

PUBLIC DOCUMENT

TRADE SECRET & CONFIDENTIAL

TRADE SECRET DATA EXCISED

MH REDACTED DRAFT June 23, 2017

2020 – 2040 SYSTEM POWER

SALE AGREEMENT

between

THE MANITOBA HYDRO-ELECTRIC BOARD

- and -

SASKATCHEWAN POWER CORPORATION

DATED January 29, 2016

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2020 - 2040 SYSTEM POWER SALE AGREEMENT

DATED the 29th day of January, 2016

BETWEEN:

THE MANITOBA HYDRO-ELECTRIC BOARD,
a Manitoba Crown Corporation incorporated pursuant to the provisions of
The Manitoba Hydro Act, C.C.S.M c. H190

(hereinafter referred to as “MH”),

- and -

SASKATCHEWAN POWER CORPORATION,
a Saskatchewan Crown Corporation incorporated pursuant to the provisions of
The Power Corporation Act

(hereinafter referred to as “SaskPower”).

WHEREAS, SaskPower and MH are owners and operators of electric generation and transmission facilities and are both engaged in the generation, transmission, distribution and sale of electric energy;

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

AND WHEREAS, the Parties acknowledge that based on the results of system impact studies undertaken by both Parties’ Transmission Providers, certain upgrades to the transmission systems of MH and SaskPower are required for Firm Transmission Service necessary for the delivery and receipt of System Power;

AND WHEREAS, the Parties acknowledge that the said upgrades to the transmission systems of MH and SaskPower may not be completed by the start of the Contract Term and further acknowledge that the Parties may have the ability to use certain alternate transmission service contemplated in this Agreement until such time as the said upgrades are completed for the delivery of capacity and energy under the terms of this Agreement;

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

ARTICLE I INTERPRETATION

1.1 Defined Terms

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

[TRADE SECRET DATA EXCISED]

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

“**Agreement**” shall mean this 2020 – 2040 System Power Sale Agreement and all amendments thereto.

“**[TRADE SECRET DATA EXCISED] Environmental Attributes**” shall mean Environmental Attributes determined by MH, in accordance with MH’s obligations under the Agreement, to be from: (a) Supplied Energy; and (b) allocated or determined by MH, in accordance with MH’s obligations under the Agreement, only for the purpose of allocating and transferring Environmental Attributes, to be sourced from those MH’s Energy Resources that are **[TRADE SECRET DATA EXCISED]**.

[TRADE SECRET DATA EXCISED]

“**Ancillary Services**” shall have the meaning set forth in the MH OATT.

“**Applicable Laws**” means any federal, provincial and local laws including statutes, regulations, rulings, orders, administrative interpretations and other governmental restrictions, in each case, as amended from time to time, relating to the matter or item being contemplated or discussed.

“**Bankrupt**” means, with respect to a Person:

- (i) the Person has started proceedings to be adjudicated a voluntary bankrupt or consented to the filing of a bankruptcy proceeding against it;
- (ii) the Person has filed a petition, application or similar proceeding seeking reorganization, arrangement or similar relief under any bankruptcy protection, insolvency or creditor protection law;
- (iii) a receiver, liquidator, trustee or assignee in bankruptcy has been appointed for the Person and such appointment is not being diligently contested by the Person and has not been dismissed, stayed or vacated within sixty (60) days thereof, or the Person has consented to the appointment of a receiver, liquidator, trustee or assignee in bankruptcy;
- (iv) the Person has voluntarily suspended the transaction of its usual business;
- (v) a court has issued an order declaring the Person bankrupt or insolvent and such order is not being diligently contested and has not been dismissed, stayed or vacated within sixty (60) days thereof; or
- (vi) the Person is insolvent within the meaning of the *Bankruptcy and Insolvency Act* (Canada) for a period of greater than forty-five (45) days from the date that the Person became aware of such insolvency.

“**Bankruptcy**” means the quality or state of being Bankrupt.

“**Business Day**” shall mean Monday through Friday, excluding Canadian banking holidays (such banking holidays shall be as recognized by the Canadian Payments Association or any

successor agency).

“**Capacity**” shall mean either Interim Capacity or [TRADE SECRET DATA EXCISED].

“**Capacity Price**” shall have the meaning set forth in Section 4.1.

“**Central Prevailing Time**” shall mean either Central Standard Time or Central Daylight Time, in effect from time to time in Winnipeg, Manitoba.

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

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

“**Confidential Information**” shall have the meaning set forth in Section 11.1(a).

“**Construction Period**” shall mean the period commencing with the later of the date of the execution and delivery by SaskPower of a Service Agreement with its Transmission Provider for the SaskPower 100 MW TSR or the date of the execution and delivery by MH of a Service Agreement with its Transmission Provider for the MH 100 MW TSR to the [TRADE SECRET DATA EXCISED].

“**Contract Term**” shall mean the period of time commencing June 1, 2020 to and including May 31, 2040.

“**Contract Year**” shall mean a twelve-month period of time commencing June 1 to and including May 31 of the following calendar year.

“**Delivery Point**” shall mean the point or points where the transmission interconnections between the Province of Manitoba and the Province of Saskatchewan cross the provincial boundary between the Province of Manitoba and the Province of Saskatchewan excluding those transmission interconnections north of the 54th parallel.

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

“**Effective Date**” shall mean January 29, 2016.

“**Electronic Tag**” shall mean the mechanism required by the North American Electric Reliability Corporation reliability standards for purchasers or sellers to confirm arranged interchange with interchange authorities.

“**Energy**” shall mean Firm Energy and Transmission Dependent Energy.

“**Energy Price**” shall have the meaning set forth in Section 5.1.

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

“**Executive Officers**” shall be, in the case of MH the Vice-President, Generation Operations, and in the case of SaskPower the Vice-President, Planning, Environment & Sustainable Development, or their successors or such other officer designated by each Party from time to time.

“**Firm Energy**” shall have the meaning set forth in Section 2.3(1).

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

“**Firm Power**” shall mean: (a) generating capacity that is intended to be available at all times,

except as otherwise agreed by the seller and the purchaser, and for which the seller maintains generation reserves in accordance with standards and requirements established by the RRO to which the seller belongs; and (b) energy that was contracted to be supplied by the seller to the purchaser.

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

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

[TRADE SECRET DATA EXCISED]

[TRADE SECRET DATA EXCISED]

“Good Utility Practice” shall mean, at any particular time, any of the practices, methods, and

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

“**Governmental Authority**” shall mean any federal or provincial government, parliament, legislature, or any regulatory authority, agency, commission or board of any of the foregoing, or any political subdivision thereof, or any court, or, without limitation, any other laws, regulation or rule-making entity, having jurisdiction in the relevant circumstances, or any Person acting under the authority of any of the foregoing, or any other authority charged with the administration or enforcement of Applicable Laws. For greater certainty or interpretation, neither Party is a Government Authority.

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

“**GST**” shall mean the goods and services tax as provided for in the *Excise Tax Act* (Canada).

“**HST**” shall mean a harmonized sales tax, where the GST and the provincial sales tax have been combined to a single value added sales tax.

“**Interest Rate**” shall mean 2% per annum plus the prime lending rate of interest per annum, in

effect for any date. The prime lending rate of interest shall be the interest rate per annum publicly announced from time to time, by the Royal Bank of Canada at its main office in the City of Winnipeg, Manitoba, as its preferred lending rate of interest charged to its most creditworthy Canadian commercial customers, whether or not such interest rate per annum is actually charged by said bank to any customer. Notwithstanding the foregoing, in no event shall the Interest Rate exceed the maximum rate of interest allowed under Applicable Laws.

“**Interim Capacity**” shall mean an amount of System Capacity equal to the amount of the Interim Transfer Capability measured in MW.

“**Interim Period**” shall mean the period of time commencing June 1, 2020 to the [TRADE SECRET DATA EXCISED]

“**Interim Transfer Capability**” shall have the meaning set forth in Section 3.2(5).

“**Market**” or “**Markets**” shall mean:

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

[TRADE SECRET DATA EXCISED]

[TRADE SECRET DATA EXCISED]

“**MH 100 MW TSR**” shall have the meaning set forth in Section 3.1(1)(a).

“**MH Event of Default**” shall have the meaning set forth in Section 16.1.

“**MH Interim Transmission Obligation(s)**” shall have the meaning set forth in Section 3.2(3).

“**MH New Transmission**” shall have the meaning set forth in Section 3.1(1)(b).

“**MH Termination Event**” shall have the meaning set forth in Section 16.7.

“MH’s Border Accommodation Power Sales” shall mean those sales of Firm Power made by MH, as seller, which for some purposes are treated by MH as part of MH’s End-Use Load, to Persons located in provinces and states adjacent to the Province of Manitoba in circumstances whereby electric service to those locations is not otherwise readily available from other power suppliers. In all cases, these sales are made over transmission systems lower than 115 kV.

“MH’s Capacity Resources” shall mean [TRADE SECRET DATA EXCISED]

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

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

“MH’s Energy Resources” shall mean those MH’s Capacity Resources that are [TRADE SECRET DATA EXCISED]

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

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

“MH’s Separated Load Sales” shall mean those sales of energy made by MH, as seller, which are treated by MH as part of MH’s End-Use Load, to Persons located in provinces and states adjacent to the Province of Manitoba in circumstances whereby electric service to those

Persons' loads becomes separated from their transmission system due to forced outages, planned outages, or scheduled outages by the applicable Transmission Provider, from the said province or state adjacent to the Province of Manitoba and requires electric service to be provided by MH until electric service is restored.

“**MH’s System**” shall mean [TRADE SECRET DATA EXCISED]

[TRADE SECRET DATA EXCISED]

“**MISO**” shall mean the Midcontinent Independent System Operator, Inc. or its successor.

“**MISO Peak**” shall mean that hour on any given day determined by MISO to be the hour in which load within the MISO footprint is expected to peak.

“**MISO Peak Load**” shall mean on any given day, the four (4) continuous hours during that day representing the two (2) continuous hours prior to the MISO Peak, the MISO Peak, and the hour following the MISO Peak.

“**MISO Peak Load Hour**” shall mean any hour, which is an hour during the MISO Peak Load.

“**MW**” shall mean megawatt.

“**MWh**” shall mean megawatt-hour.

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

“**NorthPoint**” shall mean NorthPoint Energy Solutions Inc., a wholly owned subsidiary of SaskPower.

“**OASIS**” shall mean the “Open Access Same-Time Information System” used by either MH or SaskPower.

“**OATT**” shall mean a transmission tariff as it may be in effect from time to time that: (a) in

the case of both SaskPower's Transmission Provider and MH's Transmission Provider, provides reciprocal open access transmission service; and (b) in the case of a third party, has been filed with and accepted by FERC as complying with FERC's then current open access transmission, comparability, and non-discrimination requirements, or provides reciprocal open access transmission service so as to entitle such entity to transmit electricity with entities whose transmission tariff has been filed with and accepted by FERC as a transmission tariff.

“Operating Committee” shall have the meaning set forth in Section 9.1(1).

“Partial Interim Service” shall mean the portion of requested Firm Point-to-Point Transmission Service that has been requested pursuant to a particular transmission service request which can be accommodated without addition of any facilities as described in the applicable OATT.

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

[TRADE SECRET DATA EXCISED]

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

“Priority Criteria” shall have the meaning set forth in Section 3.7(3).

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

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

“RRO” shall mean a regional reliability organization, including the Midwest Reliability Organization or successor regional reliability organization, or any committee or subcommittee thereof, if applicable.

[TRADE SECRET DATA EXCISED]

[TRADE SECRET DATA EXCISED]

“**SaskPower 45 MW TSR**” shall mean the transmission service request submitted by SaskPower, for Firm Transmission Service on the SaskPower OASIS pursuant to transmission service request 81422415 for 45 MW of transfer capability, or any successor or successors.

“**SaskPower 100 MW TSR**” shall have the meaning set forth in Section 3.1(1)(d).

“**SaskPower 145 MW Study**” shall mean the study, or studies, conducted in association with the SaskPower 45 MW TSR and the SaskPower 100 MW TSR.

“**SaskPower Event of Default**” shall have the meaning set forth in Section 16.2.

“**SaskPower Interim Transmission Obligation(s)**” shall have the meaning set forth in Section 3.2(4).

“**SaskPower New Transmission**” shall have the meaning set forth in Section 3.1(1)(e).

“**SaskPower Termination Event**” shall have the meaning set forth in Section 16.9.

“**Schedule**” or “**Scheduling**” shall mean the actions of seller, buyer, and their designated representatives, of notifying, requesting, and confirming to each other the quantity of Energy in whole MWh that the Parties attempt to deliver on any given day or days during the Contract Term.

“**Scheduled**” shall mean the result of Scheduling.

“**Service Agreement**” shall have the meaning set forth in the applicable OATT.

“**Supplied Energy**” shall mean Energy that was, pursuant to this Agreement, supplied and sold by MH and which shall be attributed in its entirety to MH’s Energy Resources and for greater certainty [TRADE SECRET DATA EXCISED]

“**System Capacity**” shall mean an amount measured in MW representing the instantaneous rate at which energy can be supplied from MH’s System.

“**System Power**” shall mean Capacity together with Firm Energy, which for greater certainty does not include any generation reserves nor Ancillary Services.

“**Transfer System**” shall have the meaning set forth in Section 8.4(2).

“**Transmission Dependent Energy**” shall have the meaning set forth in Section 2.3(2).

“**Transmission Target Completion Date**” shall mean the date that is the later of: i) the estimated in-service date for the SaskPower New Transmission as identified in the facilities study report pursuant to the SaskPower 145 MW Study; and ii) the estimated in-service date for the MH New Transmission as identified in the facilities study report pursuant to the MH 100 MW TSR .

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

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

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

1.2 Interpretation

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

- (a) words singular and plural in number shall be deemed to include the other and pronouns having masculine or feminine gender shall be deemed to include the other;
- (b) any reference in this Agreement to any Person includes its successors and permitted assigns, and in the case of any Governmental Authority, any Person succeeding to its functions and capacities;
- (c) any reference in this Agreement to any section or appendix means and refers to the section contained in, or appendix attached to, this Agreement;
- (d) technical or industry specific words or phrases not otherwise defined in this Agreement have the known meaning given to those words or phrases within the industry as of the Effective Date;
- (e) other grammatical forms of defined words or phrases have corresponding meanings to the defined words or phrases;
- (f) a reference to writing includes typewriting, printing, lithography, photography, and any other mode of representing or reproducing words, figures or symbols in a lasting and visible form, including electronic mail;
- (g) a reference to a Party to this Agreement includes that Party's successors and permitted assigns;
- (h) a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as amended from time to time and includes any exhibits or attachments thereto;
- (i) reference to a statute means, unless otherwise stated, the statutes and regulations, if any, under that statute, in force from time to time, and any statute or regulation passed and in force which has the effect of supplementing or superceding that statute or those regulations;
- (j) the division of this Agreement into articles, sections, subsections, paragraphs and appendices and the insertion of headings are for convenience only and shall not affect the interpretation of this Agreement or any section thereto;
- (k) the word "including" means "including without limitation";
- (l) the words "herein", "hereof" and "hereunder" and any other words of similar

import refer to this Agreement as a whole and not any particular article, section, subsection or other subdivision;

- (m) any consent, approval or waiver contemplated by this Agreement must be in writing and signed by the Party against whom its enforcement is sought, and may be given or withheld in the sole and unfettered discretion of the Party from whom it is requested, unless otherwise expressly stated; and
- (n) the preamble hereto shall form part of this Agreement.

1.3 NorthPoint Transmission Activities

It is acknowledged by MH that SaskPower has from time to time relied upon NorthPoint in respect of transmission service related to this Agreement and may from time to time rely on NorthPoint to deal in transmission service. For this reason, this Agreement shall be interpreted in accordance with the following when there is a reference to SaskPower in respect of transmission service:

- (a) Any reference to SaskPower having done something in respect of transmission service is satisfied by NorthPoint having done same if SaskPower is relying on NorthPoint with respect to such matters; and
- (b) Any reference to SaskPower doing something in respect of transmission service, including being obligated to do something in respect of transmission service, is satisfied by NorthPoint doing same if SaskPower is relying on NorthPoint with respect to such matters.

For greater certainty, the above provisions in this Section 1.3 include NorthPoint having acquired and acquiring applicable transmission service in the name of NorthPoint.

1.4 No Presumption

The Parties are both represented by counsel, have both participated in the negotiation and drafting of this Agreement, and have endeavoured to ensure that the terms of this Agreement are as clear as possible. Accordingly, in interpreting this Agreement there shall be no presumption in favour of or against any Party on the basis that it was or was not the drafter of

this Agreement or any individual provision thereof.

ARTICLE II
SUPPLY AND PURCHASE OBLIGATIONS

2.1 MH System Power Sale

Subject to the provisions of this Agreement, during the Contract Term MH shall sell to SaskPower and SaskPower shall purchase from MH System Power.

2.2 Capacity

- (1) MH shall make available and sell to SaskPower and SaskPower shall receive and purchase from MH:
 - (a) during each month of the Interim Period, Interim Capacity; and
 - (b) during each month of the Contract Term which is not a month during the Interim Period, **[TRADE SECRET DATA EXCISED]**.

It is acknowledged by the Parties that Capacity is the generating capacity component of the System Power that is being purchased and sold herein.

- (2) MH covenants and agrees that it:
 - (a) shall not sell the Interim Capacity during the Interim Period to any Person other than SaskPower;
 - (b) shall not sell the **[TRADE SECRET DATA EXCISED]** during each month of the Contract Term which is not a month during the Interim Period to any Person other than SaskPower; and
 - (c) shall during the Contract Term make available the applicable Capacity from MH's Capacity Resources.

2.3 Energy

(1) **Firm Energy**

Subject to Sections 3.7, 3.9, 3.10 and Article XIII, MH shall make available at the Delivery Point that amount of electrical energy, measured in MWh, equal to the applicable Capacity, multiplied by one hour for each of the [TRADE SECRET DATA EXCISED] during the Contract Term (“**Firm Energy**”) and SaskPower shall accept delivery and pay for the Firm Energy in accordance with the terms hereof. The Parties acknowledge that the Firm Energy is the energy component of the System Power that is being purchased and sold herein.

(2) **Interim Period Transmission Dependent Energy**

In the event that the Interim Capacity is less than the [TRADE SECRET DATA EXCISED]:

- (a) SaskPower shall use Commercially Reasonable Efforts to make application to its Transmission Provider for, and accept any subsequent offer of monthly Firm Transmission Service and monthly non-firm transmission service which would be sufficient for the receipt of energy from the Delivery Point utilizing any available transmission capability in an aggregate amount up to the difference between [TRADE SECRET DATA EXCISED] and Interim Capacity; and
- (b) Manitoba Hydro shall use Commercially Reasonable Efforts to make application to its Transmission Provider for, and accept any subsequent offer of monthly Firm Transmission Service and monthly non-firm transmission service which would be sufficient for the delivery of energy to the Delivery Point utilizing any available transmission capability in an aggregate amount up to the difference between [TRADE SECRET DATA EXCISED] and Interim Capacity.

Each Party’s required actions set forth in the preceding paragraphs of this Section 2.3(2) shall establish on a monthly basis an amount of electrical energy, measured in MWh, equal to the lesser of the confirmed amounts of transmission service acquired by

each Party for that month, which shall not exceed the difference between [TRADE SECRET DATA EXCISED] and Interim Capacity, multiplied by one hour, which amount of energy is to be scheduled for each of the [TRADE SECRET DATA EXCISED] for the applicable month of the Interim Period (“**Transmission Dependent Energy**”).

Subject to Sections 3.7, 3.9, 3.10 and Article XIII, MH shall make available at the Delivery Point and SaskPower shall accept delivery and pay for the Transmission Dependent Energy in accordance with the terms hereof, provided that any obligation to deliver and receive any Transmission Dependent Energy shall not extend beyond the Interim Period. For greater certainty, the Transmission Dependent Energy is not a component of System Power and does not have System Capacity associated with it.

(3) **Energy Provisions**

- (a) If SaskPower fails to take delivery of Energy that it is obligated to take delivery of under this Agreement MH’s sole remedy in respect of such failure is SaskPower’s payment for such Energy determined in accordance with Section 6.5 and, provided SaskPower has made such payment, such failure to take delivery of Energy would not be subject to Section 16.2(b).
- (b) MH, in its sole discretion, has the right, but not the obligation, to source and/or supply and/or sell the Energy from third party purchases and/or Markets available to MH.
- (c) For greater certainty, it is agreed that the Energy shall not include Ancillary Services.
- (d) For greater certainty, if MH does not deliver to SaskPower Energy and such failure to deliver is not excused under this Agreement and is not excused by SaskPower’s failure to perform or such failure is the result of circumstances provided for in Section 3.13 “Seller Failure Provision” then such failure shall constitute an MH failure to perform or observe its material obligations as set

forth in Section 16.1(b).

2.4 [TRADE SECRET DATA EXCISED]

2.5 Title and Risk of Loss

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

ARTICLE III

SCHEDULING AND DELIVERY

3.1 New Transmission

- (1) The Parties acknowledge and agree that:
 - (a) MH has submitted a transmission service request for Firm Transmission Service on the MH OASIS pursuant to transmission service request 81324682 for 100 MW of transfer capability (the said transmission service request and any successor or successors is herein referred to as the “**MH 100 MW TSR**”);
 - (b) to accommodate the MH 100 MW TSR, a new transmission line in Manitoba interconnecting with a new transmission line in Saskatchewan (which is referred to in respect of the SaskPower New Transmission) and other additions, alterations, and improvements will be required to MH’s transmission system (the “**MH New Transmission**”);
 - (c) **[TRADE SECRET DATA EXCISED]**;
 - (d) SaskPower, has submitted a transmission service request for Firm Transmission Service on the SaskPower OASIS pursuant to transmission service request 81422419 for 100 MW of transfer capability (the said transmission service request and any successor or successors is herein referred to as the “**SaskPower 100 MW TSR**”);

- (e) to accommodate the SaskPower 100 MW TSR, a new transmission line in Saskatchewan interconnecting with a new transmission line in Manitoba (which is referred to in respect of the MH New Transmission) and other additions, alterations, and improvements will be required to SaskPower's transmission system (the "**SaskPower New Transmission**"); and
 - (f) **[TRADE SECRET DATA EXCISED]**
- (2) MH shall:
- (a) exercise Commercially Reasonable Efforts to enter into the necessary agreements with its Transmission Provider providing for transmission service relating to the MH 100 MW TSR and accept any amount of Partial Interim Service offered pursuant to such request;
 - (b) **[TRADE SECRET DATA EXCISED]**;
 - (c) use Commercially Reasonable Efforts to complete the MH New Transmission by the Transmission Target Completion Date and, in the event that the MH New Transmission has not been completed by the Transmission Target Completion Date, continue to use Commercially Reasonable Efforts to complete the MH New Transmission. For greater certainty, if MH fails to use Commercially Reasonable Efforts as required under this Section 3.1(2)(c) such failure shall constitute an MH failure to perform or observe its material obligations as set forth in and subject to Section 16.1(b); and
 - (d) be responsible for the payment of any and all costs associated with the MH New Transmission.
- (3) SaskPower shall:
- (a) exercise Commercially Reasonable Efforts to enter into the necessary agreements with its Transmission Provider providing for transmission service relating to the SaskPower 100 MW TSR and accept any amount of Partial Interim Service offered pursuant to such request;
 - (b) **[TRADE SECRET DATA EXCISED]**;

- (c) use Commercially Reasonable Efforts to complete the SaskPower New Transmission by the Transmission Target Completion Date and, in the event that the SaskPower New Transmission has not been completed by the Transmission Target Completion Date, continue to use Commercially Reasonable Efforts to complete the SaskPower New Transmission. For greater certainty, if SaskPower fails to use Commercially Reasonable Efforts as required under this Section 3.1(3)(c) such failure shall constitute a SaskPower failure to perform or observe its material obligations as set forth in and subject to Section 16.2(b); and
- (d) be responsible for the payment of any and all costs associated with the SaskPower New Transmission.

