DTE Electric Company
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March 5, 2018

Ms. Kavita Kale
Executive Secretary
Michigan Public Service Commission
7109 West Saginaw Highway
Lansing, MI 48917

Re: In the matter, on the Commission's own motion, regarding the regulatory reviews, revisions, determinations, and or approvals necessary for DTE Electric Company to fully comply with Public Acts 286 and 295 of 2008
MPSC Case No. U-18111

Dear Ms. Kale:

Attached for electronic filing is the DTE Electric Company's Application for Approval of the Polaris Wind Park Build-Transfer Contract and Related Relief, Affidavit, and Redacted Contract. Also attached is the Proof of Service.

Very truly yours,

Andrea Hayden

Digitally signed by Andrea Hayden
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Date: 2018.03.05 15:05:02 -05'00'

Andrea Hayden

AH/lah
Encl.

cc: Service List

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

| | | |
|---|---|---|
| In the matter, on the Commission's own motion, regarding the regulatory reviews, revisions, determinations, and or approvals necessary for DTE ELECTRIC COMPANY to fully comply with Public Acts 286 and 295 of 2008 | ) | Case No. U-18111 (Paperless e-file) |

**APPLICATION FOR APPROVAL OF THE POLARIS WIND PARK BUILD-TRANSFER CONTRACT AND RELATED RELIEF**

DTE Electric Company ("DTE Electric" or the "Company") files this Application pursuant to the Rules of Practice and Procedure Before the Commission (R460.17101 *et seq*.), the Michigan Court Rules (MCR 2.100 *et seq*.), the Michigan Administrative Procedures Act (MCL 24.201 *et seq*.) and other Michigan law including but not limited to MCL 460.1, *et seq*. and MCL 460.1001, *et seq*. DTE Electric requests the Michigan Public Service Commission's ("Commission") *ex parte* approval of the attached Polaris Wind Park Build-Transfer Contract ("Contract"). DTE Electric also requests *ex parte* approval of a) the associated Polaris Wind Park wind-powered generating facilities' transfer prices, which are combined energy and capacity price projections, set forth in Exhibit A-4 filed and approved in Case No. U-18082 for recovery under the Company's Power Supply Cost Recovery ("PSCR") process under MCL 460.6j; b) of the capacity charges, which are included in the transfer prices, set forth in Exhibit A-4 filed and approved in Case No. U-18082 for the associated Polaris Wind Park wind-powered generating facilities for purposes of MCL 460.6j(13)(b); c) the recovery of the remainder of incremental costs associated with the Polaris Wind Park wind-powered generating facilities which are engineered, procured and constructed under the Contract through DTE Electric's Revenue Recovery Mechanism as an Incremental Cost

of Compliance with the Renewable Energy Standards under the Company's Amended Renewable Energy Plan; d) assurance that the full costs of the Polaris Wind Park will be recovered through the combined application of the transfer price mechanism for PSCR recovery, application of the Revenue Recovery Mechanism surcharges under Act 295, and other mechanisms as determined by the Commission to recover these costs after the renewable energy plan period in accordance with MCL 460.1047(6); and e) any additional approvals that the Commission may deem necessary under Act 295 or MCL 460.6j. In support of its request, DTE Electric states as follows:

1. DTE Electric is a corporation organized and existing under and by virtue of the laws of the State of Michigan, with its principal office at One Energy Plaza, Detroit, Michigan 48226. DTE Electric is a wholly-owned subsidiary of DTE Energy Company, supplying retail electric service to customers located in southeast Michigan, and is a public utility and Electric Provider with more than 1,000,000 retail customers in Michigan, subject to the jurisdiction of the Commission.

2. DTE Electric presently serves its jurisdictional metered retail electric customers under rates and charges approved by the Commission.

3. On October 6, 2008, Public Act 295, the "clean, renewable, and efficient energy act," was enacted into law. Act 295 was subsequently amended in 2016 by Public Act 342. This Application is filed in accordance with 2008 PA 295 (MCL 460.1001 et seq.) as amended and the Commission's October 21, 2008, June 2, 2009, August 25, 2009, and September 14, 2010 Orders in Case No. U-15806-RPS, December 4, 2008 and December 23, 2008 Orders in Case No. U-15800, implementing 2008 PA 295, December 20, 2011 and March 8, 2012 Orders in Case No. U-16582, December 19, 2013 Order in Case No. U-17302, the November 5, 2015 Order in Case No. 17793 regarding the biennial review and amendment of the Company's Renewable Energy

Plan, and the September 23, 2016 Order in Case No. U-18111 regarding the amendment of the Company's Renewable Energy Plan.

4. The "Clean, Renewable, and Efficient Energy Act" requires Commission approval of certain types of contracts entered into by electric providers, like DTE Electric, for purposes of 2008 PA 295, specifically including Build-Transfer Contracts, i.e., contracts for renewable energy systems that were developed by a third party for which the ownership of the renewable energy system may be transferred to an electric provider, but only after the renewable energy system begins commercial operation. Build-Transfer Contracts must be approved by the Commission pursuant to MCL 460.1028(4) and former MCL 460.1033(3). For Build-Transfer Contracts, the Commission must determine whether the contract complies with the retail rate impact limits under MCL 460.1045.

5. On December 4, 2008, the Commission issued a Temporary Order in Case No. U-15800 pursuant to MCL 460.1191(1), stating that the Commission intends to review and approve submitted contracts on an expedited basis with a target of issuing orders on such contracts within 30 days from the date of filing (December 4, 2008 Temporary Order in MPSC Case No. U-15800, p. 16).

6. With this filing, DTE Electric is seeking the Commission's approval of the Polaris Wind Park Build-Transfer Contract (the "Contract"), along with related relief. The attached Contract between DTE Electric and Polaris Wind Energy LLC ("Polaris") requires Polaris to design, engineer, construct, install, start up and test the Polaris Wind Park, at which point it will be purchased by DTE Electric. A fully executed redacted copy of the Contract is included as Exhibit A.

7. If the Commission does not grant approval or in any material way modifies the Contract or any relief requested by DTE Electric in this application, or does not grant approval of DTE Electric's requested relief by April 12, 2018, then under the terms of the Contract, DTE Electric may terminate the Contract. The Polaris Wind Park will be sited in Lafayette Township in Gratiot County. The Polaris Wind Park is anticipated to provide 168 MW of renewable energy capacity. Commercial operation of the Polaris Wind Park is expected to occur on or before February 28, 2020. (See attached Affidavit of Stephanie Buway).

8. The Contract was the result of a Wind Development Build/Transfer Request for Proposal ("RFP") that DTE Electric developed in consultation with the Commission Staff pursuant to and consistent with the December 4, 2008 Temporary Order and December 23, 2008 Amendatory Order in Case No. U-15800. The RFP conformed to the guidelines for requests for proposals approved by the Commission under 2008 PA 295. In Case No. U-15800, Attachment D to the Commission's December 4, 2008 Temporary Order specifically provided that the "bid evaluation process may include an assessment of both price and non-price factors." The bidding criteria utilized by the Company for the RFP were experience, safety and quality, project feasibility, proposed technology, pricing, contract terms and conditions, scope and specifications, and financial strength and creditworthiness. The Company utilized scorecards that were developed in consultation with the Commission Staff and consistent with Attachment D to the December 4, 2008 Temporary Order in MPSC Case No. U-15800 and Exhibit No. A-33 (CLC-1) admitted in MPSC Case No. U-15806-RPS. Further details regarding the RFP process and the selection of the developer are set forth in the attached Affidavit of Stephanie Buway.

9. The Polaris Wind Park and Contract are consistent with DTE Electric's 2008 PA 295 Amended Renewable Energy Plan approved by the Commission in its September 23, 2016

Order in Case No. U-18111, and are otherwise reasonable and prudent based upon, among other things, the following Polaris Wind Park pricing information: The estimated installed cost of $1,577 per kW for the Polaris Wind Park is significantly lower than the installed cost of $2,028 per kW assumed within DTE Electric's approved 2008 PA 295 Amended Renewable Energy Plan. In comparison to DTE Electric's previous wind development projects, the installed cost for the Gratiot County Wind Park was approximately $2,336 per kW, the installed cost for the Thumb Wind Farms was approximately $2,295 per kW, the installed cost for the Echo Wind Farm was approximately $2,225 per kW, the installed cost for Pheasant Run II Wind Farm a/k/a Brookfield Wind Park was approximately $2,200 per kW, the installed cost for Pinnebog Wind Park was approximately $2,140 per kW, and the installed cost for the Pine River Wind Park was approximately $1,615 per kW. The estimated average net capacity factor of 34% for the Polaris Wind Park is slightly lower than the estimated average net capacity factor of 35% assumed within DTE Electric's approved 2008 PA 295 Amended Renewable Energy Plan. As a result of the significantly lower installed cost, and despite the slightly lower estimated average net capacity factor, the Polaris Wind Park reflects lower incremental costs of compliance and lower overall cost of service to DTE Electric's customers over the life of the Renewable Energy Plan than assumed in DTE Electric's 2008 PA 295 Amended Renewable Energy Plan. Thus, the development and construction of the Polaris Wind Park is reasonable and prudent and consistent with the retail rate impact limits under MCL 460.1045, and approval of the Contracts and DTE Electric's related requests for relief will not result in an alteration or amendment in rates or rate schedules and will not result in an increase in the cost of service to customers. (See the attached Affidavit of Stephanie Buway).

10. A number of commercially sensitive terms and conditions in the Contract have been redacted to maintain confidentiality, consistent with past practice at the Commission. For example, the Commission determined in Case No. U-11130 that executed wholesale power purchase agreements contain confidential information. As a result, the Commission limited disclosure of the confidential portions to the MPSC Staff only in order to "strike a proper balance between the public interest in disclosure and the protection of commercially sensitive information in a competitive environment." Case No. U-11130, Order dated October 20, 1997 p. 13; *Accord*, Case No. U-11631, Order dated April 14, 1998; Case No. U-11804 Order dated December 21, 1998; Case No. U-11688 Order dated June 26, 1998; Case No. U-11661, Order dated June 26, 1998. In Case No. U-14626, the Commission approved multiple renewable energy contracts with various contract provisions redacted. (MPSC Case No. U-14626 Order dated October 18, 2005). More recently in 2009, the Commission approved a redacted Company Renewable Energy Contract (See MPSC Case No. U-15806 Order dated April 30, 2009, p. 11 *"The Commission understands the need…to keep commercially sensitive information confidential."* See also MCL 460.1193(2) "*The Commission and a provider shall handle confidential business information under this act in a manner consistent with state law and general rules of the Commission.*") In order to maintain a reasonably competitive environment for the provision of renewable energy, advanced cleaner energy and related equipment, products and services to DTE Electric and its customers, it is important to maintain the confidentiality of commercially sensitive information. DTE Electric has therefore redacted portions of the Contract.[1] The original unredacted Contract is available for

[1] DTE Electric reserves the right to redact different or additional terms and conditions in future contracts as circumstances and conditions warrant.

inspection by the Commission and its Staff at the Company's premises. (See the attached Affidavit of Stephanie Buway).

11. The Company also requests that the Commission approve the renewable energy transfer prices set forth in Exhibit A-4 filed in Case No. U-18082 (which reflects the current Commission approved transfer price schedule for Renewable Energy Contracts and Company-owned Renewable Energy Systems) for the energy and capacity associated with the Polaris Wind Park for recovery under the Company's PSCR process. This request is consistent with DTE Electric's June 30, 2017 filing of an application and supporting testimony and exhibits in Case No. U-18242, in which DTE Electric requested, inter alia, that the transfer prices set forth in Exhibit A-4 filed in Case No. U-18082 be applied as the pricing floor for all Renewable Energy Contracts, renewable engineering, procurement, and construction contracts, or contracts for Renewable Energy Systems that have been developed by third parties for transfer of ownership to an Electric Provider, and Electric Provider owned projects submitted by DTE Electric for Commission approval after February 28, 2017, and until an Order adopting a new transfer price is issued in Case No. U-18242.

12. The Company also requests approval of the capacity charges included in the transfer prices set forth in Exhibit A-4 filed in Case No. U-18082 for the Polaris Wind Park for purposes of MCL 460.6j(13)(b), and any additional approvals that the Commission may deem necessary under MCL 460.6j.

13. Using the proposed transfer prices, the total power production and the installed cost of the Polaris Wind Park, including but not limited to the Contract, are reasonable and prudent, and consistent with the retail rate impact limits under MCL 460.1045 and the renewable energy system costs projected by the Company in DTE Electric's Amended Renewable Energy Plan filing

in Case No. U-18111 as approved by the Commission in its September 23, 2016 Order, and there will not be any increase in DTE Electric's charges for electric service resulting from the requested approvals and assurances.

14. The approvals and assurances requested in this Application will not result in "an alteration or amendment in rates or rate schedules" and "will not result in an increase in the cost of service to customers" because the Polaris Wind Park is consistent with the planned activities, expenses and Revenue Recovery Mechanism surcharges described in DTE Electric's Commission-approved Amended Renewable Energy Plan in Case No. U-18111. Therefore, per MCL 460.6a(1), the relief requested in this Application "may be authorized and approved without notice or hearing." (MCL 460.6a(1)). Neither will there be any increase in DTE Electric's rates for electric service resulting from the requested approvals and assurances. (See attached Affidavit of Stephanie A. Buway.). Thus, approval of this Application without notice or hearing is lawful and appropriate.

15. DTE Electric further requests that the Commission provide assurance that the full costs of the Polaris Wind Park, including but not limited to the Contract, will be recovered through the application of the Transfer Price mechanism for PSCR recovery and other mechanisms as determined by the Commission to recover these costs after the 20-year renewable energy plan period in accordance with MCL 460.1047(6).

WHEREFORE, for the reasons stated above, DTE Electric respectfully requests that the Commission expeditiously issue an *ex parte* order in this case that:

A. Consistent with 2008 PA 295, approves the attached Contract in its entirety, and also approves the associated transfer price schedule set forth at Exhibit A-4 filed in Case No. U-18082 as the schedule of renewable energy transfer prices for the Polaris Wind Park wind-powered generating facilities that are engineered, procured and constructed under the Contract for recovery

under the Company's PSCR process under MCL 460.6j for the duration of the Company's Amended Renewable Energy Plan;

B. Determines that the Contract complies with the retail rate limits under MCL 460.1045, and is reasonable and prudent;

C. Provides approval of capacity charges, which are included in the transfer prices, set forth in Exhibit A-4 filed in Case No. U-18082 for the Polaris Wind Park wind-powered generating facilities that are engineered, procured and constructed under the Contract for purposes of MCL 460.6j(13)(b), and provides for any additional approvals that the Commission may deem necessary under MCL 460.6j;

D. Provides assurance that the full costs of the Polaris Wind Park, including but not limited to the Contract, will be recovered through the application of the Company's transfer price mechanism, the Company's Revenue Recovery Mechanism surcharges, and subsequent to the end of the renewable energy plan period, appropriate ratemaking mechanisms in accordance with MCL 460.1047;

E. Determines that the Contract and related approvals and assurances will not result in an alteration or amendment in DTE Electric's rates or rate schedules and will not result in an increase in the cost of service to DTE Electric's customers, and therefore may be authorized and approved without notice or hearing; and

F. Grants such further relief as the Commission may deem necessary or appropriate.

Respectfully submitted,

DTE ELECTRIC COMPANY

By: Andrea Hayden

Digitally signed by Andrea Hayden
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Dated: March 5, 2018

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

| | | |
|---|---|---|
| In the matter, on the Commission's own motion, regarding the regulatory reviews, revisions, determinations, and or approvals necessary for DTE ELECTRIC COMPANY to fully comply with Public Acts 286 and 295 of 2008 | ) | Case No. U-18111 (Paperless e-file) |

**AFFIDAVIT OF STEPHANIE A. BUWAY IN SUPPORT OF DTE ELECTRIC COMPANY'S 2020 WIND PROJECT**

STATE OF MICHIGAN )
)ss.
COUNTY OF WAYNE )

Stephanie A. Buway, being first duly sworn, deposes and says:

1. My title is Strategist in Business Development, Renewable Energy. I graduated from the University of Oklahoma in 2005 with a Bachelor of Arts degree in Geography. In 2007, I received a Master of Arts from the University of Oklahoma, also in Geography, with a concentration on renewable energy. Additionally, I am currently enrolled in the Master of Business Administration program at Wayne State University.

After graduate school, I joined EDP Renewables, N.A. as a Project Developer and later, as a Project Manager, on the Southwest Region Development Team. Throughout my career at EDP Renewables, N.A., I was responsible for various management assignments in the evaluation, development, construction, and operation phases of numerous wind projects in Oklahoma,

Texas, and Kansas.

In May 2012, I joined DTE Energy as a Real Estate Associate and was later promoted to a Contract Administrator on the Renewable Energy Development Team. I managed and executed the contractual obligations to over 1,000 customers with wind and solar energy contracts and related infrastructure on their property. Additionally, I managed budgets, financial forecasts, and customer interactions. In March 2017, I began my current position as a Strategist in DTE's Renewable Energy Business Development group. In this position, I manage the RFP process for acquisition of new renewable energy assests, assist in drafting regulatory filings, and provide support in the analaysis of financial models for regulatory compliance and project economics.

2. With this filing (U-18111), DTE Electric Company ("DTE Electric" or the "Company") is seeking the Commission's ex parte approval of the Polaris Wind Park Build-Transfer Contract (or the "Contract") between DTE Electric and Polaris Wind Energy LLC ("Polaris"), along with related relief. The Contract requires Polaris to design, engineer, construct, install, start up and test Polaris Wind Park at which point it will be purchased by DTE Electric. The Contract also requires Polaris to represent and warrant that actions were taken to ensure the project qualifies for 100% of federal Production Tax Credit (PTC) value. The Contract is being submitted with Polaris and DTE Electric signatures. The Contract was approved by DTE Electric's Board of Directors at their December 6, 2017 meeting.

3. If the Commission does not grant approval or in any material way modifies the Contract, and/or any relief requested by DTE Electric in the Company's Application, or does not grant approval of DTE Electric's requested relief by April 12, 2018, then under the terms of the Contract, DTE Electric may terminate the Contract. The Polaris Wind Park will be sited in Lafayette Township in Gratiot County and is anticipated to provide 168 MW of renewable

energy nameplate capacity. Commercial operation of the Polaris Wind Park is expected to occur on or before February 28, 2020.

4. The Contract was the result of a Request for Proposal ("RFP") that DTE Electric developed in consultation with the MPSC Staff pursuant to and consistent with the December 4, 2008 Temporary Order and December 23, 2008 Amendatory Order in Case No. U-15800. The RFP conformed to the guidelines for requests for proposals approved by the Commission under 2008 PA 295. In Case No. U-15800, Attachment D to the Commission's December 4, 2008 Temporary Order specifically provided that the "bid evaluation process may include an assessment of both price and non-price factors." The bidding criteria utilized by the Company for the RFP were experience, safety and quality, project feasibility, proposed technology, pricing, contract terms and conditions, scope and specifications, and financial strength and creditworthiness. The Company utilized scorecards that were reviewed by the MPSC Staff, and were consistent with Attachment D to the December 4, 2008 Temporary Order in MPSC Case No. U-15800 and Exhibit No. A-33 (CLC-1) admitted in MPSC Case No. U-15806-RPS.

The Wind Development Build-Transfer RFP issued on June 19, 2017 was a closed-bid event in which four (4) wind developers with projects already in the MISO queue were invited to participate. By the due date of July 28, 2017, DTE Electric received a total of six (6) proposals from four (4) developers. These proposals varied by turbine technology, location, price, and capacity. Using the evaluation scorecard, DTE Electric ranked the projects and shortlisted one (1) of the six (6) projects. The Company subsequently entered into negotiations with the one (1) developer and has completed negotiations with Polaris Wind Energy LLC. The executed Contract is the result of those negotiations and is being submitted for Commission approval with this Application.

5. Based on my knowledge and experience related to the development of DTE Electric's 2008 PA 295 Amended Renewable Energy Plan and the Polaris Wind Park, as well as the negotiations to establish the Polaris Wind Park Build-Transfer Contract, I believe that the Polaris Wind Park and the Contract are consistent with DTE Electric's 2008 PA 295 Amended Renewable Energy Plan approved by the Commission in its September 23, 2016 Order in Case No. U-18111, and are otherwise reasonable and prudent based upon, among other things, the following Polaris Wind Park pricing information: The cost of the Contract and additional costs related to development of the Polaris Wind Park were totaled and compared to the costs included in DTE Electric's 2008 PA 295 Amended Renewable Energy Plan approved by the Commission in its September 23, 2016 Order in Case No. U-18111. The estimated installed cost of $1,577 per kW for the Polaris Wind Park is significantly lower than the installed cost of $2,028 per kW assumed within DTE Electric's approved 2008 PA 295 Amended Renewable Energy Plan. The estimated average net capacity factor of 34% for the Polaris Wind Park is slightly lower than the estimated average net capacity factor of 35% assumed within DTE Electric's approved 2008 PA 295 Amended Renewable Energy Plan. As a result of the significantly lower installed cost, and despite the slightly lower estimated average net capacity factor, the Polaris Wind Park reflects lower incremental costs of compliance and lower overall cost of service to DTE Electric's customers over the life of the Renewable Energy Plan than assumed in DTE Electric's 2008 PA 295 Amended Renewable Energy Plan. Thus, the development and construction of the Polaris Wind Park is reasonable and prudent and consistent with the retail rate impact limits under MCL 460.1045, and approval of the Contract and DTE Electric's related requests for relief will not result in an alteration or amendment in rates or rate schedules and will not result in an increase in the cost of service to customers.

