Agency

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter 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.

21.3 Variable Interest Entity

Seller shall supply Buyer with any information necessary for Buyer to determine if Seller is a variable interest entity as defined under U.S. Generally Accepted Accounting Principles, and to determine if this Agreement is a lease under U.S. Generally Accepted Accounting Principles.

If it is determined that Seller is a variable interest entity and that Buyer will be required to include Seller in its consolidated financial statements or required to make certain disclosures, or that this Agreement is a lease, Buyer shall so notify Seller in writing. Within a time frame mutually agreed to by Buyer and Seller, Seller shall provide to Buyer written quarterly reports containing any and all financial data associated with Seller and the Plant associated with this Agreement or any other information that Buyer determines in its sole discretion is required to comply with the accounting treatment associated with these accounting standards or future applicable accounting standards. Such information may include, but shall not be limited to, nameplate capacity of the facility, megawatt-hours of electricity produced and used by the Plant, data supporting the economic life (both initial and remaining) of the Plant, the fair market value of

the Plant, and any and all other costs (including costs of debt specific to the Plant) associated with Seller.

Further, if it is determined that Seller is a variable interest entity and that Buyer will be required to include Seller in its consolidated financial statements, Seller shall also provide the following on a quarterly basis:

(i) Quarterly financial statements prepared in accordance with generally accepted accounting principles;

(ii) Descriptions of the following obligations of Seller for the immediately preceding calendar quarter:

- (A) On-balance sheet obligations;
- (B) Purchase obligations;
- (C) Lease obligations and commitments;
- (D) Off-balance sheet commitments; and
- (E) Contingent obligations;
- (F) Total generating capacity;

(iii) All material contracts (or summaries if the original contracts are not immediately available) of Seller then in effect, together with any related agreements, if any, including, but not limited to:

- (A) Equity-related agreements;
- (B) Debt and other borrowings;
- (C) Material asset or stock acquisitions or dispositions;
- (D) Documents under which guarantees or indemnities have been provided;
- (E) Material supplier and customer contracts;
- (F) Related-party contracts;
- (G) Documents related to material hedging activities;
- (H) Contingent obligations and financial commitments;
- (I) Leasing arrangements and off-balance sheet obligations; and
- (J) Management and outsourcing contracts.

(iv) Business plans and financial projections.

22 ENTIRE AGREEMENT AND AMENDMENTS

This Agreement supersedes all previous representations, understandings, negotiations and agreements either written or oral between the Parties or their representatives and constitutes the entire agreement of the Parties concerning the subject matter of this Agreement. No

amendments or changes to this Agreement shall be binding unless made in writing and duly executed by both Parties.

23 COUNTERPARTS AND ELECTRONIC DOCUMENTS

This Agreement may be executed and delivered in counterparts, including by a facsimile or an electronic transmission thereof, each of which shall be deemed an original. Any document generated by the Parties with respect to this Agreement, including this Agreement, may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. Neither Party will object to the admissibility of such images as evidence in any proceeding on account of having been stored electronically.

EXHIBIT A

ENERGY PURCHASE PRICE

Buyer will pay Seller for Delivered Energy from one of the following options listed below, as chosen by Seller and prescribed in Part I.

Option 1: Actual MISO Day Ahead LMP

Actual MISO Day Ahead Locational Marginal Price (“LMP”) at Buyer’s CONS.ALPENA load node multiplied by 1 plus a line loss adjustment factor and less the administrative fee of \$1.00/MWh.

Calculation: [LMP x (1 + line loss)] - administrative fee

Option 2: Day Ahead LMP Energy Rate Forecast

Buyer shall pay the energy rate forecast (based on the day-ahead LMP forecast inclusive of the line loss adjustment factor less the administrative fee), as prescribed in the table below, for Delivered Energy received in the initial five-year term of the Agreement during each calendar year. Beginning on the sixth anniversary of the Start Date, and continuing through the term of the agreement, the rate shall be fixed at the on-peak and off-peak rate applicable during the fifth year.