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

3.2 Interim Transmission

(1) Existing Interim Transmission Rights

The Parties acknowledge and agree that as of the Effective Date:

- (a) MH has the rights to Firm Transmission Service on the MH OASIS as evidenced by transmission service request 76959762 for 45 MW of transfer capability;
- (b) SaskPower has the rights to Firm Transmission Service on the SaskPower OASIS as evidenced by transmission service request 663837 for 105 MW of transfer capability; and
- (c) SaskPower has the rights to Firm Transmission Service on the MH OASIS as evidenced by transmission service request 80375458 for 60 MW of transfer capability.

(2) New Interim Transmission Rights

The Parties further acknowledge and agree that as of the Effective Date:

- (a) MH has submitted a transmission service request for Firm Transmission Service on the MH OASIS pursuant to transmission service request 81324665 for 45 MW of transfer capability; and
- (b) SaskPower has submitted a transmission service request for Firm Transmission Service on the SaskPower OASIS pursuant to transmission service request 81422415 for 45 MW of transfer capability.

(3) MH Interim Transmission Obligations

MH shall:

- (a) use Commercially Reasonable Efforts to rollover MH's existing 45 MW of Firm Transmission Service described in Section 3.2(1)(a) by exercising its rights of first refusal in accordance with MH's Transmission Provider's OATT; and
- (b) if offered a Service Agreement by its Transmission Provider relating to transmission service request 81324665, as described in Section 3.2(2)(a), enter into such a Service Agreement and accept any amount of Partial Interim Service offered pursuant to such request,

(each an "MH Interim Transmission Obligation" sometimes collectively referred to as "MH Interim Transmission Obligations").

(4) SaskPower Interim Transmission Obligations

SaskPower shall:

- (a) submit a request to its Transmission Provider to allocate 45 MW of transfer capability from its existing 105 MW of transfer capability relating to transmission service request 663837, as described in Section 3.2(1)(b), for use under this Agreement; and

- (b) if offered a Service Agreement by its Transmission Provider relating to transmission service request 81422415, as described in Section 3.2(2)(b), enter into such Service Agreement and accept any amount of Partial Interim Service offered pursuant to such request,

(each a “**SaskPower Interim Transmission Obligation**” sometimes collectively referred to as “**SaskPower Interim Transmission Obligations**”).

(5) Interim Transmission Transfer Capability

The transmission transfer capability during the Interim Period shall be the lesser of:

- (a) the total amount, measured in MW, of Firm Transmission Service rights acquired on the MH OASIS as a result of:
 - (i) the MH Interim Transmission Obligations;
 - (ii) any Partial Interim Service provided pursuant to the MH 100 MW TSR; and
 - (iii) **[TRADE SECRET DATA EXCISED]**,
- (b) the total amount, measured in MW, of Firm Transmission Service rights acquired on the SaskPower OASIS as a result of:
 - (i) the SaskPower Interim Transmission Obligations;
 - (ii) any Partial Interim Service provided pursuant to the SaskPower 100 MW TSR; and
 - (iii) **[TRADE SECRET DATA EXCISED]**,

or

- (c) the amount of **[TRADE SECRET DATA EXCISED]**,

(the “**Interim Transfer Capability**”).

3.3 Periodic Reporting

During the Construction Period:

- (a) MH shall, commencing six months from the start of the Construction Period and monthly thereafter, request from its Transmission Provider a status report on the construction and installation of the MH New Transmission and within fifteen (15) days of receipt of same provide to SaskPower a written report on progress to date and upcoming scheduled activities regarding the construction and installation of the MH New Transmission; and
- (b) SaskPower shall, commencing six months from the start of the Construction Period and monthly thereafter, request from its Transmission Provider a status report on the construction and installation of the SaskPower New Transmission and within fifteen (15) days of receipt of same provide to MH a written report on progress to date and upcoming scheduled activities regarding the construction and installation of the SaskPower New Transmission.

3.4 Transmission Service

(1) MH’s Transmission Service Obligations

(a) Capacity and Firm Energy

MH shall arrange and pay for Firm Transmission Service for making available Capacity and for the delivery of Firm Energy to the Delivery Point for the Contract Term. MH shall be responsible for the payment of any and all charges (including transmission charges assessed by a Transmission Provider) for making available Capacity and for the delivery of Firm Energy to the Delivery Point for the Contract Term.

(b) Transmission Dependent Energy

MH shall arrange and pay for transmission service for the delivery of Transmission Dependent Energy to the Delivery Point. MH shall be responsible for the payment of any and all charges (including transmission charges assessed by a Transmission Provider) for the delivery of Transmission Dependent Energy to the Delivery Point.

(2) **SaskPower's Transmission Service Obligations**

(a) Capacity and Firm Energy

SaskPower shall arrange and pay for Firm Transmission Service for receiving Capacity and accepting the delivery of Firm Energy from the Delivery Point for the Contract Term. SaskPower shall be responsible for the payment of any and all charges (including transmission charges assessed by a Transmission Provider) for receiving Capacity and accepting the delivery of Firm Energy from the Delivery Point for the Contract Term.

(b) Transmission Dependent Energy

SaskPower shall arrange and pay for transmission service for accepting the delivery of Transmission Dependent Energy from the Delivery Point. SaskPower shall be responsible for the payment of any and all charges (including transmission charges assessed by a Transmission Provider) for accepting the delivery of Transmission Dependent Energy from the Delivery Point.

3.5 Scheduling

(1) **Schedule**

MH shall, subject to Sections 3.7, 3.9, 3.10 and Article XIII, Schedule Energy each [TRADE SECRET DATA EXCISED] during the Contract Term.

(2) Schedule Provisions

The following Scheduling procedures shall apply:

- (a) MH shall Schedule the Energy by submitting an Electronic Tag and SaskPower shall, subject to the provisions of this Agreement, approve the Electronic Tag;
- (b) the Firm Energy shall be Scheduled using Firm Transmission Service;
- (c) subject to the provisions of this Agreement, MH shall deliver the Scheduled Energy and SaskPower shall accept the Scheduled Energy; and
- (d) each Party shall be responsible for and pay its own costs and expenses associated with the purchase and sale of the Energy under the applicable OATT.

(3) Schedule Verification

All matters relating to the verification of the scheduled Energy shall be determined in accordance with the applicable provisions of practices of the Parties relating to schedule verification and the application of the provisions of such practices to this Agreement shall, if necessary, be referred to the Operating Committee.

3.6 Transmission System Operations

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

3.7 MH's Energy Curtailments

(1) MH's Right to Curtail, Restrict or Reduce

- (a) In the event that Energy has been Scheduled during a MISO Peak Load Hour, MH has the right to curtail, restrict or reduce the sale and supply of Energy:
 - (i) in the event of an occurrence of a Force Majeure event in respect of which MH invokes Force Majeure in accordance with the terms of this Agreement; or
 - (ii) to the extent necessary to avoid curtailing, restricting or reducing service to MH's End-Use Load.

- (b) In the event that Energy has been Scheduled during an hour which is not a MISO Peak Load Hour, MH has the right to curtail, restrict or reduce the sale and supply of Energy:
 - (i) due to Unavailability of MH's Purchased Power to the extent that the Unavailability of MH's Purchased Power causes MH to have insufficient energy to serve MH's Energy Commitments, the Energy may be curtailed, restricted or reduced by MH by the amount determined after application of the Priority Criteria; or
 - (ii) due to all or a portion of MH's electrical generating facilities being unavailable as a result of:
 - (1) forced outages of one or more generating unit(s); or
 - (2) derates of one or more generating unit(s) caused by low water flow or other reason; or
 - (3) the unavailability of generation outlet capacity caused by a forced outage or derate of MH's high voltage direct current transmission system; or
 - (4) scheduled outages of generating unit(s) or MH's high voltage direct current transmission system, to the extent that such scheduled outages are reasonably necessary to avoid equipment damage to facilities or to avoid the deferral of normal or scheduled maintenance beyond that consistent with Good Utility Practice,

to the extent that outages referred to herein cause MH to have insufficient energy to serve MH's Energy Commitments, the Energy may be curtailed, restricted or reduced by MH by the amount determined after application of the Priority Criteria; or

- (iii) to the extent an event of Force Majeure, in respect of which MH invokes Force Majeure in accordance with the terms of this Agreement, otherwise precludes MH's ability to make, or to continue to make available any of the Energy, the Energy may be curtailed, restricted or reduced by MH by the amount determined after application of the Priority Criteria; or
- (iv) to the extent necessary to avoid curtailing, restricting or reducing service to MH's End-Use Load.

(2) **Limiting and Overcoming Curtailments**

In the event of the exercise by MH of the right to curtail, restrict or reduce any of the Energy, MH shall:

- (a) exercise that right only for an amount and for the applicable time period(s), after application of the Priority Criteria, that MH determines is necessary in accordance with Good Utility Practice to respond to the circumstance giving rise to this right to curtail, restrict or reduce any of the Energy; and
- (b) exercise Good Utility Practice to overcome the circumstances giving rise to this right, provided however that SaskPower hereby acknowledges and agrees that the exercise of Good Utility Practice would not obligate MH to make additional purchases of energy from a third party and/or the Markets.

(3) **Curtailment Priority Criteria**

In the event of the exercise by MH of the right granted to curtail, restrict or reduce any of the Energy to be supplied, then the following priority criteria (the "**Priority Criteria**") shall be used by MH to determine the amount of any of the Energy for the applicable time period(s) that shall be subject to curtailment, restriction or reduction:

- (a) MH's End-Use Load shall have priority over all other power and energy sales of MH;
- (b) any energy sale by MH that is associated with capacity and is not part of MH's End-Use Load shall take priority over all other power and energy sales of MH, except for MH's End-Use Load;
- (c) all of those MH energy sales described as "Firm LD Energy Sales" and those MH energy sales described as "Firm Energy Sales" shall take priority over all other energy sales of MH except those referred to in (a) and (b) above;
- (d) all other energy sales by MH except those referred to in (a), (b) and (c) above; and
- (e) in the event that more than one power or energy sale of the same types referred to in (b), (c), and (d) of this Section 3.7(3) exists, curtailment with respect to such power or energy sales shall be determined on a pro rata basis.

The Parties acknowledge that:

- (i) the Firm Energy to be sold pursuant to the Agreement is energy described in paragraph (b) above; and
- (ii) the Transmission Dependent Energy to be sold pursuant to the Agreement is energy described in paragraph (d) above.

[TRADE SECRET DATA EXCISED].

(4) [TRADE SECRET DATA EXCISED]

3.8 Option to Continue Deliveries

SaskPower acknowledges and agrees that:

- (a) no provision in this Agreement requires MH to implement the right granted pursuant to Sections 3.7(1) to curtail, restrict or reduce the Energy;

- (b) MH retains the right to supply the applicable amount of the Energy, under conditions which give rise to the right to curtail, restrict or reduce the applicable amount of the Energy under Section 3.7(1), from any of MH's electrical generation facilities, third party purchases, Markets available to MH, during any period of time, for which this right exists provided MH does so for the entire period of time during which it had the right pursuant to Section 3.7(1) to curtail, restrict or reduce the applicable amount of the Energy to be supplied and does not selectively assert the right to provide the applicable amount of the Energy in only some, but not all, hours of the period of time when it would otherwise have the right to curtail, restrict or reduce the applicable amount of the Energy; and
- (c) notwithstanding Sections 3.7 and 3.8, MH may supply or continue to supply any of its power or energy sales regardless of where the said power or energy sales are situated in the Priority Criteria provided that such supply is sourced only through purchases made from third parties and Markets available to MH. In the result, MH shall have the right, but not the obligation to give the Energy to be sold to SaskPower pursuant to this Agreement a higher priority than that provided for in the Priority Criteria.

For greater certainty the exercise of the right under Section 3.8(c) does not restrict or limit MH's right granted pursuant to Section 3.7(1) to curtail, restrict or reduce the applicable amount of the Energy.

3.9 Transmission Provider Curtailments

- (1) In the event that the actions of any Transmission Provider(s) result, in respect of Firm Energy, in the reduction or curtailments of the Firm Transmission Service or, in respect of Transmission Dependent Energy, in the reduction or curtailments of the Firm Transmission Service or non-firm transmission service designated, allocated or required for the delivery or the receiving of the Energy, the Energy that is to be supplied by MH and received by SaskPower shall be curtailed, restricted or reduced in accordance with the provisions of the applicable Transmission Provider's OATT.

- (2) In the event either MH's Transmission Provider or SaskPower's Transmission Provider ceases to have an OATT, curtailment or reduction of the Energy schedules hereunder in order to maintain the reliable operation of the interconnected AC transmission system, shall be implemented exclusively in accordance with this Section 3.9(2). Curtailment of energy deliveries under this Section 3.9(2) to accommodate such events shall be implemented until the required amount of loading relief has been obtained once the following actions have been undertaken, in the order specified: (a) all transmission service or transactions, that are lower than the Firm Transmission Service, which contribute to the condition requiring curtailment shall be curtailed first; (b) the curtailing Party shall, where possible, redispatch its generation system to continue the schedules hereunder consistent with producing the desired loading mitigation upon the congested facility(s); and (c) to the extent all transactions identified in clause (a) of this Section 3.9(2) are curtailed and system redispatch is not possible or sufficient to produce the necessary mitigation that would avoid curtailment of the schedules under this Agreement, the transaction curtailment priority used by MH or SaskPower, as applicable, relative to all uses of the applicable Party's AC transmission system at the time shall be implemented in a comparable and non-discriminatory manner.
- (3) **[TRADE SECRET DATA EXCISED]**.

3.10 [TRADE SECRET DATA EXCISED]

3.11 Notice of Curtailment

Each Party shall provide as much notice as practicable to the other Party regarding the curtailment, restriction, reduction or refusal of the supply or acceptance, as applicable, of the Energy pursuant to Sections 3.7(1), 3.9 and 3.10 which notice shall include the anticipated duration of the curtailment, restriction, reduction or refusal of the supply or acceptance, as applicable, of the Energy, the number of MWh impacted and which event under Sections 3.7(1), 3.9 or 3.10 has caused the said curtailment, restriction, reduction or refusal.

3.12 Buyer Failure Provisions

SaskPower's failure to receive and purchase all or any part of the Energy shall not be excused in the event that SaskPower or an Affiliate of SaskPower:

- (a) enters into a transaction with another Person including an Affiliate of SaskPower to purchase energy or schedules energy on Firm Transmission Service sinking at the Delivery Point, and such transaction or Firm Transmission Service schedule results in a transmission curtailment or scheduling reduction of the Firm Transmission Service for the delivery of the Energy; or
- (b) operates its facilities in a manner such that an Energy schedule is interrupted, curtailed or reduced, unless such interruption, curtailment or reduction is otherwise excused by the terms of this Agreement.

3.13 Seller Failure Provisions

MH's failure to deliver and sell all or any part of the Energy shall not be excused in the event that MH or an Affiliate of MH:

- (a) enters into a transaction with another Person including an Affiliate of MH to sell energy or schedules energy on Firm Transmission Service sinking at the Delivery Point, and such transaction or Firm Transmission Service schedule results in a transmission curtailment or scheduling reduction of the Firm Transmission Service for the delivery of the Energy; or
- (b) operates its facilities in a manner such that an Energy schedule is interrupted, curtailed or reduced, unless such interruption, curtailment or reduction is otherwise excused by the terms of this Agreement.

3.14 Emergency Energy

The Parties acknowledge and agree that emergency energy made available by MH to SaskPower during the Contract Term shall not be deemed to be Energy.

ARTICLE IV
CAPACITY PRICING

4.1 Capacity Pricing

The price per MW for each applicable month during a Contract Year for Capacity stated in Canadian dollars shall be [TRADE SECRET DATA EXCISED] per MW-month, escalated, as of the beginning of a Contract Year, [TRADE SECRET DATA EXCISED].

ARTICLE V
ENERGY PRICING

5.1 [TRADE SECRET DATA EXCISED]

The price per MWh for each applicable hour during a Contract Year for Energy stated in Canadian dollars shall be [TRADE SECRET DATA EXCISED] per MWh, escalated, as of the beginning of a Contract Year, [TRADE SECRET DATA EXCISED].

ARTICLE VI
BILLING AND PAYMENT

6.1 Dollar Amounts

All dollar amounts set forth in this Agreement, monetary transactions, accounting and cost calculations between MH and SaskPower shall be determined and stated in Canadian dollars.

6.2 Payment in Canadian Dollars

Payment of all invoices pursuant to this Agreement shall be made in Canadian dollars.

6.3 Invoice Payment Method

Payment of all invoices pursuant to this Agreement shall be made by SaskPower to MH by

electronic bank transfer or by other mutually agreeable method(s), to the bank designated in Appendix “B” attached hereto. A Party may change the designation of the bank set out in Appendix “B” by notice to the other Party in accordance with Section 18.1 hereof. Payment shall be deemed to be made when received by the bank designated in Appendix “B”.

6.4 Rendering Invoices

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

6.5 Payment Amounts

Subject to adjustment pursuant to Section 7.1(2), the amount payable by SaskPower to MH for each month during the Contract Term shall be determined as follows:

- (a) the Capacity Price applicable for that month determined in accordance with Section 4.1, multiplied by the applicable Capacity, **[TRADE SECRET DATA EXCISED]**; plus
- (b) the sum of the amount determined for each applicable hour that a quantity of Energy was Scheduled for that month that SaskPower is obligated to pay for that month determined for each applicable hour as follows:
 - (i) the Energy Price applicable for each applicable hour of each applicable day in that month, determined in accordance with Section 5.1, multiplied by the quantity of Energy in MWh Scheduled in any hour during the applicable day for that month; less
- (c) the sum of the amount determined, for each applicable hour that a quantity of Energy that had been Scheduled in any hour during any day for that month was curtailed or reduced pursuant to Sections 3.7, 3.9, 3.10, 3.13, Article XIII, **[TRADE SECRET DATA EXCISED]**, as follows:
 - (i) the Energy Price applicable for each applicable hour of each day in that month, determined in accordance with Section 5.1 multiplied by the

applicable quantity of Energy that had been Scheduled for that hour of that day for that month that was curtailed or reduced pursuant to Sections 3.7, 3.9, 3.10, 3.13, Article XIII [**TRADE SECRET DATA EXCISED**]; plus

- (d) any costs and expenses associated with the supply and receipt of the Energy under the applicable OATT that were billed to and paid by MH but were amounts that were required to be paid by SaskPower pursuant to Section 3.4(2); less
- (e) any costs and expenses associated with the supply and receipt of the Energy under the applicable OATT that were billed to and paid by SaskPower but were amounts that were required to be paid by MH pursuant to Section 3.4(1).

6.6 Payment Date

Unless otherwise agreed by the Parties, all invoices under this Agreement shall be due and payable in accordance with MH's invoice instructions on or before the twentieth (20th) day of the month, provided that if the 20th day is not a Business Day on or before the first Business Day following such 20th day. Any amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Interest Rate and such interest shall be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

6.7 Estimates

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

6.8 Billing Adjustments and Disputes

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

6.9 Payment in Full

Subject to Section 6.11, if one Party owes a debt or obligation to the other during the applicable billing period, including, but not limited to, any interest, and payments or credits, that Party shall pay such sum in full when due.

6.10 Accounting and Billing Procedures

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

6.11 Set-off

If one Party (“Party A”), in accordance with Article XV, has been found owing a debt, damages or other monetary obligation to the other Party (“Party B”) then Party B may set-off

such amount owing by Party A against the amounts owing by Party B to Party A under this Agreement. Party B is deemed to have met its payment obligations to Party A in respect of the amounts for which it has applied such set-off rights.

6.12 Preliminary Billing Information

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

ARTICLE VII

GOVERNMENTAL CHARGES

7.1 Governmental Charges

- (1) Each Party shall be solely responsible for and shall pay or cause to be paid all Governmental Charges imposed on that Party in respect of any matters related to this Agreement. In the event MH is required by law or regulation to remit or pay Governmental Charges that are SaskPower's responsibility hereunder, SaskPower shall promptly reimburse MH for such Governmental Charges. In the event SaskPower is required by law or regulation to remit or pay Governmental Charges that are MH's responsibility hereunder, MH shall promptly reimburse SaskPower for such Governmental Charges. Any Governmental Charge in respect of any matters related to this Agreement that is imposed on SaskPower by a Governmental Authority located in the Province of Manitoba shall be the responsibility of, and shall be paid by, MH. Any Governmental Charge in respect of any matters related to this Agreement that is imposed on MH by a Governmental Authority located in the Province of Saskatchewan shall be the responsibility of, and shall be paid by, SaskPower.
- (2) In the event that Manitoba adopts an HST, with the associated Manitoba portion of such HST not being available for use by SaskPower as an input tax credit in its collection and remittance of GST, the amount payable by SaskPower to MH for each month

during the Contract Term shall be reduced by the amount of such Manitoba portion. In the event that Saskatchewan adopts an HST, with the associated Saskatchewan portion of such HST not being available for use by MH as an input tax credit in its collection and remittance of GST, the amount payable by MH to SaskPower for each month during the Contract Term shall be reduced by the amount of such Saskatchewan portion.

7.2 Assistance

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

ARTICLE VIII

ENVIRONMENTAL ATTRIBUTES

8.1 Environmental Attributes of Energy

- (1) The Parties acknowledge and agree that MH shall allocate to SaskPower that amount of **[TRADE SECRET DATA EXCISED]** Environmental Attributes determined by MH, only for the purposes of allocating Environmental Attributes pursuant to Section 8.2 from that portion of the MWh of the Energy that was: (a) Supplied Energy; and (b) allocated by MH as being sourced from those MH's Energy Resources that **[TRADE SECRET DATA EXCISED]**.
- (2) For environmental reporting purposes the Environmental Attributes of that component of the Energy, that is Supplied Energy and is not allocated by MH as having been sourced from **[TRADE SECRET DATA EXCISED]**.

- (3) For the purposes of this Article VIII, MH shall not be obligated to manage the supply of the Energy in any particular manner, nor does this Agreement restrict or limit MH to any specific type(s) of generating resources to be used to supply the Energy (including energy obtained from third party purchases and/or the Markets available to MH, regardless of the generation type used by the third party or which generating resources may have been attributable to the energy accessed through the Markets), nor shall any provision in this Agreement constitute a representation or warranty by MH that the Energy is supplied from a particular generating resource, including renewable resources.
- (4) Without limiting the reporting requirements referred to in Section 8.1(2), the Parties further acknowledge and agree that MH has retained all Environmental Attributes for the Energy allocated by MH for the purposes of this Article VIII to be sourced from those MH's Energy Resources that are **[TRADE SECRET DATA EXCISED]**.

8.2 Calculation of Environmental Attributes for Supplied Energy

- (1) MH shall calculate the **[TRADE SECRET DATA EXCISED]**.

8.3 Reporting of Environmental Attributes

- (1) On or before March 31st of each calendar year, MH shall provide SaskPower with a report of the Environmental Attributes of the Supplied Energy, **[TRADE SECRET DATA EXCISED]**.

These reports shall be used by MH and SaskPower when reporting the Environmental Attributes of the Supplied Energy.