6. Based on the facts and conclusions described above, I believe the total power production and the installed cost of the Polaris Wind Park are reasonable and prudent and are consistent with the retail rate impact limits under MCL 460.1045. DTE Electric believes that it would be appropriate to use the renewable energy transfer prices set forth in Exhibit A-4 filed in Case No. U-18082 (which exhibit reflects the current Commission approved transfer price schedule for Renewable Energy Contracts and Company-owned Renewable Energy Systems) for the energy and capacity associated with the Polaris Wind Park wind-powered generating facilities that will be engineered, procured and constructed under the Contract, for recovery under the Company's Power Supply Cost Recovery ("PSCR") process under MCL 460.6j. See also MCL 460.1047(2)(b)(iv); MCL 460.1049(3)(c)). The Company also requests approval of the capacity charges included in the transfer prices set forth in Exhibit A-4 filed in Case No. U-18082 for the Polaris Wind Park for purposes of MCL 460.6j(13)(b), and any additional approvals that the Commission may deem necessary under MCL 460.6j.

7. Under the proposed transfer price, the total power production and the installed cost of the Polaris Wind Park, including but not limited to the Contract, are reasonable and prudent, and consistent with the retail rate impact limits under MCL 460.1045 and the renewable energy system costs projected by the Company in DTE Electric's Amended Renewable Energy Plan filing in Case No. U-18111 as approved by the Commission in its September 23, 2016 Order, and there will not be any increase in DTE Electric's charges for electric service resulting from the requested approvals and assurances. As such, approval of the Polaris Wind Park Contract and DTE Electric's related requests, including use of the proposed transfer prices, will not result in "*an alteration or amendment in rates or rate schedules*" and "*will not result in an increase in the cost of service to customers.*"

8. Commission approval of the Polaris Wind Park Contract and DTE Electric's related requests will not cause alteration or amendment in DTE Electric rates or rate schedules, nor will Commission approval of the Polaris Wind Park Contract and DTE Electric's related requests increase the cost of service to DTE Electric customers compared to what was assumed in DTE Electric's Commission-approved 2008 PA 295 Amended Renewable Energy Plan. The Polaris Wind Park Build-Transfer Contract is consistent with DTE Electric's 2008 PA 295 Amended Renewable Energy Plan filed and approved by the Commission in Case No. U-18111 and consistent with the retail rate impact limits under MCL 460.1045.

9. The Company competes for renewable energy, advanced cleaner energy and related equipment, products and services. Maintaining the confidentiality of the specific terms and conditions involved in acquiring such renewable energy, advanced cleaner energy, and related equipment, products and services will help ensure that the suppliers submit competitive bids and offer their best prices to DTE Electric and thereby help DTE Electric achieve the lowest reasonable cost for these items. Accordingly, maintaining the confidentiality of the various redacted provisions of the Polaris Wind Park Contract, such as but not limited to specific pricing terms, preliminary data on turbine siting and/or pending land acquisitions, and security amounts, will help the Company provide DTE Electric customers with lower cost renewable energy and advanced cleaner energy project alternatives consistent with 2008 PA 295 now and in the future.

10. Public disclosure of the redacted details in the Polaris Wind Park Build-Transfer Contract will hamper the Company's ability to provide the lowest reasonable renewable energy and advanced cleaner energy power supply cost to its retail electric customers. Therefore, it is in DTE Electric's, as well as its customers' best interest for such competitively sensitive information to remain confidential and undisclosed. The original unredacted Polaris Wind Park

Build-Transfer Contract is available for inspection by the Commission and its Staff at the Company's premises.

11. Based on my experience and the above determinations, it is in DTE Electric's, as well as its customers', best interest for the Commission to approve the Polaris Wind Park Contract and grant the Company's related requests.

Further, Affiant sayeth not.

Stephanie A. Buway

Digitally signed by Stephanie A. Buway
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Date: 2018.03.05 14:56:40 -05'00'

Stephanie A. Buway

Subscribed and sworn to before
me this 5th day of March, 2018.

Estella R. Branson

Digitally signed by Estella R. Branson
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Estella R. Branson, Notary Public
Oakland County, Michigan
My Commission Expires: 10-26-2023
Acting in Wayne County

# BUILD-TRANSFER CONTRACT

**By and Between**

**DTE ELECTRIC COMPANY,**

**a Michigan Corporation**

**and**

**Polaris Wind Energy LLC,**
**a Delaware limited liability company**

**February 28, 2018**

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# BUILD-TRANSFER CONTRACT

This BUILD-TRANSFER CONTRACT is made and entered into as of the 28th day of February, 2018 (the "Contract Date"), by and between DTE ELECTRIC COMPANY, a corporation organized and existing under the laws of the State of Michigan, ("DTE"), and Polaris Wind Energy LLC, a limited liability company organized and existing under the laws of the State of Delaware ("Developer").

## RECITALS

WHEREAS, Developer is securing real property rights for the construction of a 168.0 MW wind-generated energy project comprised of sixty-eight (68) WTGs in Gratiot County, Michigan and the Interconnection Facilities to interconnect such project to the transmission system of Michigan Electric Transmission Company ("Transmission Utility"), and has further secured or is securing certain permits and interconnection agreements that are necessary for the development and construction of such energy project and transmission line (if necessary) and interconnection (the above-described project, the "Project"); and

WHEREAS, DTE desires that Developer: (i) procure wind turbine generators and towers, (ii) design and install foundations, (iii) construct, start-up and test the wind turbine generators and towers and certain ancillary equipment for the Project, (iv) manage the design, procurement and installation of the Interconnection Facilities in accordance with this Agreement, and (v) transfer the Project to DTE upon the Project Closing (as herein defined); and

WHEREAS, Developer is engaged in the business of developing wind energy projects and in procuring, installing, starting up and testing various wind generated energy systems, and Developer desires to do or cause to be done the engineering and design, procurement, construction, start-up and testing of the foundations, towers, wind turbine generators, Interconnection Facilities (directly or through the Transmission Utility) and certain ancillary equipment for the Project and to transfer the Project to DTE in accordance with the terms and conditions described herein.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, intending to be legally bound, the parties hereto agree as follows:

## ARTICLE I.

## AGREEMENT; INTERPRETATION; DEFINITIONS

### 1.1 Documents Included

This Build-Transfer Contract between DTE and Developer consists of this document ("Body of the Agreement") and the exhibits which are attached hereto or shall be attached hereto in accordance with the provisions of this Agreement (collectively, "Exhibits", and collectively

with the Body of the Agreement, the "Agreement"), and which are specifically made a part hereof by this reference.

1.2 Entire Agreement

This Agreement sets forth the full and complete understanding of the Parties relating to the subject matter hereof as of the date first above stated, and supersedes any and all negotiations, agreements and representations made or dated prior thereto. Subsequent to the date hereof, this Agreement may be supplemented, modified or otherwise amended by mutual agreement or in accordance with the terms of this Agreement. Such amendments, if any, must be in the form of a written amendment to this Agreement (which may take the form of a Change Order pursuant to ARTICLE X), and signed by authorized representatives of both Parties to this Agreement.

1.3 Conflicting Provisions

In the event of any conflict or inconsistency between or among the Body of the Agreement and the Exhibits, such conflict shall be resolved in accordance with the following order of precedence (provided that, notwithstanding the following order, physical design or technical requirements of the fabrication or assembly of the Major Components of the WTGs as set forth in the Technical Specification shall always control in the event of conflicting provisions contained in the other Agreement documents): (a) amendments to this Agreement, (b) the Body of the Agreement; (c) the Scope of Work; (d) the Technical Specification; and (e) the other Exhibits. Either Party, upon becoming aware of any conflict or inconsistency among any of the components of this Agreement, shall promptly notify the other Party in writing of such conflict or inconsistency. Any conflict or inconsistency which cannot be resolved by the Parties to their mutual satisfaction shall be resolved in accordance with the provisions of ARTICLE XXII.

1.4 Rules of Interpretation.

1.4.1 Terminology.

Unless otherwise required by the context in which any term appears:

(a) Capitalized terms used in this Agreement shall have the meanings specified in this Article or defined elsewhere in this Agreement.

(b) The singular shall include the plural and the masculine shall include the feminine and neuter.

(c) References to "Articles," "Sections," or "Exhibits" shall be to articles, sections, or Exhibits of this Agreement, and references to paragraphs or clauses shall be to separate paragraphs or clauses of the section or subsection in which the reference occurs.

(d) The words "herein," "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; the

words “include,” “includes” or “including” shall mean “including, but not limited to,” “including, without limitation” or words to similar effect.

(e) The term “day” shall mean a calendar day (beginning at 12:00 a.m. and ending at 11:59 p.m.). The term “month” shall mean a calendar month, and the term “year” shall mean a calendar year.

(f) Whenever an event is to be performed by a particular date, or a period ends on a particular date, and the date in question falls on a weekend, or on a day which is not a Business Day, the event shall be performed, or the period shall end, on the next succeeding Business Day.

(g) All accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles in the United States of America, consistently applied.

(h) All references to a particular entity shall include such entity’s successors and permitted assigns.

(i) All references herein to any contract (including this Agreement) or other agreement shall be to such contract or other agreement as amended and supplemented or modified to the date of reference.

(j) All references to an Applicable Law shall mean a reference to such Applicable Law as the same may be amended, modified, supplemented or restated and be in effect from time to time.

1.4.2 Headings

The titles of the articles and sections herein have been inserted as a matter of convenience of reference only, and shall not control or affect the meaning or construction of any of the terms or provisions hereof.

1.4.3 Joint Responsibility for Drafting

This Agreement was negotiated and prepared by both Parties with advice of counsel to the extent deemed necessary by each Party; the Parties have agreed to the wording of this Agreement; and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part thereof.

1.4.4 Obligation to Act in Good Faith, Etc.

The Parties shall act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided in this Agreement that a Party may exercise its sole discretion with respect thereto, (i) where the Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, delayed or conditioned, and (ii) wherever the Agreement

gives a Party a right to determine, require, specify or take similar action with respect to a matter, such determination, requirement, specification or similar action shall be reasonable.

1.5 Definitions

For the purposes of this Agreement, the following words and terms shall have the meanings specified below (other words and abbreviations that have well-known technical or trade meanings are used in this Agreement in accordance with such recognized meanings):

AAA Rules. As defined in Section 22.2.1(a).

Action. Any action, suit, litigation, claim, arbitration, mediation, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), prosecution, contest, hearing, inquiry, inquest, audit, examination or investigation that is, has been or may in the future be commenced, brought, conducted or heard at law or in equity or before any court or other Governmental Authority or any mediator, arbitrator or mediation or arbitration panel.

Affiliate. With respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with that Person. The term "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or partnership interests, by contract or otherwise.

Agreement. As defined in Section 1.1.

[redacted]

[redacted]

Applicable Law. All laws, treaties, ordinances, statutes, judgments, injunctions, decrees, orders, writs, rules, regulations and interpretations, whether in effect or not as of the Contract Date, of any Governmental Authority to the extent they apply to the actions of the Parties, the Facility Site, all or any portion of the Project, the performance of the Work, this Agreement and each other document, instrument and agreement delivered or to be delivered hereunder or in connection herewith.

Applicable Permit. Each and every license, consent, waiver, franchise, appraisal, authorization, ruling, exemption, variance, order, judgment, decree, declaration, regulation, certification, filing, recording, registration, permit or other approval in writing from or of any Governmental Authority, including each and every land use, environmental, construction, operating or occupancy permit, and any agreement, consent or approval from or of any other Person, that is required by any Applicable Law or that is otherwise necessary for the performance of the Work or the operation of the Project, including the Developer Acquired Permits.

Assigned Contracts. As defined in Section 20.1.7(a).

Assignment (Facility Site Agreements). As defined in Section 2.11.4.

Body of the Agreement. As defined in Section 1.1.

BOP. The "balance of plant", consisting of all Work under this Agreement other than the supply of the WTGs and associated Work which is being provided by the Turbine Supplier under the Turbine Contracts.

BOP Major Component. The following components supplied under the BOP Subcontract: padmount transformers, GSU transformers, electric transmission cables to be installed or used below ground and electric transmission wires to be installed or used above ground.

BOP Subcontract. Collectively, the contract or contracts between Developer and the BOP Subcontractor to be entered into for the BOP.

BOP Subcontractor. Collectively, the Subcontractor or Subcontractors with whom Developer contracts to perform the BOP.

Business Day. A day other than a Saturday, Sunday or a day that is a legal holiday in the State of Michigan.

Change of Law. Any of the following events, to the extent they establish requirements materially affecting the design, engineering, procurement, construction, or commissioning of the Project that are materially more restrictive or burdensome than the requirements specified in this Agreement or have a material adverse effect on Developer's cost of or schedule for performance of the Work: (a) the enactment, adoption, promulgation, modification or repeal, after the Contract Date, of any Applicable Law; or (b) the imposition of any material condition on the issuance or renewal of any Permit after the Contract Date; or (c) the failure to issue or renew any Permit that has been properly applied for; *provided, however*, that none of the following shall be a Change of Law: (i) any Applicable Law issued, enacted or adopted before the Contract Date but which does not become effective until after the Contract Date; (ii) the general requirements contained in any Permit at the time of application or issuance to comply with future laws, ordinances, codes, rules, regulations or similar legislation, or (iii) a change in any income tax law enacted or effective after the Contract Date.

[redacted]

Claims. As defined in Section 15.1.1.

Code. The Internal Revenue Code of 1986, as amended.

Collection System. The electrical circuits and communication lines that run between the WTGs and ultimately terminate at the Substation, including the step-up transformers and junction boxes.

Collection System Completion. As defined in Section 8.2.

Collection System Completion Certificate. The certificate issued by Developer to DTE in the form set forth in Exhibit J-2 hereof and pursuant to Section 8.9 certifying that Collection System Completion has occurred.

Commercial Operation Date. The date on which all of the WTGs [redacted] that are part of the Facility (i) have been constructed in accordance with this Agreement, the BOP Subcontract and the Turbine Contracts, (ii) have been commissioned under the Turbine Contracts, (iii) have been interconnected to the grid and (iv) are available for operation.

Compensable Costs. As defined in Section 10.4.

Completion Certificate. As applicable, any of the Foundation Completion Certificates, Collection System Completion Certificate, Infrastructure Completion Certificate, WTG Mechanical Completion Certificates, WTG Completion Certificates, Project Substantial Completion Certificate and Final Completion Certificate.

Completion Milestone. As applicable, any of Foundation Completion, Collection System Completion, Infrastructure Completion, WTG Mechanical Completion, WTG Completion, Project Substantial Completion and Final Completion.

Confidential Information. As defined in Section 17.1.

Contract Date. The date set forth in the preamble to this Agreement.

Contract Price. The amount payable to Developer set forth in Section 9.1, as adjusted pursuant to the terms of this Agreement.

Contract Price Allocation Schedule. As defined in Section 9.3.4.

Cooperation Completion Date. As defined in Section 3.5.

Curative Actions. Developer's affirmative actions, other than obtaining Curative Documents, curing an Impacting Exception raised in the Title Objection Notice or Pro Forma Objection Notice including by modifying the design of the Facility such that the objection does not materially and adversely affect and cannot reasonably be expected to potentially materially and adversely affect the location of the Wind Energy Improvements, or the development, construction, operation, use or maintenance of the Project by DTE.

Curative Documents. All fully-executed instruments, agreements, and other documents obtained by Developer in order to induce the Title Company to extend title coverage over the objected to Impacting Exceptions.

Defect or Deficiency. Unless otherwise specifically defined elsewhere herein, the term "Defect" or the related term "Deficiency" includes any design, engineering, Equipment or Materials, system, component, workmanship, materials or other Work that: (a) does not conform to the Scope of Work; (b) does not conform to Applicable Laws or Applicable Permits, in each case in effect as of the Substantial Completion Date; (c) is of improper or inferior workmanship or material; or (d) does not conform to Prudent Industry Practices.

Delay Liquidated Damages. As defined in Section 23.1.

Delivery Date. As defined in Exhibit U.

Demand. As defined in Section 22.2.

Demanding Party. As defined in Section 22.2.1(b).

Design Documents. As defined in Section 5.1.

Developer. As defined in the preamble of this Agreement.

Developer Acquired Permits. As defined in Section 2.10.

Developer Event of Default. As defined in Section 16.1.1.

Developer Fundamental Representations. Collectively, each representation and warranty given by Developer on the Project Closing Date under Sections 20.1.1, 20.1.5, 20.1.9 and 20.1.10.

Developer's Guarantor. [redacted]

Developer Indemnified Party. As defined in Section 15.2.

Developer Taxes. As defined in Section 9.4.

Deviations Schedule. As defined in Section 20.1.6(h).

Dollar or $. United States currency.

DTE. As defined in the preamble of this Agreement.

[redacted]

DTE Event of Default. As defined in Section 16.2.1.

DTE Fundamental Representations. Collectively, each representation and warranty given by DTE on the Project Closing Date under Sections 20.2.1, 20.2.5, and 20.2.7.

DTE Indemnified Party. As defined in Section 15.1.1.

DTE Representative. The individual designated by DTE pursuant to Section 3.2.2, who shall have the responsibility and authority specifically delegated to such individual by DTE and made known in writing to Developer.

Effective Date. As defined in Section 4.1.

Environmental Condition. Any event, circumstance or condition, whether discovered or undiscovered, related in any manner whatsoever to: (i) the past, continuing, or current presence, Release or threatened Release of any Hazardous Material into the environment or any building, structure, or workplace, in violation of, or in amounts in excess of those allowed under Environmental Law and/or that require reporting to any Governmental Authority pursuant to, any Environmental Law; (ii) the presence of any Hazardous Material on or under the Facility Site, or any building or structure thereon, which presence either: (A) is not in compliance with any Environmental Law; or (B) causes a Party to be subject to any liability or any obligation to investigate, remediate, or remove such Hazardous Material under any Environmental Law; (iii) the past, continuing, or current Release, threatened Release, transportation, arrangement for transportation, treatment, storage, or disposal of any Hazardous Material originating on or from the Facility Site to or at any off-site location; (iv) the placement of structures or materials into waters of the United States; (v) the presence of asbestos; or (vi) any violation by a Party or any of its Affiliates of any Environmental Law.

Environmental Law. Any environmental or health and safety-related Applicable Law, whether existing as of the Contract Date or subsequently enacted.

Environmental Site Assessment. As defined in Section 2.6.3.

Equipment and Materials. All of the equipment, materials, machinery, apparatus, structures, supplies and other goods required by the terms of this Agreement to complete the Work and to be incorporated into the Facility. Equipment and Materials shall not include any materials, apparatus or tools owned by Developer or any Subcontractor that are used to complete the Work but are not contemplated under this Agreement to become part of the Work.

[redacted]

Exhibit. As defined in Section 1.1.

Existing Permits. As defined in Section 20.1.3(b).

Facility. The complete integrated wind-powered electricity generating plant, with a nameplate capacity of one hundred sixty-eight megawatts (168.0 MW) to be located on the Facility Site to be designed, procured, constructed, tested and commissioned under this Agreement, including all structures, facilities, appliances, lines, conductors, instruments, equipment, apparatus, components, roads and other property constituting and integrating the entire facility described generally in Exhibit A-1 and Exhibit A-2.

Facility Layout. The planned WTG, Collection System and Substation layout for the Facility as provided by Developer and as set forth in Exhibit D-7.

Facility Site. (a) [redacted] all those parcels of land in Gratiot County, Michigan, that are subject to the Facility Site Agreements on which the Project will be located as more particularly described in Exhibit D-1 and [redacted]

Facility Site Agreements. (a) Before the [redacted], all leases, agreements, easements, licenses, private right-of-ways, and utility and railroad crossing rights and other rights in or to real property (such as leasehold or other rights to use or access the Facility Site) obtained or maintained by Developer or any Affiliate of Developer in connection with the Project, the construction of the Facility on the Facility Site, the performance of the Work or operation of the Facility, excluding any agreement acquired by any Affiliate of Developer which has not been replaced with an agreement in one of the forms attached as Exhibit D-6 and [redacted] The Facility Site Agreements as of the Effective Date are attached as Exhibit D-2A. Exhibit D-2A shall be updated by the Developer the Project Closing Date by providing a final and completed Exhibit D-2B, in each case, in accordance with Section 2.11.1, and thereafter such new exhibits shall be deemed attached hereto.

FCPA. As defined in Section 25.12(a).

FERC. The Federal Energy Regulatory Commission.

FERC Regulatory Filing. As defined in Section 3.3(a).

Final Completion. As defined in Section 8.8.

Final Completion Certificate. The certificate issued by Developer to DTE pursuant to Section 8.9 certifying that Final Completion has occurred.

Final Lien Waiver. The waiver of liens and claims prepared by Developer and each Major Subcontractor (including the BOP Subcontractor), as applicable, substantially in the form set forth in Exhibit H-2 (in the case of a conditional lien waiver) or Exhibit H-3 (in the case of an unconditional lien waiver).

Final Pro Forma Title Policy. As defined in Section 2.11.2(c).