Start Year	On-Peak Hours Energy Rate (including line losses and administrative fee) \$/kWh	Off-Peak Hours Energy Rate (including line losses and administrative fee) \$/kWh
2025	\$.03634	\$.03100
2026	\$.03752	\$.03200
2027	\$.03875	\$.03310
2028	\$.03985	\$.03424
2029	\$.04133	\$.03557

The following example is provided for illustration only and does not constitute a binding obligation under this Agreement:

Example: If the Start Date occurs on June 1, 2023, the sixth anniversary of the Start Date will be June 1, 2028. In this example, the energy rates for the remaining term of the agreement beginning June 1, 2028, will remain fixed at \$38.75/MWh on-peak and \$33.10/MWh off-peak.

EXHIBIT B

Form of Collateral Assignment

COLLATERAL ASSIGNMENT OF
POWER PURCHASE AGREEMENT

This ASSIGNMENT OF POWER PURCHASE AGREEMENT ("Assignment Agreement") is entered into as of the _____ day of _____, among _____, a _____ (the "Borrower"), Alpena Power Company, a Michigan corporation ("Alpena"), and _____, a _____, (the "Bank"). Borrower, Alpena and Bank are herein sometimes referred to individually as "Party" and collectively as "Parties" where appropriate.

WHEREAS, Alpena and Borrower entered into a Power Purchase Agreement dated _____ (the "PPA"), pursuant to which Alpena agreed to annually purchase electric capacity, and electric energy to be supplied by a _____ facility called the _____ (the "Facility"); and

WHEREAS, it is a condition precedent to the making of loans pursuant to the Credit Agreement dated as of _____ by and among the Borrower and the Bank (the "Credit Agreement"), that the Borrower assign its rights under the PPA to the Bank; and

WHEREAS, such assignment requires the prior written consent of Alpena. NOW,

THEREFORE, the parties hereby agree as follows:

1. Assignment.

(a) As security for the due and punctual performance and payment of all of the Borrower's obligations under the Credit Agreement, the Borrower hereby assigns to the Bank all of the Borrower's right, title and interest in, to and under the PPA. Unless expressly provided otherwise in this Assignment Agreement, nothing in the Credit Agreement shall in any way amend, alter or otherwise affect any rights of Alpena under the PPA.

(b) The Bank may, with Alpena' prior written consent, further assign the Borrower's rights, title and interests under the PPA to another party who, pursuant to such assignment, shall obtain all of the Bank's rights, title and interest under the PPA. Notwithstanding any such further assignment and assumption of the obligations of the Borrower under the PPA by such party, the Bank shall remain liable for the obligations of the Borrower under the PPA which arose during the period in which the Bank assumed the Borrower's obligations under the PPA.

(c) Upon receipt of written notice from the Bank setting forth that (i) there exists a default under the Credit Agreement, (ii) the Bank desires to exercise its rights under this Assignment Agreement, and (iii) the Bank is assuming the obligations of Borrower under the PPA and requests Alpena to continue to perform its obligations under the PPA, Alpena shall continue to perform its obligations under such PPA and the Bank shall (a) pay Alpena for work performed or services or material provided after such request in accordance with the provisions of such PPA and (b) perform all other obligations of the Borrower under such PPA. Alpena and the Bank hereby agree that upon receipt of such written notice by Alpena the Bank may directly enforce the terms of such PPA against Alpena and that any action or proceeding to enforce the terms of the PPA may be taken by or against the Bank in its own name or in the name of the Borrower. Alpena and the Borrower each agree that

unless and until Alpena receives such written notice from the Bank, the Bank shall not be deemed by virtue of the execution and delivery of this Assignment Agreement to have assumed any of the obligations of the Borrower under the PPA.

This Assignment Agreement shall not be deemed to release or to affect in any way the obligations of the Borrower or Alpena under any provisions of the PPA. No assumption of Borrower's obligations under the PPA by the Bank or any further assignee shall release Borrower from its obligations to Alpena under the PPA.

2. Delivery of Notices

Alpena agrees that it will notify the Bank of any termination or default under the PPA simultaneously with the giving of notice to Borrower pursuant to Sections 2, 4, and 10 of the PPA.

3. Payment.

Alpena and the Borrower agree that until receipt of written notice from the Bank that all obligations under the Credit Agreement have been fully satisfied; Alpena will make all payments due to the Borrower under the PPA directly to the following account at the Bank:

Bank Name _____
Account No. _____
Attention: _____
Physical Address: _____
City, State ZIP: _____

4. Successor and Assigns.

This Assignment Agreement shall bind and inure to the benefit of the parties to this Assignment Agreement and their respective successors and assigns.