8.4 Transfer of Environmental Attributes

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

- (2) For [TRADE SECRET DATA EXCISED] and are registered by MH on a system used to track and transfer Environmental Attributes and used by MH to transfer [TRADE SECRET DATA EXCISED] (the “Transfer System”), SaskPower shall receive the transfer of the applicable amount of [TRADE SECRET DATA EXCISED] through the Transfer System. MH’s transfer through the Transfer System will be on the condition that SaskPower complies, at its own expense, with the Transfer System requirements concerning the acceptance of the transferred [TRADE SECRET DATA EXCISED] Environmental Attributes.
- (3) [TRADE SECRET DATA EXCISED].
- (4) [TRADE SECRET DATA EXCISED].
- (5) [TRADE SECRET DATA EXCISED].
- (6) [TRADE SECRET DATA EXCISED].

8.5 [TRADE SECRET DATA EXCISED]

8.6 Use

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

8.7 Rights Conferred by Law

[TRADE SECRET DATA EXCISED].

8.8 SaskPower Qualification

To the extent allowed by applicable law, SaskPower may have the transferred [TRADE SECRET DATA EXCISED] Environmental Attributes qualified and recognized as

environmental credits or offsets, if any. MH shall make Commercially Reasonable Efforts to assist and cooperate with SaskPower, if requested by SaskPower including providing such further and other reports and information related to the Supplied Energy as may be requested by SaskPower acting reasonably in connection with such qualification and recognition of **[TRADE SECRET DATA EXCISED]** Environmental Attributes. Without limiting the generality of Sections 8.8 and 17.1, neither Party makes any representation or warranty with respect to any future action or failure to act, or approval or failure to approve, by any Governmental Authority or any other third Person in respect of the allocation and transfer of the transferred **[TRADE SECRET DATA EXCISED]** Environmental Attributes.

8.9 Disclaimer

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

ARTICLE IX OPERATING COMMITTEE

9.1 Operating Committee

- (1) A committee (the “**Operating Committee**”) is hereby constituted consisting of the Division Manager, Power Sales & Operations for MH or duly authorized delegates from MH and the Director, Business Development & Contract Services for SaskPower or duly authorized delegates from SaskPower. Each duly authorized delegate of the Parties shall be entitled to cast one vote for each matter before the Operating Committee, and all decisions of the Operating Committee must be unanimous to be effective.
- (2) The Operating Committee shall meet at the written request of any of its members within ten (10) Business Days of receipt of such request and such meeting may be in person or may take place by telephonic means. Written minutes shall be kept of all meetings and decisions and copies of such minutes shall be distributed to the Operating Committee members and the Parties within five (5) Business Days after each meeting. The committee members or duly authorized delegates from both MH and SaskPower must be in attendance either by telephone or in person at an Operating Committee meeting to form quorum.
- (3) The Operating Committee may:
 - (a) make and implement decisions regarding the creation and revision, from time to time, of accounting and billing procedures necessary to implement the terms and conditions of this Agreement in accordance with Section 6.10 and Section 6.12;
 - (b) make and implement decisions and procedures regarding Scheduling, from time to time as necessary to implement the terms and conditions of this Agreement;
 - (c) make and implement decisions for operating procedures for the conduct of meetings and the recording of minutes;
 - (d) make recommendations to the Parties concerning amendment and revision of this Agreement;
 - (e) perform any other obligations expressly provided for in this Agreement to be

performed by the Operating Committee and any other matters as the Parties may agree from time to time;

- (f) attempt to settle any controversy, claim or dispute prior to referring such matters to the Executive Officers of SaskPower and MH for resolution in accordance with Section 15.1; and
- (g) make and implement decisions concerning Section 18.1 and the form of notices being provided by the Parties pursuant to the provisions of this Agreement,

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

ARTICLE X

REPRESENTATIONS, WARRANTIES AND COVENANTS

10.1 Representations and Warranties of MH

MH makes the following representations and warranties to SaskPower as of the Effective Date which representations and warranties will be deemed to be repeated throughout the Contract Term:

- (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) subject to Article XII, this Agreement constitutes a valid and binding obligation of MH, enforceable against it in accordance with the terms hereof, subject, however, to limitations with respect to enforcement imposed by law in connection with bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally and to the extent that equitable remedies such as specific performance and injunction are only available in the discretion of the court from which they are sought;
- (c) subject to Article XII, MH has all necessary power, authority and capacity to enter into this Agreement and all other agreements and instruments to be

- executed by it as contemplated by this Agreement and to carry out its obligations under this Agreement and such other agreements and instruments, covenants and indemnities;
- (d) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
 - (e) subject to the Article XII, the execution and delivery of this Agreement and such other agreements and instruments and the completion of the transactions contemplated by this Agreement and such other agreements and instruments have been duly authorized by all necessary action on the part of MH and on the part of any other Person (other than MH) whose authorization is required pursuant to any Applicable Laws;
 - (f) the entering into of this Agreement and the transactions contemplated hereby, and the entering into any other agreement or instrument by MH as contemplated by this Agreement, will not result in the violation of any of the terms and provisions of any laws or the violation in a material way of any indenture, contract, instrument, licence, permit or other agreement, written or oral, to which the MH is a party or by which it may be bound;
 - (g) there is no suit, action, litigation, arbitration proceeding or governmental proceeding, including appeals and applications for review, in progress, pending, or threatened against, or involving MH, at law or in equity, which will have a material adverse implication or effect on the transactions contemplated hereunder or any judgment, decree, injunction, rule or order of any court, governmental department, commission, agency, instrumentality or arbitrator, which, in any such case, might materially adversely affect the ability of MH to enter into this Agreement or to perform their obligations, covenants, agreements or indemnities hereunder. There is no judgment, decree, injunction, rule or order of any court, governmental department, commission, agency, instrumentality or arbitrator, against, or involving MH, which will have a material adverse effect on MH's ability to perform its obligations, covenants, agreements or indemnities

hereunder;

- (h) no covenant, representation or warranty of MH contained in this Agreement, and no statement contained in any schedule, certificate, list, agreement or instrument provided or to be provided to SaskPower pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact, or omits or will omit to state any material fact which is necessary in order to make the statements contained therein not misleading;
- (i) no MH Event of Default and no MH Termination Event has occurred and is continuing and no MH Event of Default and no MH Termination Event would occur as a result of its entering into or performing its obligations under this Agreement; and
- (j) the transactions hereunder are prescribed not to be derivatives by Manitoba Securities Commission Rule 91-506 Derivatives: Product Determination and are therefore excluded from the operation of the Manitoba Securities Commission MSC Rule No. 2013-37.

10.2 Survival of Representations and Warranties of MH

Each of the representations, covenants, agreements and warranties of MH contained in Section 10.1 shall survive for a period of three (3) years after the expiry of the Contract Term.

10.3 Representations and Warranties of SaskPower

SaskPower makes the following representations and warranties to MH as of the Effective Date which representations and warranties will be deemed to be repeated throughout the Contract Term:

- (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) subject to Article XII, this Agreement constitutes a valid and binding obligation of SaskPower, enforceable against it in accordance with the terms hereof,

subject, however, to limitations with respect to enforcement imposed by law in connection with bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally and to the extent that equitable remedies such as specific performance and injunction are only available in the discretion of the court from which they are sought;

- (c) subject to Article XII, SaskPower has all necessary power, authority and capacity to enter into this Agreement and all other agreements and instruments to be executed by it as contemplated by this Agreement and to carry out its obligations under this Agreement and such other agreements and instruments, covenants and indemnities;
- (d) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
- (e) subject to Article XII, the execution and delivery of this Agreement and such other agreements and instruments and the completion of the transactions contemplated by this Agreement and such other agreements and instruments have been duly authorized by all necessary action on the part of SaskPower and on the part of any other Person (other than SaskPower) whose authorization is required pursuant to any Applicable Laws;
- (f) the entering into of this Agreement and the transactions contemplated hereby, and the entering into any other agreement or instrument by SaskPower as contemplated by this Agreement, will not result in the violation of any of the terms and provisions of any laws or the violation in a material way of any indenture, contract, instrument, licence, permit or other agreement, written or oral, to which SaskPower is a party or by which it may be bound;
- (g) there is no suit, action, litigation, arbitration proceeding or governmental proceeding, including appeals and applications for review, in progress, pending, or threatened against, or involving SaskPower, at law or in equity, which will have a material adverse implication or effect on the transactions contemplated hereunder or any judgment, decree, injunction, rule or order of any court,

governmental department, commission, agency, instrumentality or arbitrator, which, in any such case, might materially adversely affect the ability of SaskPower to enter into this Agreement or to perform their obligations, covenants, agreements or indemnities hereunder. There is no judgment, decree, injunction, rule or order of any court, governmental department, commission, agency, instrumentality or arbitrator, against, or involving SaskPower, which will have a material adverse effect on SaskPower's ability to perform its obligations, covenants, agreements or indemnities hereunder;

- (h) no covenant, representation or warranty of SaskPower contained in this Agreement, and no statement contained in any schedule, certificate, list, agreement or instrument provided or to be provided to MH pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact, or omits or will omit to state any material fact which is necessary in order to make the statements contained therein not misleading; and
- (i) no SaskPower Event of Default and no SaskPower Termination Event has occurred and is continuing and no SaskPower Event of Default and no SaskPower Termination Event would occur as a result of its entering into or performing its obligations under this Agreement.

10.4 Survival of Representations and Warranties of SaskPower

Each of the representations, covenants, agreements and warranties of SaskPower contained in Section 10.3 shall survive for a period of three (3) years after the expiry of the Contract Term.

ARTICLE XI CONFIDENTIALITY

11.1 Confidentiality

The Parties (each a “**Discloser**”) acknowledge that there is a need pursuant to this Agreement

for each Party to disclose Confidential Information to the other Party (each a “**Recipient**”). The Parties wish to protect their Confidential Information and therefore agree as follows:

- (a) “**Confidential Information**” shall mean this Agreement and all information and any idea in whatever form, tangible or intangible, whether disclosed to or learned by the Recipient pertaining in any manner to the business of the Discloser or to the Discloser's Affiliates, consultants, business associates or customers, unless: (i) the information is or becomes publicly known other than as a result of disclosure by the Recipient; (ii) the information was rightfully in the Recipient's possession or part of the Recipient’s general knowledge on a non-confidential basis prior receipt thereof by Recipient; (iii) the information is disclosed to the Recipient without the Recipient’s knowledge of a confidential or proprietary restriction by a third party who rightfully possesses the information (without confidential or proprietary restriction) and did not learn of it, directly or indirectly, from the Recipient; or (iv) the information was independently developed by Recipient without reliance on the Confidential Information. Confidential Information includes, without limitation, the following: (i) schematics, techniques, development tools and processes, computer printouts, computer programs, design drawings and manuals, and improvements; (ii) information about pricing, costs, profits, markets, and sales; (iii) plans for future development and new product concepts; (iv) analytical tools, methods, mathematical algorithms, software designs, concepts and specifications, procedures for the evaluation of financial instruments, deals and products; and (v) all documents, books, papers, drawings, models, sketches, and other data of any kind and description, including electronic data recorded or retrieved by any means, that have been or will be given to the Recipient by the Discloser, as well as written or verbal instructions or comments.
- (b) Except as hereinafter provided, Recipient shall hold all Confidential Information in strict confidence and, subject to as hereinafter provided, shall not disclose any Confidential Information to any third party. Recipient shall take all reasonable measures to protect the confidentiality of, and avoid the

unauthorized use, disclosure, publication, or dissemination of Confidential Information. Recipient may disclose Confidential Information:

- (i) with the written permission of the Discloser;
 - (ii) to its directors, officers, employees, agents or advisors, including, without limitation, its legal counsel, accountants, auditors, consultants and financial advisors and its Affiliates' directors, officers, employees, agents or advisors, including, without limitation, its Affiliates' legal counsel, accountants, auditors, consultants and financial advisors who need to know such information for the purposes of the transactions contemplated by this Agreement and also, in respect of SaskPower, to ministers, deputy ministers, servants and employees of the Province of Saskatchewan, and its consultants, contractors and advisors and in respect of MH, to ministers, deputy ministers, servants and employees of the Province of Manitoba, and its consultants, contractors and advisors (each a "**Representative**"); and
 - (iii) to any other third parties, only with the prior written consent of the Discloser.
- (c) If the Recipient or its Representatives are required to disclose the Confidential Information by law, regulation, ruling of a governmental agency or by court order, before the Recipient or its Representatives disclose any Confidential Information, the Recipient or its Representatives shall give the Discloser timely written notice (at least 10 Business Days) of the requirement for disclosure and assist the Discloser to secure a protective order to limit disclosure of such Confidential Information only to parties agreeing to be bound by the terms of a confidentiality agreement in a form and content satisfactory to the Discloser, acting reasonably. Recipient shall cooperate reasonably in any such efforts to secure a protective order; provided, however, Recipient shall not be required to take, or refrain from taking, any action if it would cause Recipient or its Representatives to be in violation of the terms of a required disclosure described in this Section 11.1(c).

- (d) SaskPower may disclose without being subject to the obligations in Section 11.1(c):
 - (i) MH's name and the annual amount (if any) paid to it by SaskPower under all agreements (as required by Crown Investments Corporation of Saskatchewan for the purposes of publishing its annual payee disclosure report);
 - (ii) any Confidential Information to the Saskatchewan Provincial Auditor for the purposes of complying with *The Provincial Auditor Act* (Saskatchewan), or to SaskPower's internal or external auditors for the purpose of obtaining proper and complete audits of SaskPower's business and accounting practices; and
 - (iii) any Confidential Information as directed by any committee or advisory body of the Saskatchewan Legislature or Cabinet, including the Saskatchewan Rate Review Panel.
- (e) Recipient shall be liable for any use or disclosure of Confidential Information by its Representatives, which is not in compliance with the obligations imposed upon the Recipient pursuant to this Agreement.
- (f) All rights, title and interest in and to the Confidential Information are reserved by, and remain the sole property of the disclosing Party. The Recipient does not acquire any intellectual property rights under this Agreement. Nothing in this Agreement shall be construed as a grant of, or intention or commitment to grant any right, title or interest of any nature whatsoever in or to the Confidential Information.
- (g) Notwithstanding any other provision of this Agreement, with the exception of SaskPower Confidential Information stored with Open Access Technology International, Inc. during the ordinary course of business of the Parties, no SaskPower Confidential Information nor any Personal Information of any SaskPower Personnel or SaskPower customers acquired by MH in the course of the negotiation or performance of this Agreement may be processed or stored outside of Canada by MH, any subcontractor, or a third party processor-service

provider without the express written consent of SaskPower, which consent may be withheld for any reason. For purposes of this section, “Personal Information” means personal information as defined in *The Freedom of Information and Protection of Privacy Act* (Saskatchewan); and “SaskPower Personnel” means the employees, officers and directors of SaskPower and those of its other contractors and subcontractors.

- (h) Recipient agrees that the unauthorized disclosure or use of Confidential Information could cause irreparable harm and significant injury to the Discloser, the amount of which may be difficult to ascertain or quantify, thus, making any remedy at law or in damages inadequate. Therefore, Recipient agrees that Discloser shall have the right to apply to any court of competent jurisdiction for an order restraining any breach or threatened breach of this Section and for any other relief Discloser deems appropriate. This right shall be in addition to any other remedy available to Discloser in law or equity.
- (i) This Section 11.1 shall survive any termination of this Agreement for a period of three (3) years.

ARTICLE XII

CONDITIONS

12.1 MH's Conditions Precedent

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

- (a) receipt of an Order in Council of the Lieutenant Governor (Manitoba) approving this Agreement within one hundred and eighty (180) days of the Effective Date; and
- (b) MH entering into the necessary agreements with its Transmission Provider providing for transmission service relating to the MH 100 MW TSR by December 31, 2016.

12.2 SaskPower's Conditions Precedent

The obligation of SaskPower to complete the transactions referenced herein shall be subject to and contingent upon the fulfillment of the following conditions precedent to the satisfaction of SaskPower, as certified or waived in writing by SaskPower, by the dates specified:

- (a) the approval of the execution, delivery, and performance of this Agreement by SaskPower's Board of Directors within one hundred and eighty (180) days of the Effective Date;
- (b) the approval of the execution, delivery, and performance of this Agreement by the Crown Investment Corporation and Saskatchewan Government Cabinet within one hundred and eighty (180) days of the Effective Date; and
- (c) entering into the necessary agreements with its Transmission Provider providing for transmission service relating to the SaskPower 100 MW TSR by December 31, 2016.

12.3 Conditions Precedent Notices

Each Party shall notify the other Party as soon as practicable following the satisfaction or waiver or the failure to satisfy or to waive such Party's condition precedent except that in respect of each Party's condition precedent such notification shall be given by such Party by no later than 5 pm CST on the 10th Business Day following the dates provided for in Sections 12.1 or 12.2. This Agreement shall terminate on the date notice has been received that any of such Party's conditions precedent have not been satisfied and will not be waived.

12.4 Effect of Conditions Precedent

- (1) From the Effective Date until such time as the conditions precedent in Sections 12.1(a), 12.2(a) and 12.2(b) have been satisfied or waived pursuant to Section 12.3, there shall be no legally effective obligations on either Party under this Agreement except for the obligations in Section 1.2, Section 1.3, Section 1.4 Section 2.4, Section 3.1(1), Section 3.2(1), Section 3.2(2), Article X, Article XI, Article XII, Article XIII, Article XIV, Article XV, Article XVI, Article XVII and Article XVIII (except Section 18.6(a)). Further, if this Agreement terminates pursuant to Section 12.3 then each Party shall be

released from all obligations under this Agreement except for liability under this Agreement related to any breach of the legally effective obligations identified in this Section 12.4(1).

- (2) If the conditions precedent in Sections 12.1(a), 12.2(a) and 12.2(b) have been satisfied or waived and the conditions precedent in Sections 12.1(b) and 12.2(c) have not been satisfied and the Parties have not given each other written notice of such satisfaction pursuant to Section 12.3 there shall be no legally effective obligations on either Party under this Agreement except for the obligations identified in Section 12.4(1) as being legally effective and also the obligations in Section 3.1(2)(a), Section 3.1(2)(b), Section 3.1(3)(a) and Section 3.1(3)(b). Further, if this Agreement terminates pursuant to Section 12.3 then each Party shall be released from all obligations under this Agreement except for liability under this Agreement related to any breach of the legally effective obligations identified in this Section 12.4(2).

ARTICLE XIII

FORCE MAJEURE

13.1 Force Majeure

- (1) Neither Party shall be in breach or liable for any delay or failure in its performance under this Agreement to the extent such performance is prevented or delayed due to a Force Majeure event or circumstance, provided that:
- (a) the non-performing Party shall give the other Party notice promptly (and within forty-eight (48) hours if possible) after the non-performing Party's knowledge of the commencement of the Force Majeure, with written confirmation to be supplied within ten (10) calendar days after the commencement of the Force Majeure further describing the particulars of the occurrence of the Force Majeure;
 - (b) the delay in performance due to the Force Majeure shall be of no greater scope and of no longer duration than is directly caused by the Force Majeure;
 - (c) the Party whose performance is delayed or prevented: (i) shall proceed with Commercially Reasonable Efforts to overcome the Force Majeure which is preventing or delaying performance; and (ii) shall provide weekly written

progress reports to the other Party during the period that performance is delayed or prevented describing actions taken and to be taken to remedy the consequences of the Force Majeure, the schedule for such actions and the expected date by which performance shall no longer be affected by the Force Majeure; and

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

(2) For greater certainty, the Parties further acknowledge that the following events or circumstances shall not constitute or form the basis for Force Majeure: (a) a reduction in SaskPower's domestic load; (b) the loss of SaskPower's Markets; (c) SaskPower's inability to economically use or resell the System Power, including SaskPower's ability to purchase System Power at a price less than the prices provided for in this Agreement; (d) actions to avoid spilling excess water at hydraulic generating stations; and (e) MH's ability to sell System Power at a price greater than the prices provided for in this Agreement.

ARTICLE XIV

CREDITWORTHINESS

14.1 [TRADE SECRET DATA EXCISED]

ARTICLE XV

DISPUTE RESOLUTION

15.1 Condition Precedent to Arbitration

Prior to initiation of arbitration, any controversy, claim or dispute between the Parties shall be first referred in writing to the Operating Committee for review and attempted resolution. For greater certainty either Party's representatives on the Operating Committee may refer any

decision regarding any potential resolution to others within such Party's organization if they believe such decision is outside the scope of their authority. If the controversy, claim or dispute is not resolved within thirty (30) calendar days after referral to the Operating Committee, the matter will be referred to the Executive Officers for review and decision. Any decision by the Executive Officers to resolve a controversy, claim or dispute must be unanimous. If the controversy, claim or dispute is not resolved within thirty (30) calendar days after referral to the Executive Officers, either Party may proceed to arbitration.

15.2 Initiation

Arbitration proceedings must be initiated within seven hundred and thirty (730) calendar days of the date the controversy, claim or dispute was first referred to the Executive Officers and shall be initiated by written notice to the other Party setting forth the point or points in dispute. Unless otherwise agreed to in writing by the Parties, failure to initiate arbitration within such seven hundred and thirty (730) day period shall be deemed a waiver of the right to arbitrate that controversy, claim or dispute. Provided however, that any such waiver shall not preclude a Party from initiating arbitration proceedings in respect of a similar claim, controversy or dispute based on facts that arise subsequent to the date the controversy, claim or dispute was first submitted to the Executive Officers.

15.3 Arbitration Proceedings

Subject to Section 9.1(3)(f), any and all controversies, claims or disputes between the Parties arising out of or relating to this Agreement or an alleged breach thereof, shall be settled by arbitration. For greater clarity and certainty, arbitration shall not be available to anyone who is not a party to this Agreement, and the aforesaid requirement to arbitrate shall not preclude a Party from seeking contribution, indemnification or damages from another Person in proceedings instituted by third parties in courts of competent jurisdiction. Unless otherwise provided in this Article, the arbitration shall be conducted before three arbitrators and shall be conducted in accordance with *The Arbitration Act* (Manitoba) C.C.S.M. c. A120 as amended and then in effect. Each Party shall select one arbitrator, and the two selected arbitrators shall jointly agree, within 30 days after the last of the two arbitrators have been appointed, on a third

arbitrator who shall chair the arbitration. All arbitrators shall be competent by virtue of education and experience in the particular matter subject to arbitration. Before proceeding with the first hearing, each arbitrator shall take an oath of office. The arbitrators shall require witnesses to testify under oath administered by a duly qualified person. The arbitrators shall have jurisdiction and authority only to interpret, apply or determine compliance with the provisions of this Agreement insofar as shall be necessary to determine the particular matter subject to arbitration. The arbitrators shall not have jurisdiction or authority to add to, detract from, or alter the provisions of this Agreement or any applicable law or rule of civil procedure. The arbitrators shall have the power to order specific performance under any and all provisions of this Agreement and no Party can avoid specific performance based on an argument that the other Party has an adequate remedy at law. All arbitrations shall be held in Winnipeg, Manitoba.

15.4 Jurisdiction

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

15.5 Discovery

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

protective orders as are reasonable and necessary or as otherwise provided by law.

15.6 Continuation of Performance

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

15.7 Costs

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

15.8 Enforcement and Payment

Any amount a Party has agreed it owes to the other Party, or that has been determined as being owed under this Article XV, is an amount payable by that Party under this Agreement. For greater clarity, failure to pay such amount is subject to Section 16.1(a) if MH is the Party owing such amount or Section 16.2(a) if SaskPower is the Party owing such amount.