Financial Closing. The occurrence of all of the following events (which may occur over a period of time): (i) execution of the Financing Agreements by the parties thereto, (ii) all conditions precedent to the initial availability of funds under the Financing Agreements have been fulfilled or waived, and (iii) the first draw thereunder has been made by Developer.

Financing Agreements. The loan agreements, notes, indentures, securities, debt instruments, bonds, security agreements, swap agreements, letters of credit and other documents to be executed and delivered by Developer to the Financing Parties.

Financing Parties. Any lenders and/or equity investors (including any trustee or agent on behalf of such lenders (and other secured parties) and/or equity investors) providing equity and/or debt financing or refinancing or letters of credit to Developer or any of its Affiliates, successors or assigns for the performance of Developer's obligations under this Agreement, whether that financing or refinancing takes the form of private debt or equity, public debt or equity or any other form; provided, however, that no Affiliate of Developer shall be a "Financing Party" for any purpose under this Agreement.

Financing Liens. Mortgages, deeds of trust, or other liens granted to the Financing Parties that will be fully released at or prior to Project Closing.

Force Majeure. As defined in Section 11.2.

Foundation Completion. As defined in Section 8.1.

Foundation Completion Certificate. The certificate issued by Developer to DTE in the form attached hereto as Exhibit J-1 and pursuant to Section 8.9 certifying that Foundation Completion has occurred.

[redacted] As defined in Section 2.11.1.

[redacted] As defined in Section 2.15.

[redacted] As defined in Section 2.15.

[redacted]

Governmental Authority. Any national, state or local government, any political subdivision thereof, or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or other entity having jurisdiction over the performance of the Work, the Facility or its operations (including the transmission of electricity from the Facility), or the health, safety or environmental conditions of the Facility or the Facility Site or otherwise over the Parties.

Grounding Grid. A grounding grid meeting the requirements set forth in the Scope of Work.

Guaranteed Final Completion Date. The date that is [redacted] after the Project Closing Date (subject to extension for reclamation and re-vegetation obligations as provided in Section 9.7), which date shall be extended (a) on an equitable basis for any delays arising from a DTE Caused Delay or from events of Force Majeure (which equitable basis shall take into account: (1) whether critical path Work activities are affected and (2) the extent to which Developer has or could have taken commercially reasonable efforts to avoid or mitigate such delay), and (b) extended as set forth in any Change Order.

Guaranteed Project Substantial Completion Date. [redacted], which date shall be extended (a) on an equitable basis for any delays arising from a DTE Caused Delay or from events of Force Majeure (which equitable basis shall take into account the extent to which Developer has or could have taken commercially reasonable efforts to avoid or mitigate such delay), and (b) extended as set forth in any Change Order.

Guaranty. As defined in Section 2.12.

Hazardous Materials. Any element, compound, mixture, solution, particle, emission, substance or material (a) regulated or governed by any Permit or Environmental Law, (b) now or hereafter deemed by any Governmental Authority or Applicable Law (and any applicable judicial, administrative and regulatory decrees, judgments and orders relating to the protection of human health or the environment, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601 et seq., the Resource, Conservation and Recovery Act, as amended, 42 U.S.C. Sections 6901 et seq., the Toxic Substances Control Act, 15 U.S.C. Sections 2601 to 2671, the Clean Air Act, 42 U.S.C. Sections 7401 et seq., the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251 to

1387), and/or the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended to be a "regulated substance", "hazardous material", "hazardous waste", "hazardous constituent", "hazardous substance", "hazardous pollutant", "toxic substance", "toxic pollutant", "radioactive substance", "pesticide" or any similar classification, including by reason of deleterious properties, ignitability, corrosivity, reactivity, carcinogenicity or reproductive toxicity, (c) that is included within the definitions of any "PCBs" or "PCB items" as defined in 40 CFR Section 761.3, (d) that is included within the definitions of any "asbestos", as defined in 40 CFR Section 763.63, (e) the presence of which requires investigation or remediation under any Applicable Law, or (f) that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous. "Hazardous Materials" shall also include underground storage tanks as defined in Section 9001 of RCRA, 42 U.S.C. Section 6991.

HM Termination Deadline. As defined in Section 2.6.2.

Impacting Exceptions. All exceptions to or matters of title revealed by the Title Commitments or the Preliminary Pro Forma Title Policy or the Final Pro Forma Title Policy or the Survey, as applicable, which materially and adversely affect or could reasonably be expected to potentially materially and adversely affect the location of or access to the Wind Energy Improvements, or the development, construction, operation, use or maintenance of the Project by DTE, all as reasonably determined by DTE. By way of example and not limitation, Impacting Exceptions may include the following: oil and gas (and other mineral) easements, leases, and reservations; private rights of way and access easements; public and private drainage easements; encroachments identified on the Survey including encroachments of utility easements, whether or not recorded and whether or not identified as exclusive; farmland development rights agreements; qualified agricultural property affidavits; utility improvements and easements; mortgages and deeds of trust; life estates of non-lessors; interests of non-party land contract vendors or vendees; failure of a Facility Site Agreement to include the proper fee owners and/or all parties in interest at the time the original Facility Site Agreement was executed; failure of the Facility Site Agreements to be effective and enforceable in accordance with their terms by the Developer or its respective Affiliates or any successor thereunder; any and all material changes, modifications, or amendments to the Facility Site Agreements which have not been approved in writing by DTE; tile easements; railroad crossings; road crossings; the fee owners' interest; restrictive covenants; leases (excluding the Facility Site Agreements); and reservations. Notwithstanding the foregoing, after Developer exhausts commercially reasonable efforts to achieve the cure of an Impacting Exception, such title matter will no longer be deemed an Impacting Exception if the parcel impacted by such title matter: (i) does not host Wind Energy Improvements and (ii) if excluded from the Facility Site, as proposed to be designed, the parcel would not cause the Project to be out of compliance with any Applicable Laws (e.g., removing the parcel from the Project would not violate a setback requirement under a zoning ordinance).

[redacted]

[redacted]

Independent Engineer. [redacted]

Infrastructure Completion. As defined in Section 8.3.

Infrastructure Completion Certificate. The certificate issued by Developer to DTE in the form set forth in Exhibit J-3 and pursuant to Section 8.9 certifying that Infrastructure Completion has occurred.

Infrastructure Facilities. As applicable, the Collection System, Grounding Grid, foundations, roads, and other civil works and plant facilities described in the Scope of Work.

Initial Title Cure Period. The period of time commencing on the date of receipt by Developer of the Title Objection Notice and expiring [redacted] thereafter.

Intellectual Property. All (a) all patents, divisionals, continuations, continuations in part, renewals, reissues, substitutes, certificates of invention and design patents, including in each case applications, registrations and extensions of any of the; (b) copyrights and registrations and applications for registration thereof; (c) copyrightable works; (d) mask works and registrations and applications for registration thereof; (e) computer software and documentation thereof; and (f) inventions and trade secrets, whether patentable or non-patentable.

Interconnection. The connecting of the Facility to the Transmission Utility's electrical transmission grid at the Interconnection Point as required to energize the Facility electrical system for Collection System Completion and WTG Completion.

[redacted]

Interconnection Facilities. The facilities that are required to be constructed by or on behalf of the Transmission Utility to allow the Facility to interconnect with the Transmission Utility's transmission line.

[redacted]

Major Component. The following components of a WTG: the converter, low voltage distribution panel, Tower, Turbine Nacelle (main shaft, gear box, generator), the hub and the Turbine Blades.

Major Subcontract. Any agreement(s) with a Subcontractor for the performance of services at the Facility Site having an aggregate value in excess of [redacted]

Major Subcontractor. Any Subcontractor with whom Developer or the BOP Subcontractor will enter (or has entered) into a Major Subcontract.

MISO. The Midcontinent Independent System Operator, Inc.

MISO OATT. The Open Access Transmission and Energy Markets Tariff of MISO on file with FERC, as it may be amended from time to time.

Monthly Progress Report. As defined in Section 6.2.

MPSC. Michigan Public Service Commission.

Network Upgrades. As defined in the MISO OATT.

Network Upgrade Costs. As defined in Section 9.1.

[redacted]

Notice to Proceed. The notice delivered by DTE to Developer to commence the Work.

NTP Date. The date on which DTE issues to Developer the Notice to Proceed.

Obligations. As defined in Section 2.12.

O&M Manual. The system instructions and procedures for the operation and maintenance of the WTGs provided by the Turbine Supplier pursuant to the Turbine Contracts.

Operator. The Person engaged by DTE to operate and maintain the Facility after the transfer of the Project to DTE pursuant to this Agreement.

Partial Lien Waiver. The waiver of liens and claims prepared by Developer and each Major Subcontractor (including the BOP Subcontractor), as applicable, substantially in the form set forth in Exhibit H-1.

Party. DTE or Developer.

Parties. DTE and Developer.

Permitted Liens. Collectively, (1) materialmen's, mechanics', workers', repairmen's, employees' or other similar liens arising in the ordinary course of business for amounts either not yet due or being contested in good faith and by appropriate proceedings, so long as, in the case of a contest, (a) such proceedings do not (i) involve any risk of the sale, forfeiture or loss of any part of the Project, (ii) involve the potential imposition of criminal sanctions against Developer or financial loss to Developer, or (iii) interfere with the ownership, financing, leasing, occupation, design, construction, equipping, testing, repair, operation, maintenance, use, value, marketability or disposition of the Project, the Facility Site or the Facility Site Agreements or (b) (i) a bond to indemnify DTE in the form and amount as required under Applicable Law or (ii) other security acceptable to DTE has been posted or provided in such manner and amount as to assure the DTE that any amounts determined to be due will be promptly paid in full when such contest is determined, (2) without derogation of any of Developer's obligations under Section 9.3, inchoate statutory-created encumbrances for current property Taxes not yet due and payable, and (3) liens, encumbrances and other exceptions to title described in the Final Pro Forma Title Policy.

Person. Any natural person, individual, firm, company, corporation, partnership, limited liability company, association, joint stock company, trust, unincorporated organization, joint venture, government or political subdivision or agency thereof, Governmental Authority, or any other entity or organization, whether acting as an individual, a fiduciary or in another capacity.

[redacted]

[redacted]

[redacted]

[redacted]

Post-Construction Certification Holdback Amount. An amount equal to [redacted] of the reasonably estimated cost for Developer to comply with all of its post-construction certification obligations in this Agreement, as described in Section 2.4.

Preliminary Pro Forma Title Policy. A preliminary Pro Forma Owner's Policy of Title Insurance issued by Title Company in accordance with the Title Commitments, with the following features, endorsements, and coverages (to the extent applicable to the type of policy and exception at issue): (i) deletion of all so-called standard and/or general exceptions, provided, however, Taxes not yet due and payable and use of roads by the public may remain as standard and/or general exceptions and the standard exception for mechanic's and materialman's liens may be modified to read substantially as follows "Any lien, or right to a lien, for services, labor, or material hereto or hereafter furnished, imposed by law and not shown of the public records from unpaid balances of the Turbine Supplier, the BOP Subcontractor, or any of their subcontractors of any tier due in connection with the Turbine Contracts and the BOP Subcontract per those certain Sworn Statements dated [_____] attached hereto as Exhibit [_], to the extent of such amounts identified on such Exhibit"; (ii) affirmative coverage provided over all Impacting Exceptions pursuant to an endorsement in a form reasonably acceptable to the Parties; (iii) containing all other endorsements listed on Exhibit O in form attached hereunder; (iv) providing title coverage over all other reasonable objections made (and not later waived or cured) by DTE in the Title Objection Notice; and (v) identification of the Contract Price as the insurance amount.

Prime Rate. The interest rate published in *The Wall Street Journal* as the "prime rate" from time to time determined as of the date the obligation to pay interest arises.

Pro Forma Objection Notice. As defined in Section 2.11.2(b)(1).

Project. Collectively, (i) the Facility, (ii) the Facility Site Agreements, any other rights to the Facility Site held by Developer or any Affiliate of Developer and any other property rights secured for the construction, ownership and/or operation and maintenance of the Facility, (iii) any contractual rights or authorizations necessary for the production, delivery and sale of electrical power and/or renewable energy credits or other environmental attributes generated by the WTGs, (iv) the Wind Energy Improvements, and (v) all contractual rights (including the Assigned Contracts) and Applicable Permits necessary or appropriate for the construction, ownership and/or operation and maintenance of the WTGs, except the Developer Acquired Permits that DTE does not need to own or operate the Project.

Project Closing. As defined in Section 9.6.

Project Closing Date. The date on which the Project Closing occurs.

Project Manager. The Project Manager designated by Developer pursuant to Section 2.3.11.

Project Safe Harbor Components. As defined in Exhibit U.

Project Schedule. As defined in Section 6.1.

Project Substantial Completion. As defined in Section 8.6.

Project Substantial Completion Certificate. The certificate issued by Developer to DTE in the form attached hereto as Exhibit J-6 and pursuant to Section 8.9 certifying that Substantial Completion has occurred.

Project Substantial Completion Date. The date on which Project Substantial Completion has occurred, as determined in accordance with Section 8.9.

Prudent Industry Practices. Those practices, methods, techniques, standards and acts engaged in or approved by a significant portion of the wind power industry in the United States or any of the practices, methods, techniques, standards and acts that, in the exercise of reasonable judgment in light of the facts known (or that a qualified and prudent contractor could reasonably be expected to have known) at the time a decision is made, would have been expected to accomplish a desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition, in each case for use in connection with the design, engineering, supply, construction, start-up, testing, commissioning, completion, operation or maintenance of similar equipment at wind energy facilities in the midwest region of the United States of the same or similar size and type as the Facility, that at the particular time of performance of the Work, or of operation of the Facility (i) in the exercise of that degree of skill, diligence, prudence and foresight which would reasonably be expected from a skilled and experienced licensed engineer or contractor employing generally accepted professional standards with respect to the performance of the Work or the operation of the Facility, as the case may be, would have been expected to accomplish the desired result in a manner consistent with Applicable Laws, Applicable Permits, codes and standards, reliability, safety, environmental protection, economy and expediency, and (ii) conform in all material respects to the design, engineering, construction, testing, operation, maintenance and other recommendations and guidelines applicable to the equipment in question. Prudent Industry Practices are not the optimum practices, methods, techniques, standards and acts to the exclusion of others, but rather refer to those practices, methods, techniques, standards and acts that are generally accepted or approved by a significant portion of the wind power industry in the relevant region, during the relevant time period, as described in the immediately preceding sentence.

[redacted]

[redacted]

Quality Assurance Plan. As defined in Section 7.4.

Real Property Rights. The leasehold, easement, fee, or other real property estates, interests and/or rights in and to the Facility Site held by Developer.

Release. Any release, spill, leak, discharge, abandonment, disposal, pumping, pouring, emitting, emptying, injecting, leaching, dumping, depositing, dispersing, allowing to escape or migrate into or through the environment (including ambient air, surface water, ground water, land surface and subsurface strata or within any building, structure, facility or fixture) of any Hazardous Material, including the abandonment or discarding of Hazardous Material in barrels, drums, or other containers.

Remaining WTG Turbine Contract. As defined in the definition of "Turbine Contracts".

[redacted]

Safe Harbor Turbine Contract. [redacted]

SCADA Manual. The operations and procedures manual for the operation and maintenance of the SCADA System to be provided by the Turbine Supplier under the Turbine Contracts.

SCADA System. The automated remote monitoring system, to be provided by the Turbine Supplier pursuant to the Turbine Contracts.

Scope of Work. The documents attached hereto as Exhibit A-1 and Exhibit A-2.

Secondary Title Cure Period. The period of time commencing on the date of receipt by Developer of the Pro Forma Objection Notice and expiring [redacted] thereafter.

Site Condition. The known or reasonably foreseeable physical and other conditions at the Facility Site and the surrounding area as a whole, including conditions relating to the environment, transportation, access, waste disposal, handling and storage of materials, the availability and quality of electric power, the availability and quality of water, the availability and quality of roads, the availability and quality of labor personnel and local work and labor rules, climatic conditions and seasons, topography, air and water quality conditions, raw water conditions, ground surface conditions, surface soil conditions, sound attenuation, subsurface geology, nature and quantity of surface and subsurface materials to be encountered (including Hazardous Substances), the geological and subsurface conditions of the Facility Site, and all other known or reasonably foreseeable local and other conditions that may be material to Developer's performance of its obligations under this Agreement.

[redacted]

Storage Site. As defined in Section 2.13(b).

Subcontractor. Any Person, including any vendor, with whom Developer has entered into any subcontract to perform any part of the Work, or to provide any Equipment and Materials on behalf of Developer (including any person at any tier with whom any Subcontractor has further contracted any part of the Work).

[redacted]

Substation Site. The real property on which the Substation is to be located.

Survey. A survey of the Facility Site: (i) prepared by Surveyor; (ii) certified to DTE, its successors and assigns, Title Company, and such other interested parties (including DTE's legal counsel) as DTE may reasonably identify; (iii) conforming to 2016 ALTA/NSPS minimum standard detail requirements and containing the following "Table A" items: 3, 4, 6(a), 6(b) 11, 13, 15, and 19; (iv) showing the owner name, parcel tax number, commitment parcel number, with bold labeling of participating landowners; (v) showing the proposed location of all Wind Energy Improvements; (vi) showing the location and recording information (if applicable) of all observable improvements, location of all observable roads, easements, means of access to public streets, encroachments, driveways, and the observable physical conditions affecting the title and use of the Facility Site including access thereto; (vii) containing a note confirming that all constituent parcels are contiguous and contain no gaps, gores, or overlaps; (viii) containing a note confirming that all locatable easements, servitudes, and similar instruments identified as exceptions in the Pro Forma Title Policy have been located on the Survey; (ix) containing a note specifically identifying all locations where the proposed location of Wind Energy Improvements, encroach upon any of the following: (a) any locatable easement, servitude, or similar instrument identified as an exception to the Pro Forma Title Policy, (b) any blanket easement, servitude, or similar instrument identified as an exception to the Pro Forma Title Policy, (c) any other

observable easement, servitude, or similar right not disclosed by the Pro Forma Title Policy such as ditches, drains, utility lines, pipelines, and the like, or (d) any existing buildings, structures or other physical improvements, together with a statement that, except as specifically identified, there are no such encroachments; and (x) containing a note which specifically identifies all inconsistencies and variances between the legal descriptions to be insured pursuant to the Pro Forma Title Policy and the legal description of the Facility Site contained in the Facility Site Agreements and the Survey.

Surveyor. [redacted]

Tax Representations. Collectively, each representation and warranty given by Developer (a) on the Project Closing Date under Section 20.1.11 and (b) [redacted]

Tax Return. Any return, declaration, report, claim for refund, information return or other document (including any related or supporting estimates, elections, schedules, statements or information) filed or required to be filed with a Governmental Authority responsible for the administration of any Tax.

Taxes or taxes. Any and all federal, state, local or foreign income, gross receipts, franchise, estimated, alternative, minimum, add-on minimum, sales, use, transfer, registration, value added, excise, natural resources, severance, stamp, occupation, premium, windfall profit, environmental, customs, duties, real property, personal property, capital stock, intangibles, social security, unemployment, disability, payroll, license, withholding, employee or other tax or levy or similar charge imposed by any Governmental Authority, together with any interest, fine, penalties, or additions to tax in respect of the foregoing.

Technical Specification. The document attached hereto as Exhibit A-1.

Title Commitment. A Commitment for Title Insurance issued by the Title Company which (i) bears an effective date not earlier than the Contract Date; (ii) identifies DTE as the proposed insured; (iii) commits the Title Company to issuance of an ALTA Owners 2006 Policy of Title Insurance, or if such form is decertified prior to Project Closing then the 2016 form of ALTA Owners Policy of Title Insurance; and (iv) covers one or more parcels within the Facility Site.

Title Company. [redacted]

Title Objection Notice. As defined in Section 2.11.2(a)(1).

Title Policy. The Owner's Policy of Title Insurance issued by Title Company, dated effective the later of the date of Project Closing and the date of recording of the Assignment (Facility Site Agreements) and Warranty Deed, in the amount of the Contract Price

issued to DTE in accordance with the Final Pro Forma Title Policy, and containing all terms, conditions, provisions, and endorsements of the Final Pro Forma Title Policy.

Tower. Each steel tubular tower component of a WTG, each of which shall [redacted] in each case, measured from the base of such tower to the center of the WTG hub upon which a Turbine Nacelle shall be mounted, including all ladders, platforms, internal lighting, safety equipment and all parts and assemblies necessary for a complete turbine tower, all as further described in the Technical Specification.

Transmission Utility. As defined in the first recital of this Agreement.

Turbine Blade. A turbine blade component of a WTG, the specifications for which are set forth in the Technical Specification.

Turbine Contracts. The Contracts for Sale of Wind Turbine Generators between the Turbine Supplier and Developer for the supply of WTGs for the Facility, consisting of the Safe Harbor Turbine Contract and one contract for the sale of the balance of the units (the "Remaining WTG Contract").

Turbine Nacelle. The turbine nacelle component of a WTG as described in the Technical Specification.

Turbine Supplier. [redacted]

Warranty Deed. As defined in Section 2.11.4(b).

Wind Energy Improvements. All wind energy devices to be constructed, installed and/or operated within the Project, including Towers, transmission lines, Interconnection Facilities that are not owned by the Transmission Utility and support buildings, Collection System, access roads, and other permanent wind power related improvements.