5. Applicable Law.

The construction, performance and validity of this Assignment Agreement shall be governed by the laws of the State of Michigan (excluding the laws applicable to conflicts or choice of law). Each of the Bank, Alpena and the Borrower hereby submits to the exclusive jurisdiction of the United States District Court for the Eastern District, Southern Division of Michigan and of any Michigan State Court sitting in Jackson, Michigan for the purpose of all legal proceedings arising out of or relating to this Assignment Agreement or the transactions contemplated hereby. As of the date hereof, Alpena represents that the PPA is a legal, valid and binding obligation of Alpena.

6. Waiver.

Unless otherwise specifically provided by the terms of this Assignment Agreement, no delay or failure to exercise a right resulting from any breach of this Assignment Agreement shall impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver shall be in writing and signed by the Party granting such waiver. If any representation, warranty or covenant contained in this Assignment Agreement is breached by any Party and thereafter waived by the other Parties, such waiver shall be limited to the particular breach so waived and

shall not be deemed to waive any other breach under this Assignment Agreement.

7. Counterparts.

This Assignment Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in multiple counterparts (including by facsimile transmission), each of which will be deemed an original and all of which shall constitute one and the same instrument. Any document generated by the Parties with respect to this Assignment Agreement, including this Assignment Agreement, may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. None of the Parties hereto will object to the admissibility of such images as evidence in any proceeding on account of having been stored electronically.

8. Notices.

All written notices provided for in this Assignment Agreement shall be mailed by registered or certified mail, return receipt requested, or delivered by hand to the Borrower, Alpena and the Bank at the following addresses or such other address as may be designated in a written notice by the addressee:

If to the Borrower:

Borrower Name: _____
Borrower Street Address: _____
City, State ZIP Code: _____
Attention: _____

If to Alpena:

Alpena Power Company

Attention: _____

If to the Bank:

Bank Name: _____
Street Address: _____

City, State ZIP: _____
Attention: _____

All such notices shall be effective when delivered.

9. Entire Agreement

This Assignment Agreement shall completely and fully supersede all prior undertakings or agreements, both written and oral, between the Parties with respect to the assignment of the PPA in so far as the obligations and rights of the Borrower and Alpena are concerned.

IN WITNESS WHEREOF, this Assignment Agreement has been executed on behalf of the undersigned Parties by their respective representatives thereunto duly authorized as of the date first above written.

Borrower Name _____

By: _____
(Name)

Its: _____
(Title)

ALPENA POWER COMPANY

By: _____
(Name)

Its: _____
(Title)

Bank Name: _____

By: _____
(Name)

Its: _____
(Title)

EXHIBIT C

Monthly Escrow Payment

Beginning with the Billing Month in which the Start Date occurs, Buyer will retain during each Billing Month a portion of capacity compensation until the Escrow Account equals or exceeds the Early Termination Security Amount identified in Part 1. Interest on the Monthly Escrow Payments shall accrue at the Interest Rate. Buyer will continue to retain such funds to achieve and maintain a security for continued performance. The amount retained each month shall be determined in accordance with the following formula:

Monthly Escrow Payment (\$) = \$1,200 x ZRC-month

All Monthly Escrow Payments and accumulated interest shall be retained in the Escrow Account until the Early Termination Security Amount is reached (the "Full Funding"). Once the Escrow Account has Full Funding, Buyer will not retain any portion of the monthly capacity payment; however, accumulated interest will continue to be held in the Escrow Account.

Escrow amounts will be held by Buyer from Start Date through the first Billing Month of the Planning Year that begins one year after 60% of the Contract Term has been completed (the "Refund Period"), at which point Seller will no longer be obligated to continue making Monthly Escrow Payments. The balance in the Escrow Account will be disbursed to the Seller over the remaining term of the Agreement. Beginning with the first Billing Month of the Refund Period, Buyer will pay Seller the Monthly Escrow Payment in each successive Billing Month. Any amounts, including accumulated interest, remaining in the Escrow Account after termination of this Agreement shall be paid by Buyer to Seller on the final Billing Month settlement of the Agreement.

Upon termination pursuant to Section 10 of the Agreement after the Start Date, Buyer shall retain all remaining funds in the Escrow Account to the extent necessary to satisfy Seller's obligation to pay the Early Termination Security Amount.