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

15.9 Correction and Interpretation of Award

Within thirty (30) calendar days after receipt of an arbitration award, a Party, with notice to the

other Party, may request the arbitrators to correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature, or may request the arbitrators to give an interpretation of a specific point or a part of the award. If the arbitrators consider the request to be justified, they shall make the correction or give the interpretation within thirty (30) calendar days after receipt of the request. The interpretation shall form part of the award. The arbitrators may correct any error as herein-before referred to on their own initiative within thirty (30) calendar days after the date of award. In addition, within thirty (30) calendar days after receipt of an award, a Party with notice to the other Party may request the arbitrators to make an additional award as to claims presented in the arbitration but omitted from the award. If the arbitrators consider the request to be justified, they shall make an additional award within sixty (60) calendar days after receipt of the request. The arbitrators may extend, at their sole discretion if necessary, the period of time within which it shall make a correction, interpretation or an additional award.

ARTICLE XVI

DEFAULT/TERMINATION

16.1 MH Events of Default

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

- (a) the failure of MH to make any payment to SaskPower as and when required by this Agreement if such amount remains unpaid for a period of five (5) Business Days after the date MH receives written notice from SaskPower that the amount is overdue;
- (b) the failure by MH to perform or observe any of its material obligations under this Agreement, that is not excused by an event of Force Majeure, other than obligations for the payment of money or obligations the failure to perform which constitutes a separate MH Event of Default, if, within ten (10) calendar days after receipt of notice given by SaskPower setting out the particulars of

- such failure, MH fails to remedy or commence remedying such failure or fails to diligently continue to remedy such failure thereafter to completion;
- (c) the Bankruptcy of MH or the inability or admission in writing of the inability of MH to pay its debts as they mature, or the making of a general assignment for the benefit of, or entry into any contract or arrangement with, the creditors of MH;
 - (d) the application for, or consent (by admission of material allegations of a petition or otherwise) to, the appointment of a receiver, trustee or liquidator for MH for all or substantially all of its assets, or its authorization of such application or consent, or the commencement of any proceedings seeking such appointment against it without such authorization, consent or application, which proceedings continue undismissed or unstayed for a period of thirty (30) calendar days;
 - (e) the authorization or filing by MH of a voluntary petition in bankruptcy with itself as the debtor, or the application for or consent (by admission of material allegations of a petition or otherwise) to the application of any Bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction by MH with itself as the debtor or the institution of involuntary bankruptcy, reorganization, readjustment of debt, insolvency, dissolution or liquidation proceedings against MH as debtor without such authorization, application or consent, which proceedings remain undismissed or unstayed for thirty (30) calendar days or which result in adjudication of Bankruptcy or insolvency within such time;
 - (f) MH consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, or reorganizes or reincorporates or reconstitutes into or as another entity and, at the time of such consolidation, amalgamation, merger, transfer, reorganization, reincorporation or reconstitution, the resulting, surviving or transferee entity fails to assume, if applicable, all the obligations of MH under this Agreement to which it or its predecessor was a party; or
 - (g) any material representation or warranty made by MH in this Agreement is proven to have been false in any material respect when made, and which falsity

has had, or could reasonably be expected to have, a material adverse impact on SaskPower's rights under this Agreement or on MH's ability to perform its obligations under this Agreement,

then, and in any such event, and as long as such MH Event of Default has not been cured in accordance with this Agreement, if applicable, SaskPower shall have all the rights and remedies available to it at law or in equity, including the right to terminate this Agreement by written notice to MH in accordance with Section 16.3. If an MH Event of Default is cured MH shall continue to be liable to SaskPower for direct actual damages suffered by SaskPower in connection with such MH Event of Default.

16.2 SaskPower Events of Default

If any of the following events, conditions, or circumstances shall occur with respect to SaskPower (each a "**SaskPower Event of Default**"):

- (a) the failure of SaskPower or Credit Support Provider to make any payment to MH as and when required by this Agreement if such amount remains unpaid for a period of five (5) Business Days after the date SaskPower receives written notice from MH that the amount is overdue;
- (b) the failure by SaskPower to perform or observe any of its material obligations under this Agreement, that is not excused by an event of Force Majeure, other than obligations for the payment of money or obligations the failure to perform which constitutes a separate SaskPower Event of Default, if within ten (10) calendar days after receipt of notice given by MH setting out the particulars of such failure, SaskPower fails to remedy or commence remedying or fails to diligently continue to remedy such failure thereafter to completion;
- (c) the Bankruptcy of SaskPower or the inability or admission in writing of the inability of SaskPower to pay its debts as they mature, or the making of a general assignment for the benefit of, or entry into any contract or arrangement with, the creditors of SaskPower;

- (d) the application for, or consent (by admission of material allegations of a petition or otherwise) to, the appointment of a receiver, trustee or liquidator for SaskPower for all or substantially all of its assets, or its authorization of such application or consent, or the commencement of any proceedings seeking such appointment against it without such authorization, consent or application, which proceedings continue undismissed or unstayed for a period of thirty (30) calendar days;
- (e) the authorization or filing by SaskPower of a voluntary petition in bankruptcy with itself as the debtor, or the application for or consent (by admission of material allegations of a petition or otherwise) to the application of any Bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction by SaskPower with itself as the debtor or the institution of involuntary bankruptcy, reorganization, readjustment of debt, insolvency, dissolution or liquidation proceedings against SaskPower as debtor without such authorization, application or consent, which proceedings remain undismissed or unstayed for thirty (30) calendar days or which result in adjudication of Bankruptcy or insolvency within such time;
- (f) SaskPower consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, or reorganizes or reincorporates or reconstitutes into or as another entity and, at the time of such consolidation, amalgamation, merger, transfer, reorganization, reincorporation or reconstitution, the resulting, surviving or transferee entity fails to assume, if applicable, all the obligations of SaskPower under this Agreement to which it or its predecessor was a party; or
- (g) any material representation or warranty made by SaskPower in this Agreement is proven to have been false in any material respect when made, and which falsity has had, or could reasonably be expected to have, a material adverse impact on MH's rights under this Agreement or on SaskPower's ability to perform its obligations under this Agreement,

then, and in any such event, and as long as such SaskPower Event of Default has not

been cured in accordance with this Agreement, if applicable, MH shall have all the rights and remedies available to it at law or in equity, including the right to terminate this Agreement by written notice to SaskPower in accordance with Section 16.4. If a SaskPower Event of Default is cured SaskPower shall continue to be liable to MH for direct actual damages suffered by MH in connection with such SaskPower Event of Default.

16.3 Right to Terminate following an MH Event of Default

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

16.4 Right to Terminate following a SaskPower Event of Default

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

16.5 Suspension of Performance and Remedies following an MH Event of Default

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

- (a) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days unless SaskPower has provided written notice to MH pursuant to and in accordance with Section 16.3 terminating this Agreement; and
- (b) to exercise any remedies available at law or in equity.

16.6 Suspension of Performance and Remedies following a SaskPower Event of Default

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

- (a) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days unless MH has provided written notice to SaskPower pursuant to and in accordance with Section 16.4 terminating this Agreement; and
- (b) to exercise any remedies available at law or in equity.

16.7 MH Termination Event

MH has the right, but not the obligation, to terminate this Agreement when and in the manner described in Section 16.8, following an occurrence of the event, condition or circumstance specified below (the “**MH Termination Event**”); provided, however, if such event, condition, or circumstance constitutes an MH Event of Default, then the Parties’ rights and obligations shall be governed by Sections 16.1, 16.3 and 16.5:

- (a) if, after giving effect to any applicable provisions in this Agreement, a Party is by reason of Force Majeure prevented from complying with any material

provision of this Agreement and invokes Force Majeure in accordance with the terms of this Agreement for a period of three hundred sixty-five (365) aggregate calendar days.

16.8 Right of MH to Terminate following an MH Termination Event

If an MH Termination Event occurs, MH shall, promptly upon becoming aware of it, notify SaskPower in writing, specifying the nature of that MH Termination Event and shall give SaskPower such other information about that MH Termination Event as SaskPower may reasonably require. If an MH Termination Event has occurred and is then continuing, MH may, by providing written notice to SaskPower within sixty (60) calendar days of the MH Termination Event occurring, designate a Business Day not earlier than the day such notice is given and not later than thirty (30) calendar days after such notice is given as an early termination date. If an MH Termination Event described in Section 16.7(a) has occurred and MH has not given termination notice within such sixty (60) calendar days, then the three hundred sixty-five (365) aggregate calendar day period provided for in Section 16.7(a) shall start over and MH shall have the termination rights under this Section 16.8 if another MH Termination Event occurs under Section 16.7(a).

16.9 SaskPower Termination Event

SaskPower has the right, but not the obligation, to terminate this Agreement when and in the manner described in Section 16.10, following an occurrence of the event, condition or circumstance specified below (the “**SaskPower Termination Event**”); provided however, if such event, condition, or circumstance constitutes an SaskPower Event of Default, then the Parties’ rights and obligations shall be governed by Sections 16.2, 16.4 and 16.6:

- (a) if, after giving effect to any applicable provisions in this Agreement, a Party is by reason of Force Majeure prevented from complying with any material provision of this Agreement and such Party has invoked Force Majeure in accordance with the terms of this Agreement for a period of three hundred sixty-five (365) aggregate calendar days.

16.10 Right of SaskPower to Terminate Following a SaskPower Termination Event

If a SaskPower Termination Event occurs, SaskPower shall, promptly upon becoming aware of it, notify MH in writing, specifying the nature of that SaskPower Termination Event and shall give MH such other information about that SaskPower Termination Event as MH may reasonably require. If a SaskPower Termination Event has occurred and is then continuing, SaskPower may, by providing written notice to MH within sixty (60) calendar days of the SaskPower Termination Event occurring, designate a Business Day not earlier than the day such notice is given and not later than thirty (30) calendar days after such notice is given as an early termination date. If a SaskPower Termination Event has occurred and SaskPower has not given termination notice within such sixty (60) calendar days, then the three hundred sixty-five (365) aggregate calendar day period provided for in Section 16.9(a) shall start over and SaskPower shall have the termination rights under this Section 16.10 if another SaskPower Termination Event occurs under Section 16.9(a).

16.11 Effect of Designation of an Early Termination Date

- (1) If notice designating an early termination date pursuant to Section 16.8 or Section 16.10 is properly given in accordance with the terms of this Agreement, the termination of this Agreement will occur on the date so designated, whether or not the relevant MH Termination Event or SaskPower Termination Event is continuing on such early termination date.
- (2) Upon the effective designation of an early termination date pursuant to Section 16.8 or Section 16.10, MH shall have no further obligation to offer or Schedule, and SaskPower shall have no further obligation to accept or Schedule, Energy or to pay for the Capacity pursuant to the terms hereof, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an early termination date arising out of either the MH Termination Event or the SaskPower Termination Event shall be determined pursuant to Section 16.12.

16.12 Payment on Early Termination

On or as soon as practicable following the effective designation of an early termination date arising out of either an MH Event of Default, a SaskPower Event of Default, an MH Termination Event or a SaskPower Termination Event, MH shall calculate the amounts due and owing by SaskPower to MH for the period up to and including the early termination date, and MH shall deliver an invoice to SaskPower for the amount due which shall be payable in accordance with Article VI.

ARTICLE XVII

LIMITATION OF LIABILITY

17.1 Limitation of Liability

There is no warranty of merchantability or fitness for a particular purpose, and any and all implied warranties are disclaimed. For breach of any provision for which an express remedy or measure of damages is provided, such express remedy or measure of damages shall be the sole and exclusive remedy, the obligor's liability shall be limited if and as set forth in such provision and all other remedies or damages at law or in equity are waived. If the express remedy or measure of damages provided is all rights or remedies available at law or in equity, such Party shall be entitled to seek all or any such rights and remedies subject to the disclaimers and limitations contained in this Agreement. If no remedy or measure of damages is expressly provided in this Agreement, the obligor's liability shall be limited to direct actual damages only, such direct actual damages shall be the sole and exclusive remedy and all other remedies or damages at law or in equity are waived. Neither Party shall be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract. It is the intent of the parties that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Party, whether such negligence be sole, joint or concurrent, or active or passive. To the extent any damages required to be paid hereunder are liquidated, the Parties acknowledge that the actual damages are or would be difficult or impossible to determine, or otherwise obtaining an adequate remedy is inconvenient and the damages calculated hereunder constitute a reasonable approximation of the harm or loss.

ARTICLE XVIII

GENERAL

18.1 Notices

Any notices, demands or requests required or authorized by this Agreement shall be in writing and may be delivered by hand delivery, electronic mail, confirmed fax or courier service to:

if to the Manitoba Hydro-Electric Board:

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

with copies to:

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

if to SaskPower:

Vice President, Planning, Environment & Sustainable
Development
SaskPower
12C, 2025 Victoria Avenue
Regina, Saskatchewan
S4P 0S1
Fax: 306-566-2916

with copies to:

Vice President, Law, Land & Regulatory Affairs

SaskPower
12C, 2025 Victoria Avenue
Regina, Saskatchewan
S4P 0S1
Fax: 306-566-3113

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

18.2 MH's Marketing and Sales Function and SaskPower's Merchant Function

The Parties acknowledge that both Parties have an OATT and have adopted "Standards of Conduct" which require that MH's and SaskPower's respective employees engaged in transmission system operations function independently from MH's and SaskPower's respective marketing and sales employees, and that MH and SaskPower treat all of their respective transmission customers on a non-discriminatory basis.

18.3 Records

Each Party shall keep complete and accurate records and memoranda of its operations hereunder and shall maintain such data as may be necessary to determine with reasonable accuracy any item required hereunder. With respect to invoicing records, each Party shall maintain such records, memoranda and data for the current calendar year plus a minimum of five (5) previous calendar years. Each Party or its respective designee, shall each have the right, at its sole expense, upon reasonable prior notice during the other Party's regular business hours at such Party's primary place of business, to inspect, review and take copies of the other

Party's records as far as such records concern monetary matters or other issues under this Agreement and may be reasonably necessary for the purpose of ascertaining the reasonableness and accuracy of any statements of cost, bills or invoices relating to transactions hereunder. Each Party shall treat and shall take reasonable steps to cause its designee to treat such information so inspected, reviewed, or copied as Confidential Information.

18.4 Governing Law

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

18.5 No Representation or Warranty for Injury

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

18.6 Surviving Termination

All provisions of this Agreement which by their nature are intended to survive the termination of this Agreement, including, the provisions relating to: (a) the billing by MH to SaskPower of and payment from SaskPower to MH for or related to the Capacity and Energy; (b) the confidentiality provisions pursuant to Article XI of this Agreement; and (c) Article XVIII, shall survive the Contract Term or the earlier termination of this Agreement as the case may be for a period of three (3) years following the expiration of the Contract Term or the earlier termination of this Agreement.

18.7 Enurement

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

18.8 Assignment

Neither this Agreement nor any rights, interests, duties or obligations of the Parties hereunder may be assigned, transferred or conveyed (whether by way of security, by operation of law or otherwise) by either Party without the prior written consent of the other Party such consent not to be unreasonably withheld, except that either Party may, without consent of the other Party assign this Agreement (in whole and not in part only) to any of their respective Affiliates, including any newly formed Affiliate pursuant to reorganizing its corporate structure or to a Person who acquires the property, rights, liabilities and obligations of a Party as a result of, in the case of SaskPower, SaskPower ceasing to be an agent of the Crown in right of the Province of Saskatchewan and, in the case of MH, MH ceasing to be an agent of Her Majesty in right of the Province of Manitoba on ninety (90) days advance notice to the other Party provided that:

- (a) prior to the effective date of the assignment, security for performance of obligations under the Agreement, if required by the non-assigning Party, has been provided to the non-assigning Party in an amount and upon terms satisfactory to the non-assigning Party, in its sole discretion, acting reasonably;
- (b) the non-assigning Party shall not be required to pay to the assignee an amount in respect of any Governmental Charges which the non-assigning Party would not have been required to pay to the assigning Party in the absence of such assignment;
- (c) the non-assigning Party shall not receive a payment from which an amount has been withheld or deducted, on account of a withholding tax in excess of that which the assigning Party would have been required to so withhold or deduct in the absence of such assignment;
- (d) it does not become unlawful for either Party or the assignee to perform any obligation under this Agreement as a result of such assignment; and
- (e) no MH Event of Default, SaskPower Event of Default, MH Termination Event or SaskPower Termination Event, as applicable, occurs as a result of such assignment.

With respect to the results described in clauses (b) and (c) above, the non-assigning Party will cause the assignee to make, and the assigning Party will make, such reasonable representations

as may be mutually agreed upon by the assigning Party, the assignee and the non-assigning Party in order to permit such parties to determine that such results will not occur upon or after the assignment.

18.9 Amendment

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

18.10 Waivers

A waiver of any default, breach or non-compliance under this Agreement is not effective unless in writing and signed by the Party to be bound by the waiver. No waiver shall be inferred from or implied by any failure to act or delay in acting by a Party hereto in respect of any default, breach or non-observance or by anything done or omitted to be done by any other Party hereto. The waiver by a Party hereto of any default, breach or non-compliance under this Agreement shall not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance (whether of the same or any other nature).

18.11 Counterparts

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

18.12 Recording of Communications

The Parties agree: (a) that each may electronically monitor or record, at any time and from time to time, any and all communications between them; (b) to waive any further notice of such monitoring or recording; (c) to notify and obtain any necessary consents of its officers and employees of such monitoring or recording; (d) that any such monitoring or recording may be offered into evidence in any such suit, trial, hearing, arbitration, or other proceeding; and (e) to furnish appropriately redacted copies of recordings to the other Party within ten (10) Business

Days of the other Party's written request.

18.13 No Other Rights

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

18.14 Entire Agreement

This Agreement represents the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral and written proposals and communications pertaining hereto, including the term sheet entered into by the Parties on June 26, 2015. There are no representations, conditions, warranties or agreements, express or implied, statutory or otherwise, with respect to or collateral to this Agreement other than contained herein or expressly incorporated herein.

18.15 Communications

No public announcement, or press release, publicity release, communication with any media, distribution or other dissemination of any information for publication concerning the purchase and sale contemplated under this Agreement or its terms and conditions, or the participation by a Party in the transactions contemplated hereby shall be made by any Party without the consent and joint approval of MH and SaskPower, acting reasonably.

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

THE MANITOBA HYDRO-ELECTRIC BOARD

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

I HAVE AUTHORITY TO BIND THE MANITOBA
HYDRO-ELECTRIC BOARD

SASKATCHEWAN POWER CORPORATION

By: Guy Bruce,
Vice President, Planning, Environment & Sustainable
Development

By: Rachelle Verret Morphy,
Assistant Secretary

I HAVE AUTHORITY TO BIND SASKATCHEWAN
POWER CORPORATION

PUBLIC DOCUMENT

TRADE SECRET DATA EXCISED

APPENDIX A

**to the 2020 - 2040 System Power Sale Agreement made between the Manitoba Hydro-
Electric Board and Saskatchewan Power Corporation Effective January 29, 2016**

[TRADE SECRET DATA EXCISED]

APPENDIX B

to the 2020 – 2040 System Power Sale Agreement made between the Manitoba Hydro-Electric Board and Saskatchewan Power Corporation Effective January 29, 2016

INTERBANK TRANSFER OF FUNDS ACCOUNT DESIGNATIONS

For **THE MANITOBA HYDRO-ELECTRIC BOARD:**

[TRADE SECRET DATA EXCISED]

THIS AMENDING AGREEMENT is made as of the 19th day of December, 2016.

BETWEEN:

THE MANITOBA HYDRO-ELECTRIC BOARD

a Manitoba Crown Corporation incorporated pursuant to the provisions of

The Manitoba Hydro Act, C.C.S.M c. H190

(hereinafter referred to as “MH”),

- and -

SASKATCHEWAN POWER CORPORATION

a Saskatchewan Crown Corporation incorporated pursuant to the provisions of

The Power Corporation Act

(hereinafter referred to as “SaskPower”).

WHEREAS, MH and SaskPower entered into the 2020 - 2040 System Power Sale Agreement dated January 29, 2016 (the “Agreement”);

AND WHEREAS, the Parties desire to amend the Agreement;

AND WHEREAS, Section 18.9 of the Agreement provides that the Agreement may be altered, modified, varied or waived, in whole or in part only by a written document executed by the Parties.

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

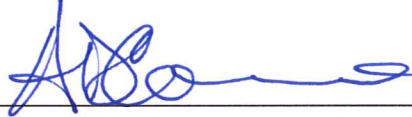
1. All reference in any writing related to the Agreement shall be to the Agreement as amended hereby.
2. All capitalized terms used herein unless otherwise defined shall have the meanings given to them in the Agreement.
3. Section 12.1(b) of the Agreement is hereby amended by deleting the date “December 31, 2016” and replacing same with “April 30, 2017”.
4. The Parties hereby acknowledge and agree that, except as specifically amended herein, the Agreement shall remain in full force and effect in accordance with its terms.

TRADE SECRET & CONFIDENTIAL

5. This Amending Agreement:
- (a) is Confidential Information;
 - (b) may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument;
 - (c) shall be binding upon and its benefits enure to the Parties and their permitted successors and assigns;
 - (d) shall be governed and construed in accordance with the laws of the Province of Manitoba and Canada; and
 - (e) represents the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral and written proposals and communications pertaining hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this Amending Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

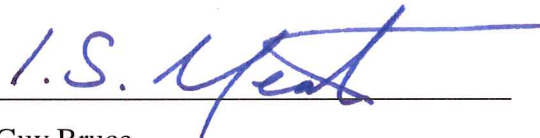

THE MANITOBA HYDRO-ELECTRIC BOARD




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


I HAVE AUTHORITY TO BIND THE MANITOBA
HYDRO-ELECTRIC BOARD

SASKATCHEWAN POWER CORPORATION

for  

By: Guy Bruce
Vice President, Planning, Environment & Sustainable
Development

SaskPower	
BUSINESS	LAW
	
APPROVED	REVIEWED



By: Rachelle Verret Morphy
Assistant Secretary

I HAVE AUTHORITY TO BIND SASKATCHEWAN
POWER CORPORATION

PUBLIC DOCUMENT

MH REDACTED June 23, 2017

TRADE SECRET DATA EXCISED

**25 MW SYSTEM POWER
SALE AGREEMENT**

between

THE MANITOBA HYDRO-ELECTRIC BOARD

- and -

SASKATCHEWAN POWER CORPORATION

DATED June 30, 2014

PUBLIC DOCUMENT

TRADE SECRET DATA EXCISED

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PUBLIC DOCUMENT

TRADE SECRET DATA EXCISED

25 MW SYSTEM POWER SALE AGREEMENT

DATED the 30th day of June, 2014

BETWEEN:

THE MANITOBA HYDRO-ELECTRIC BOARD,
a Manitoba Crown Corporation incorporated pursuant to the provisions of
The Manitoba Hydro Act, C.C.S.M c. H190
(hereinafter referred to as “MH”),

- and -

SASKATCHEWAN POWER CORPORATION,
a Saskatchewan Crown Corporation incorporated pursuant to the provisions of
The Power Corporation Act
(hereinafter referred to as “SaskPower”).

WHEREAS, SaskPower and MH are owners and operators of electric generation and transmission facilities and are both engaged in the generation, transmission, distribution and sale of electric energy;

AND WHEREAS, SaskPower agrees to purchase and MH agrees to sell 25 MW of System Power pursuant to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants of each Party to the other contained in this Agreement and other good and valuable consideration, the receipt

and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

ARTICLE I
INTERPRETATION

1.1 Defined Terms

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

“**25 MW System Power**” shall have the meaning set forth in Section 3.1.

[TRADE SECRET DATA EXCISED].