Work. All design and engineering, procurement, permitting, construction, commissioning, supervision, and other services, including procurement and effective assignment of all real property comprising the Facility Site, and Equipment and Materials as set forth in this Agreement and, to the extent not expressly covered by the Technical Specification or other components of this Agreement, in accordance with Prudent Industry Practices necessary to provide a complete, fully functional and operational Facility in accordance with the requirements of this Agreement.

WTG. Each Wind Turbine Generator described in the Technical Specification.

WTG Commissioning. The start-up and commissioning activities of the WTGs to be conducted in accordance with the WTG Commissioning, Test and Inspection Procedures set forth in the Turbine Contracts.

WTG Completion. As defined in Section 8.5.

WTG Completion Certificate. The certificate issued by Developer to DTE in the form attached hereto as Exhibit J-5 and pursuant to Section 8.9 certifying that WTG Completion has occurred.

WTG Mechanical Completion. As defined in Section 8.4.

WTG Mechanical Completion Certificate. The certificate issued by Developer to DTE in the form attached hereto as Exhibit J-4 and pursuant to Section 8.9 certifying that WTG Mechanical Completion has occurred.

## ARTICLE II.

## RESPONSIBILITIES OF DEVELOPER

### 2.1 Developer's Obligation to Provide the Project

Developer shall fully perform or cause to be performed all the Work in accordance with this Agreement in order to provide DTE with the Project on the Project Closing Date.

### 2.2 Standards of Performance

Developer, subject to the terms and conditions of this Agreement, shall be responsible for the performance and prosecution of the Work in accordance with (i) the specific standards set forth in this Agreement, including the Scope of Work and the Technical Specification, (ii) all Applicable Permits, (iii) Applicable Laws, and (iv) Prudent Industry Practices.

### 2.3 Provision of Materials, Supplies, Personnel and Services

Except as otherwise expressly set forth in this Agreement, Developer shall provide or cause to be provided the Equipment and Materials, technical, professional and construction personnel and supervision, construction tools and equipment, and the services required, and shall be responsible for completing the Work in accordance with the terms of this Agreement. Developer shall be responsible for the Work and for coordination and general management of all Subcontractors including the BOP Subcontractor and the Turbine Supplier. In furtherance of the foregoing, Developer shall do the following:

#### 2.3.1 Handling of Equipment and Materials, Etc

Provide for the handling of Equipment and Materials and construction equipment, including, as necessary, inspection, expediting, shipping, unloading, receiving, and customs clearance and be responsible for all customs duties and similar charges payable in connection with the importation of Equipment and Materials into the United States.

2.3.2 Quality of Equipment and Materials, Etc

Ensure that all Equipment and Materials supplied shall be new (unless otherwise agreed by Developer and DTE) and shall meet the requirements of the Technical Specification, Scope of Work and all Applicable Permits. References in the Scope of Work to Equipment and Materials, articles or patented processes by trade name, make or catalog number, shall be regarded as establishing a standard of quality expected by DTE. Developer and the BOP Subcontractor may use any equipment, material, article, or process that is substantially similar to that named in the Scope of Work, subject to the prior written approval of DTE.

2.3.3 Construction Means, Methods, Etc.

Be solely responsible for all construction means, methods, techniques, sequences, procedures, safety and security programs in connection with the performance of the Work.

2.3.4 Construction Utilities and Facilities at Facility Site

Provide or cause to be provided all construction utilities required for the performance of the Work and provide, within the Facility Site, temporary roads, office furniture, telephone facilities, secretarial services, drinking water and sanitary facilities to be used by Developer and/or Subcontractors in the performance of the Work. Developer will also provide or cause to be provided, within the area established for Developer's construction field office on or within reasonable proximity to the Facility Site, one single-wide office trailer for use by DTE. The trailer will be provided with electric power and telephone service connections, and DTE personnel shall be entitled to use the sanitary facilities and drinking water facilities that are available for Developer personnel. DTE shall be responsible for providing office furniture and equipment and any secretarial services it requires for its personnel.

2.3.5 Maintenance of Facility Site

Keep the Facility Site reasonably free from accumulation of waste materials, rubbish and other debris resulting from performance of the Work; and, reasonably promptly after the Project Substantial Completion Date, remove from those portions of the Facility Site involved in the commercial operation of the Facility, in conformity with Applicable Laws, all such waste materials, rubbish and other debris, as well as all tools, construction equipment, machinery and surplus material that would interfere in any material way with the commercial operation of the Facility (specifically excluding materials, tools and construction equipment necessary to complete Punch List items); and before final departure from the Facility Site after completion of the Punch List items, remove from the Facility Site, in conformity with Applicable Laws, all remaining waste and rubbish generated during performance of Punch List work, and all remaining materials, tools and construction equipment of Developer and Subcontractors, leave the Facility Site in clean and usable condition, and perform all necessary reclamation or re-vegetation to remedy any crop damage caused to the Facility Site or any adjacent real property.

2.3.6 Facility Site Safety

Establish reasonable safety and security procedures, rules and regulations at the Facility Site to prevent accidents and injuries, and cause its employees and Subcontractors to abide by such rules and regulations and all safety and security laws applicable at the Facility Site. Developer shall erect and maintain or cause to be erected and maintained, as required by existing conditions and the progress of the Work, all safeguards for safety and security, including lights, barriers, fences and railings.

2.3.7 Operation and Maintenance Manuals

Submit to DTE not later than [redacted] prior to the expected date of Project Substantial Completion (as indicated in the Project Schedule), the O&M Manual and the SCADA Manual in electronic form reasonably acceptable to DTE. One copy of the original O&M Manual and the SCADA Manual shall be provided to DTE. Developer agrees to send or cause to be sent to DTE any updates to the O&M Manual issued by the Turbine Supplier in a timely manner until Project Substantial Completion.

2.3.8 Interconnection to the Transmission Utility's Transmission System

Coordinate with the Transmission Utility respecting the making of the Interconnection to the Transmission Utility's transmission system, including negotiation and execution of an interconnection agreement with MISO and the Transmission Utility and negotiation of any other facilities use agreements necessary for completion of the Work.

2.3.9 Commissioning Spare Parts

Provide all commissioning spare parts for commissioning operations.

2.3.10 Spare Parts Recommendations

At least [redacted] prior to the expected date of Project Substantial Completion, make recommendations for the purchase of spare parts for maintenance and operation and keep possession of all spare parts purchased by DTE for such purpose until turned over to DTE in accordance with this Agreement. Developer shall be entitled to use spare parts from DTE's inventory in connection with WTG Commissioning or other commissioning activities for the Facility, if DTE consents to such use and if such spare parts have been acquired, are available in inventory; and if such use occurs, Developer shall promptly [redacted] replace or cause to be replaced each spare part so used with an identical, new spare part at no additional cost to DTE.

2.3.11 Developer's Representative

Designate, by written notice to DTE at or before commencement of the Work, a Project Manager who shall have full supervision over the completion of the Work and shall act as the primary point of contact with DTE regarding all matters relating to the Work, and who shall have full authority to bind Developer.

2.4 Relevant Information; Assistance to DTE in Dealings with Governmental Authorities, Etc.

Developer shall provide or caused to be provided to DTE information reasonably requested by DTE to enable it to fulfill its obligations under this Agreement. This obligation shall include providing such assistance as is reasonably requested by DTE in dealing with any Governmental Authority in matters relating to the Work and the Project.

Developer shall (a) provide to the County a post-construction certification that the Project complies with applicable codes and industry practices (which shall include the provision of an as-built GIS shape file, electronic file, and paper site plan), (b) in conjunction with DTE staff and consultants, participate in all County and Township meetings and events in support of such post-construction certification, and (c) provide to DTE written evidence that such post-construction certification has been obtained.

2.5 Training

As part of the Contract Price, Developer shall cause the Turbine Supplier to provide for DTE's employees and the Operator and its employees such standard training materials and activities as are contemplated and described in the Turbine Contracts (including regarding provision of any training or operating manuals and walkdowns). Developer shall assist DTE in scheduling any such training activities.

2.6 Hazardous Materials.

2.6.1 Information Concerning Hazardous Materials

As required by Applicable Laws, Developer shall provide data sheets, warning labels, or other documentation covering all Hazardous Materials furnished under or otherwise associated with the Work. Developer shall provide to DTE either copies of the applicable data sheets or copies of a document certifying that no data sheets are required under any Applicable Laws prior to the commencement of such Work or at such time as any such substances enter the Facility Site.

2.6.2 Action Upon Encountering Hazardous Materials

If Developer encounters any Hazardous Materials (or materials or substances which Developer reasonably believes to be Hazardous Materials) in or on the Facility Site which would create a safety or health hazard for Developer, any Subcontractor or any employee, agent or representative of either Party or which would create a health hazard for the general public or the surrounding environment or material liability to DTE under any Environmental Law, in each case, if disturbed in the performance of the Work or if moved from the location at which such Hazardous Material was encountered, Developer shall immediately stop any Work affecting the area to the extent required to avoid any such safety or health hazard or material liability and until action sufficient to protect employees of DTE, Developer, and Subcontractors, or avoid such safety or health hazard or material liability has been taken. Developer shall notify DTE promptly

upon encountering any Hazardous Materials (or materials or substances which Developer believes to be Hazardous Materials) in or on the Facility Site. Except for (i) Hazardous Materials that have been brought onto the Facility Site by DTE or its employees, agents or contractors (other than Developer), invitees or others for whom DTE may be responsible, and (ii) Releases of Hazardous Materials caused by the gross negligence or willful misconduct of any such Persons that create or constitute an Environmental Condition, Developer shall be responsible for remediating or removing and disposing of from the Facility Site in accordance with and as may be required by Applicable Law (1) all Hazardous Materials brought onto the Facility Site by Developer or its employees, agents or contractors (other than DTE), invitees or others for whom Developer may be responsible, (2) all Hazardous Materials Released on the Facility Site by Developer or its employees, agents or contractors (other than DTE), invitees or others for whom Developer may be responsible, and which remain present on the Facility Site at the time of Final Completion, or (3) all other Hazardous Materials present on the Facility Site as of the Contract Date, to the extent Developer discovers, encounters, uncovers or Releases such Hazardous Materials on or adjacent to the Facility Site prior to the Project Substantial Completion Date or takes any action (or fails to take any action) that could reasonably be expected to result in a Release of such Hazardous Materials on or after the Project Substantial Completion Date. In the event that, on or prior to the date that is [redacted] after the NTP Date (the "HM Termination Deadline") the Developer determines in its reasonable discretion that Developer's performance of its obligations pursuant to clause (3) of the preceding sentence are reasonably expected to cost more than the [redacted] of the Contract Price, Developer may terminate this Agreement by providing written notice to DTE; provided, however, that in the event that Developer has not provided such written notice to DTE on or prior to the HM Termination Deadline, Developer shall be deemed to have indefeasibly waived its right to terminate the Agreement pursuant to this Section 2.6.

2.6.3 Environmental Site Assessment.

On or prior to December 31, 2018, Developer shall provide to DTE Phase I environmental assessment reports prepared in accordance with ASTM Standard E-1527-13 evaluating the portions of the Facility Site where, in accordance with the applicable Facility Site Agreements, any WTGs or the Collection System (or portions thereof) may be located or construction work may be performed (the "Phase I ESA")). The Phase I ESA shall be performed by a company reasonably acceptable to DTE and include language to allow DTE to rely on the Phase I ESA in addition to the Developer. Developer shall provide DTE the opportunity to review Phase I ESA documents and Developer shall use reasonable efforts to include DTE's comments in the final Phase I ESA. At DTE's request, Developer shall perform additional Phase II environmental site assessment activities to further investigate recognized environmental conditions identified in the Phase I ESA in order to support completion of a baseline environmental assessment.

2.7 Employment of Licensed Personnel

Whenever required by Applicable Law or Prudent Industry Practices, Developer agrees to employ licensed personnel to perform engineering, design, architectural or other professional services in the performance of the Work. It is contemplated that Developer shall

comply with this obligation through the engagement of the BOP Subcontractor, which shall perform, using properly licensed professionals, all engineering and design Work requiring any such licensure.

2.8 Labor and Personnel

Developer shall provide, or cause to be provided, all management services necessary for the Work and provide, or cause to be provided, all labor and personnel required to timely perform the Work, including management services and personnel. DTE shall be informed of all key personnel, including the Project Manager, construction manager, engineering manager, and start-up manager and such persons shall not be removed or replaced without written notification to DTE.

2.9 Compliance with Applicable Laws

Developer shall comply and shall cause all Subcontractors, employees, agents and representatives to comply with all Applicable Laws in connection with the performance of Developer's obligations under this Agreement.

2.10 Developer Acquired Permits

Developer shall obtain or cause to be obtained all Applicable Permits required for it and its Subcontractors and their personnel to do business and to perform the Work, including those identified in Exhibit E as being Developer's responsibility (collectively, "Developer Acquired Permits"). Developer shall be responsible for meeting all requirements of Developer Acquired Permits, up to and including final termination or closure of all Developer Acquired Permits that are listed in the section of Exhibit E entitled "Developer Acquired Permits Containing Post-Construction Obligations of Developer". Exhibit E shall be updated by the Developer (a) on the Effective Date and (b) on the Project Closing Date, and thereafter such updated Exhibit E shall be deemed attached hereto.

2.11 Real Estate

2.11.1 Generally.

Commencing on the Contract Date and continuing until the earlier of the Project Closing Date or the termination of this Agreement, DTE may conduct due diligence of the type and scope customary for the transactions of the nature as set forth in this Agreement, and Developer shall make available to DTE by means of a virtual data room or otherwise all such due diligence materials as DTE may reasonably request. During such time, Developer shall permit DTE and its advisors to have reasonable access during normal business hours to the Facility Site, the Project Manager and all documents and other information and data in Developer's possession, or reasonably available to Developer, related to the Project. Curative Documents shall be made available as soon as practicable after their full execution. On or prior to the Effective Date, Developer shall (a) deliver to DTE a completed Exhibit D-2A, which shall set forth the Facility Site Agreements as of the Effective Date, and (b) have made available to

DTE a true, correct and complete (and, if applicable, recorded) copy of each such Facility Site Agreement. [redacted]

2.11.2 Title and Survey.

(a) Initial Title Cure Period.

(1) Beginning on the NTP Date, Developer shall use commercially reasonable efforts to deliver to DTE on a constant and rolling basis Title Commitments covering the parcels within the Facility Site [redacted] and legible copies of all supporting title documents. Thereafter, Developer shall deliver to DTE Title Commitments covering the balance of the parcels within the Facility Site [redacted] Title Commitments covering the balance of the parcels [redacted] as soon as the same are received from the Title Company and within [redacted] after Developer places an order for a Title Commitment with the Title Company, but in all events Developer shall provide DTE Title Commitments covering the balance of the parcels within the Facility Site within [redacted] following Developer's delivery of the final Facility Layout to DTE. DTE shall use commercially reasonable efforts to timely review and provide objections to any Impacting Exceptions it identifies in the Title Commitments and supporting title documents delivered; *provided, however*, that [redacted] following DTE's receipt of the complete Title Commitments for the entire Project and Facility Site and all supporting title documents, DTE shall provide Developer with notice of DTE's objections to any Impacting Exceptions, to the extent the same can be determined solely by review of such Title Commitment and supporting title documents (the "Title Objection Notice"). The Title Objection Notice shall be in the form of a single, comprehensive chart or spreadsheet and shall include a listing of information DTE reasonably requires in addition to the Title Commitments and

supporting title documents to determine whether DTE has any additional objections to title. Following Developer's receipt of the Title Objection Notice, but prior to the expiration of the Initial Title Cure Period, Developer shall use commercially reasonable efforts to cure all objections to Impacting Exceptions made by DTE in the Title Objection Notice by Curative Actions or by utilizing Curative Documents on forms approved by DTE and the Title Company, *provided, however*, that those forms attached hereto as Exhibit P are deemed approved by DTE.

(2) In the event that the final Facility Layout is at any time changed through the mutual agreement of the parties to include one or more parcels that are not covered by the existing Title Commitments and Preliminary Pro Forma Title Policy, as applicable, Developer shall thereafter promptly order Title Commitments covering such new parcels from the Title Company and cause the Title Company to add such new parcels to the Preliminary Pro Forma Title Policy, as applicable. DTE shall have a period of [redacted] following DTE's receipt of any such new Title Commitments and supporting title documents (and updated Preliminary Pro Forma Policy, as applicable) to provide Developer with an updated Title Objection Notice and/or Pro Forma Objection Notice covering such parcels.

(b) Secondary Title Cure Period.

(1) [redacted] of the expiration of the Initial Title Cure Period, Developer shall deliver to DTE the Preliminary Pro Forma Title Policy (updated to reflect curative efforts undertaken during the Initial Title Cure Period), a preliminary Survey, Curative Documents obtained to such date, a written summary of Curative Actions taken to such date, as well as a written summary updating the status of Developer's curative efforts from the immediately preceding status update provided for in Section 2.11.2(a) "blacklined" in a manner which clearly and directly identifies the iterative revisions. [redacted] following DTE's receipt of the Preliminary Pro Forma Title Policy, Survey, and Curative Documents, DTE shall provide Developer with notice of DTE's objections thereto (the "Pro Forma Objection Notice"). Following Developer's receipt of the Pro Forma Objection Notice, but prior to the expiration of the Secondary Title Cure Period, Developer shall use commercially reasonable efforts to cure all objections to Impacting Exceptions made by DTE in the Pro Forma Objection Notice by Curative Actions or by utilizing Curative Documents on forms approved by DTE and the Title Company, provided, however, that those forms attached hereto as Exhibit P are deemed approved by DTE.

(2) Developer and DTE shall work together cooperatively and in good faith during the Secondary Title Cure Period towards revising the Preliminary Pro Forma Title Policy, Survey, and Curative Documents in the manner and condition required hereunder.

(c) Final Pro Forma Policy.

[redacted] following the expiration of the Secondary Title Cure Period, Developer shall deliver to DTE a revised Preliminary Pro Forma Title Policy,

revised Survey, and revised Curative Documents addressing the objections made in the Pro Forma Objection Notice. The revised Survey and all iterative revisions of the Survey between the preliminary Survey delivered pursuant to Section 2.11.2(b) above, and the final, approved Survey shall be "clouded" and "blacklined" in a manner which clearly and directly identifies the iterative revisions. Developer and DTE shall work together cooperatively and in good faith thereafter towards revising the Preliminary Pro Forma Title Policy, Survey, and Curative Documents in the manner and condition required hereunder. Upon DTE's approval of the revised Preliminary Pro Forma Title Policy and Survey, DTE shall deliver written notice thereof to Developer, and the final, approved Preliminary Pro Forma Title Policy shall be referred to as the "Final Pro Forma Title Policy". Developer shall provide the Final Pro Forma Title Policy on or before Financial Closing.

(d) Costs.

[redacted]

(e) Entire Project.

Developer covenants and agrees that the Title Commitments, Preliminary Pro Forma Title Policy, Final Pro Forma Title Policy, and Survey shall cover all real property rights necessary for access to and use of the Substation, the Project and the Facility.

(f) Title Disclosure.

Notwithstanding Sections 17.1 and 17.2, the parties hereto or their representatives may disclose to any and all Persons, to the extent necessary to accommodate the revisions and deliveries required under Section 2.11.2, the form and content of the Title Commitments, Preliminary Title Policy Pro Forma, Final Title Policy Pro Forma, and Survey to the Title Company, the Surveyor, and other parties necessary to accomplish the purposes of Section 2.11.2.

(g) Curative Action and Contract Price Reduction.

If Developer is unable to obtain Curative Documents necessary to address any Impacting Exceptions objected to by DTE in the Title Objection Notice or Pro Forma Objection Notice, [redacted] Delays in the completion of the Work in each case due to Developer's failure to cure objections made in the Title Objection

Notice or Pro Forma Objection Notice shall not be a DTE Caused Delay or an event of Force Majeure and shall not extend the Guaranteed Substantial Completion Date.

Notwithstanding Section 2.11.3(a), if Developer is unable to obtain a subordination, non-disturbance and attornment agreement for a mortgage which constitutes an Impacting Exception after Developer has exhausted commercially reasonable efforts to obtain such an agreement, and such mortgage impacts a parcel on which only collection line and access roads are hosted, [redacted]

(h) Status Updates.

[redacted] after delivery of the first Title Commitment and continuing through the date the Title Objection Notice is delivered, Developer shall, [redacted] provide DTE with status updates respecting the curative efforts it is taking. Thereafter through the date DTE delivers written notice of its approval of a revised Preliminary Pro Forma Title Policy and Survey pursuant to Section 2.11.2(c), no later than the close of business on Friday of every other week, Developer shall provide DTE with status updates respecting the curative efforts required pursuant to this Agreement. Status updates shall show a percentage completion by category of the curative task (e.g., SNDA, joinders, amendments) as well as a breakdown per objection. For curative actions requiring an agreement to be signed by a landowner or third party, Developer's status updates shall include the date such document was drafted, the date it was delivered to the landowner or third party, the date of full execution, and the date such document was delivered to the Title Company.

2.11.3 Site Plans. On the Contract Date, Developer shall deliver to DTE initial site plans detailing the Facility Layout to be set forth on Exhibit D-7. Thereafter, Developer shall deliver to DTE updated site plans detailing the Facility Layout promptly upon achievement 30%, 50% and 70% of site design completion for the Facility. Developer shall deliver to DTE the final Facility Layout by [redacted] prior to commencement of sustained construction at the Facility Site. After the delivery thereof, Developer shall not make any changes to the Facility Layout that could reasonably be expected to constitute an Impacting Exception without the prior written consent of DTE. Developer shall be solely responsible for ensuring that the final Facility Layout is in compliance with all Applicable Laws, Permits and requirements of this Agreement; provided, Developer agrees to work with DTE in good faith, taking into account any DTE suggestions and preferences, to derive the final Facility Layout (it being agreed that, notwithstanding the foregoing, a final Facility Layout within the property boundary set forth on Exhibit D-7 and in compliance with all Permits, Applicable Laws and other requirements of this Agreement will be acceptable to DTE).

2.11.4 Project Closing.

At the Project Closing, Developer shall transfer all Real Property rights to DTE by the following:

(a) an instrument of assignment, substantially in the form of Exhibit D-3 ("Assignment (Facility Site Agreements)"), duly executed by Developer and/or any applicable Affiliate of Developer, assigning to DTE all of its right, title and interest in, to and under the Facility Site Agreements; and

(b) a warranty deed ("Warranty Deed"), substantially in the form of Exhibit D-4, duly executed by Developer, transferring to DTE fee ownership and all of Developer's right, title and interest in parcels in the Substation Site.

2.11.5 Estoppel Certificates.

Developer shall obtain an executed estoppel certificate, substantially in the form attached hereto as Exhibit D-5 (with any changes thereto reasonably satisfactory to DTE) and executed no more than [redacted] prior to the Project Closing, from each landowner party to a Facility Site Agreement, shall provide such executed estoppel certificates for review within a reasonable time prior to Project Closing and shall deliver such executed estoppel certificates to DTE at Project Closing.

2.11.6 Facility Site Agreements.

After the Contract Date, Developer shall not enter into any Facility Site Agreement that differs materially from the forms of Facility Site Agreements attached hereto as Exhibit D-6 without the prior written consent of DTE, which consent may be withheld in DTE's sole and absolute discretion.

2.12 Guaranty

Developer shall deliver to DTE, on or prior to the Effective Date, and shall maintain thereafter in connection with this Agreement, a guarantee to DTE of the payment of all amounts due from Developer to DTE and the performance by Developer of all covenants and obligations to be performed by it pursuant to this Agreement and any other documents, instruments or agreements executed in connection herewith (collectively, the "Obligations") in the form of Exhibit M attached hereto (the "Guaranty") from Developer's Guarantor.

2.13 [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

2.14 [redacted]

[redacted]

[redacted]

ARTICLE III.

RESPONSIBILITIES OF DTE

3.1 DTE's General Obligation to Cooperate

DTE recognizes and acknowledges the duty to cooperate with Developer and agrees not to unreasonably interfere with Developer's agents, employees or Subcontractors during the performance of this Agreement.

3.2 DTE's Specific Obligations

Without prejudice to the other obligations of DTE set forth in this Agreement, DTE shall be responsible for the following matters and actions to be performed on a timely basis:

3.2.1 Access to Facility Site

Following Project Closing and execution and delivery of the Assignment (Facility Site Agreements), assure reasonable rights of ingress and egress to and from the Facility Site for Developer and all Subcontractors sufficient for the performance of the Work (including completion of items on the Punch List).

3.2.2 DTE Representative

Designate by written notice to Developer, a DTE Representative, who shall be authorized to act on behalf of DTE, with whom Developer may consult at all reasonable times, and whose written instructions, requests, and decisions will be binding upon DTE as to all matters pertaining to this Agreement and the performance of DTE hereunder. If the DTE Representative does not have authority to approve Change Orders, DTE shall deliver a notice to Developer identifying such persons within DTE's organization that do have such authority. DTE may, at any time by written notice to Developer, change the DTE Representative or, if applicable, the persons designated as having authority to approve Change Orders.

3.2.3 Operating Personnel

Supply, or cause to be supplied by Operator, capable operating personnel for training, and commissioning and commercial operation following transfer of care, custody and control of the Project or any operating portion thereof to DTE.

3.2.4 [Reserved]

3.2.5 Payment Obligations to Developer

Pay the Contract Price and all other sums required to be paid by DTE pursuant to and in accordance with the terms of this Agreement.

3.2.6 Compliance with Applicable Laws

Comply, and cause all of its employees, agents and representatives to comply, with all Applicable Laws in connection with the performance of its obligations under this Agreement.

3.2.7 Compliance with Site Rules and Regulations

Cause its personnel present on the Facility Site to observe and comply with all health, safety, security, environmental and other regulations established by Developer or the BOP Subcontractor for the Facility Site or for any location away from the Facility Site where the

field construction office for the Project is established (and where DTE personnel may be present) that have been made known to DTE by delivery of a copy thereof to the DTE Representative.

3.3 FERC Regulatory Filing

(a) DTE and Developer shall work together with respect to the preparation and joint filing of the regulatory filing to be made to FERC requesting authorization under Section 203 of the Federal Power Act with respect to the transactions contemplated by this Agreement that require such authorization (the "FERC Regulatory Filing").

(b) DTE and Developer shall use commercially reasonable efforts to file as soon as practicable after the Effective Date, but no sooner than [redacted] prior to the expected Project Substantial Completion Date, the FERC Regulatory Filing, and execute all agreements and documents, in each case, to obtain as promptly as practicable authorization from FERC under Section 203 of the Federal Power Act as required for the transactions contemplated by this Agreement. DTE and Developer shall act diligently, and shall coordinate in completing and submitting the FERC Regulatory Filing. DTE and Developer shall each have the right to review and approve (which such approval shall not be unreasonably delayed or withheld) in advance all of the information relating to the transactions contemplated by this Agreement which appears in the FERC Regulatory Filing. DTE and Developer agree that all telephonic calls and meetings with the FERC regarding the FERC Regulatory Filing shall be conducted by DTE and Developer jointly.

(c) Nothing in this Agreement will require any Party to accept any condition to, limitation on, or other term concerning the grant of approval by any Governmental Authority if such condition, limitation, or other term, alone or in the aggregate with other such conditions, limitations, or other terms would (i) require the disposition by DTE of any asset(s); (ii) have a material adverse effect on either Party or any of its Affiliates in its acquisition, ownership, use, operation, or disposition of any property other than the Facility; or (iii) materially alter or impair the commercial expectation of DTE with respect to the sale or transmission of power from the Facility.

3.4 MPSC Regulatory Filing

(a) DTE shall submit this Agreement to the MPSC for approval on or before [redacted]

(b) If the MPSC fails to grant approval of this Agreement and any relief set forth in the application requesting approval thereof [redacted], then this Agreement shall terminate and cease to be of any force or effect.

(c) If the MPSC grants conditional approval of this Agreement on or before [redacted], and the conditions of such approval are not reasonably acceptable to DTE, then DTE shall have the right to terminate this Agreement by notice to Developer delivered [redacted] after issuance of such conditional approval. If no such notice is delivered, DTE shall be deemed to have waived its rights to terminate this Agreement pursuant to this

Section 3.4(c). Notwithstanding the foregoing, a failure by the MPSC to approve in all material respects this Agreement and any relief set forth in the application requesting approval thereof, [redacted], shall permit DTE to terminate this Agreement in accordance with this Section 3.4(c).

(d) DTE agrees to notify Developer of any significant developments in obtaining the MPSC approval. Developer shall exercise due diligence and shall act in good faith to cooperate with and assist DTE in acquiring each approval necessary to effectuate this Agreement.

3.5 Post-Project Closing Date Cooperation.

(a) From time to time following the Project Closing Date until the date (the "Cooperation Completion Date") that is the later of (i) the delivery of the Final Completion Certificate by Developer to DTE pursuant to Section 8.8(d) or (ii) the earlier of (x) [redacted], DTE shall reasonably cooperate with Developer in constructing the Project in accordance with this Agreement and completing its obligations hereunder, including in accordance with the schedule and deadlines set forth herein, and DTE shall: (x) execute, acknowledge and deliver any documents reasonably necessary to effectuate the foregoing and (y) without derogation of any other obligations of DTE set forth in this Agreement and at Developer's cost, use commercially reasonable efforts to enforce all representations, warranties, guaranties and obligations of Turbine Supplier and BOP Subcontractor for the benefit of Developer as reasonably necessary to effectuate the foregoing.

(b) At all times after the Project Closing Date until the Cooperation Completion Date and so long as Developer is in compliance with its obligations to pay Delay Liquidated Damages to DTE as and when required under this Agreement, DTE shall transfer any liquidated damages or other damages received by DTE under any Assigned Contract which were paid by the counterparty to such Assigned Contract with respect to work relating to the achievement of Final Completion [redacted], to an account of Developer as directed by Developer.

(c) From and after the Project Closing Date until the Cooperation Completion Date, DTE agrees that it shall not amend or modify any Assigned Contract without the prior written consent of Developer (which shall not be unreasonably withheld, conditioned or delayed) if such amendment of modification would materially and adversely affect Developer's ability to perform its remaining obligations under this Agreement.

(d) Prior to the Project Closing Date or earlier termination of this Agreement in accordance with its terms and without derogation of any other obligations of Developer set forth in this Agreement, [redacted]

[redacted]

ARTICLE IV.

COMMENCEMENT OF THE WORK; TERMINATION

4.1 Effective Date

This Agreement shall become effective on the third Business Day after both of the following have occurred (such day referenced to herein as the "Effective Date"): (i) the MPSC has approved this Agreement and (ii) in the event that MPSC's approval is conditional, DTE's right to terminate this Agreement pursuant to Section 3.4(b) shall have expired or have been waived by DTE; provided that, Section 2.13 shall become effective on the Contract Date.

4.2 Notice to Proceed.

[redacted] following the Effective Date, DTE shall issue to Developer a Notice to Proceed signed by DTE and authorizing Developer to commence its performance under this Agreement of the Work relating to the Project and Developer shall commence and execute the Work. The Notice to Proceed shall be in substantially the form attached hereto as Exhibit F. DTE shall have no obligation to pay Developer all or any portion of the Contract Price or otherwise compensate or reimburse Developer for any Work performed that has not been authorized by a Notice to Proceed signed by DTE.

4.3 Commencement of Work

Other than with respect to any portion of the Work that Developer is expressly required under this Agreement to commence prior to the NTP Date, Developer shall commence the Work on the NTP Date and shall thereafter diligently pursue the Work in accordance with this Agreement. Notwithstanding the preceding sentence, Developer may, at its discretion and risk, commence the Work before the NTP Date. All Work performed prior to the NTP Date (including any Work performed prior to the Effective Date) shall, upon the NTP Date, be deemed to have been performed under this Agreement and shall be subject to the terms and conditions of this Agreement.

4.4 Termination; Survival of Provisions

This Agreement shall terminate upon the earliest of (i) the discharge of all obligations of both Parties under this Agreement by the complete performance thereof, (ii) a failure by the MPSC to grant its approval or acceptance of this Agreement in accordance with Section 3.4(b), (iii) the termination by DTE of this Agreement in accordance with Section 3.4(c), (iv) the termination by DTE or Developer of all the Work for an extended event of Force Majeure in accordance with Section 11.5, and (v) termination pursuant to ARTICLE XVI. Termination of this Agreement (a) shall not relieve Developer of its obligations with respect to

the confidentiality of DTE's information as set forth in Section 17.1, or DTE of its obligations with respect to the confidentiality of Developer's information as set forth in Section 17.1, (b) except in the case of termination pursuant to clauses (ii) and (iii) above, shall not relieve Developer or DTE of any obligation hereunder which expressly or by implication survives termination hereof, including all indemnity obligations, and (c) except in the case of termination pursuant to clauses (ii) and (iii) above and except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party (including the provisions of ARTICLE XVI), shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by any breach of this Agreement of such Party prior to the effectiveness of such termination or arising out of such termination.

## ARTICLE V.

## DESIGN DOCUMENTS

### 5.1 Delivery of Design Documents

It is expressly understood and agreed that the design documents and other related design information (including all environmental- and compliance-related documentation, such as draft environmental report, sound studies, wildlife studies, shadow flicker studies, etc.) and results of any supporting design or other calculations, all as set forth on Exhibit A-2 (the "Design Documents"), shall be furnished to DTE for review in order to monitor compliance with this Agreement. The delivery of the Design Documents and any NERC-related compliance documentation (as to category, format and number of copies) shall be as specified in the Scope of Work and the timing of delivery shall comply with the Project Schedule and the delivery requirements and time periods set forth in Exhibit A-2.

### 5.2 DTE Review of Design Documents

DTE shall provide any comments on Design Documents to [redacted]. If DTE fails to provide comments within such review period, such Design Documents shall be deemed to be in compliance with all applicable requirements under this Agreement. Developer shall, [redacted] DTE's review of any Design Documents shall not be construed as approval of the BOP Subcontractor's or Turbine Supplier's engineering nor shall DTE's failure to review be construed as disapproval. DTE shall notify Developer as soon as practicable after it becomes aware of any errors in such Design Documents; *provided, however*, that failure to so notify Developer will not constitute a breach of this Agreement by DTE nor relieve or release Developer of any of its duties, obligations or liabilities under the terms of this Agreement.

ARTICLE VI.

PROJECT PLANNING AND CONTROL

6.1 Scheduling of the Work

Developer shall coordinate the schedules, work plans and progress reports of the Turbine Supplier and the BOP Subcontractor. Developer shall procure from the BOP Subcontractor and provide to DTE (i) an initial project schedule ("Project Schedule"), which will include all portions of the Work to be provided under the Turbine Contracts, show the critical path of the Work, be consistent with the Preliminary Project Schedule set forth in Exhibit G [redacted] prior to the expected commencement of sustained construction at the Facility Site and include a summary, and submission schedule, of all designs, documents and other materials to be submitted by Developer to DTE for review and comment as well as a description of slipping activities and mitigation strategy to remediate the same, with projected completion dates; and (ii) an update to such Project Schedule on a weekly basis as the Work progresses, including a two-week look-ahead and the incorporation of delay and acceleration analyses where appropriate. Until Developer provides the Project Schedule, Develop shall provide DTE with weekly updates to the Preliminary Project Schedule set forth in Exhibit G. Developer shall administer the Work in accordance with the Project Schedule and promptly notify DTE in writing at any time that Developer has reason to believe that there shall be a material deviation in the Project Schedule. Developer shall cause Project Substantial Completion to occur on or before the Guaranteed Project Substantial Completion Date.

6.2 Progress Reports and Meetings

Developer and DTE shall conduct meetings according to a mutually agreed schedule from the Notice to Proceed Date to the Project Closing Date to thoroughly discuss the progress and status of construction, which schedule shall include biweekly meetings prior to commencement of Facility construction and weekly meetings at the Facility Site during the construction period, unless otherwise agreed by the Parties. Such meetings shall be attended by Developer's Project Manager (or his or her duly authorized representative) and the DTE Representative (or his or her duly authorized representative), and by such additional representatives of each Party as such Party may desire. Also, on a monthly basis, Developer shall provide DTE with a monthly progress report with respect to the Work ("Monthly Progress Report"), which shall be substantially in the form of and contain the information indicated in Exhibit K. Developer shall promptly provide DTE with reasonable information regarding any updates regarding any estimated or actual Network Upgrade Costs.

6.3 Observation at Engineering/Construction Meetings with Third Parties

In addition to attendance at the progress meetings as set forth in Section 6.2, DTE, through its employees, agents, experts or representatives, shall have the right:

(a) to observe or cause to be observed at the Facility Site at any time, (i) the Work, (ii) the Facility and Facility Site, and (iii) Equipment and Materials; *provided, however,*

that DTE shall provide Developer with reasonable advance notice of any Facility Site visits (other than for routine observation by DTE personnel who are regularly on site), and such observation shall not unreasonably interfere with the performance of the Work or otherwise with Developer's performance of its obligations under this Agreement, and any Persons observing the Work shall abide by any and all safety rules and procedures applicable to the Facility and the Facility Site; and

(b) [redacted] For purposes of this Section 6.3, Developer shall give DTE reasonable advance notice of all material engineering and construction meetings in order to permit DTE to send a representative, if it so desires.

## ARTICLE VII.

## INSPECTION AND CORRECTION OF WORK

### 7.1 Periodic Inspections

[redacted] DTE shall inform Developer promptly of any Defects or Deficiencies in the Work it discovers in any inspection of the Work; *provided, however*, that failure to so notify will not constitute a breach of this Agreement. Any inspection by DTE or any of its representatives of any part of the Work, or any failure to inspect, shall in no way affect Developer's obligations to perform the Work in accordance with this Agreement. All such inspections shall be conducted in a manner that does not unreasonably interfere with the normal performance and progress of the Work.

### 7.2 Correction of Work

Prior to Project Substantial Completion, Developer shall promptly correct or cause to be corrected, at no additional cost to DTE, any Defects or Deficiencies in any part of the Work, regardless of the stage of its completion or the time, place or means of discovery of such Defects and Deficiencies. After Project Substantial Completion, the provisions of ARTICLE XII shall apply.

7.3 Observance of Tests

Subject to any applicable restrictions in the Turbine Contracts or the BOP Subcontract, as applicable, DTE and its agents and representatives shall have the right to observe all tests of the Facility and under the Turbine Contracts and the BOP Subcontract and tests of Major Components at Turbine Supplier's or the BOP Subcontractor's facilities, as applicable. Developer shall give prior notice, as specified in the Scope of Work, to DTE of any Facility tests at the Facility Site or of tests of Major Components at the Turbine Supplier's facilities or the BOP Subcontractor's facilities, as applicable, and shall permit DTE (or its authorized representative) to observe such tests (including tests conducted by any Subcontractors).

7.4 Quality Assurance

Developer shall deliver or cause to be delivered to DTE at least [redacted] prior to commencement of sustained construction at the Facility Site, a quality assurance plan ("Quality Assurance Plan") that will govern the components of the Facility, which plan shall be in accordance with Prudent Industry Practices**.**

ARTICLE VIII.

COMPLETION OF THE WORK

8.1 Foundation Completion

Developer shall achieve, or cause to be achieved, Foundation Completion with respect to each individual WTG foundation and associated Infrastructure Facilities in accordance with the requirements of this Agreement. "Foundation Completion," with respect to an individual Foundation, shall occur when the following requirements are met:

(a) such foundation is mechanically completed and installed in accordance with this Agreement;

(b) such foundation is structurally complete and contains all necessary embedded inserts;

(c) the concrete portion of such foundation has cured so as to have achieved the minimum strength necessary to allow assembly, erection and installation of the WTG thereon;

(d) backfilling of the area surrounding such foundation has been completed;

(e) Developer has documented any changes to each foundation and the Infrastructure Facilities (both above-and below-ground in the immediately surrounding area); and

(f) DTE has accepted a Foundation Completion Certificate with respect to such Work pursuant to Section 8.9.

8.2 Collection System Completion

Developer shall achieve, or cause to be achieved, Collection System Completion with respect to each individual Collection System circuit and associated WTGs' electrical works in accordance with the requirements of this Agreement. "Collection System Completion," with respect to each Collection System circuit, shall have occurred when the following requirements are met, except with regard to Punch List items:

(a) the padmount transformers and padmount transformer foundations have been completed;

(b) all of the electrical works necessary to achieve connection of such padmount transformers to the Substation in accordance with this Agreement have been installed, insulated, protected and tested;

(c) the fiber optic cable has been installed and tested and meets the Turbine Supplier's specifications;

(d) all of the electrical works including the installation of all power cable and grounding necessary to energize the WTGs on the circuit are completed in accordance with the requirements of this Agreement;

(e) all materials and equipment associated with such electrical works have been installed in accordance with the requirements of this Agreement and checked for adjustment;

(f) such electrical works necessary to achieve connection of such WTGs to Transmission Utility's electricity transmission system (excluding the SCADA System), are either (i) energized, or (ii) immediately capable of being energized upon provision of the Interconnection Facilities by the Transmission Utility;

(g) all of such electrical works have been properly constructed, installed, insulated and protected where required for such operation, correctly adjusted, tested and commissioned, are mechanically, electrically and structurally sound in accordance with the requirements of this Agreement, and can be used safely in accordance with this Agreement, Applicable Laws and Prudent Industry Practices;

(h) Developer has prepared and submitted the list of Punch List items with respect to such individual circuit, and DTE has confirmed that all items properly belonging on the Punch List are included thereon; and

(i) DTE has accepted a Collection System Completion Certificate with respect to such Work pursuant to Section 8.9.

8.3 Infrastructure Completion

Completion of the Infrastructure Facilities ("Infrastructure Completion") shall be deemed to have occurred when the following have been completed (or waived in writing by DTE) in accordance with the Scope of Work and all other requirements of this Agreement, except with regard to Punch List items:

(a) the Facility Site roads have been constructed or improved and maintained in accordance with the specifications of this Agreement excluding reclamation work;

(b) Foundation Completion has been achieved for all WTG foundations;

(c) Collection System Completion has been achieved for all Collection System circuits (does not include the SCADA System);

(d) the Grounding Grid has been installed and tested and meets the Turbine Supplier's specifications;

(e) all equipment and components have been installed in accordance with the manufacturer's installation specifications;

(f) all systems and equipment are mechanically sound and all systems and equipment other than the WTGs are electrically sound and have been tested and may be operated without damage to the Facility or other property and without injury to any person;

(g) all other items necessary to complete the Work relating to the Infrastructure Facilities have been completed in accordance with this Agreement;

(h) Developer has prepared and submitted the final, updated Punch List with respect to all Work relating to the Infrastructure Facilities, and DTE has confirmed that all items properly belonging on the Punch List are included thereon; and

(i) DTE has accepted an Infrastructure Completion Certificate with respect to such Work pursuant to Section 8.9.