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

“**Agreement**” shall mean this 25 MW System Power Sale Agreement and all amendments thereto.

[TRADE SECRET DATA EXCISED]

“**Ancillary Services**” shall have the meaning set forth in the MH OATT.

“**Applicable Laws**” means any federal, provincial and local laws including statutes, regulations, rulings, orders, administrative interpretations and other governmental restrictions, in each case, as amended from time to time, relating to the matter or item being contemplated or discussed.

“**Bankrupt**” means, with respect to a Person:

- (i) the Person has started proceedings to be adjudicated a voluntary bankrupt or consented to the filing of a bankruptcy proceeding against it;

- (ii) the Person has filed a petition, application or similar proceeding seeking reorganization, arrangement or similar relief under any bankruptcy protection, insolvency or creditor protection law;
- (iii) a receiver, liquidator, trustee or assignee in bankruptcy has been appointed for the Person and such appointment is not being diligently contested by the Person and has not been dismissed, stayed or vacated within sixty (60) days thereof, or the Person has consented to the appointment of a receiver, liquidator, trustee or assignee in bankruptcy;
- (iv) the Person has voluntarily suspended the transaction of its usual business;
- (v) a court has issued an order declaring the Person bankrupt or insolvent and such order is not being diligently contested and has not been dismissed, stayed or vacated within sixty (60) days thereof; or
- (vi) the Person is insolvent within the meaning of the *Bankruptcy and Insolvency Act* (Canada) for a period of greater than forty-five (45) days from the date that the Person became aware of such insolvency.

“Bankruptcy” means the quality or state of being Bankrupt.

“Business Day” shall mean Monday through Friday, excluding Canadian banking holidays (such banking holidays shall be as recognized by the Canadian Payments Association or any successor agency).

“Capacity” shall have the meaning set forth in Section 3.2.

[TRADE SECRET DATA EXCISED]

“Capacity Price” shall have the meaning set forth in Section 5.1.

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

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

“Confidential Information” shall have the meaning set forth in Section 12.1(a).

“Contract Term” shall have the meaning set forth in Section 2.1.

“Contract Year” shall mean a twelve-month period, June 1 through May 31 of the following calendar year, whether or not within the Contract Term provided however that the first Contract Year of the Contract Term shall mean the seven month period from November 1, 2015 through May 31, 2016.

“Delivery Point” shall mean the point or points where the transmission interconnections between the Province of Manitoba and the Province of Saskatchewan which, as of the Effective Date, are known as line I1F and I2F cross the provincial boundary between the Province of Manitoba and the Province of Saskatchewan.

“Discloser” shall have the meaning set forth in Section 12.1.

“Effective Date” shall mean the date this Agreement is executed by the Parties.

“Electronic Tag” shall mean the mechanism required by NERC reliability standards for purchasers or sellers to confirm arranged interchange with interchange authorities.

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

“Environmental Attributes Fair Market Value” shall mean the value to be attributed to

Environmental Attributes as applicable that shall be determined by the Parties in good faith, by each Party obtaining a quote from a leading environmental commodities broker in the relevant North American environmental attributes market that is independent of either Party, and using the average of the two quotes obtained.

“Executive Officers” shall be, in the case of MH the Vice-President of Generation Operations, and in the case of SaskPower the Vice-President, Resource Planning, or its successor or such other officer designated by each Party from time to time.

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

“Firm Energy” shall have the meaning set forth in Section 3.3(1).

“Firm Energy Price” shall have the meaning set forth in Section 6.1.

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

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

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

“Force Majeure” shall mean an event or circumstance that prevents one Party from performing its obligations under this Agreement that is not within the reasonable control of, or the result of the negligence of, the claiming Party, and that, by the exercise of Good Utility

Practice, the claiming Party is unable to overcome or avoid or cause to be avoided, including but not restricted to, acts of God, [TRADE SECRET DATA EXCISED] strikes, lockouts and other industrial disturbances, epidemics, war (whether or not declared), blockades, acts of public enemies, acts of sabotage or terrorism, civil insurrection, riots and civil disobedience, explosions, acts or omissions of any Governmental Authority taken after the Effective Date (including the adoption or change in any law or regulation or environmental constraints lawfully imposed by such Governmental Authority) but only if such action or inaction by such Governmental Authority prevents or delays performance and renders the Party unable, despite due diligence, to obtain any licenses, permits, or approval required by any Governmental Authority, and the issuance of any order, injunction, or other legal or equitable decree interfering with the performance of a Party's obligations hereunder.

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

“Governmental Authority” shall mean any federal or provincial government, parliament, legislature, or any regulatory authority, agency, commission or board of any of the foregoing, or any political subdivision thereof, or any court, or, without limitation, any other laws, regulation or rule-making entity, having jurisdiction in the relevant circumstances, or any Person acting under the authority of any of the foregoing, or any other authority charged with the administration or enforcement of Applicable Laws. For greater certainty or interpretation, neither Party is a Government Authority.

“Governmental Charges” shall mean all applicable federal, provincial and local ad valorem, property, occupation, severance, generation, first use, conservation, or energy, transmission,

utility, gross receipts, privilege, sales, use, consumption, excise and other taxes (other than taxes based on income or net worth), charges, emission allowance costs, duties, tariffs, levies, licenses, fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Authority, independent system operator, utility, transmission and distribution provider or similar Person, however styled or payable.

“**GST**” shall mean the goods and services tax as provided for in the *Excise Tax Act* (Canada).

“**HST**” shall mean a harmonized sales tax, where the GST and the provincial sales tax have been combined to a single value added sales tax.

“**Interest Rate**” shall mean 2% per annum plus the prime lending rate of interest per annum, in effect for any date. The prime lending rate of interest shall be the interest rate per annum publicly announced from time to time, by Royal Bank of Canada at its main office in the City of Winnipeg, Manitoba, as its preferred lending rate of interest charged to its most creditworthy Canadian commercial customers, whether or not such interest rate per annum is actually charged by said bank to any customer. Notwithstanding the foregoing, in no event shall the Interest Rate exceed the maximum rate of interest allowed under Applicable Laws.

[TRADE SECRET DATA EXCISED]

“**Market**” or “**Markets**” shall mean:

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

“**MH Event of Default**” shall have the meaning set forth in Section 17.1.

“**MH Termination Event**” shall have the meaning set forth in Section 17.7.

“MH’s Border Accommodation Power Sales” shall mean those sales of Firm Power made by MH, as seller, which for some purposes are treated by MH as part of MH’s End-Use Load, to Persons located in provinces and states adjacent to the Province of Manitoba in circumstances whereby electric service to those locations is not otherwise readily available from other power suppliers. In all cases, these sales are made over transmission systems lower than 115 kV.

“MH’s Capacity Resources” shall mean those resources listed in Appendix “A” as may be modified from time to time by MH to add additional resources or to delete resources that have been retired from MH’s system by MH giving notice to SaskPower.

“MH’s Conditions Precedent” shall have the meaning set forth in Section 13.1.

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

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

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

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

“MH’s Separated Load Sales” shall mean those sales of energy made by MH, as seller,

which are treated by MH as part of MH's End-Use Load, to Persons located in provinces and states adjacent to the Province of Manitoba in circumstances whereby electric service to those Persons' loads becomes separated from their transmission system due to forced outages, planned outages, or scheduled outages by the applicable Transmission Provider, from the said province or state adjacent to the Province of Manitoba and requires electric service to be provided by MH until electric service is restored.

"MH's System" shall mean [TRADE SECRET DATA EXCISED]

"MISO" shall mean the Midcontinent Independent System Operator, Inc. or its successor.

"MISO Peak" shall mean that hour on any given day determined by MISO to be the hour in which load within the MISO footprint is expected to peak.

"MISO Peak Load" shall mean on any given day, the four (4) continuous hours during that day representing the two (2) continuous hours prior to the MISO Peak, the MISO Peak, and the hour following the MISO Peak.

"MISO Peak Load Hour" shall mean any hour, which is an hour during the MISO Peak Load.

[TRADE SECRET DATA EXCISED]

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

"OATT" shall mean a transmission tariff as it may be in effect from time to time that: (a) in the case of both SaskPower's Transmission Provider and MH's Transmission Provider, provides reciprocal open access transmission service; and (b) in the case of a third party, has been filed with and accepted by FERC as complying with FERC's then current open access transmission, comparability, and non-discrimination requirements, or provides reciprocal open access transmission service so as to entitle such entity to transmit electricity with entities whose transmission tariff has been filed with and accepted by FERC as a transmission tariff.

“Operating Committee” shall have the meaning set forth in Section 10.1(1).

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

[TRADE SECRET DATA EXCISED]

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

“Priority Criteria” shall have the meaning set forth in Section 4.4C.

“Recipient” shall have the meaning set forth in Section 12.1.

“Representative” shall have the meaning set forth in Section 12.1(b)(ii).

[TRADE SECRET DATA EXCISED]

[TRADE SECRET DATA EXCISED]

“RRO” shall mean a regional reliability organization, including the Midwest Reliability Organization or successor regional reliability organization, or any committee or subcommittee thereof, if applicable.

“SaskPower Event of Default” shall have the meaning set forth in Section 17.2.

“SaskPower Termination Event” shall have the meaning set forth in Section 17.9.

“Schedule” or **“Scheduling”** shall mean the actions of seller, buyer, and their designated representatives, of notifying, requesting, and confirming to each other the quantity of the Firm Energy in whole MWh that the Parties attempt to deliver on any given day or days during the Contract Term.

“Scheduled” shall mean the result of Scheduling.

“System Capacity” shall mean the amount representing the instantaneous rate at which energy

can be supplied from MH's System measured in MW.

“System Power” shall mean System Capacity to be made available by a seller to a purchaser (and for greater certainty does not include any generation reserves) together with energy to be sold to a purchaser.

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

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

“Transmission Termination Event” shall have the meaning set forth in Section 17.11.

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

1.2 Interpretation

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

- (a) words singular and plural in number shall be deemed to include the other and pronouns having masculine or feminine gender shall be deemed to include the other;
- (b) any reference in this Agreement to any Person includes its successors and

permitted assigns, and in the case of any Governmental Authority, any Person succeeding to its functions and capacities;

- (c) any reference in this Agreement to any section or appendix means and refers to the section contained in, or appendix attached to, this Agreement;
- (d) technical or industry specific words or phrases not otherwise defined in this Agreement have the known meaning given to those words or phrases within the industry as of the Effective Date;
- (e) other grammatical forms of defined words or phrases have corresponding meanings to the defined words or phrases;
- (f) a reference to writing includes typewriting, printing, lithography, photography, and any other mode of representing or reproducing words, figures or symbols in a lasting and visible form, including electronic mail;
- (g) a reference to a Party to this Agreement includes that Party's successors and permitted assigns;
- (h) a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as amended from time to time and includes any exhibits or attachments thereto;
- (i) reference to a statute means, unless otherwise stated, the statutes and regulations, if any, under that statute, in force from time to time, and any statute or regulation passed and in force which has the effect of supplementing or superceding that statute or those regulations;
- (j) the division of this Agreement into articles, sections, subsections, paragraphs and appendices and the insertion of headings are for convenience only and shall not affect the interpretation of this Agreement or any section thereto;
- (k) the word "including" means "including without limitation";
- (l) the words "herein", "hereof" and "hereunder" and any other words of similar import refer to this Agreement as a whole and not any particular article, section, subsection or other subdivision;
- (m) any consent, approval or waiver contemplated by this Agreement must be in writing and signed by the Party against whom its enforcement is sought, and may

- be given or withheld in the sole and unfettered discretion of the Party from whom it is requested, unless otherwise expressly stated; and
- (n) the preamble hereto shall form part of this Agreement.

1.3 No Presumption

The Parties are both represented by counsel, have both participated in the negotiation and drafting of this Agreement, and have endeavoured to ensure that the terms of this Agreement are as clear as possible. Accordingly, in interpreting this Agreement there shall be no presumption in favour of or against any Party on the basis that it was or was not the drafter of this Agreement or any individual provision thereof.

ARTICLE II

CONTRACT TERM

2.1 Contract Term

The term of the Agreement shall be from November 1, 2015 to and including May 31, 2022 hour ending 24:00 Eastern Standard Time; provided, however, [**TRADE SECRET DATA EXCISED**]

ARTICLE III

SUPPLY AND PURCHASE OBLIGATIONS

3.1 MH System Power Sale

Subject to the provisions of this Agreement, during the Contract Term MH shall sell to SaskPower and SaskPower shall purchase from MH 25 MW of System Power (the “**25 MW System Power**”).

3.2 Capacity

- (1) MH shall make available and sell to SaskPower and SaskPower shall purchase from

MH during the Contract Term 25 MW of System Capacity (the “**Capacity**”) at the Delivery Point. It is acknowledged by the Parties that the Capacity is the generating capacity component of the 25 MW System Power that is being purchased and sold herein.

- (2) MH covenants and agrees that during the Contract Term it:
 - (a) shall not sell the Capacity at any time to any Person other than SaskPower; and
 - (b) shall make available the Capacity from MH’s Capacity Resources.

3.3 Firm Energy

- (1) Subject to Sections 4.4, 4.6, 4.7 and Article XIV, MH shall make available at the Delivery Point an annual amount of electrical energy measured in MWh for each Contract Year during the Contract Term calculated by multiplying 25 MW by the number of hours in that Contract Year and thereafter, subject to Section 3.3(2), **[TRADE SECRET DATA EXCISED]** (“**Firm Energy**”) and SaskPower shall accept delivery and pay for the Firm Energy in accordance with the terms hereof. If SaskPower fails to take delivery of Firm Energy that it is obligated to take delivery of under this Agreement MH’s sole remedy in respect of such failure is SaskPower’s payment for such Firm Energy determined in accordance with Section 7.5(b) and, provided SaskPower has made such payment, such failure to take delivery of Firm Energy would not be subject to Section 17.2(b).
- (2) **[TRADE SECRET DATA EXCISED]**
- (3) The Parties acknowledge that the Firm Energy is the energy component of the 25 MW System Power that is being purchased and sold herein.
- (4) MH, in its sole discretion, has the right, but not the obligation, to source and/or supply and/or sell the Firm Energy from third party purchases and/or Markets available to MH.
- (5) For greater certainty, it is agreed that the 25 MW System Power shall not include Ancillary Services.
- (6) For greater certainty, if MH does not deliver to SaskPower any Schedules of Firm Energy and such failure to deliver is not excused under this Agreement and is not excused by SaskPower’s failure to perform or such failure is the result of circumstances

provided for in Section 4.10 “Seller Failure Provision” then such failure shall constitute an MH failure to perform or observe its material obligations as set forth in Section 17.1(b).

3.4 Title and Risk of Loss

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

ARTICLE IV

SCHEDULING AND DELIVERY

4.1 Transmission

(1) Transmission Facilities and Upgrades

MH and SaskPower shall take all steps necessary for the construction and interconnection of any transmission facilities, transmission facilities upgrades and any other facilities required to provide for Firm Transmission Service for making available and accepting Capacity and delivery and receipt of the Firm Energy. MH shall be responsible for and shall pay any and all costs associated with transmission facilities, transmission facilities upgrades and any other facilities required to provide the Firm Transmission Service on the Manitoba side of the Delivery Point for making available Capacity and for the delivery of the Firm Energy. SaskPower shall be responsible for and shall pay any and all costs associated with transmission facilities, transmission facilities upgrades and any other facilities required to provide the Firm Transmission Service on the Saskatchewan side of the Delivery Point for accepting Capacity and receiving the Firm Energy.

(2) MH’s Transmission Obligations

MH shall arrange and pay for Firm Transmission Service for making available Capacity and for the delivery of Firm Energy to the Delivery Point from November 1, 2015 to

and including October 31, 2020. MH represents that MH has obtained Firm Transmission Service for the delivery of Firm Energy to the Delivery Point from November 1, 2015 to and including October 31, 2020. In the event that MH does not provide the notice to SaskPower referred to in Section 2.1, MH shall use Commercially Reasonable Efforts to arrange for Firm Transmission Service for making available Capacity and for the delivery of Firm Energy to the Delivery Point from November 1, 2020 to May 31, 2022 and if such Firm Transmission Service has been arranged, MH shall promptly provide SaskPower with notice of same.

MH shall be responsible for the payment of any and all charges (including transmission charges assessed by a Transmission Provider) for making available Capacity and for the delivery of Firm Energy to the Delivery Point for the Contract Term.

(3) SaskPower's Transmission Obligations

SaskPower shall arrange and pay for Firm Transmission Service for receiving Capacity and accepting the delivery of Firm Energy from the Delivery Point from November 1, 2015 to and including October 31, 2020. In the event that MH does not provide the notice to SaskPower referred to in Section 2.1, SaskPower shall use Commercially Reasonable Efforts to arrange for Firm Transmission Service for receiving Capacity and accepting the delivery of Firm Energy from the Delivery Point from November 1, 2020 to May 31, 2022 and if such Firm Transmission Service has been arranged, SaskPower shall promptly provide MH with notice of same.

SaskPower shall be responsible for the payment of any and all charges (including transmission charges assessed by a Transmission Provider) for receiving Capacity and accepting the delivery of Firm Energy from the Delivery Point for the Contract Term.

4.2 Scheduling

(1) [TRADE SECRET DATA EXCISED]

(2) General Scheduling Provisions

The following provisions shall apply to Scheduling:

- (a) the Firm Energy shall be Scheduled by MH in accordance with the [TRADE SECRET DATA EXCISED] by submitting an Electronic Tag and SaskPower shall, subject to the provisions of this Agreement, approve the Electronic Tag;
- (b) the Firm Energy shall be Scheduled using Firm Transmission Service;
- (c) subject to the provisions of this Agreement, MH shall deliver the Scheduled Firm Energy and SaskPower shall accept the Scheduled Firm Energy; and
- (d) each Party shall be responsible for and pay its own costs and expenses associated with the purchase and sale of the Firm Energy under the applicable OATT.

(3) Schedule Verification

All matters relating to the verification of the scheduled Firm Energy shall be determined in accordance with the applicable provisions of practices of the Parties relating to schedule verification and the application of the provisions of such practices to this Agreement shall, if necessary, be referred to the Operating Committee.

4.3 Transmission System Operations

The Parties acknowledge that, as of the Effective Date, their respective Transmission Providers operate their transmission systems pursuant to the provisions of an OATT. Nothing in this Agreement shall obligate either Party or its respective Transmission Providers to maintain an OATT in effect during the Contract Term. In the event that either Party's Transmission Provider ceases to maintain an OATT at any time during the Contract Term, that Party agrees

that it shall allocate sufficient transmission capacity for delivery of the applicable amount of the Firm Energy to/from the Delivery Point.

4.4 MH's Energy Curtailments

A. MH's Right to Curtail, Restrict or Reduce

- (a) In the event that Firm Energy has been Scheduled during a MISO Peak Load Hour, MH has the right to curtail, restrict or reduce the sale and supply of Firm Energy:
 - (a) in the event of an occurrence of a Force Majeure event; or
 - (b) to the extent necessary to avoid curtailing, restricting or reducing service to MH's End-Use Load.

- (b) In the event that Firm Energy has been Scheduled during an hour which is not a MISO Peak Load Hour, MH has the right to curtail, restrict or reduce the sale and supply of Firm Energy:
 - (a) due to Unavailability of MH's Purchased Power to the extent that the Unavailability of MH's Purchased Power causes MH to have insufficient energy to serve MH's Energy Commitments, the Firm Energy may be curtailed, restricted or reduced by MH by the amount determined after application of the Priority Criteria; or
 - (b) due to all or a portion of MH's electrical generating facilities being unavailable as a result of:
 - (i) forced outages of one or more generating unit(s); or
 - (ii) derates of one or more generating unit(s) caused by low water flow or other reason; or
 - (iii) the unavailability of generation outlet capacity caused by a forced outage or derate of MH's high voltage direct current transmission system; or

(iv) scheduled outages of generating unit(s) or MH's high voltage direct current transmission system, to the extent that such scheduled outages are reasonably necessary to avoid equipment damage to facilities or to avoid the deferral of normal or scheduled maintenance beyond that consistent with Good Utility Practice,

to the extent that outages referred to herein cause MH to have insufficient energy to serve MH's Energy Commitments, the Firm Energy may be curtailed, restricted or reduced by MH by the amount determined after application of the Priority Criteria; or

(c) to the extent an event of Force Majeure otherwise precludes MH's ability to make, or to continue to make available any of the Firm Energy, the Firm Energy may be curtailed, restricted or reduced by MH by the amount determined after application of the Priority Criteria; or

(d) to the extent necessary to avoid curtailing, restricting or reducing service to MH's End-Use Load.

B. Limiting and Overcoming Curtailments

In the event of the exercise by MH of the right to curtail, restrict or reduce any of the Firm Energy, MH shall:

(1) exercise that right only for an amount and for the applicable time period(s), after application of the Priority Criteria, that MH determines is necessary in accordance with Good Utility Practice to respond to the circumstance giving rise to this right to curtail, restrict or reduce any of the Firm Energy; and

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

C. Curtailment Priority Criteria

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

- (1) MH’s End-Use Load shall have priority over all other power and energy sales of MH;
- (2) any energy sale by MH that is associated with capacity and is not part of MH’s End-Use Load shall take priority over all other power and energy sales of MH, except for MH’s End-Use Load;
- (3) all of those MH energy sales described as “Firm LD Energy Sales” and those MH energy sales described as “Firm Energy Sales” shall take priority over all other energy sales of MH except those referred to in (1) and (2) above;
- (4) all other energy sales by MH except those referred to in (1), (2) and (3) above; and
- (5) in the event that more than one power or energy sale of the same types referred to in (2), (3), and (4) of this Section 4.4C exists, curtailment with respect to such power or energy sales shall be determined on a pro rata basis.

The Parties acknowledge that the Firm Energy to be sold pursuant to the Agreement is energy described in paragraph (2) above.

[TRADE SECRET DATA EXCISED]

D. [TRADE SECRET DATA EXCISED]

4.5 Option to Continue Deliveries

SaskPower acknowledges and agrees that:

- (a) no provision in this Agreement requires MH to implement the right granted pursuant to Sections 4.4A to curtail, restrict or reduce the Firm Energy;

- (b) MH retains the right to supply the applicable amount of the Firm Energy, under conditions which give rise to the right to curtail, restrict or reduce the applicable amount of the Firm Energy under Section 4.4A, from any of MH's electrical generation facilities, third party purchases, Markets available to MH, during any period of time, for which this right exists provided MH does so for the entire period of time during which it had the right pursuant to Section 4.4A to curtail, restrict or reduce the applicable amount of the Firm Energy to be supplied and does not selectively assert the right to provide the applicable amount of the Firm Energy in only some, but not all, hours of the period of time when it would otherwise have the right to curtail, restrict or reduce the applicable amount of the Firm Energy; and
- (c) notwithstanding Sections 4.4 and 4.5, MH may supply or continue to supply any of its power or energy sales regardless of where the said power or energy sales are situated in the Priority Criteria provided that such supply is sourced only through purchases made from third parties and Markets available to MH. In the result, MH shall have the right, but not the obligation to give the Firm Energy to be sold to SaskPower pursuant to this Agreement a higher priority than that provided for in the Priority Criteria.

For greater certainty the exercise of the right under Section 4.5(c) does not restrict or limit MH's right granted pursuant to Section 4.4A to curtail, restrict or reduce the applicable amount of the Firm Energy.