8.4 WTG Mechanical Completion

Developer shall achieve, or cause to be achieved, WTG Mechanical Completion of each individual WTG. "WTG Mechanical Completion", with respect to an individual WTG, shall occur when the following requirements are met:

(a) except for Punch List items, such WTG is assembled, erected and installed so as to be completed in accordance with the Technical Specification, the mechanical completion checklist set forth in the Turbine Contracts, and the other requirements of this Agreement;

(b) except for Punch List items, all materials and equipment associated with such WTG have been installed in accordance with the Technical Specification, the mechanical

completion checklist set forth in the Turbine Contracts, applicable procedures of the Quality Assurance Plan and the other requirements of this Agreement, DTE has participated in the Mechanical Completion Certificate (MCC) walk-down and provided input into the subsequent Punch List as identified within Section 8.4(c), and Developer has checked for adjustment, rotation and lubrication;

(c) Developer has prepared and submitted a Punch List with respect to such WTG, and DTE has confirmed that all items properly belonging on the Punch List are included thereon;

(d) the WTG is ready to commence WTG Commissioning; and

(e) DTE has accepted a WTG Mechanical Completion Certificate with respect to such WTG pursuant to Section 8.9.

8.5 WTG Completion

Developer shall achieve, or cause to be achieved, WTG Completion with respect to each WTG in accordance with the requirements of this Agreement. "WTG Completion" with respect to each WTG shall occur when the following requirements are met:

(a) WTG Mechanical Completion with respect to such WTG has occurred in accordance with Section 8.4;

(b) WTG Commissioning has been conducted and the WTG has met the requirements set forth in the Commissioning Test and Inspection Procedures set forth in the Turbine Contracts;

(c) after WTG Commissioning and prior to DTE acceptance, a walk down, facilitated and led by Developer with DTE and Turbine Supplier participation will be performed. These walk downs will constitute a visual inspection, unless agreed upon otherwise. Outstanding identified items will be included in the final and complete Punch List as identified within Section 8.5(d).

(d) except for Punch List items, all items of the Work necessary to achieve connection of such WTG to the Substation have been completed;

(e) except for Punch List items, all equipment and materials associated with such WTG have been properly assembled, erected, installed, adjusted, tested and commissioned, are mechanically, electrically and structurally complete and sound in accordance with the requirements of this Agreement, and can be used safely and operated continuously in accordance with this Agreement, Applicable Laws and Prudent Industry Practices;

(f) such electrical works necessary to achieve connection of each WTG to Transmission Utility's electric transmission system (including the SCADA System) have been energized and Interconnection has occurred;

(g) Developer has prepared and submitted a Punch List with respect to such WTG, and DTE has confirmed that all items properly belonging on the Punch List are included thereon; and

(h) DTE has accepted a WTG Completion Certificate with respect to such WTG pursuant to Section 8.9.

8.6 Project Substantial Completion

Developer shall achieve, or cause to be achieved, Project Substantial Completion in accordance with the requirements of this Agreement. "Project Substantial Completion" shall have occurred when the following requirements are met; provided, however, that in no event shall Project Substantial Completion occur prior to [redacted]:

(a) WTG Completion in accordance with Section 8.5 has occurred [redacted]

(b) Developer has completed all of the Work for all of the Infrastructure Facilities and Wind Energy Improvements excluding Punch List items, and has delivered to DTE copies of all test reports and electrical schematics related to the Facility;

(c) Developer has prepared and submitted to DTE the final and complete Punch List (or any dispute with respect thereto has been resolved in accordance with the third party dispute resolution provision in Section 8.7), and DTE has confirmed that all items properly belonging on the Punch List are included thereon;

(d) Developer has delivered copies of the O&M Manual and SCADA Manual in accordance with Section 2.3.7;

(e) the Commercial Operation Date has occurred; and

(f) DTE has accepted a Project Substantial Completion Certificate pursuant to Section 8.9.

[redacted]

[redacted]

8.8 Final Completion

(a) Provided that the Project Closing has occurred, Developer shall cause Final Completion to occur. "Final Completion" shall occur when the following requirements are met:

(1) DTE has received a complete set of drawings, including mechanical, civil and electrical drawings, showing the "as built" condition of all Infrastructure Facilities (including Wind Energy Improvements) and Electrical Works;

(2) all supplies, personnel and waste of Developer and Subcontractors have been removed from the Facility Site;

(3) all Punch List items have been corrected or performed to comply with the requirements of this Agreement; and

(4) DTE has accepted a Final Completion Certificate pursuant to Section 8.9.

(b) In connection with (but not as a condition to) the occurrence of Final Completion, Developer shall provide DTE with a populated spreadsheet in a form approved by DTE that includes the following information for each Facility Site Agreement (as applicable and to the extent reasonably available to Developer): tax identification number, section number, township, tower height (in meters), blade length (in meters), turbine number/MET tower name/substation name, percent ownership (if turbine on more than one parcel), turbine location (latitude, longitude, easting, and northing), parcel number, owner name, owner mailing address, owner mailing city, owner mailing zip code, parcel acreage, FAA lighting (Y/N), turbine street number, turbine street name, the recording date of the Facility Site Agreement, recording liber/page number, access road square footage, collection line linear feet, and other quantities required per Facility Site Agreements.

8.9 Achievement of Completion Milestones

(a) When Developer believes that a Completion Milestone has been achieved, it shall deliver to DTE a corresponding Completion Certificate. Such Completion Certificate shall include (i) the results of all testing relevant to achievement of such Completion Milestone, (ii) the date on which such Completion Milestone was achieved, and (iii) sufficient detail to enable DTE to determine that the relevant Completion Milestone has been achieved.

[redacted]

[redacted]

(c) It is understood and agreed that acceptance of Completion Certificates other than the Project Substantial Completion Certificate and the Final Completion Certificate is solely for the purpose of (i) confirming that DTE agrees (or does not disagree) that the Project has achieved a stage of completion in conformance with the Agreement's requirements (but without prejudice to Developer's obligation hereunder to deliver to DTE, as a condition for Project Substantial Completion, the Project in conformance with the Agreement's requirements) and (ii) affording the Parties the opportunity to identify and resolve any issues regarding conformance prior to Project Substantial Completion. Notwithstanding any disputes with regard to achievement of Completion Milestones prior to Project Substantial Completion, Developer may continue to prosecute completion of the Work substantially in accordance with the Project Schedule.

[redacted]

ARTICLE IX.

CONTRACT AMOUNT AND OTHER CHARGES

9.1 Contract Price

As consideration to Developer for providing the Project, DTE agrees to pay Developer an amount equal to: [redacted]

9.2 All Items of Work Included.

[redacted]

9.3 Taxes.

9.3.1 Sales and Use Taxes.

[redacted]

[redacted]

| [redacted] | [redacted] | [redacted] |
|---|---|---|
| [redacted] | [redacted] | [redacted] |
| [redacted] | [redacted] | [redacted] |
| [redacted] | [redacted] | [redacted] |
| [redacted] | [redacted] | [redacted] |
| [redacted] | [redacted] | [redacted] |
| [redacted] | [redacted] | [redacted] |
| [redacted] | [redacted] | [redacted] |

[redacted]

9.3.2 Export and Import Duties.

Developer shall pay all export duties, levies, imposts and other Taxes imposed by a Governmental Authority outside of the United States in connection with the exportation of any item of Equipment and Materials from the jurisdiction of such Governmental Authority, and all

import duties, levies, imposts and other Taxes imposed by the United States in connection with the importation of an item of Equipment and Materials into the United States.

9.3.3 Property Taxes.

Developer shall pay all real property and personal property Taxes assessed with respect to the Facility Site and the Project for the period prior to and including the Project Closing Date, and DTE shall pay all real property and personal property Taxes assessed with respect to the Site and the Project for the period from and after the Project Closing Date. Developer shall pay all personal property Taxes assessed at any time with respect to any equipment and other personal property owned by Developer and located at any site that is not intended to be incorporated into the Facility.

9.3.4 Allocation of Contract Price.

[redacted]

[redacted]

[redacted]

9.4 Other Taxes.

Except as otherwise provided in Section 9.3, Developer shall be liable, without reimbursement from DTE, for (a) all foreign and U.S. federal, state, local and other Taxes, including those that may be assessed on Developer's net income or gross receipts, that are related to this Agreement or the performance of the Work, and (b) all corporate, engineering, Developer, or business license costs and franchise fees required for Developer to conduct business in the State of Michigan (collectively, "Developer Taxes"). The Contract Price is inclusive of all Developer Taxes. Developer shall cooperate and provide testimony, documentation and other relevant information in connection with claims with respect to Taxes assessed against, payable by or for which DTE is responsible, to the extent relating to the Work performed under this Agreement.

9.5 Federal, State, County and Local Incentive Programs.

Applications for various federal, state, county and other local incentive programs and inducements related to the construction of the Project may be submitted by, or on behalf of, DTE. At the request of DTE, Developer will provide reasonable support to DTE and its consultants in order to fully realize the incentives offered. Participation in this effort, when requested by DTE, will include assistance with information requests to third Persons for filings related to the programs, assistance with tracking specific costs related to the incentive programs, providing Developer and Subcontractor employee headcounts and (to the extent reasonably available) payroll information, and other reasonable assistance as may be requested in a timely manner.

9.6 Project Closing

[redacted]

(a) in no event shall the Project Closing occur prior to the date on which DTE's acceptance of the Project Substantial Completion Certificate has occurred; and

(b) notwithstanding achievement of Project Substantial Completion of the Facility in accordance with this Agreement, DTE shall have no obligation to accept transfer of the Project and make the payment in conjunction therewith as contemplated by this ARTICLE IX unless and until the FERC Regulatory Filing has, subject to Section 3.3(c), been approved by the FERC. Developer shall give DTE at least [redacted] advance notice of the Business Day on which the Project Closing shall take place, provided that such Business Day shall be not earlier than the Project Substantial Completion Date.

The documents to be delivered to DTE at or prior to the Project Closing are the following:

(1) the Assignment (Facility Site Agreements);

(2) the Warranty Deed;

(3) the Title Policy;

(4) a Real Estate Transfer Tax Valuation Affidavit in the form of Michigan Department of Treasury Form 2705;

(5) a duly executed certificate of non-foreign status as required by Section 1445 of the Code in the form attached as Exhibit N;

(6) subject to Section 12.1, an assignment of the Assigned Contracts not already assigned to DTE pursuant to the Assignment (Facility Site Agreements), in form and substance satisfactory to DTE (which such assignment document shall attached true and correct copies of each Assigned Contract);

(7) to the extent required in Section 12.1, an assignment of the warranties of the Turbine Supplier and BOP Subcontractor;

(8) an assignment of all Developer Acquired Permits that DTE could reasonably be expected to require in connection with its ownership, operation and maintenance of the Facility, in form and substance satisfactory to DTE;

(9) Final (Unconditional) Lien Waiver from each Major Subcontractor to whom final payment has been made;

(10) Final (Conditional) Lien Waiver from each Major Subcontractor to whom final payment will be made out of the proceeds of DTE's payment to Developer;

(11) Partial Lien Waiver from Developer and from each Major Subcontractor other than those described in (9) and (10) above;

(12) an instrument evidencing the release of all security interests held by any third parties with respect to the Project;

(13) Bill of Sale (in the form of Exhibit W) for the Project and associated documentation;

(14) true, correct and complete copies of such books, records, Tax Returns and other documents in connection with the Project pertaining to the period prior to the Project Closing Date as may be reasonably necessary for DTE to own, operate, and maintain the Facility;

(15) a copy (which may be expurgated to remove pricing information) of the Turbine Contracts, BOP Subcontract and, [redacted] in each case, as executed by the parties thereto; and

(16) [redacted]

Documents delivered at the Project Closing shall be deemed to be delivered into and shall be held in escrow until the Parties agree that all the conditions to be satisfied for the Project Closing have been met or waived (in writing) and all actions to be taken (including the wire transfer of the funds to be paid to Developer at the Project Closing in accordance with payment instructions provided by Developer) have been duly taken.

9.7 [redacted]

[redacted]

9.8 Disputed Invoices

If there is any dispute about any amount invoiced by Developer, the amount not in dispute shall be promptly paid and any disputed amount that is ultimately determined to have been payable shall be paid, with interest calculated, as provided in Section 9.9.

9.9 Interest

Any amount owed to either Party beyond the date that such amount first becomes due and payable under this Agreement shall accrue interest from the date that it first became due and payable until the date that it is paid at the lesser of [redacted]

9.10 Effect of Payment

Payment of the Contract Price shall not constitute DTE's approval of any portion of the Facility or the Work which has been determined not to be, or subsequently is determined not to have been, performed in accordance with the requirements of this Agreement.

9.11 Payment Dates

Notwithstanding anything to the contrary in this ARTICLE IX, in the event that a payment to be made under this Agreement falls due on any day that is not a Business Day, the payment shall be deemed due on the first Business Day thereafter.

9.12 Wire Transfer Instructions

Payments to Developer shall be made in accordance with the payment instructions contained on the invoice of Developer or otherwise conveyed to DTE by Developer in writing at least [redacted] prior to the required payment date.

ARTICLE X.

CHANGE ORDERS

10.1 DTE Requested Change Orders

[redacted]

[redacted]

10.2 Developer Requested Change Orders

[redacted]

10.3 Disputes with Respect to Change Orders

In the event the Parties have not reached agreement with respect to the proper adjustment to the Contract Price and/or the Project Schedule (including the Guaranteed Project Substantial Completion Date and Guaranteed Final Completion Date) with respect to any event or other occurrence described in Section 10.2 (other than changes in the Work proposed by Developer and approved by DTE) within [redacted] after the occurrence of the event or circumstance described therein, the cost or amount of such adjustment, if any, shall be determined pursuant to the provisions of ARTICLE XXII. In the case of any dispute as to whether any work requested by DTE in writing is in fact a change from Developer's existing contractual obligations under this Agreement and the proper subject of a Change Order, the matter shall be referred to dispute resolution in accordance with the provisions of ARTICLE XXII. Pending the resolution of such dispute, Developer will comply with the written request of

DTE. [redacted]

10.4 Basis for Compensation for Costs

Where the provisions of this Agreement provide for the payment or reimbursement by DTE of "Compensable Costs" of Developer, such payment or reimbursement shall be for the following:

[redacted]

10.5 Audit Rights

Developer shall maintain at all times accurate records, books, logs and documentation that will adequately substantiate in detail Developer's Compensable Costs associated with work performed under Change Orders on a time and material basis. Developer shall, at its option, either deliver to DTE a true copy of, or shall make available for inspection and copying by DTE or its by representatives at DTE's cost, all such records, books, logs and documentation that may be necessary to adequately substantiate such work for review and audit by DTE or its representatives upon DTE's request during the term of this Agreement and for a period of three (3) years after final payment under this Agreement. All such information shall be subject to the provisions of Section 17.1.

ARTICLE XI.

FORCE MAJEURE

11.1 Excuse

Subject to Section 11.4, neither Party shall be considered in default under this Agreement for any delay or failure in the performance of its obligations and shall be excused in the performance of its obligations under this Agreement if such delay or failure is due to an event of Force Majeure.

11.2 Definition of Force Majeure

"Force Majeure" means, subject to Section 11.3, any event or circumstance, including any of the following enumerated events, that occur subsequent to the Contract Date and before the termination of this Agreement and that delays or prevents a Party's timely performance of its obligations under this Agreement, but only to the extent that (a) such event of Force Majeure is not attributable to fault or negligence on the part of that Party, (b) such event of Force Majeure is caused by factors beyond that Party's reasonable control, and (c) despite taking all reasonable technical and commercial precautions and measures to prevent, avoid, mitigate or overcome such event and the consequences thereof, the Party affected has been unable to prevent, avoid, mitigate or overcome such event or consequences:

(a) Acts of God such as hurricanes, floods, lightning, earthquakes and storms that are abnormally severe and not reasonably foreseeable for the period of time when, and the area where, such storms occur, based on, in the case of the Facility Site, the most recent ten (10)-year average of accumulated record mean values from climatological data compiled by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) for the vicinity of the Project;

(b) Sabotage or destruction by a third-party of facilities and equipment relating to the performance by the affected Party of its obligations under this Agreement;

(c) War, riot, acts of a public enemy or other civil disturbance;

(d) Subject to Section 11.3, strike, walkout, lockout or other significant labor dispute;

(e) Subject to Section 11.3, action or inaction of a Governmental Authority (including any Change of Law), but excluding (i) a failure to obtain a required approval from the MPSC or the FERC, or (ii) the issuance of an approval by such Governmental Authorities with conditions or terms unacceptable to DTE; or

(f) Action or inaction of the Transmission Utility but excluding any FERC approved amendments to Transmission Utility's FERC-approved tariff.

11.3 Exclusions

None of the following shall constitute an event of Force Majeure:

(a) Economic hardship of either Party;

(b) The non-availability of wind to generate electricity from the Facility;

(c) A Party's failure to obtain an Applicable Permit from, or revocation of an Applicable Permit by, a Governmental Authority, to the extent attributable to the fault or negligence of that Party;

(d) With respect to labor disputes and labor matters, the following shall not constitute a Force Majeure Event: (i) any labor shortage affecting Developer or any Subcontractor, unless caused by a Force Majeure Event, (ii) any labor disturbances, disputes, boycotts or strikes (whether primary or secondary in nature) involving Developer or any Subcontractor taking place at a facility of Developer or any Subcontractor; except that, the exception provided in the preceding clause (ii) shall not apply when any such labor disturbance, dispute, boycott or strike (x) is a national action or (y) extends beyond the geographic regional area of the State of Michigan (for labor disputes, disturbances, boycotts or strikes taking place at the Facility) or extends beyond the geographic regional area of a facility of Developer or any Subcontractors (for labor disputes, disturbances, boycotts or strikes taking place at a facility of Supplier or any Subcontractors);

(e) mechanical or Equipment failure, unless caused by a Force Majeure Event;

(f) climatic and weather conditions, other than those particular climatic or weather conditions specifically identified in Section 11.2(a) above;

(g) frost laws or other seasonal restrictions on traffic weight limits or speeds;

(h) any delay, default or failure (direct or indirect) in obtaining materials or labor by Developer or any Subcontractor performing any Work or any other delay, default or failure (financial or otherwise) of Developer or any Subcontractor unless such delay, default or failure is itself caused by a Force Majeure Event;

(i) any change in market conditions that causes a change in price of any labor or material required for the Work;

(j) any Site Condition or event arising therefrom; and

(k) any delay or failure of third parties to cooperate with Developer in the cure of title objections whether with respect to Curative Documents or Curative Actions.

11.4 Conditions

A Party may rely on a claim of Force Majeure to excuse its performance only to the extent that such Party:

(a) Provides prompt notice of such Force Majeure event to the other Party, giving an estimate of its expected duration and the probable impact on the performance of its obligations under this Agreement;

(b) Exercises all reasonable efforts to continue to perform its obligations under this Agreement;

(c) Expeditiously takes action to correct or cure the event or condition excusing performance so that the suspension of performance is no greater in scope and no longer in duration than is dictated by the event or condition being corrected or cured using commercially reasonable efforts; *provided, however*, that settlement of strikes or other labor disputes will be completely within the sole discretion of the Party affected by such strike or labor dispute;

(d) Exercises all commercially reasonable efforts to mitigate or limit damages to the other Party; and

(e) Provides prompt notice to the other Party of the cessation of the event or condition giving rise to its excuse from performance.

11.5 Termination for Extended Force Majeure

Notwithstanding anything contained in this ARTICLE XI to the contrary, if either Party is rendered unable to perform its obligations hereunder, in whole or in substantial part, after the Contract Date because of an event of Force Majeure [redacted] to the other Party, at any time after such event of Force Majeure has continued for a period of [redacted] and prior to the performance or resumption of performance by the Party claiming Force Majeure. In the case of a termination based on an event of Force Majeure, each of the Parties shall be relieved of its obligations under this Agreement to the extent provided in Section 4.4.

ARTICLE XII.

WARRANTIES

12.1 [redacted]

[redacted]

12.2 Warranty for Developer's Services

[redacted] If any portion of the Work fails to comply with the requirements of this Agreement due to a failure by Developer to comply with the warranty set forth in the preceding sentence, Developer shall cause such deficiency to be corrected at no additional cost to DTE, [redacted]

12.3 Project Warranty Disclaimer

THE WARRANTIES SET FORTH IN THIS ARTICLE XII, IN THE TURBINE CONTRACTS AND IN THE BOP SUBCONTRACT ARE EXCLUSIVE AND IN LIEU OF ALL WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE. EXCEPT AS SET FORTH IN THIS AGREEMENT, IN THE TURBINE CONTRACTS AND IN THE BOP SUBCONTRACT, THERE ARE NO OTHER WARRANTIES, AGREEMENTS, OR UNDERSTANDINGS THAT EXTEND BEYOND THOSE SET FORTH IN THIS AGREEMENT, IN THE TURBINE CONTRACT AND IN THE BOP SUBCONTRACT.

## ARTICLE XIII.

## TITLE; RISK OF LOSS

13.1 Clear Title

Developer warrants and guarantees that legal title to and ownership of the Work shall be free and clear of any and all liens, claims, security interests or other encumbrances when title thereto passes to DTE other than Permitted Liens and those created by DTE; provided, that nothing in this Section 13.1 shall diminish Developer's obligation to provide Partial Lien Waivers and Final Lien Waivers as and when required under this Agreement. Title to all Work permanently installed as part of the Facility, including the WTGs and Infrastructure Facilities, shall pass to DTE upon the payment by DTE of the amount due upon the Project Closing in accordance with ARTICLE IX.

13.2 Title to Drawings

With respect to the Work, title to drawings, specifications and like materials which are owned by Developer shall be transferred to DTE concurrent with transfer of title to the Project to DTE, as provided in Section 13.1. Effective upon the Project Closing, any licenses with respect to documents furnished under the Turbine Contracts shall be assigned to DTE. Developer may retain for its records a copy of all documents delivered to DTE hereunder.

13.3 Risk of Loss

Developer shall bear the risk of loss and damage with respect to the Project and the Work until the Project Closing. Any Work that is damaged or lost while Developer retains risk of loss with respect thereto shall be rebuilt, restored or replaced by Developer. Developer shall be responsible for any damage or loss falling within the deductible under such Developer's builder's risk insurance except in the event and to the extent that the damage or loss is caused by the gross negligence or willful misconduct of DTE. Upon such transfer of risk of loss with respect to such item, Developer shall relinquish and DTE shall assume full and exclusive custody of such property, including responsibility for security, operation, maintenance, insurance and risk of loss.

ARTICLE XIV.

INSURANCE

DTE and Developer shall each, at no additional cost to the other Party, carry and maintain or cause to be carried and maintained the insurance required to be carried by DTE and Developer in Exhibit L and shall comply with the other obligations respecting insurance set forth in Exhibit L.

ARTICLE XV.

INDEMNIFICATION

15.1 Indemnities.

15.1.1 [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

15.4 [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

15.5 [redacted]

[redacted]

[redacted]

ARTICLE XVI.

TERMINATION FOR DEFAULT; SUSPENSION

16.1 Termination by DTE for Developer Event of Default.

16.1.1 Events of Default by Developer

Developer shall be in default under this Agreement upon the occurrence of any of the following events (each a "Developer Event of Default"):

(a) Developer fails to achieve or cause to be achieved Project Substantial Completion [redacted]

(b) Developer fails to perform in any material respect any other provision of this Agreement such that it would not be able to deliver to DTE the Project conforming in all respects with the requirements of this Agreement;

(c) Developer fails to obtain any Developer Acquired Permit, any such Developer Acquired Permit is revoked, or Developer contravenes any Applicable Law or Applicable Permit such that the ability of Developer or any Subcontractor to perform the Work in accordance with this Agreement is materially hindered or the Project is materially and adversely affected;

(d) Developer becomes insolvent, or generally does not pay its debts as they become due, or admits in writing its inability to pay its debts, or makes an assignment for the benefit of creditors or insolvency, receivership, reorganization or bankruptcy proceedings are commenced by Developer;

(e) insolvency, receivership, reorganization or bankruptcy proceedings are commenced against Developer, and such proceedings are not terminated, stayed or dismissed within [redacted] after the commencement thereof;

(f) if any representation or warranty made by Developer in this Agreement is untrue or misleading in any material respect when made or when deemed made or repeated, and [redacted]

(g) Developer exercises the right to terminate this Agreement pursuant to Section 2.6.2; and

(h) with respect to Developer's Guarantor:

(i) Developer's Guarantor becomes insolvent, or generally does not pay its debts as they become due, or admits in writing its inability to pay its debts, or makes an assignment for the benefit of creditors or insolvency, receivership, reorganization or bankruptcy proceedings are commenced by Developer's Guarantor;

(ii) insolvency, receivership, reorganization or bankruptcy proceedings are commenced against Developer's Guarantor, and such proceedings are not terminated, stayed or dismissed [redacted] after the commencement thereof;

(iii) if any representation or warranty made by Developer's Guarantor in the Guaranty is untrue or misleading in any material respect when made or when deemed made or repeated, and the same shall not be remedied within [redacted] after notice from DTE; or

(iv) the Guaranty fails to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of Developer under this Agreement.

16.1.2 Notice of Default; Cure; Right to Terminate

DTE shall give notice of any Developer Event of Default to Developer. With respect to the Developer Events of Default described in Sections 16.1.1(b) and 16.1.1(c), DTE may terminate this Agreement if (A) any such default [redacted] after receipt of such notice from DTE, or (B) such default is not a payment default and can be cured but [redacted], corrective action is not commenced [redacted] With respect to the Developer Event of Default described in Section 16.1.1(g), this Agreement shall terminate upon the occurrence of such Developer Event of Default. With respect to all other Developer Events of Default, DTE may terminate this Agreement by mere notice of termination (which may be included in DTE's notice of the occurrence of the Developer Event of Default, as set forth in the first sentence of this Section 16.1.2) and without any opportunity to cure.

16.1.3 Consequences of Termination by DTE (or a Developer Event of Default described in Section 16.1.1(g))

Upon termination by DTE or upon a Developer Event of Default described in Section 16.1.1(g), the following provisions shall apply:

(a) DTE shall be relieved of any further obligation under this Agreement, including the obligation to accept the transfer of the Project and to pay the Contract Price, except for those provisions that survive termination as provided in Section 4.4;

(b) DTE shall remove its personnel and any personal property belonging to DTE or its personnel from the Facility Site (or other location where the field construction office for the Project may be located) and shall refrain and cause its personnel to refrain from taking from the Facility Site or the field construction office any documents constituting Confidential Information of Developer or its Affiliates or of any Subcontractors;

(c) DTE shall be entitled to all legal and equitable remedies that are not expressly prohibited or limited by the terms of this Agreement (including reimbursement of any advance payment of the Contract Price or any amount prepaid pursuant to Section 10.1(b), to the extent applicable).

16.2 Termination by Developer.

16.2.1 Events of Default by DTE

DTE shall be in default under this Agreement upon the occurrence of any of the following events (each a "DTE Event of Default"):

(a) DTE fails to pay when due the amount of the Contract Price that is payable upon the Project Closing in accordance with ARTICLE IX;

(b) DTE's fails to perform in any material respect any other provision of this Agreement;

(c) DTE contravenes any Applicable Law or Applicable Permit such that the ability of DTE to accept transfer of the Project from Developer upon the Project Closing and to pay the amount of the Contract Price payable in conjunction with such transfer in accordance with this Agreement is materially hindered or the Project is materially and adversely affected;

(d) DTE becomes insolvent, or generally does not pay its debts as they become due, or admits in writing its inability to pay its debts, or makes an assignment for the benefit of creditors or insolvency, receivership, reorganization or bankruptcy proceedings are commenced by DTE;

(e) insolvency, receivership, reorganization or bankruptcy proceedings are commenced against DTE, and such proceedings are not terminated, stayed or dismissed [redacted] after the commencement thereof; or

(f) if any representation or warranty made by DTE in this Agreement is untrue or misleading in any material respect when made or when deemed made or repeated, and [redacted]

16.2.2 Notice of Default; Cure; Right to Terminate

Developer shall give notice of any DTE Event of Default to DTE. With respect to the DTE Events of Default described in Sections 16.2.1(b) and 16.2.1(c), Developer may terminate this Agreement if (A) any such default is not cured [redacted] after receipt of such notice from Developer, or (B) such default is not a payment default and can be cured but not [redacted] With respect to all other DTE Events of Default, Developer may terminate this Agreement by mere notice of termination (which may be included in Developer's notice of the occurrence of the DTE Event of Default, as set forth in the first sentence of this Section 16.2.2) and without any opportunity to cure.

16.2.3 Consequences of Termination by Developer

If Developer terminates this Agreement prior to the Project Closing due to any DTE Events of Default described in Section 16.2.1, then the following shall apply:

(a) Developer shall be relieved of any further obligation to DTE under this Agreement, including the obligation to transfer the Project to DTE except for those provisions that survive termination as provided in Section 4.4;

(b) DTE shall remove its personnel and any personal property belonging to DTE or its personnel from the Facility Site (or other location where the field construction office for the Project may be located) and shall refrain and cause its personnel to refrain from taking from the Facility Site or the field construction office any documents constituting Confidential Information of Developer or its Affiliates or of any Subcontractors.

(c) Developer shall be entitled to all legal and equitable remedies that are not expressly prohibited or limited by the terms of this Agreement.

## ARTICLE XVII.

## NON-DISCLOSURE OF INFORMATION

17.1 Confidential Information

Except as set forth in this Section 17.1, DTE and Developer shall hold in confidence all information supplied by either Party to the other Party under the terms of this Agreement that is marked or otherwise indicated or reasonably understood by its nature to be confidential ("Confidential Information"). Each Party shall inform its Affiliates, Subcontractors, suppliers, vendors and employees of its obligations under this Section 17.1 and require such Persons to adhere to the provisions hereof. Notwithstanding the foregoing, DTE and Developer may disclose the following categories of information or any combination thereof:

(a) information which was in the public domain or publicly available prior to receipt thereof by such Party or which subsequently becomes part of the public domain or publicly available by publication or otherwise except by a wrongful act of such Party;

(b) information that such Party can show was lawfully in its possession prior to receipt thereof from the other Party through no breach of any confidentiality obligation;

(c) information received by such Party from a third party having no obligation of confidentiality with respect thereto; or

(d) information at any time developed independently by such Party providing it is not developed from otherwise confidential information.

The Parties each acknowledge and agree that the terms of this Agreement shall constitute Confidential Information of the other Party. Neither Party shall release, distribute or disseminate any Confidential Information for publication concerning this Agreement or the participation of the other Party in the transactions contemplated hereby without the prior written consent of the other Party.

Either Party may disclose Confidential Information pursuant to and in conformity with a judicial order or in connection with any legal proceedings under ARTICLE XXII and information required to be disclosed under securities laws or stock exchange regulations applicable to publicly traded companies and their subsidiaries; *provided, however*, that except in the case of legal proceedings between the Parties, the Party seeking disclosure informs the other Party of the need for such disclosure and, if reasonably requested by the other Party, seeks, through a protective order or other appropriate mechanism, to maintain the confidentiality of Confidential Information.

In addition, Developer may disclose Confidential Information to any financial institutions expressing interest in providing debt or equity financing or refinancing or other credit support to Developer for the engineering, procurement, and construction of the Project, and the agent or trustee of any of them; *provided, however*, that such disclosures shall be subject to the agreement of such Persons to keep such information confidential pursuant to the terms of this Section 17.1.

Developer and DTE may disclose Confidential Information to the extent required for FERC approvals contemplated by this Agreement; provided that each Party shall cooperate reasonably with the other Party with their efforts to limit the scope of, and/or obtain protective treatment for, such Confidential Information required to be disclosed.

Finally, DTE may disclose Confidential Information to the MPSC to the extent required for the approval by the MPSC of this Agreement and the transactions related thereto; provided that DTE shall cooperate reasonably with Developer in its efforts to limit the scope of, and/or to obtain protective treatment for, such Confidential Information required to be disclosed.

The confidentiality provisions set forth in this Section 17.1 shall be effective for a period of five (5) years after Final Completion or the earlier termination of this Agreement.

17.2 Public Announcements

Neither Party shall issue any public announcement or other statement with respect to this Agreement or the transactions contemplated hereby, without the prior consent of the other Party, unless required by Applicable Laws or order of a court of competent jurisdiction, *provided, however*, that Developer and its Affiliates shall have the right without obtaining such consent to include public information and photographs concerning the Project in Developer's and its Affiliates' marketing materials following the initial public announcement by DTE.

ARTICLE XVIII.

ASSIGNMENT

18.1 Assignment

This Agreement or any right or obligation contained herein may be assigned by either Party to an Affiliate thereof, provided that the Party making such assignment shall remain obligated for the performance of such Affiliate's obligations under this Agreement (and, if the Developer is the assigning party, the Guaranty shall remain in full force and effect following such assignment). Except as provided in the foregoing sentence, this Agreement may be assigned by a Party to other parties only upon the prior written consent of the other Party hereto; provided, however, that no such consent shall be required with respect to the assignment or collateral assignment of this Agreement by Developer to, or for the benefit of, the Financing Parties. In connection with any such assignment to a Financing Party, DTE shall execute and deliver a consent to assignment, as and to the extent reasonably requested by the Financing Parties, in form and substance similar to Exhibit R or otherwise acceptable to DTE to effect or to evidence such assignment, in each case, at Developer's sole cost and expense. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee; any other assignment shall be void and without force or effect.

18.2 Financing

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

ARTICLE XIX.

INDEPENDENT CONTRACTOR

19.1 Independent Developer

Developer is an independent contractor and nothing contained herein shall be construed as constituting any relationship with DTE other than that of owner or independent contractor or between DTE and Developer's employees or Subcontractors. Neither Developer nor any of its employees shall be deemed to be employees of DTE.

19.2 Developer's Responsibilities for its Employees

Subject to the provisions of this Agreement, Developer shall have sole authority and responsibility to employ, discharge and otherwise control its employees.

19.3 Responsibilities of Developer as Principal for its Employees

Developer has complete and sole responsibility as a principal for its agents, Subcontractors and all other hires to perform or assist in performing the Work.

ARTICLE XX.

REPRESENTATIONS AND WARRANTIES

20.1 Developer Representations

Except as specifically set forth in this Section 20.1, Developer represents and warrants that as of the Contract Date, the Effective Date and the Project Closing Date:

20.1.1 Organization

Developer is a limited liability company duly organized, validly existing and in good standing under the laws of the Delaware, and is qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure to so qualify would have a material adverse effect on its ability to perform this Agreement.

20.1.2 No Violation of Law; Litigation

Developer is not in violation of any Applicable Laws, or judgment entered by any Governmental Authority which violations, individually or in the aggregate, would materially affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or threatened against Developer, which, if adversely determined, could reasonably be expected to (a) have a material adverse effect on the ability of Developer to perform under this Agreement or a material adverse effect on the Project or (b) prohibit the consummation by Developer of the transfer of the Project to DTE on the Project Closing Date.

20.1.3 Permits

(a) Developer is (or will be by the time required to perform applicable Work on the Facility Site) the holder of all Applicable Permits required to permit it to operate or conduct its business now and as contemplated by this Agreement.

(b) As of the Contract Date, Part I of Exhibit E-1 contains a true, correct and complete list of all Applicable Permits currently held by or issued to Developer or its Affiliates (the "Existing Permits"), and Part II of Exhibit E-1 contains a list of all Applicable Permits that have not yet been obtained by Developer or its Affiliates but that are not required to have been obtained by such date under Applicable Law (the "Remaining Permits"). As of the Effective Date, Part I of Exhibit E-2 (to be provided by Developer and made a part of this Agreement as of the Effective Date) contains a true, correct and complete list of all Existing Permits and Part II of Exhibit E-2 (to be provided by Developer and made a part of this Agreement as of the Effective Date) contains a true, correct and complete list of all Remaining Permits. As of the Project Closing Date, Exhibit E-3 (to be provided by Developer and made a part of this Agreement as of the Project Closing Date) contains a true, correct and complete list of all Existing Permits, no Remaining Permits are required for the construction or operation of the Project remain unobtained, and the Existing Permits set forth on Exhibit E-3 represent all of the Applicable Permits required to be obtained by Developer or its Affiliates for the construction and operation of the Project.

(c) As to the Existing Permits listed on Exhibit E-1 as of the Contract Date, on Exhibit E-2 as of the Effective Date and on Exhibit E-3 as of the Project Closing Date, except as disclosed therein:

(1) Each of the Existing Permits is final, non-appealable, and in full force and effect, Developer is in compliance with all of its material obligations with respect thereto, and Developer has no knowledge of any facts that would reasonably be expected to adversely affect the validity of or compliance with any Existing Permit;

(2) As of the Effective Date and the Project Closing Date, there are no Actions pending or, to the knowledge of Developer, threatened which might reasonably be expected to result in the revocation, termination, modification or suspension of any Existing Permit which would reasonably be expected to materially and adversely affect DTE's ownership and operation of the Project;

(3) Except for notice to Beebe Renewable Energy, LLC, no notice, consent or approval of any party to any Existing Permit is required in connection with the Project Closing or the consummation of the other transactions contemplated hereby; and

(4) As of the Effective Date and the Project Closing Date, to the knowledge of Developer, no event has occurred or circumstance exists that (with or without notice or lapse of time) would reasonably be expected to constitute or result in a violation by Developer of, or a material failure on the part of Developer to comply with, any Existing Permit, which in each case would reasonably be expected to materially and adversely affect DTE's ownership and operation of the Project.

20.1.4 No Breach

(a) None of the execution and delivery of this Agreement, the consummation of the transactions herein contemplated, or compliance with the terms and provisions hereof, shall contravene or result in a breach of, or require any consent under, the governing documents of Developer, or any Applicable Laws or regulation, order, writ, injunction or decree of any court.

(b) None of the execution and delivery of this Agreement, the consummation of the transactions herein contemplated, or compliance with the terms and provisions hereof, shall (i) violate, conflict with or result in a breach of, cause a default under, result in the loss by Developer of any material rights or benefits under, create in any party the right to accelerate, terminate, suspend, revoke, modify or cancel, require any notice, filing or consent or give rise to any preferential purchase or similar right under any material agreement to which Developer is a party or by which Developer is bound; or (ii) result in the imposition or creation of any lien (other than any Financing Lien) on the Project.

20.1.5 Limited Liability Company Action

Developer has all necessary power and authority to execute, deliver and perform its obligations under this Agreement and to transfer the Project in accordance with and subject to the terms and conditions of this Agreement; the execution, delivery and performance by Developer of this Agreement and the transfer of the Project in accordance with and subject to the terms and conditions of this Agreement, in each case, have been duly authorized by all necessary

limited liability company action on its part; and, this Agreement has been duly and validly executed and delivered by Developer and constitutes the legal, valid and binding obligation of Developer enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally and by general equitable principles.

20.1.6 Real Property.

(a) The Facility Site Agreements and all other Real Property Rights, together with all modifications, supplements, and amendments as of the Effective Date are listed on Exhibit D-2A. As of the Effective Date, Exhibit D-2A is a true, correct and complete list of all Facility Site Agreements and Real Property Rights. As of the Project Closing Date, Exhibit D-2B (to be provided by Developer and made a part of this Agreement as of the Project Closing Date) is a true, correct and complete list of all Facility Site Agreements and Real Property Rights as of the Project Closing Date, and the Facility Site Agreements listed on Exhibit D-2B represent 100% of the Facility Site Agreements and Real Property Rights required for the Project, all of which are in full force and effect as of the Project Closing Date.

(b) The Facility Site Agreements are, or when entered into will be, legal, valid, binding, and enforceable in accordance with their terms, and in full force and effect.

(c) Other than Financing Liens which will be fully released at Project Closing, neither Developer nor any of its Affiliates has assigned its interest under any Facility Site Agreement, or granted any sublease of a Facility Site Agreement that is a lease.

(d) All payments due and required to be paid to the counterparties of Developer or any of its Affiliates prior to the date hereof pursuant to the terms of the Facility Site Agreements have been made;

(e) There is no breach or default by the Developer or its Affiliates or, to Developer's knowledge, by any other party to any Facility Site Agreement, and no event that, with the giving of notice or the passage of time, or both, would constitute a breach or default by the Developer or its Affiliates or, to Developer's knowledge, by any other party under any Facility Site Agreement.

(f) Neither Developer nor any of its Affiliates has delivered any written notice of repudiation of any provision of any Facility Site Agreement, or received from any other party to a Facility Site Agreement any written notice of such party's repudiation of any provision of such Facility Site Agreement.

(g) Except as expressly set forth in Schedule 20.1.6(g), (i) no Person has any right or option to terminate any Facility Site Agreement prior to its scheduled expiration date, and (ii) neither Developer nor any of its Affiliates has any obligation to make any payment of rent or other amounts to any other Person in respect of the Real Property Rights.

(h) Except as disclosed on Schedule 20.1.6(h) (the "Deviations Schedule"), the terms and conditions of each Facility Site Agreement will not differ in any material respect from the terms and conditions of the samples attached hereto as Exhibit D-6.

(i) All negotiations relative to this Agreement and the transactions contemplated hereby have been carried out by Developer directly with DTE without the intervention of any Person on behalf of Developer in such manner as to give rise to any valid claim by any Person against Developer or DTE for a finder's fee, brokerage commission or similar payment.

(j) As of the date hereof, Developer has disclosed to DTE any security interests, mortgages, and encumbrances granted by Developer or its Affiliates on the Facility Site.