4.6 Transmission Provider Curtailments

- (1) In the event that the actions of any Transmission Provider(s) result in the reduction or curtailments of the Firm Transmission Service designated, allocated or required for the delivery or the receiving of the Firm Energy, the Firm Energy that is to be supplied by MH and received by SaskPower shall be curtailed, restricted or reduced in accordance with the provisions of the applicable Transmission Provider's OATT.
- (2) In the event either MH's Transmission Provider or SaskPower's Transmission Provider ceases to have an OATT, curtailment or reduction of the Firm Energy Schedules

hereunder in order to maintain the reliable operation of the interconnected AC transmission system, shall be implemented exclusively in accordance with this Section 4.6(2). Curtailment of energy deliveries under this Section 4.6(2) to accommodate such events shall be implemented until the required amount of loading relief has been obtained once the following actions have been undertaken, in the order specified: (a) all transmission service or transactions, that are lower than the Firm Transmission Service, which contribute to the condition requiring curtailment shall be curtailed first; (b) the curtailing Party shall, where possible, redispatch its generation system to continue the Schedules hereunder consistent with producing the desired loading mitigation upon the congested facility(s); and (c) to the extent all transactions identified in clause (a) of this Section 4.6(2) are curtailed and system redispatch is not possible or sufficient to produce the necessary mitigation that would avoid curtailment of the Schedules under this Agreement, the transaction curtailment priority used by MH or SaskPower, as applicable, relative to all uses of the applicable Party's AC transmission system at the time shall be implemented in a comparable and non-discriminatory manner.

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

4.7 [TRADE SECRET DATA EXCISED]

4.8 Notice of Curtailment

Each Party shall provide as much notice as practicable to the other Party regarding the curtailment, restriction, reduction or refusal of the supply or acceptance, as applicable, of the Firm Energy pursuant to Sections 4.4A, 4.6 and 4.7 which notice shall include the anticipated duration of the curtailment, restriction, reduction or refusal of the supply or acceptance, as applicable, of the Firm Energy, the number of MWh impacted and which event under Sections 4.4A, 4.6 or 4.7 has caused the said curtailment, restriction, reduction or refusal.

4.9 Buyer Failure Provisions

SaskPower's failure to receive and purchase all or any part of the Firm Energy shall not be excused in the event that SaskPower or an Affiliate of SaskPower:

(i) enters into a transaction with another Person including an Affiliate of SaskPower to purchase energy or schedules energy on other Firm Transmission Service sinking at the Delivery Point, and such transaction or Firm Transmission Service schedule results in a transmission curtailment or scheduling reduction of the Firm Transmission Service for the delivery of the Firm Energy; or

(ii) operates its facilities in a manner such that a Firm Energy Schedule is interrupted, curtailed or reduced, unless such interruption, curtailment or reduction is otherwise excused by the terms of this Agreement.

4.10 Seller Failure Provisions

MH's failure to deliver and sell all or any part of the Firm Energy shall not be excused in the event that MH or an Affiliate of MH:

(i) enters into a transaction with another Person including an Affiliate of MH to sell energy or schedules energy on other Firm Transmission Service sinking at the Delivery Point, and such transaction or Firm Transmission Service schedule results in a transmission curtailment or scheduling reduction of the Firm Transmission Service for the delivery of the Firm Energy; or

(ii) operates its facilities in a manner such that a Firm Energy Schedule is interrupted, curtailed or reduced, unless such interruption, curtailment or reduction is otherwise excused by the terms of this Agreement.

4.11 Emergency Energy

The Parties acknowledge and agree that emergency energy made available by MH to SaskPower during the Contract Term shall not be deemed to be Firm Energy.

ARTICLE V

CAPACITY PRICING

5.1 Capacity Pricing

The price per MW for each applicable month during a Contract Year for Capacity stated in Canadian dollars shall be [TRADE SECRET DATA EXCISED] per MW-month, escalated [TRADE SECRET DATA EXCISED]

ARTICLE VI ENERGY PRICING

6.1 Energy Pricing

The price per MWh for each applicable hour during a Contract Year for Firm Energy stated in Canadian dollars shall be [TRADE SECRET DATA EXCISED] per MWh, escalated [TRADE SECRET DATA EXCISED]

ARTICLE VII BILLING AND PAYMENT

7.1 Dollar Amounts

All dollar amounts set forth in this Agreement, monetary transactions, accounting and cost calculations between MH and SaskPower shall be determined and stated in Canadian dollars.

7.2 Payment in Canadian Dollars

Payment of all invoices pursuant to this Agreement shall be made in Canadian dollars.

7.3 Invoice Payment Method

Payment of all invoices pursuant to this Agreement shall be made by SaskPower to MH by electronic bank transfer or by other mutually agreeable method(s), to the bank designated in

Appendix B attached hereto. A Party may change the designation of the bank set out in Appendix B by notice to the other Party in accordance with Section 19.1 hereof. Payment shall be deemed to be made when received by the bank designated in Appendix B.

7.4 Rendering Invoices

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

7.5 Payment Amounts

Subject to adjustment pursuant to Section 8.1(2), the amount payable by SaskPower to MH for each month during the Contract Term shall be determined as follows:

- (a) the Capacity Price applicable for that month determined in accordance with Section 5.1, multiplied by the Capacity, **[TRADE SECRET DATA EXCISED]**; plus
- (b) the sum of the amount determined for each applicable hour that a quantity of Firm Energy was Scheduled for that month **[TRADE SECRET DATA EXCISED]** that SaskPower is obligated to pay for that month determined for each applicable

hour as follows:

- (i) the **[TRADE SECRET DATA EXCISED]** applicable for each applicable hour of each applicable day in that month, determined in accordance with Section 6.1, multiplied by the quantity of Firm Energy in MWh Scheduled in any hour during the applicable day for that month, determined in accordance with Section 4.2; less
- (c) the sum of the amount determined, for each applicable hour that a quantity of Firm Energy that had been Scheduled in any hour during any day for that month

was curtailed or reduced pursuant to Sections 4.4, 4.6, 4.7, 4.10, Article XIV, **[TRADE SECRET DATA EXCISED]** as follows:

- (i) the **[TRADE SECRET DATA EXCISED]** applicable for each applicable hour of each day in that month, determined in accordance with Section 6.1 multiplied by the applicable quantity of Firm Energy that had been Scheduled for that hour of that day for that month that was curtailed or reduced pursuant to Sections 4.4, 4.6, 4.7, 4.10, Article XIV **[TRADE SECRET DATA EXCISED]**; plus
- (d) any costs and expenses associated with the supply and receipt of the Firm Energy under the applicable OATT that were billed to and paid by MH but were amounts that were required to be paid by SaskPower pursuant to Section 4.1(3); less
- (e) any costs and expenses associated with the supply and receipt of the Firm Energy under the applicable OATT that were billed to and paid by SaskPower but were amounts that were required to be paid by MH pursuant to Section 4.1(2).

7.6 Payment Date

Unless otherwise agreed by the Parties, all invoices under this Agreement shall be due and payable in accordance with MH's invoice instructions on or before the twentieth (20) day of the month, provided that if the 20th day is not a Business Day on or before the first Business Day following such 20th day. Any amounts not paid by the due date shall be deemed delinquent and shall accrue interest at the Interest Rate and such interest shall be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

7.7 Estimates

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

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

7.8 Billing Adjustments and Disputes

A Party may in good faith dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement within twelve (12) months of the date the invoice or adjustment to an invoice was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the invoice, as invoiced, shall be required to be made when due. Notice of the objection shall be given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Upon resolution of the dispute, any required payment shall be made within ten (10) Business Days of the receipt of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date the payment or reimbursement is paid. Inadvertent overpayments shall be deducted by the Party receiving such overpayment from subsequent monthly invoices rendered by such Party. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 7.8 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made.

7.9 Payment in Full

If one Party owes a debt or obligation to the other during the applicable billing period, including, but not limited to, any interest, and payments or credits, that Party shall pay such sum in full when due.

7.10 Accounting and Billing Procedures

The Operating Committee may make and implement decisions regarding the creation and

revision, from time to time, of accounting and billing procedures necessary to implement the terms and conditions of this Agreement including the provisions of Article VII.

7.11 Preliminary Billing Information

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

ARTICLE VIII

GOVERNMENTAL CHARGES

8.1 Governmental Charges

- (1) Each Party shall be solely responsible for and shall pay or cause to be paid all Governmental Charges imposed on that Party in respect of any matters related to this Agreement. In the event MH is required by law or regulation to remit or pay Governmental Charges that are SaskPower's responsibility hereunder, SaskPower shall promptly reimburse MH for such Governmental Charges. In the event SaskPower is required by law or regulation to remit or pay Governmental Charges that are MH's responsibility hereunder, MH shall promptly reimburse SaskPower for such Governmental Charges. Any Governmental Charge in respect of any matters related to this Agreement that is imposed on SaskPower by a Governmental Authority located in the Province of Manitoba shall be the responsibility of, and shall be paid by, MH. Any Governmental Charge in respect of any matters related to this Agreement that is imposed on MH by a Governmental Authority located in the Province of Saskatchewan shall be the responsibility of, and shall be paid by, SaskPower.
- (2) In the event that Manitoba adopts a HST, with the associated Manitoba portion of such HST not being available for use by SaskPower as an input tax credit in its collection and remittance of GST, the amount payable by SaskPower to MH for each month during the Contract Term shall be reduced by the amount of such Manitoba portion. In the event that Saskatchewan adopts a HST, with the associated Saskatchewan portion of such HST not being available for use by MH as an input tax credit in its collection and

remittance of GST, the amount payable by MH to SaskPower for each month during the Contract Term shall be reduced by the amount of such SaskPower portion.

8.2 Assistance

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

ARTICLE IX

ENVIRONMENTAL ATTRIBUTES

9.1 Environmental Attributes of Energy

- (1) The Parties acknowledge and agree MH shall [**TRADE SECRET DATA EXCISED**] of the Environmental Attributes associated with the Firm Energy that shall be supplied and sold by MH under this Agreement. [**TRADE SECRET DATA EXCISED**].
- (2) The Parties acknowledge that for environmental reporting purposes, the Environmental Attributes of the Firm Energy is electrical energy [**TRADE SECRET DATA EXCISED**]. Without limiting the generality of the foregoing, except to the extent otherwise required by any Applicable Laws, the Parties acknowledge and agree that for environmental reporting purposes [**TRADE SECRET DATA EXCISED**].
- (3) In the event that any Environmental Attributes associated with the Firm Energy that [**TRADE SECRET DATA EXCISED**].
- (4) MH shall not be obligated to manage the supply of the Firm Energy in any particular manner, nor shall anything contained herein restrict or limit MH to any specific type(s)

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

ARTICLE X

OPERATING COMMITTEE

10.1 Operating Committee

- (1) A committee (the “**Operating Committee**”) is hereby constituted consisting of the Division Manager of Power Sales & Operations for MH or duly authorized delegates from MH and the Director, Business Development & Contract Services for SaskPower or duly authorized delegates from SaskPower. Each duly authorized delegate of the Parties shall be entitled to cast one vote for each matter before the Operating Committee, and all decisions of the Operating Committee must be unanimous to be effective.
- (2) The Operating Committee shall meet at the written request of any of its members within ten (10) Business Days of receipt of such request and such meeting may be in person or may take place by telephonic means. Written minutes shall be kept of all meetings and decisions and copies of such minutes shall be distributed to the Operating Committee members and the Parties within five (5) Business Days after each meeting. The committee members or duly authorized delegates from both MH and SaskPower must be in attendance either by telephone or in person at an Operating Committee meeting to form quorum.
- (3) The Operating Committee may:
 - (a) make and implement decisions regarding the creation and revision, from time to time, of accounting and billing procedures necessary to implement the terms and conditions of this Agreement in accordance with Section 7.10 and Section

- 7.11;
- (b) make and implement decisions for operating procedures for the conduct of meetings and the recording of minutes;
 - (c) make recommendations to the Parties concerning amendment and revision of this Agreement;
 - (d) perform any other obligations expressly provided for in this Agreement to be performed by the Operating Committee and any other matters as the Parties may agree from time to time;
 - (e) attempt to settle any controversy, claim or dispute prior to referring such matters to the Executive Officers of SaskPower and MH for resolution in accordance with Section 16.1; and
 - (f) make and implement decisions concerning Section 19.1 and the form of notices being provided by the Parties pursuant to the provisions of this Agreement,
- provided that the Operating Committee shall not have authority to modify the terms and conditions of this Agreement.

ARTICLE XI

REPRESENTATIONS, WARRANTIES AND COVENANTS

11.1 Representations and Warranties of MH

MH makes the following representations and warranties to SaskPower as of the Effective Date which representations and warranties will be deemed to be repeated throughout the Contract Term:

- (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) subject to Article XIII, this Agreement constitutes a valid and binding obligation of MH, enforceable against it in accordance with the terms hereof, subject, however, to limitations with respect to enforcement imposed by law in connection with bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally and to the extent that equitable remedies such as

specific performance and injunction are only available in the discretion of the court from which they are sought;

- (c) subject to Article XIII, MH has all necessary power, authority and capacity to enter into this Agreement and all other agreements and instruments to be executed by it as contemplated by this Agreement and to carry out its obligations under this Agreement and such other agreements and instruments, covenants and indemnities;
- (d) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
- (e) subject to the Article XIII, the execution and delivery of this Agreement and such other agreements and instruments and the completion of the transactions contemplated by this Agreement and such other agreements and instruments have been duly authorized by all necessary action on the part of MH and on the part of any other Person (other than MH) whose authorization is required pursuant to any Applicable Laws;
- (f) the entering into of this Agreement and the transactions contemplated hereby, and the entering into any other agreement or instrument by MH as contemplated by this Agreement, will not result in the violation of any of the terms and provisions of any laws or the violation in a material way of any indenture, contract, instrument, licence, permit or other agreement, written or oral, to which the MH is a party or by which it may be bound;
- (g) there is no suit, action, litigation, arbitration proceeding or governmental proceeding, including appeals and applications for review, in progress, pending, or threatened against, or involving MH, at law or in equity, which will have a material adverse implication or effect on the transactions contemplated hereunder or any judgment, decree, injunction, rule or order of any court, governmental department, commission, agency, instrumentality or arbitrator, which, in any such case, might materially adversely affect the ability of MH to enter into this Agreement or to perform their obligations, covenants, agreements

or indemnities hereunder. There is no judgment, decree, injunction, rule or order of any court, governmental department, commission, agency, instrumentality or arbitrator, against, or involving MH, which will have a material adverse effect on MH's ability to perform its obligations, covenants, agreements or indemnities hereunder;

- (h) no covenant, representation or warranty of MH contained in this Agreement, and no statement contained in any schedule, certificate, list, agreement or instrument provided or to be provided to SaskPower pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact, or omits or will omit to state any material fact which is necessary in order to make the statements contained therein not misleading;
- (i) no MH Event of Default and no MH Termination Event has occurred and is continuing and no MH Event of Default and no MH Termination Event would occur as a result of its entering into or performing its obligations under this Agreement; and
- (j) the transactions hereunder are prescribed not to be derivatives by Manitoba Securities Commission Rule 91-506 Derivatives: Product Determination and are therefore excluded from the operation of the Manitoba Securities Commission MSC Rule No. 2013-37.

11.2 Survival of Representations and Warranties of MH

Each of the representations, covenants, agreements and warranties of MH contained in Section 11.1 shall survive for a period of three (3) years after the expiry of the Contract Term.

11.3 Representations and Warranties of SaskPower

SaskPower makes the following representations and warranties to MH as of the Effective Date

which representations and warranties will be deemed to be repeated throughout the Contract Term:

- (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) this Agreement constitutes a valid and binding obligation of SaskPower, enforceable against it in accordance with the terms hereof, subject, however, to limitations with respect to enforcement imposed by law in connection with bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally and to the extent that equitable remedies such as specific performance and injunction are only available in the discretion of the court from which they are sought;
- (c) SaskPower has all necessary power, authority and capacity to enter into this Agreement and all other agreements and instruments to be executed by it as contemplated by this Agreement and to carry out its obligations under this Agreement and such other agreements and instruments, covenants and indemnities;
- (d) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
- (e) the execution and delivery of this Agreement and such other agreements and instruments and the completion of the transactions contemplated by this Agreement and such other agreements and instruments have been duly authorized by all necessary action on the part of SaskPower and on the part of any other Person (other than SaskPower) whose authorization is required pursuant to any Applicable Laws;
- (f) the entering into of this Agreement and the transactions contemplated hereby, and the entering into any other agreement or instrument by SaskPower as contemplated by this Agreement, will not result in the violation of any of the terms and provisions of any laws or the violation in a material way of any indenture, contract, instrument, licence, permit or other agreement, written or

- oral, to which SaskPower is a party or by which it may be bound;
- (g) there is no suit, action, litigation, arbitration proceeding or governmental proceeding, including appeals and applications for review, in progress, pending, or threatened against, or involving SaskPower, at law or in equity, which will have a material adverse implication or effect on the transactions contemplated hereunder or any judgment, decree, injunction, rule or order of any court, governmental department, commission, agency, instrumentality or arbitrator, which, in any such case, might materially adversely affect the ability of SaskPower to enter into this Agreement or to perform their obligations, covenants, agreements or indemnities hereunder. There is no judgment, decree, injunction, rule or order of any court, governmental department, commission, agency, instrumentality or arbitrator, against, or involving SaskPower, which will have a material adverse effect on SaskPower's ability to perform its obligations, covenants, agreements or indemnities hereunder;
 - (h) no covenant, representation or warranty of SaskPower contained in this Agreement, and no statement contained in any schedule, certificate, list, agreement or instrument provided or to be provided to MH pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact, or omits or will omit to state any material fact which is necessary in order to make the statements contained therein not misleading; and
 - (i) no SaskPower Event of Default and no SaskPower Termination Event has occurred and is continuing and no SaskPower Event of Default and no SaskPower Termination Event would occur as a result of its entering into or performing its obligations under this Agreement.

11.4 Survival of Representations and Warranties of SaskPower

Each of the representations, covenants, agreements and warranties of SaskPower contained in Section 11.3 shall survive for a period of three (3) years after the expiry of the Contract Term.

ARTICLE XII
CONFIDENTIALITY

12.1 Confidentiality

The Parties (each a “**Discloser**”) acknowledge that there is a need pursuant to this Agreement for each Party to disclose Confidential Information to the other Party (each a “**Recipient**”).

The Parties wish to protect their Confidential Information and therefore agree as follows:

- (a) “**Confidential Information**” shall mean this Agreement and all information and any idea in whatever form, tangible or intangible, whether disclosed to or learned by the Recipient pertaining in any manner to the business of the Discloser or to the Discloser's Affiliates, consultants, business associates or customers, unless: (i) the information is or becomes publicly known other than as a result of disclosure by the Recipient; (ii) the information was rightfully in the Recipient's possession or part of the Recipient’s general knowledge on a non-confidential basis prior receipt thereof by Recipient; (iii) the information is disclosed to the Recipient without the Recipient’s knowledge of a confidential or proprietary restriction by a third party who rightfully possesses the information (without confidential or proprietary restriction) and did not learn of it, directly or indirectly, from the Recipient; or (iv) the information was independently developed by Recipient without reliance on the Confidential Information. Confidential Information includes, without limitation, the following: (i) schematics, techniques, development tools and processes, computer printouts, computer programs, design drawings and manuals, and improvements; (ii) information about pricing, costs, profits, markets, and sales; (iii) plans for future development and new product concepts; (iv) analytical tools, methods, mathematical algorithms, software designs, concepts and specifications, procedures for the evaluation of financial instruments, deals and products; and (v) all documents, books, papers, drawings, models, sketches, and other data of any kind and description, including electronic data recorded or

retrieved by any means, that have been or will be given to the Recipient by the Discloser, as well as written or verbal instructions or comments.

- (b) Except as hereinafter provided, Recipient shall hold all Confidential Information in strict confidence and, subject to as hereinafter provided, shall not disclose any Confidential Information to any third party. Recipient shall take all reasonable measures to protect the confidentiality of, and avoid the unauthorized use, disclosure, publication, or dissemination of Confidential Information. Recipient may disclose Confidential Information:
 - (i) with the written permission of the Discloser;
 - (ii) to its directors, officers, employees, agents or advisors, including, without limitation, its legal counsel, accountants, auditors, consultants and financial advisors and its Affiliates' directors, officers, employees, agents or advisors, including, without limitation, its Affiliates' legal counsel, accountants, auditors, consultants and financial advisors who need to know such information for the purposes of the transactions contemplated by this Agreement and also, in respect of SaskPower, to ministers, deputy ministers, servants and employees of the Province of Saskatchewan, and its consultants, contractors and advisors and in respect of MH, to ministers, deputy ministers, servants and employees of the Province of Manitoba, and its consultants, contractors and advisors (each a "**Representative**"); and
 - (iii) to any other third parties, only with the prior written consent of the Discloser.
- (c) If the Recipient or its Representatives are required to disclose the Confidential Information by law, regulation, ruling of a governmental agency or by court order, before the Recipient or its Representatives disclose any Confidential Information, the Recipient or its Representatives shall give the Discloser timely written notice (at least 10 Business Days) of the requirement for disclosure and assist the Discloser to secure a protective order to limit disclosure of such Confidential Information only to parties agreeing to be bound by the terms of a

confidentiality agreement in a form and content satisfactory to the Discloser, acting reasonably. Recipient shall cooperate reasonably in any such efforts to secure a protective order; provided, however, Recipient shall not be required to take, or refrain from taking, any action if it would cause Recipient or its Representatives to be in violation of the terms of a required disclosure described in this Section 12.1(c).

- (d) SaskPower may disclose without being subject to the obligations in Section 12.1(c):
 - (i) MH's name and the annual amount (if any) paid to it by SaskPower under all agreements (as required by Crown Investments Corporation of Saskatchewan for the purposes of publishing its annual payee disclosure report);
 - (ii) any Confidential Information to the Saskatchewan Provincial Auditor for the purposes of complying with *The Provincial Auditor Act* (Saskatchewan), or to SaskPower's internal or external auditors for the purpose of obtaining proper and complete audits of SaskPower's business and accounting practices; and
 - (iii) any Confidential Information as directed by any committee or advisory body of the Saskatchewan Legislature or Cabinet, including the Saskatchewan Rate Review Panel.
- (e) Recipient shall be liable for any use or disclosure of Confidential Information by its Representatives, which is not in compliance with the obligations imposed upon the Recipient pursuant to this Agreement.
- (f) All rights, title and interest in and to the Confidential Information are reserved by, and remain the sole property of the disclosing Party. The Recipient does not acquire any intellectual property rights under this Agreement. Nothing in this Agreement shall be construed as a grant of, or intention or commitment to grant any right, title or interest of any nature whatsoever in or to the Confidential Information.
- (g) Notwithstanding any other provision of this Agreement, with the exception of

SaskPower Confidential Information stored with Open Access Technology International, Inc. during the ordinary course of business of the Parties, no SaskPower Confidential Information nor any Personal Information of any SaskPower Personnel or SaskPower customers acquired by MH in the course of the negotiation or performance of this Agreement may be processed or stored outside of Canada by MH, any subcontractor, or a third party processor-service provider without the express written consent of SaskPower, which consent may be withheld for any reason. For purposes of this section, “Personal Information” means personal information as defined in *The Freedom of Information and Protection of Privacy Act* (Saskatchewan); and “SaskPower Personnel” means the employees, officers and directors of SaskPower and those of its other contractors and subcontractors.

- (h) Recipient agrees that the unauthorized disclosure or use of Confidential Information could cause irreparable harm and significant injury to the Discloser, the amount of which may be difficult to ascertain or quantify, thus, making any remedy at law or in damages inadequate. Therefore, Recipient agrees that Discloser shall have the right to apply to any court of competent jurisdiction for an order restraining any breach or threatened breach of this Section and for any other relief Discloser deems appropriate. This right shall be in addition to any other remedy available to Discloser in law or equity.
- (i) This Section 12.1 shall survive any termination of this Agreement for a period of three (3) years.

ARTICLE XIII

CONDITIONS

13.1 MH’s Conditions Precedent

The obligation of MH to complete the transactions referenced herein shall be subject to and contingent upon the fulfillment of the following conditions precedent (“**MH’s Conditions**

Precedent”) to the satisfaction of MH, as certified or waived in writing by MH, by the dates specified:

- (a) the approval of the execution, delivery, and performance of this Agreement by the MH board of directors within ninety (90) days of the Effective Date; and
- (b) receipt of an Order in Council of the Lieutenant Governor (Manitoba) approving this Agreement within one hundred and eighty (180) days of the Effective Date.

13.2 Conditions Precedent Notices

MH shall notify SaskPower as soon as practicable following the satisfaction or waiver or the failure to satisfy or to waive MH’s Conditions Precedent except that in respect of each of MH’s Conditions Precedent such notification shall be given by MH to SaskPower by no later than 5 pm CST on the 10th Business Day following the dates provided for in Section 13.1. This Agreement shall terminate on the date notice has been received by SaskPower from MH that any of MH’s Conditions Precedent have not been satisfied and will not be waived.

ARTICLE XIV

FORCE MAJEURE

14.1 Force Majeure

- (1) Neither Party shall be in breach or liable for any delay or failure in its performance under this Agreement to the extent such performance is prevented or delayed due to a Force Majeure event or circumstance, provided that:
 - (a) the non-performing Party shall give the other Party notice promptly (and within forty-eight (48) hours if possible) after the non-performing Party’s knowledge of the commencement of the Force Majeure, with written confirmation to be supplied within ten (10) calendar days after the commencement of the Force Majeure further describing the particulars of the occurrence of the Force Majeure;
 - (b) the delay in performance due to the Force Majeure shall be of no greater scope

- and of no longer duration than is directly caused by the Force Majeure;
- (c) the Party whose performance is delayed or prevented: (i) shall proceed with Commercially Reasonable Efforts to overcome the Force Majeure which is preventing or delaying performance; and (ii) shall provide weekly written progress reports to the other Party during the period that performance is delayed or prevented describing actions taken and to be taken to remedy the consequences of the Force Majeure, the schedule for such actions and the expected date by which performance shall no longer be affected by the Force Majeure; and
 - (d) when the performance of the Party claiming the Force Majeure is no longer being delayed or prevented, that Party shall give the other Party notice to that effect.
- (2) For greater certainty, the Parties further acknowledge that the following events or circumstances shall not constitute or form the basis for Force Majeure: (a) a reduction in SaskPower's domestic load; (b) the loss of SaskPower's Markets; (c) SaskPower's inability to economically use or resell the 25 MW System Power, including SaskPower's ability to purchase 25 MW System Power at a price less than the prices provided for in this Agreement; (d) actions to avoid spilling excess water at hydraulic generating stations; and (e) MH's ability to sell 25 MW System Power at a price greater than the prices provided for in this Agreement.

ARTICLE XV

CREDITWORTHINESS

15.1 TRADE SECRET DATA EXCISED

ARTICLE XVI**DISPUTE RESOLUTION****16.1 Condition Precedent to Arbitration**

Prior to initiation of arbitration, any controversy, claim or dispute between the Parties shall be first referred in writing to the Operating Committee for review and attempted resolution. For greater certainty either Party's representatives on the Operating Committee may refer any decision regarding any potential resolution to others within such Party's organization if they believe such decision is outside the scope of their authority. If the controversy, claim or dispute is not resolved within thirty (30) calendar days after referral to the Operating Committee, the matter will be referred to the Executive Officers for review and decision. Any decision by the Executive Officers to resolve a controversy, claim or dispute must be unanimous. If the controversy, claim or dispute is not resolved within thirty (30) calendar days after referral to the Executive Officers, either Party may proceed to arbitration.

16.2 Initiation

Arbitration proceedings must be initiated within seven hundred and thirty (730) calendar days of the date the controversy, claim or dispute was first referred to the Executive Officers and shall be initiated by written notice to the other Party setting forth the point or points in dispute. Unless otherwise agreed to in writing by the Parties, failure to initiate arbitration within such seven hundred and thirty (730) day period shall be deemed a waiver of the right to arbitrate that controversy, claim or dispute. Provided however, that any such waiver shall not preclude a Party from initiating arbitration proceedings in respect of a similar claim, controversy or dispute based on facts that arise subsequent to the date the controversy, claim or dispute was first submitted to the Executive Officers.

16.3 Arbitration Proceedings

Subject to Section 10.1(3)(e), any and all controversies, claims or disputes between the Parties arising out of or relating to this Agreement or an alleged breach thereof, shall be settled by arbitration. For greater clarity and certainty, arbitration shall not be available to anyone who is

not a party to this Agreement, and the aforesaid requirement to arbitrate shall not preclude a Party from seeking contribution, indemnification or damages from another Person in proceedings instituted by third parties in courts of competent jurisdiction. Unless otherwise provided in this Article, the arbitration shall be conducted before three arbitrators and shall be conducted in accordance with *The Arbitration Act* (Manitoba) C.C.S.M. c. A120 as amended and then in effect. Each Party shall select one arbitrator, and the two selected arbitrators shall jointly agree, within 30 days after the last of the two arbitrators have been appointed, on a third arbitrator who shall chair the arbitration. All arbitrators shall be competent by virtue of education and experience in the particular matter subject to arbitration. Before proceeding with the first hearing, each arbitrator shall take an oath of office. The arbitrators shall require witnesses to testify under oath administered by a duly qualified person. The arbitrators shall have jurisdiction and authority only to interpret, apply or determine compliance with the provisions of this Agreement insofar as shall be necessary to determine the particular matter subject to arbitration. The arbitrators shall not have jurisdiction or authority to add to, detract from, or alter the provisions of this Agreement or any applicable law or rule of civil procedure. The arbitrators shall have the power to order specific performance under any and all provisions of this Agreement and no Party can avoid specific performance based on an argument that the other Party has an adequate remedy at law. All arbitrations shall be held in Winnipeg, Manitoba.

16.4 Jurisdiction

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

16.5 Discovery

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

16.6 Continuation of Performance

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

16.7 Costs

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

16.8 Enforcement

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

16.9 Correction and Interpretation of Award

Within thirty (30) calendar days after receipt of an arbitration award, a Party, with notice to the other Party, may request the arbitrators to correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature, or may request the arbitrators to give an interpretation of a specific point or a part of the award. If the arbitrators consider the request to be justified, they shall make the correction or give the interpretation within thirty (30) calendar days after receipt of the request. The interpretation shall form part of the award. The arbitrators may correct any error as herein-before referred to on their own initiative within thirty (30) calendar days after the date of award. In addition, within thirty (30) calendar days after receipt of an award, a Party with notice to the other Party may request the arbitrators to make an additional award as to claims presented in the arbitration but omitted from the award. If the arbitrators consider the request to be justified, they shall make an additional award within sixty (60) calendar days after receipt of the request. The arbitrators may extend, at their sole discretion if necessary, the period of time within which it shall make a correction, interpretation or an additional award.

ARTICLE XVII

DEFAULT/TERMINATION

17.1 MH Events of Default

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

- (a) the failure of MH to make any payment to SaskPower as and when required by this Agreement if such amount remains unpaid for a period of five (5) Business Days after the date MH receives written notice from SaskPower that the amount is overdue;
- (b) the failure by MH to perform or observe any of its material obligations under this Agreement, that is not excused by an event of Force Majeure, other than obligations for the payment of money or obligations the failure to perform which constitutes a separate MH Event of Default, if, within ten (10) calendar

- days after receipt of notice given by SaskPower setting out the particulars of such failure, MH fails to remedy or commence remedying such failure (including the payment by MH to SaskPower of direct damages incurred by SaskPower in respect of such failure) or fails to diligently continue to remedy such failure thereafter to completion;
- (c) the Bankruptcy of MH or the inability or admission in writing of the inability of MH to pay its debts as they mature, or the making of a general assignment for the benefit of, or entry into any contract or arrangement with, the creditors of MH;
 - (d) the application for, or consent (by admission of material allegations of a petition or otherwise) to, the appointment of a receiver, trustee or liquidator for MH for all or substantially all of its assets, or its authorization of such application or consent, or the commencement of any proceedings seeking such appointment against it without such authorization, consent or application, which proceedings continue undismissed or unstayed for a period of thirty (30) calendar days;
 - (e) the authorization or filing by MH of a voluntary petition in bankruptcy with itself as the debtor, or the application for or consent (by admission of material allegations of a petition or otherwise) to the application of any Bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction by MH with itself as the debtor or the institution of involuntary bankruptcy, reorganization, readjustment of debt, insolvency, dissolution or liquidation proceedings against MH as debtor without such authorization, application or consent, which proceedings remain undismissed or unstayed for thirty (30) calendar days or which result in adjudication of Bankruptcy or insolvency within such time;
 - (f) MH consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, or reorganizes or reincorporates or reconstitutes into or as another entity and, at the time of such consolidation, amalgamation, merger, transfer, reorganization, reincorporation or reconstitution, the resulting,

surviving or transferee entity fails to assume, if applicable, all the obligations of MH under this Agreement to which it or its predecessor was a party; or

- (g) any material representation or warranty made by MH in this Agreement is proven to have been false in any material respect when made, and which falsity has had, or could reasonably be expected to have, a material adverse impact on SaskPower's rights under this Agreement or on MH's ability to perform its obligations under this Agreement,

then, and in any such event, and as long as such MH Event of Default has not been cured (including the payment of direct damages incurred by SaskPower in respect of such MH Event of Default) in accordance with this Agreement, if applicable, SaskPower shall have all the rights and remedies available to it at law or in equity, including the right to terminate this Agreement by written notice to MH in accordance with Section 17.3.

17.2 SaskPower Events of Default

If any of the following events, conditions, or circumstances shall occur with respect to SaskPower (each a "**SaskPower Event of Default**"):

- (a) the failure of SaskPower to make any payment to MH as and when required by this Agreement if such amount remains unpaid for a period of five (5) Business Days after the date SaskPower receives written notice from MH that the amount is overdue;
- (b) the failure by SaskPower to perform or observe any of its material obligations under this Agreement, that is not excused by an event of Force Majeure, other than obligations for the payment of money or obligations the failure to perform which constitutes a separate SaskPower Event of Default, if within ten (10) calendar days after receipt of notice given by MH setting out the particulars of such failure, SaskPower fails to remedy or commence remedying (including the payment by SaskPower to MH of direct damages incurred by MH in respect of

- such failure) or fails to diligently continue to remedy such failure thereafter to completion;
- (c) the Bankruptcy of SaskPower or the inability or admission in writing of the inability of SaskPower to pay its debts as they mature, or the making of a general assignment for the benefit of, or entry into any contract or arrangement with, the creditors of SaskPower;
 - (d) the application for, or consent (by admission of material allegations of a petition or otherwise) to, the appointment of a receiver, trustee or liquidator for SaskPower for all or substantially all of its assets, or its authorization of such application or consent, or the commencement of any proceedings seeking such appointment against it without such authorization, consent or application, which proceedings continue undismissed or unstayed for a period of thirty (30) calendar days;
 - (e) the authorization or filing by SaskPower of a voluntary petition in bankruptcy with itself as the debtor, or the application for or consent (by admission of material allegations of a petition or otherwise) to the application of any Bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction by SaskPower with itself as the debtor or the institution of involuntary bankruptcy, reorganization, readjustment of debt, insolvency, dissolution or liquidation proceedings against SaskPower as debtor without such authorization, application or consent, which proceedings remain undismissed or unstayed for thirty (30) calendar days or which result in adjudication of Bankruptcy or insolvency within such time;
 - (f) SaskPower consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, or reorganizes or reincorporates or reconstitutes into or as another entity and, at the time of such consolidation, amalgamation, merger, transfer, reorganization, reincorporation or reconstitution, the resulting, surviving or transferee entity fails to assume, if applicable, all the obligations of SaskPower under this Agreement to which it or its predecessor was a party; or

- (g) any material representation or warranty made by SaskPower in this Agreement is proven to have been false in any material respect when made, and which falsity has had, or could reasonably be expected to have, a material adverse impact on MH's rights under this Agreement or on SaskPower's ability to perform its obligations under this Agreement,

then, and in any such event, and as long as such SaskPower Event of Default has not been cured (including the payment of direct damages incurred by MH in respect of such SaskPower Event of Default) in accordance with this Agreement, if applicable, MH shall have all the rights and remedies available to it at law or in equity, including the right to terminate this Agreement by written notice to SaskPower in accordance with Section 17.4.

17.3 Right to Terminate following an MH Event of Default

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

17.4 Right to Terminate following a SaskPower Event of Default

If at any time a SaskPower Event of Default has occurred and is then continuing, MH may, by written notice to SaskPower specifying the relevant SaskPower Event of Default, designate the day that is twenty (20) calendar days after the day such notice is effective as the date this Agreement is terminated prior to the expiry of the Contract Term and shall be able to exercise

any other remedies available to it at law or in equity. For greater certainty, once the said notice has been delivered to SaskPower this Agreement will terminate on the said designated early termination date, notwithstanding any attempts by SaskPower to remedy or otherwise cure the SaskPower Event of Default, unless MH has in its sole discretion determined it will rescind the said termination of this Agreement and delivers a written notice to SaskPower expressly rescinding the termination of this Agreement prior to the said early termination date.

17.5 Suspension of Performance and Remedies following an MH Event of Default

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

- (a) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days unless SaskPower has provided written notice to MH pursuant to and in accordance with Section 17.3 terminating this Agreement; and
- (b) to exercise any remedies available at law or in equity.

17.6 Suspension of Performance and Remedies following a SaskPower Event of Default

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

- (a) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days unless MH has provided written notice to SaskPower pursuant to and in accordance with Section 17.4 terminating this Agreement; and
- (b) to exercise any remedies available at law or in equity.

17.7 MH Termination Event

MH has the right, but not the obligation, to terminate this Agreement when and in the manner

described in Section 17.8, following an occurrence of the event, condition or circumstance specified below (the “**MH Termination Event**”); provided however, if such event, condition, or circumstance constitutes an MH Event of Default, then the Parties’ rights and obligations shall be governed by Sections 17.1, 17.3 and 17.5:

- (a) if, after giving effect to any applicable provisions in this Agreement, a Party is by reason of Force Majeure prevented from complying with any material provision of this Agreement and invokes Force Majeure in accordance with the terms of this Agreement for a period of one hundred eighty (180) aggregate calendar days.

17.8 Right of MH to Terminate following an MH Termination Event

If an MH Termination Event occurs, MH shall, promptly upon becoming aware of it, notify SaskPower in writing, specifying the nature of that MH Termination Event and shall give SaskPower such other information about that MH Termination Event as SaskPower may reasonably require. If an MH Termination Event has occurred and is then continuing, MH may, by providing written notice to SaskPower within sixty (60) calendar days of the MH Termination Event occurring, designate a Business Day not earlier than the day such notice is given and not later than thirty (30) calendar days after such notice is given as an early termination date. If an MH Termination Event described in Section 17.7(a) has occurred and MH has not given termination notice within such sixty (60) calendar days, then the one hundred eighty (180) aggregate calendar day period provided for in Section 17.7(a) shall start over and MH shall have the termination rights under this Section 17.8 if another MH Termination Event occurs under Section 17.7(a).

17.9 SaskPower Termination Event

SaskPower has the right, but not the obligation, to terminate this Agreement when and in the manner described in Section 17.10, following an occurrence of the event, condition or circumstance specified below (the “**SaskPower Termination Event**”); provided however, if such event, condition, or circumstance constitutes an SaskPower Event of Default, then the Parties’ rights and obligations shall be governed by Sections 17.2, 17.4 and 17.6:

- (a) if, after giving effect to any applicable provisions in this Agreement, a Party is by reason of Force Majeure prevented from complying with any material provision of this Agreement and such Party has invoked Force Majeure in accordance with the terms of this Agreement for a period of one hundred eighty (180) aggregate calendar days.

17.10 Right of SaskPower to Terminate Following a SaskPower Termination Event

If a SaskPower Termination Event occurs, SaskPower shall, promptly upon becoming aware of it, notify MH in writing, specifying the nature of that SaskPower Termination Event and shall give MH such other information about that SaskPower Termination Event as MH may reasonably require. If a SaskPower Termination Event has occurred and is then continuing, SaskPower may, by providing written notice to MH within sixty (60) calendar days of the SaskPower Termination Event occurring, designate a Business Day not earlier than the day such notice is given and not later than thirty (30) calendar days after such notice is given as an early termination date. If a SaskPower Termination Event has occurred and SaskPower has not given termination notice within such sixty (60) calendar days, then the 180 aggregate calendar day period provided for in Section 17.9(a) shall start over and SaskPower shall have the termination rights under this Section 17.10 if another SaskPower Termination Event occurs under Section 17.9(a).

17.11 [TRADE SECRET DATA EXCISED]

17.12 Effect of Designation of an Early Termination Date

- (a) If notice designating an early termination date pursuant to Section 17.8 or Section 17.10 is properly given in accordance with the terms of this Agreement, or upon the occurrence of a Transmission Termination Event, the termination of this Agreement will occur on the date so designated, whether or not the relevant MH Termination Event or SaskPower Termination Event is continuing on such early termination date.

- (b) Upon the effective designation of an early termination date pursuant to Section 17.8 or Section 17.10, or upon the occurrence of a Transmission Termination Event, MH shall have no further obligation to offer or Schedule, and SaskPower shall have no further obligation to accept or Schedule Firm Energy or to pay for the Capacity pursuant to the terms hereof, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an early termination date arising out of either the MH Termination Event, the SaskPower Termination Event or the Transmission Termination Event shall be determined pursuant to Section 17.13.

17.13 Payment on Early Termination

On or as soon as practicable following the effective designation of an early termination date arising out of either an MH Event of Default, a SaskPower Event of Default, an MH Termination Event, a SaskPower Termination Event or a Transmission Termination Event, MH shall calculate the amounts due and owing by SaskPower to MH for the period up to and including the early termination date, and MH shall deliver an invoice to SaskPower for the amount due which shall be payable in accordance with Article VII.

ARTICLE XVIII

LIMITATION OF LIABILITY

18.1 Limitation of Liability

There is no warranty of merchantability or fitness for a particular purpose, and any and all implied warranties are disclaimed. For breach of any provision for which an express remedy or measure of damages is provided, such express remedy or measure of damages shall be the sole and exclusive remedy, the obligor's liability shall be limited if and as set forth in such provision and all other remedies or damages at law or in equity are waived. If the express remedy or measure of damages provided is all rights or remedies available at law or in equity, such Party shall be entitled to seek all or any such rights and remedies subject to the disclaimers and limitations contained in this Agreement. If no remedy or measure of damages is expressly provided in this Agreement, the obligor's liability shall be limited to direct actual

damages only, such direct actual damages shall be the sole and exclusive remedy and all other remedies or damages at law or in equity are waived. Neither Party shall be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract. It is the intent of the parties that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Party, whether such negligence be sole, joint or concurrent, or active or passive. To the extent any damages required to be paid hereunder are liquidated, the Parties acknowledge that the actual damages are or would be difficult or impossible to determine, or otherwise obtaining an adequate remedy is inconvenient and the damages calculated hereunder constitute a reasonable approximation of the harm or loss.

ARTICLE XIX

GENERAL

19.1 Notices

Any notices, demands or requests (other than those operational matters identified by the Operating Committee), required or authorized by this Agreement shall be in writing and may be delivered by hand delivery, electronic mail, confirmed fax or courier service to:

if to the Manitoba Hydro-Electric Board:

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

with copies to: General Counsel
Manitoba Hydro
360 Portage Avenue
Winnipeg, Manitoba
R3C 0G8
Fax 204-360-6147

if to SaskPower: Guy Bruce, Vice President Resource Planning
12C, 2025 Victoria Avenue
Regina, Saskatchewan
S4P 0S1
Fax: 306-566-2916

with copies to: Rachelle Verret Morphy, Vice President Law, Land & Regulatory
Affairs
12C, 2025 Victoria Avenue
Regina, Saskatchewan
S4P 0S1
Fax: 306-566-3113

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

19.2 MH's Marketing and Sales Function and SaskPower's Merchant Function

The Parties acknowledge that both Parties have an OATT and have adopted “Standards of Conduct” which require that MH’s and SaskPower’s respective employees engaged in transmission system operations function independently from MH’s and SaskPower’s respective marketing and sales employees, and that MH and SaskPower treat all of their respective transmission customers on a non-discriminatory basis. This Agreement is entered into by MH and SaskPower on behalf of their respective marketing and sales functions. Nothing in this Agreement shall obligate either MH’s or SaskPower’s transmission function to take or refrain from taking any action.

19.3 Records

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

19.4 Governing Law

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

19.5 No Representation or Warranty for Injury

It is acknowledged and agreed that the 25 MW System Power and related services are inherently dangerous, and MH offers no warranty, or representation, express or implied, that the 25 MW System Power or related services will not cause injury to Person, property or business.

19.6 Surviving Termination

All provisions of this Agreement which by their nature are intended to survive the termination of this Agreement, including, the provisions relating to: (a) the billing by MH to SaskPower of and payment from SaskPower to MH for or related to the 25 MW System Power; (b) the confidentiality provisions pursuant to Article XII of this Agreement; and (c) Article XIX, shall survive the Contract Term or the earlier termination of this Agreement as the case may be for a period of three (3) years following the expiration of the Contract Term or the earlier termination of this Agreement.

19.7 Enurement

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

19.8 Assignment

Neither this Agreement nor any interest or obligation in or under this Agreement may be assigned (whether by way of security or otherwise) by either Party without the prior written consent of the other Party, except that such consent shall not be unreasonably withheld by a Party if the other Party desires to assign this Agreement (in whole and not in part only) to any of their respective Affiliates, including any newly formed Affiliate pursuant to reorganizing its corporate structure.

19.9 Amendment

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

19.10 Waivers

A waiver of any default, breach or non-compliance under this Agreement is not effective unless in writing and signed by the Party to be bound by the waiver. No waiver shall be inferred from or implied by any failure to act or delay in acting by a Party hereto in respect of any default, breach or non-observance or by anything done or omitted to be done by any other Party hereto. The waiver by a Party hereto of any default, breach or non-compliance under this Agreement shall not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance (whether of the same or any other nature).

19.11 Counterparts

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

19.12 Recording of Communications

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

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

19.13 Existing Agreements

Each of the Parties are parties to existing agreements with each other and with other third parties, including the Interconnection Agreement made between the Parties dated January 25, 1972. This Agreement shall not affect the obligations and rights of a Party with respect to such existing agreements, except as expressly provided for herein. In the event of any inconsistency between the provisions of this Agreement and the Interconnection Agreement made between the Parties dated January 25, 1972, this Agreement shall prevail.

19.14 No Other Rights

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

19.15 Entire Agreement

This Agreement represents the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral and written proposals and communications pertaining hereto, including the term sheet entered into by the Parties on September 13, 2013. There are no representations, conditions, warranties or agreements, express or implied, statutory or otherwise, with respect to or collateral to this Agreement other than contained herein or expressly incorporated herein.

19.16 Communications

No public announcement, or press release, publicity release, communication with any media, distribution or other dissemination of any information for publication concerning the purchase and sale contemplated under this Agreement or its terms and conditions, or the participation by

a Party in the transactions contemplated hereby shall be made by any Party without the consent and joint approval of MH and SaskPower, acting reasonably.

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

THE MANITOBA HYDRO-ELECTRIC BOARD

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

I HAVE AUTHORITY TO BIND THE MANITOBA
HYDRO-ELECTRIC BOARD

SASKATCHEWAN POWER CORPORATION

By: Robert Watson,
President and CEO

By: Rachelle Verret Morphy,
Assistant Secretary

I HAVE AUTHORITY TO BIND SASKATCHEWAN
POWER CORPORATION

PUBLIC DOCUMENT

TRADE SECRET DATA EXCISED

APPENDIX A

to the 25 MW System Power Sale Agreement made between the Manitoba Hydro-Electric Board and Saskatchewan Power Corporation Effective June 30, 2014

[TRADE SECRET DATA EXCISED]

APPENDIX B

to the 25 MW System Power Sale Agreement made between the Manitoba Hydro-Electric Board and Saskatchewan Power Corporation Effective June 30, 2014

INTERBANK TRANSFER OF FUNDS ACCOUNT DESIGNATIONS

For **THE MANITOBA HYDRO-ELECTRIC BOARD:**

[TRADE SECRET DATA EXCISED]

THIS AMENDING AGREEMENT made as of the 19th day of December, 2016,

BETWEEN:

THE MANITOBA HYDRO-ELECTRIC BOARD,
a Manitoba Crown Corporation incorporated pursuant to the provisions of
The Manitoba Hydro Act, C.C.S.M c. H190

(hereinafter referred to as “MH”),

-and-

SASKATCHEWAN POWER CORPORATION,
a Saskatchewan Crown Corporation incorporated pursuant to the provisions of
The Power Corporation Act

(hereinafter referred to as “SaskPower”).

WHEREAS SaskPower and MH (collectively referred to as the “Parties”) entered into the 25 MW System Power Sale Agreement dated June 30, 2014 (the “Agreement”);

AND WHEREAS the Parties have agreed to amend the Agreement in accordance with the terms and conditions hereinafter set forth;

AND WHEREAS Section 19.9 of the Agreement provides that the Agreement may be altered, modified, varied or waived, in whole or in part, only by a supplementary written document executed by the Parties;

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NOW THEREFORE in consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

1. Any capitalized word used and not otherwise defined herein shall have the meaning ascribed thereto in the Agreement.
2. Section 1.1 of the Agreement is hereby amended by:

- a) deleting the following term:

“**Environmental Attributes Fair Market Value**’ shall mean the value to be attributed to Environmental Attributes as applicable that shall be determined by the Parties in good faith, by each Party obtaining a quote from a leading environmental commodities broker in the relevant North American environmental attributes market that is independent of either Party, and using the average of the two quotes obtained.”; and

- b) adding the following terms:

“**[TRADE SECRET DATA EXCISED] Environmental Attributes**’ shall mean Environmental Attributes determined by MH, in accordance with MH’s obligations under the Agreement, to be from: (a) Supplied Energy; and (b) allocated or determined by MH, in accordance with MH’s obligations under the Agreement, only for the purpose of allocating and transferring Environmental Attributes, to be sourced from those MH’s Energy Resources that are **[TRADE SECRET DATA EXCISED]**.”

“**MH’s Energy Resources**’ shall mean those MH’s Capacity Resources that are **[TRADE SECRET DATA EXCISED]**

TRADE SECRET DATA EXCISED

[TRADE SECRET DATA EXCISED]

“**Supplied Energy**’ shall mean Firm Energy that was, pursuant to this Agreement, supplied and sold by MH and which shall be attributed in its entirety to MH’s Energy Resources and for greater certainty [TRADE SECRET DATA EXCISED].”

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

3. Article IX of the Agreement is hereby deleted in its entirety and replaced with the following:

“ARTICLE IX

ENVIRONMENTAL ATTRIBUTES

9.1 Environmental Attributes of Energy

- (1) The Parties acknowledge and agree that MH shall allocate to SaskPower that amount of [TRADE SECRET DATA EXCISED] Environmental Attributes determined by MH, only for the purposes of allocating Environmental Attributes pursuant to Section 9.2 from that portion of the MWh of the Firm Energy that was: (a) Supplied Energy; and (b) allocated by MH as being sourced from those MH’s Energy Resources that [TRADE SECRET DATA EXCISED].
- (2) For environmental reporting purposes the Environmental Attributes of that component of the Firm Energy, that is Supplied Energy and is not allocated by MH as having been sourced from [TRADE SECRET DATA EXCISED].
- (3) For the purposes of this Article IX, MH shall not be obligated to manage the supply of the Firm Energy in any particular manner, nor does this Agreement restrict or limit MH to any specific type(s) of generating resources to be used to supply the Firm Energy (including energy obtained from third party purchases

TRADE SECRET DATA EXCISED

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

- (4) Without limiting the reporting requirements referred to in Section 9.1(2), the Parties further acknowledge and agree that MH has retained all Environmental Attributes for the Firm Energy allocated by MH for the purposes of this Article IX to be sourced from those MH's Energy Resources that are [TRADE SECRET DATA EXCISED]

9.2 Calculation of Environmental Attributes for Supplied Energy

- (1) MH shall calculate the [TRADE SECRET DATA EXCISED].

9.3 Reporting of Environmental Attributes

- (1) On or before March 31st of each calendar year, MH shall provide SaskPower with a report of the Environmental Attributes of the Supplied Energy, [TRADE SECRET DATA EXCISED]. These reports shall be used by MH and SaskPower when reporting the Environmental Attributes of the Supplied Energy.

9.4 Transfer of Environmental Attributes

- (1) MH shall transfer to SaskPower the [TRADE SECRET DATA EXCISED] Environmental Attributes applicable for each calendar year during the Contract Term, on or before March 31st of the subsequent calendar year.
- (2) For [TRADE SECRET DATA EXCISED] and are registered by MH on a system used to track and transfer Environmental Attributes and used by MH to

TRADE SECRET DATA EXCISED

transfer [TRADE SECRET DATA EXCISED] (the “Transfer System”), SaskPower shall receive the transfer of the applicable amount of [TRADE SECRET DATA EXCISED] Environmental Attributes through the Transfer System. MH’s transfer through the Transfer System will be on the condition that SaskPower complies, at its own expense, with the Transfer System requirements concerning the acceptance of the transferred [TRADE SECRET DATA EXCISED] Environmental Attributes.

- (3) [TRADE SECRET DATA EXCISED]
- (4) [TRADE SECRET DATA EXCISED]
- (5) [TRADE SECRET DATA EXCISED]
- (6) [TRADE SECRET DATA EXCISED]

9.5 [TRADE SECRET DATA EXCISED]

9.6 Use

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

9.7 Rights Conferred by Law

[TRADE SECRET DATA EXCISED].

9.8 SaskPower Qualification

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To the extent allowed by applicable law, SaskPower may have the transferred **[TRADE SECRET DATA EXCISED]** Environmental Attributes qualified and recognized as environmental credits or offsets, if any. MH shall make Commercially Reasonable Efforts to assist and cooperate with SaskPower, if requested by SaskPower including providing such further and other reports and information related to the Supplied Energy as may be requested by SaskPower acting reasonably in connection with such qualification and recognition of **[TRADE SECRET DATA EXCISED]** Environmental Attributes. Without limiting the generality of Sections 9.8 and 18.1, neither Party makes any representation or warranty with respect to any future action or failure to act, or approval or failure to approve, by any Governmental Authority or any other third Person in respect of the allocation and transfer of the transferred **[TRADE SECRET DATA EXCISED]** Environmental Attributes.

9.9 Disclaimer

With respect to the **[TRADE SECRET DATA EXCISED]** Environmental Attributes to be transferred under this Agreement, except as expressly set forth in this Agreement, MH expressly disclaims any other representations or warranties, whether written or oral, and whether express or implied. Without limiting the generality of the foregoing, MH makes no representation or warranty hereunder regarding the suitability or likelihood of the **[TRADE SECRET DATA EXCISED]** Environmental Attributes to meet or qualify under any voluntary or mandatory program pertaining to the generation of “green” or carbon neutral electric power or regarding any creation of a federal, provincial or local mandatory or voluntary renewable portfolio standard or carbon offset or allowance trading program under which the **[TRADE SECRET DATA EXCISED]** Environmental Attributes could be sold, transferred or used for compliance.”

4. The amendments to the Agreement described herein shall take effect on June 1, 2017 and, as of that date the Amending Agreement shall be read together with the Agreement. The

TRADE SECRET DATA EXCISED

Parties confirm that, except as modified herein, the provisions of the Agreement remain unchanged and in full force and effect.

5. This Amending Agreement:
- (a) is Confidential Information;
 - (b) may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument;
 - (c) shall be binding upon and its benefits enure to the Parties and their permitted successors and assigns;
 - (d) shall be governed and construed in accordance with the laws of the Province of Manitoba and Canada; and
 - (e) represents the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral and written proposals and communications pertaining hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this Amending Agreement to be executed by their duly authorized officers or agents on the day and year first above written.

THE MANITOBA HYDRO-ELECTRIC BOARD

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

I HAVE AUTHORITY TO BIND THE MANITOBA
HYDRO-ELECTRIC BOARD

SASKATCHEWAN POWER CORPORATION

TRADE SECRET & CONFIDENTIAL

PUBLIC DOCUMENT

TRADE SECRET DATA EXCISED

By: Kory Hayko
Vice President, Commercial & Industrial Operations &
President & CEO NorthPoint Energy

By: Rachelle Verret Morphy
Assistant Secretary

I HAVE AUTHORITY TO BIND SASKATCHEWAN
POWER CORPORATION

THIS SECOND AMENDING AGREEMENT is made as of the 1st day of May, 2017,

BETWEEN:

SASKATCHEWAN POWER CORPORATION,
a Saskatchewan Crown Corporation incorporated pursuant to the provisions of
The Power Corporation Act, Saskatchewan

(hereinafter referred to as "SaskPower"),

-and-

THE MANITOBA HYDRO-ELECTRIC BOARD,
a Manitoba Crown Corporation incorporated pursuant to the provisions of
The Manitoba Hydro Act, C.C.S.M c. H190

(hereinafter referred to as "MH").

WHEREAS SaskPower and MH (collectively referred to as the "Parties") entered into the 25 MW System Power Sale Agreement dated June 30, 2014 (the "Agreement");

AND WHEREAS by an agreement dated December 16, 2016 the Parties agreed to amend the Agreement to provide for the allocation and transfer of Environmental Attributes which agreement takes effect on June 1, 2017;

AND WHEREAS the Parties have agreed to further amend the Agreement in accordance with the terms and conditions hereinafter set forth;

AND WHEREAS Section 19.9 of the Agreement provides that the Agreement may be altered, modified, varied or waived, in whole or in part, only by a supplementary written document executed by the Parties;

NOW THEREFORE in consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

1. Any capitalized word used and not otherwise defined herein shall have the meaning ascribed thereto in the Agreement.
2. Section 1.1 of the Agreement is hereby amended by:
 - a) amending the definition of the term "[REDACTED]"

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- b) amending the definition of the term "Delivery Point" by deleting it in its entirety and replacing same with the following:

"Delivery Point" shall mean the Northern Delivery Point unless the Parties have agreed, pursuant to Section 3.5, that the Delivery Point shall be the Southern Delivery Point".

- c) adding the following terms:

[REDACTED]
[REDACTED]
[REDACTED]

“CPT” shall mean Central Prevailing Time.

“Electronic Confirmation” shall have the meaning set forth in Section 4.12(3).

“Northern Delivery Point” shall mean the point or points where the transmission interconnections between the Province of Manitoba and the Province of Saskatchewan which, as of the Effective Date, are known as line I1F and I2F cross the provincial boundary between the Province of Manitoba and the Province of Saskatchewan.

[REDACTED]

“Operating Day” shall mean the daily twenty four (24) hour period beginning at midnight CPT for which Firm Energy is Scheduled.

“Operating Hour” shall mean any sixty (60) minute clock hour interval of an Operating Day commencing the first second of such clock hour.

“Oral Confirmation” shall have the meaning set forth in Section 4.12(3).

“Redirect” shall mean the process by which to modify points of receipt and points of delivery on a firm basis, described in the applicable OATT as “Modifications on a Firm Basis”.

“Southern Delivery Point” shall mean the point or points where the transmission interconnections between the Province of Manitoba and the Province of Saskatchewan cross the provincial boundary between the Province of Manitoba and the Province of Saskatchewan excluding the Northern Delivery Point.

“SPP Point of Delivery” shall mean the point or points where SaskPower’s major transmission facilities cross the international boundary between the Province of Saskatchewan and the United States of America.

3. The term “Delivery Point” in Sections 4.1(1), 4.1(2), 4.1(3), 17.11(a) and 17.11(b) shall be deleted therefrom and replaced with the term “Northern Delivery Point”.
4. Article III is amended by adding the following at the end thereof:

"3.5 Southern Delivery Point

For any calendar month of the Contract Term SaskPower may, by notice to MH not less than fifteen days prior to the said calendar month, request that the Capacity to be made available during that calendar month, and Firm Energy to be delivered during that calendar month be delivered to the Southern Delivery Point rather than the Northern Delivery Point.

If MH, in its uncontrolled discretion, agrees to SaskPower’s request:

- (a) MH shall forthwith make application to its Transmission Provider to arrange and pay for Firm Transmission Service to the Southern Delivery Point which arrangements may consist of a request to Redirect transmission service request #78149037, or its successor transmission service request number, for making the Capacity available and for the delivery of Firm Energy on the Manitoba side of the Manitoba-Saskatchewan border to the Southern Delivery Point for the said calendar month; and
- (b) SaskPower shall forthwith:
 - (i) arrange and pay for Firm Transmission Service for receiving the Capacity and accepting the delivery of Firm Energy from the Southern Delivery

Point for the said calendar month; and

- (ii) make application to its Transmission Provider to arrange and pay for 25 MW of Firm Transmission Service which arrangements may consist of a request to Redirect transmission service request #79489892, or its successor transmission service request number, from the Southern Delivery Point to the SPP Point of Delivery and shall make the said Firm Transmission Service available exclusively to MH for all hours within the said calendar month.

If the Parties' respective Transmission Providers approve the Parties' applications referred to above, the Delivery Point for the said calendar month shall be the Southern Delivery Point.

MH shall be responsible for the payment of any and all charges (including transmission charges assessed by a Transmission Provider) for making available Capacity and for the delivery of Firm Energy to the Southern Delivery Point for the said month.

SaskPower shall be responsible for the payment of any and all charges (including transmission charges assessed by a Transmission Provider) for receiving Capacity and accepting the delivery of Firm Energy from the Southern Delivery Point for the said calendar month.

SaskPower shall be responsible for any and all charges related to the Firm Transmission Service from the Southern Delivery Point to the SPP Point of Delivery for the said month. MH shall be responsible for any physical losses required to be provided in kind on SaskPower's system for schedules MH chooses to flow on the Firm Transmission Service to the SPP Point of Delivery. Scheduling of energy flows under said Firm Transmission Service from the Southern Delivery Point to the SPP Point of Delivery shall be at the discretion of MH.

At any time during a calendar month when the Delivery Point has been designated pursuant to the terms of this Section 3.5 to be the Southern Delivery Point, SaskPower

may request that MH revert from the Southern Delivery Point to the Northern Delivery Point and, if so requested, MH shall use reasonable efforts to make application to its Transmission Provider for Firm Transmission Service to the Northern Delivery Point for the then unexpired portion of the said calendar month. If the application for the said Firm Transmission Service is approved by the Transmission Provider, the Delivery Point shall then be the Northern Delivery Point for the then unexpired portion of the said calendar month. It is understood and agreed that in the event that SaskPower makes such a request and MH makes arrangements to change the Delivery Point as herein described, SaskPower's obligations for the said calendar month with respect to the Firm Transmission Service to the SPP Point of Delivery shall be unaffected.

5. Article IV is amended by adding the following at the end thereof:

"4.12 Financial Settlement

(1) SaskPower Financial Settlement

Notwithstanding Sections 4.2(1) and 4.2(2), SaskPower may, in accordance with this Section 4.12, elect not to receive a quantity of Firm Energy for any Operating Day or Operating Hour and financially settle its obligation for such Operating Day or Operating Hour.

(a) Day Ahead

On or before 8am CPT on any day, SaskPower may request that MH provide a [REDACTED] [REDACTED] with respect to the quantity of Firm Energy to be delivered on the next Operating Day in order to financially settle the Parties' obligations rather than receiving the quantity of Firm Energy for the said Operating Day. If MH receives such a request, MH shall provide SaskPower with a [REDACTED] by 8:30am CPT and SaskPower shall have until 9am CPT to advise MH whether it elects to not receive the quantity of Firm Energy for such Operating Day and the Parties agree to financially settle their respective obligations for such Operating Day.

(b) Real Time

During any Operating Day not less than one (1) hour before the beginning of any Operating Hour SaskPower may request that MH provide a [REDACTED] with respect to the quantity of Firm Energy to be delivered during the said Operating Hour. If MH receives such a request and provides a [REDACTED] which SaskPower accepts, provided that the Parties have come to an agreement in time to effect a financial settlement, SaskPower may elect to not receive the quantity of Firm Energy for such Operating Hour and the Parties shall financially settle their respective obligation for such Operating Hour as set out herein.

(c) Settlement

If SaskPower elects to financially settle its obligations for any Operating Day in accordance with this Section 4.12, the financial settlement shall be determined by subtracting the [REDACTED] and multiplying this amount by the applicable quantity of Firm Energy. If the financial settlement is a negative value, such amount shall be deducted from the amount owing by SaskPower to MH for the applicable month in accordance with Section 7.5(f). If the financial settlement amount is a positive value, such amount shall be added to the amount payable by SaskPower to MH for the applicable month in accordance with Section 7.5(g). The financial settlement described herein, if exercised, shall satisfy the Parties' obligations pursuant to Section 3.3 with respect to delivering and receiving Firm Energy for that Operating Day or Operating Hour as applicable.

(2) MH Financial Settlement

Notwithstanding Sections 4.2(1) and 4.2(2), MH may, in accordance with this Section 4.12 elect not to deliver a quantity of Firm Energy for any Operating Day or Operating Hour and financially settle its obligation for such Operating Day or Operating Hour.

(a) Day Ahead

On or before 8am CPT on any day, MH may request that SaskPower provide an [REDACTED] [REDACTED] with respect to the quantity of Firm Energy to be delivered on the next Operating Day in order to financially settle the Parties' obligations rather than delivering the quantity of Firm Energy for the said Operating Day. If SaskPower receives such a request, SaskPower shall provide MH with an [REDACTED] by 8:30am CPT and MH shall have until 9am CPT to advise SaskPower whether it elects to not deliver the quantity of the Firm Energy for such Operating Day and the Parties agree to financially settle their respective obligations for such Operating Day.

(b) Real Time

During any Operating Day not less than one (1) hour before the beginning of any Operating Hour MH may request that SaskPower provide an [REDACTED] with respect to the quantity of Firm Energy to be delivered during the said Operating Hour. If SaskPower receives such a request and provides an [REDACTED] which MH accepts, provided that the Parties have come to an agreement in time to effect a financial settlement, MH may elect to not deliver the quantity of Firm Energy for such Operating Hour and the Parties shall financially settle their respective obligations for such Operating Hour as set out herein.

(c) Settlement

If MH elects to financially settle its obligations for the day, the financial settlement shall be determined by subtracting the [REDACTED] and multiplying this amount by the applicable quantity of Firm Energy. If the financial settlement is a positive value, such amount shall be added to the amount payable by SaskPower to MH in accordance with Section 7.5(i). If the financial settlement amount is a negative value, such amount shall be deducted from the amount owing by SaskPower to MH for the applicable month in accordance with Section 7.5(h). The financial settlement described herein, if exercised, shall satisfy the Parties'

obligations pursuant to Section 3.3 with respect to delivering and receiving Firm Energy for that Operating Day or Operating Hour as applicable.

(3) Confirmation of Financial Settlement Terms

The requests to financially settle the Parties respective obligations referred to in this Section 4.12 and the agreement for a financial settlement shall be communicated and confirmed either orally or by electronic means of communication as described herein.

When communicating a request or confirming an agreement for a financial settlement orally, each Party consents to the creation of a tape or electronic recording (“**Oral Confirmation**”) of all telephone conversations between the Parties and any such Oral Confirmation shall be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to such financial settlement. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees. The Oral Confirmation, and the terms and conditions described therein, if admissible, shall be the controlling evidence for the Parties’ agreement with respect to a particular financial settlement in the event that an Electronic Confirmation is not fully executed (or deemed accepted) by both Parties. Upon full execution (or deemed acceptance) of an Electronic Confirmation, such Electronic Confirmation shall control in the event of any conflict with the terms of an Oral Confirmation.

When communicating a request or confirming an agreement for a financial settlement by an electronic means of communication for which a written record can be retrieved and which is mutually agreed upon by the Parties (“**Electronic Confirmation**”), the record of Electronic Confirmation shall be retained in electronic form in confidence secured from improper access, and may, if properly authenticated, be submitted in evidence in any proceeding or action relating to such financial settlement. The Electronic Confirmation and the terms and conditions described therein, if admissible, shall be the controlling evidence of the Parties agreement with respect to a particular financial settlement.

6. Section 7.5 is amended by deleting the following words:

“Subject to adjustment pursuant to Section 8.1(2), the amount payable by SaskPower to MH for each month during the Contract Term shall be determined as follows:”

and replacing such words with the following:

“Subject to adjustment pursuant to Section 8.1(2), the amount payable by SaskPower to MH or the amount payable by MH to SaskPower for each month during the Contract Term shall be determined as follows such that if the following results in a positive amount such amount shall be an amount payable by SaskPower to MH and if the following results in a negative amount such amount shall be an amount payable by MH to SaskPower:”

7. Sections 7.5(c) and 7.5(c)(i) are each amended by inserting “4.12,” between “4.10,” and “Article XIV”.

8. Section 7.5 is amended by deleting the period at the end thereof and adding the following:

“; less

(f) any negative amount determined pursuant to Section 4.12(1)(c); plus

(g) any positive amount determined pursuant to Section 4.12(1)(c); less

(h) any negative amount determined pursuant to Section 4.12(2)(c); plus

(i) any positive amount determined pursuant to Section 4.12(2)(c).”

9. The amendments to the Agreement described herein shall take effect on May 1, 2017 and as of that date this Amending Agreement shall be read together with the Agreement. The Parties confirm that, except as modified herein, the provisions of the Agreement remain unchanged and in full force and effect.

TRADE SECRET & CONFIDENTIAL

10. This Amending Agreement:
- (a) is Confidential Information;
 - (b) may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument;
 - (c) shall be binding upon and its benefits enure to the Parties and their permitted successors and assigns;
 - (d) shall be governed and construed in accordance with the laws of the Province of Manitoba and Canada; and
 - (e) represents the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior oral and written proposals and communications pertaining hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this Second Amending Agreement to be executed by their duly authorized officers or agents on the day and year first above written.

THE MANITOBA HYDRO-ELECTRIC BOARD



By: A. David Cormie
Director, Wholesale Power & Operations

I HAVE AUTHORITY TO BIND
THE MANITOBA HYDRO-ELECTRIC BOARD

TRADE SECRET & CONFIDENTIAL

SASKATCHEWAN POWER CORPORATION



By: Kory Hayko

Vice President, Commercial & Industrial Operations



By: Rachelle Verret Morphy

Assistant Secretary

I HAVE AUTHORITY TO BIND
SASKATCHEWAN POWER CORPORATION

SaskPower	
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