20.1.7 Assigned Contracts.

(a) As of the Project Closing Date, Schedule 20.1.7 sets forth all agreements, instruments, commitments, licenses, and other legally binding arrangements, together with any amendments, restatements, supplements and other modifications thereto, to which Developer or any of its Affiliates is a party and which are necessary for the ownership, operation and maintenance of the Project and which are in effect on the Project Closing Date, excluding the Facility Site Agreements (the "Assigned Contracts"). True and complete copies of each of the Assigned Contracts will be provided to DTE on or prior to the Project Closing Date. As of the Project Closing Date, each Assigned Contract will be in full force and effect (and, in the case of any interconnection agreements or other agreements related to the Interconnection, all conditions to the interconnection service obligations of the Transmission Utility thereunder have been satisfied in full) and will be the legal, valid, binding and enforceable obligation of the Developer or its Affiliate, as applicable, and, to the knowledge of Developer, the other parties thereto, subject to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights and remedies of creditors generally and the exercise of judicial or administrative discretion in accordance with general equitable principles. As of the Project Closing Date, neither Developer nor its Affiliates, nor to the Knowledge of Developer, any of the other parties to any Assigned Contract, is in breach, violation or default, and, no event has occurred which with notice or lapse of time or both would constitute a breach, violation or default by any such party, or permit termination, modification, or acceleration by the other parties under such Assigned Contract. Under the terms of the Assigned Contracts, there are no outstanding or disputed indemnity claims or claims for payment, and no other payments are due and owing or required to be made to the Developer's counterparties under such Assigned Contract following the Project Closing Date [redacted]

20.1.8 Consents.

(a) The execution, delivery and performance by Developer of the Agreement and the transfer of the Project to DTE on the Project Closing Date do not require any consent of

any party to the organizational documents of Developer or its Affiliates, except such as have been obtained or effected and provided to DTE on or before the Project Closing Date.

(b) The execution, delivery and performance by Developer of the Agreement and the transfer of the Project to DTE on the Project Closing Date do not require any consent of any third party or any filing or recording with, or any consent of, or the taking of any other action with respect to, any Governmental Authority, except (i) such as have been obtained or effected on or before the Project Closing Date, and (ii) for filings, if any, to be made pursuant to any routine recording or regulatory requirements applicable to it.

20.1.9 Brokers and Finders.

Neither Developer nor any Affiliate thereof has incurred any liability or obligation to pay fees or commissions to any broker, finder or agent, with respect to the transactions contemplated in this Agreement, for which DTE shall be liable.

20.1.10Ownership.

As of the Project Closing Date, Developer owns all valid and legal right, title and interest of the Project and all components thereof, free and clear of all liens other than Permitted Liens and Financing Liens which such Financing Liens will be fully released at Project Closing. No Person has any option to purchase or otherwise acquire the Project, and Developer has made no agreements or arrangements with respect to the encumbrance, sale, transfer or assignment of any portion of the Project other than this Agreement.

20.1.11Taxes.

(a) All income, sales and use and other material Tax Returns that are required to be filed by Developer or its Affiliates pursuant to this Agreement or in respect of the Work or the Project have been duly and timely filed (taking into account applicable extensions of time to file) with the appropriate Governmental Authority, and all such Tax Returns are complete and accurate in all material respects;

(b) All sales and use Taxes and real and personal property Taxes assessed on or otherwise payable by Developer or its Affiliates with respect to the Facility Site and the Project, and any other material Taxes of Developer or its Affiliates pursuant to this Agreement or in respect of the Project or the Facility Site, that are due and payable have been paid in full;

(c) Neither Developer nor its Affiliates pursuant to this Agreement has in force any extension or waiver of any statute of limitations in respect of Taxes (other than extensions that arise as a result of filing Tax Returns by the extended due date therefor);

(d) There are no audits, examinations or other administrative or judicial proceedings currently ongoing or pending with respect to any material Taxes of Developer or its Affiliates pursuant to this Agreement or in respect of the Project or the Facility Site or, to Developer's Knowledge, threatened audits or proposed deficiencies or other claims for material

unpaid Taxes of Developer or its Affiliates pursuant to this Agreement or in respect of the Project or the Facility Site; and

(e) There are no liens for Taxes (other than Permitted Liens) upon the Project or the Facility Site.

20.1.12 Environmental Claims.

Neither Developer nor any of its Affiliates has received from any Governmental Authority or other Person any, and neither Developer nor any of its Affiliates has any knowledge of any existing or threatened, claim that (a) there has been any violation of any Environmental Law by Developer or at, or relating to, the Project, (b) there has been any Release of any Hazardous Materials in, on, under or from the Project, (c) Developer or the Project is liable regarding any violation of any Environmental Law or for the costs of cleaning up, remedying or responding to a Release of any Hazardous Materials or (d) the Project is subject to a lien in favor of any Governmental Authority or other Person in response to a release of Hazardous Materials or any violation of any Environmental Law, except in each case, as has been disclosed to DTE and with respect to which Developer has performed any applicable obligations in accordance with Section 2.6.2 prior to the Project Closing Date.

20.1.13 Intellectual Property.

To Developer's actual knowledge, the operation of the equipment used by the Project and the construction, ownership and operation of the Project do not infringe the Intellectual Property rights of any Person. To Developer's actual knowledge, all Intellectual Property necessary for the current conduct of its business is owned or otherwise held for the benefit of the Project.

20.2 DTE Representations

Except as specifically set forth in this Section 20.2, DTE represents and warrants that as of the Contract Date, the Effective Date and the Project Closing Date:

20.2.1 Organization

It is a corporation duly organized, validly existing and in good standing under the laws of the State of Michigan, and is qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure to so qualify would have a material adverse effect on its ability to perform this Agreement.

20.2.2 No Violation of Law; Litigation

It is not in violation of any Applicable Laws or judgment entered by any Governmental Authority, which violations, individually or in the aggregate, would materially and adversely affect its performance of any obligations under this Agreement. There are no legal or arbitration proceedings or any proceeding by or before any Governmental Authority, now pending or to the knowledge of DTE threatened against DTE which, if adversely determined,

could reasonably be expected to have a material adverse effect on the ability of DTE to perform under this Agreement.

20.2.3 Permits

It is (or will be prior to the Effective Date) the holder of all Applicable Permits for which it is responsible hereunder required to permit it to perform this Agreement.

20.2.4 No Breach

(a) None of the execution and delivery of this Agreement, the consummation of the transactions herein contemplated, or compliance with the terms and provisions hereof and thereof, contravenes or will result in a breach of, or require any consent under, the governing documents of DTE, or any Applicable Laws or regulation, order, writ, injunction or decree of any court.

(b) None of the execution and delivery of this Agreement, the consummation of the transactions herein contemplated, or compliance with the terms and provisions hereof, shall violate, conflict with or result in a breach of, cause a default under, result in the loss by DTE of any material rights or benefits under, create in any party the right to accelerate, terminate, suspend, revoke, modify or cancel, require any notice, filing or consent or give rise to any preferential purchase or similar right under any material agreement to which DTE is a party or by which DTE is bound.

20.2.5 Corporate Action

It has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; the execution, delivery and performance by DTE of this Agreement have been duly authorized by all necessary action on its part; and, this Agreement has been duly and validly executed and delivered by DTE and constitutes the legal, valid and binding obligation of DTE enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally and by general equitable principles.

20.2.6 Consents

The execution, delivery and performance by DTE of the Agreement and the transfer of the Project from Developer to DTE on the Project Closing Date do not require any consent of any party to the organizational documents of DTE or its Affiliates, except such as have been obtained or effected and provided to Developer on or before the Project Closing Date.

20.2.7 Brokers and Finders.

Neither DTE nor any Affiliate thereof has incurred any liability or obligation to pay fees or commissions to any broker, finder or agent, with respect to the transactions contemplated in this Agreement, for which Developer shall be liable.

ARTICLE XXI.

NOTICES AND COMMUNICATIONS

21.1 Notices

As used in this Agreement, "notice" includes the communication of a notice, a request, a demand, an approval, an offer, a statement, a report, an acceptance, a consent, a waiver and an appointment. Any notice required or authorized to be given hereunder or any other communications between the Parties shall be in writing (unless otherwise expressly provided) and shall be served personally or by reputable express courier service or by email transmission addressed to the relevant Party at the address stated below. Any notice so given personally shall be deemed to have been served on delivery, any notice so given by express courier service shall be deemed to have been served [redacted] after the same shall have been delivered to the relevant courier, and any notice so given by email transmission shall be deemed to have been served on dispatch; provided that such email notice is transmitted during "business hours" in the primary recipient's location (which, for purposes of this Section 21.1, shall mean any time before 5:00 p.m. on a day that is not a Saturday, Sunday or legal holiday in the state where such recipient is located) and otherwise shall be deemed to have been served upon the commencement of the next succeeding "business hours" in the recipient's location. As proof of such service it shall be sufficient to produce a receipt showing personal service, the receipt of a reputable courier company showing the correct address of the addressee or an activity report of the sender's email server showing the correct email address of the Party on whom notice is served and the date of transmission:

If to Developer:

Polaris Wind Energy LLC
c/o Invenergy LLC
[redacted]
Chicago, IL 60606
Attn: [redacted]
Email: [redacted]
Phone: [redacted]

with copy to:

Crowell & Moring LLP
[redacted]
Washington, DC 20004
Attn: [redacted]
Email: [redacted]
Phone: [redacted]

If to DTE: DTE Electric Company
Attn: Director, Renewable Energy

One Energy Plaza
1008 GO
Detroit, MI 48226

with copy to: DTE Electric Company
Attn: General Counsel
One Energy Plaza
688 WCB
Detroit, MI 48226

21.2 Change of Notice Recipient Information

Either Party may, by giving notice at any time or from time to time, require subsequent notice to be given to another individual, whether a Party or an officer or representative of a Party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

ARTICLE XXII.

DISPUTE RESOLUTION

22.1 Disputes.

Except as otherwise provided in this Agreement, in the event a dispute arises between the Parties regarding the application or interpretation of any provision of this Agreement, the Party alleging the dispute shall promptly notify the other Party of the dispute in writing. If the Parties shall have failed to resolve the dispute [redacted] after delivery of such written notice, each Party shall, [redacted] after receipt of a written demand from the other Party to do so, direct a senior executive (Vice President level or above) to confer in good faith [redacted] with a senior executive of the other Party to resolve the dispute. Should the Parties be unable to resolve the dispute to their mutual satisfaction [redacted], each Party shall have the right to pursue the resolution of such dispute in accordance with the provisions of Section 22.2.

22.2 Dispute Resolution.

22.2.1 Arbitration.

(a) Any controversy, claim or dispute between or among the Parties arising out of or related to this Agreement or the breach thereof that cannot be settled amicably by the Parties that is submitted to binding arbitration by a Party pursuant to the last sentence of Section 22.1 shall be settled by a single arbitrator in accordance with the provisions contained herein and in accordance with the Commercial Arbitration Rules of the American Arbitration Association

(the "AAA Rules"). Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The arbitrator shall determine all questions of fact and law relating to any controversy, claim, or dispute hereunder, including whether or not any such controversy, claim, or dispute hereunder is subject to the arbitration provisions contained herein.

(b) Any Party desiring arbitration (the "Demanding Party") shall serve on the other Party and the Office of the American Arbitration Association in Southfield, Michigan, in accordance with the Rules, its demand for arbitration (the "Demand"), accompanied by the name of the person chosen by the Demanding Party to select an arbitrator. The other Party shall choose a second person to select an arbitrator, and the two persons so chosen shall select the arbitrator. If the other Party upon whom the Demand is served fails to choose a person to select an arbitrator and advise the Demanding Party of their selection within [redacted] after receipt of the Demand, the person chosen by the Demanding Party shall select the arbitrator. If the two persons chosen by the Parties cannot agree upon an arbitrator [redacted] after the designation of the second person, the arbitrator shall be selected in accordance with the Rules. The arbitration proceedings provided hereunder are hereby declared to be self-executing, and it shall not be necessary to petition a court to compel arbitration.

(c) All arbitration proceedings shall be held in Detroit, Michigan.

(d) Any Demand shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitations.

22.3 Waiver of Jury Trial

TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY HEREBY WAIVES ALL RIGHTS TO A TRIAL BY JURY IN ANY LEGAL ACTION TO ENFORCE OR INTERPRET THE PROVISIONS OF THIS AGREEMENT OR THAT OTHERWISE RELATES TO THIS AGREEMENT.

22.4 Continuation of Work

Pending final resolution of any dispute, DTE and Developer shall continue to fulfill their respective obligations hereunder except to the extent expressly provided in this Agreement.

22.5 Survival.

This ARTICLE XXII shall survive the termination or expiration of this Agreement.

ARTICLE XXIII.

[redacted]

23.2 [redacted]

23.3 [redacted]

23.4 [redacted]

[redacted]

ARTICLE XXIV.

LIMITATION OF LIABILITY

24.1 Limitations on Damages.

Except for the damages and obligations specified under Section 23.1, notwithstanding anything else in this Agreement to the contrary, neither Party nor such Party's Subcontractors shall be liable to the other Party or its Affiliates, or any of their agents, employees, officers, directors or shareholders for any loss of profits, loss of revenue, increased cost of capital or financing or other carrying charges, product or business interruption, increased costs of operations, maintenance or staffing needs, or loss of use of a Project, or costs of replacement power or any indirect, consequential, punitive, exemplary, or special damages arising from a failure to perform any obligation under this Agreement, whether such liability arises in contract or breach of contract, indemnity, warranty or breach of warranty, tort (including negligence or strict liability), or otherwise, except to the extent of any liability arising from either Party's duty to indemnify hereunder for third party claims may be characterized as consequential in nature. Nothing in this ARTICLE XXIV shall affect or otherwise limit Developer's obligation to perform under this Agreement.

24.2 Limitations On Developer's Liability.

24.2.1 Generally.

[redacted]

[redacted]

24.2.2 For Delay Liquidated Damages.

[redacted]

24.3 Limitation on DTE's Liability.

In no event shall the aggregate liability of DTE pursuant to this Agreement whether arising in contract, warranty, or otherwise, be greater in the aggregate than an amount equal [redacted]

24.4 Time Limit.

[redacted]

[redacted]

24.5 Releases, Indemnities and Limitations.

Except as expressly set forth herein, releases, exclusions, assumptions of, and limitations on liabilities and on remedies expressed in this Agreement as well as waivers of subrogation rights shall apply even in the event of fault, breach of Agreement, breach of warranty, negligence, or strict liability of the Party released or whose liability is limited or assumed or against whom right of subrogation are waived and shall extend to the Parties and their Affiliates, and to their respective officers, directors, employees, licensees, agents, partners, or entities of such partners such as partners and related entities, and shall survive the completion, cancellation, expiration, suspension and/or termination of this Agreement.

24.6 Representations and Remedies.

Each Party makes no representations, covenants, warranties, or guarantees, express or implied, other than those expressly set forth herein and in the Exhibits hereto. The Parties' rights, liabilities, responsibilities and remedies with respect to this Agreement, the Work and the Materials and Equipment shall be exclusively those expressly set forth in this Agreement.

24.7 Exclusions.

Notwithstanding anything in this Agreement to the contrary, nothing contained in this ARTICLE XXIV shall limit Developer's liability for (a) third party claims for property damage or bodily injury, (b) claims for unauthorized disclosure of or use or infringement of any Intellectual Property (whether or not legally protected or protectable) in connection with, arising out of or in any way related to Developer's performance (or that of its affiliates or Subcontractors) under this Agreement, or (c) any intentional breach, gross negligence, intentional misconduct or fraud on the part of Developer or any Subcontractor, including intentional failure to perform its obligations under this Agreement.

## ARTICLE XXV.

## MISCELLANEOUS

25.1 Validity

Should any portion of this Agreement be declared invalid and unenforceable, then such portion shall be deemed to be severable from this Agreement and shall not affect the remainder hereof; and the Parties shall negotiate in good faith to replace such invalid and unenforceable provision.

25.2 Governing Law

The terms and provisions of this Agreement shall be interpreted in accordance with the laws of the State of Michigan applicable to contracts made and to be performed within the State of Michigan and without reference to the choice of law principles of the State of Michigan or any other state. In connection with the enforcement of any arbitration award under

Section 22.2, the Parties mutually consent to the jurisdiction of the courts of the State of Michigan and of the Federal Courts in the Eastern District of Michigan, and hereby irrevocably agree that all claims in respect of such action or proceeding may be heard in such Michigan state or federal court. Each Party irrevocably consents to the service of any and all process in any such action or proceeding by the mailing of copies of such process to such Party at its address specified in or pursuant to the provisions of ARTICLE XXI. Each Party agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Section 25.2 shall affect the right of a Party to serve legal process in any other manner permitted by law or affect the right of such Party to bring any action or proceeding against the other Party or its property in the courts of any other jurisdiction. The Parties further agree that any process directed to either of them in any litigation involving this Agreement may be served outside the State of Michigan with the same force and effect as if service had been made within the State of Michigan. To the extent a Party has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, such Party hereby irrevocably waives (to the fullest extent permitted by law) such immunity in respect of its obligations under this Agreement.

25.3 Waiver

The failure of a Party at any time to require performance by the other Party of any provision hereof shall not affect in any way the full right to require such performance at any time thereafter, nor shall the waiver by a Party of any breach of any provision hereof be held or deemed to be a waiver of the provision itself.

25.4 Severability.

The invalidity or unenforceability of any portion or provision of this Agreement shall in no way affect the validity or enforceability of any other portion or provision hereof. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision. If any such provision of this Agreement is so declared invalid, the Parties shall promptly negotiate in good faith new provisions to eliminate such invalidity and to restore this Agreement as nearly as possible to its original intent and effect.

25.5 No Oral Modifications

No oral or written amendment or modification of this Agreement (including a Change in Work form) by any officer, agent, or employee of Developer or DTE, either before or after execution of this Agreement, shall be of any force or effect unless such amendment or modification is in writing and is signed by an officer of the Party (or of the managing member or managing partner of the Party on behalf of the Party) to be bound thereby.

25.6 Time

It is the intent of the Parties that, notwithstanding the absence of the words "time is of the essence" in this Agreement, the remedies for non-performance of time-specified obligations be enforceable, as provided in this Agreement. Notwithstanding the absence of the words "time is of the essence" in this Agreement generally, the Parties agree that with respect to Project Substantial Completion, time is of the essence for the purpose of assessing Delay Liquidated Damages. Neither Party will, in any action or proceeding brought by the other Party, including any arbitration, assert as a defense the absence of the phrase "time is of the essence" herein.

25.7 Third-Party Beneficiaries

Except for provisions (including indemnity, limitation of liability, waiver and release provisions) that are expressly stated as inuring for the benefit of a Party's Affiliates, the provisions of this Agreement are intended for the sole benefit of DTE and Developer, and there are no third-party beneficiaries other than assignees contemplated by the terms herein.

25.8 Counterparts

This Agreement may be executed in any number of counterparts and by each of the Parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement.

25.9 Further Assurances

DTE and Developer will each use all commercially reasonable efforts to implement the provisions of this Agreement, and for such purpose each, at the request of the other, will promptly execute and deliver or cause to be executed and delivered to the other such assistance, or assignments, consents or other instruments in addition to those required by this Agreement, in form and substance satisfactory to the other, as the other may reasonably deem necessary or desirable to implement any provision of this Agreement.

25.10 Record Retention

Developer agrees to retain for a period of three (3)years from the Final Completion Date all design, engineering, fabrication, installation, construction, commissioning, startup and testing, and other technical records relating to its performance of the Work or warranty obligations herein, and will cause all Subcontractors engaged in connection with the Work or the performance by Developer of its warranty obligations herein to retain for the same period all their records relating to the Work.

25.11 Binding on Successors

This Agreement shall be binding on the Parties hereto and on their respective successors, heirs and permitted assigns.

25.12 FCPA

Developer does hereby represent, warrant and covenant that:

(a) Developer shall not cause DTE or its affiliates to be in violation of the Foreign Corrupt Practices Act (15 U.S.C. Section 78dd-1, et. seq.) as amended (the "FCPA") or any other applicable law.

(b) With respect to its performance under the Agreement, Developer and its owners, directors, officers, employees, and agents will not, directly or indirectly through third parties, pay, promise or offer to pay, or authorize the payment of, any money or give any promise or offer to give, or authorize the giving of anything of value to any individual, entity, or government for purposes of corruptly obtaining or retaining business for or with, or directing business to, any person, including DTE or its affiliates.

(i) Developer shall ensure that no part of any payment, compensation, reimbursement or fee paid by DTE to Developer will be used directly or indirectly as a corrupt payment, gratuity, emolument, bribe, kickback or other improper benefit.

(ii) Developer shall provide to DTE and/or its representatives and advisors all supporting documents requested by DTE pertaining to any expenses incurred, products provided, and/or services performed by Developer and its agents pursuant to the Agreement to ensure compliance with the FCPA. Developer understands and acknowledges that, notwithstanding any other provision contained in the Agreement, none of DTE or any of its affiliates shall be obligated to reimburse any expense incurred or pay for any Work, in DTE reasonable opinion, (i) Developer has failed to provide adequate documentation or information to confirm that an expense or charge did not violate the FCPA, or (ii) an expense reimbursement or product/service payment would cause DTE or any of its affiliates to be in violation of the FCPA.

25.13 Entire Agreement.

This Agreement supersedes any other agreement, whether written or oral, that may have been made or entered into between DTE and Developer or by any office or officer of such Party relating to the Project or the Work. This Agreement constitutes the entire agreement between the Parties with respect to the Project, and there are no other agreements or commitments with respect to the Project except as set forth herein.

25.14 Counterpart Execution.

This Agreement may be executed by the Parties hereto in any number of counterparts (and by each of the Parties hereto on separate counterparts), each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

[Signature page follows]

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

DTE ELECTRIC COMPANY

By: _____

Name: Gerard M. Anderson

Title: Chairman & CEO

Legal Reviewed

POLARIS WIND ENERGY LLC

By: _____

Name:

Title:

Kevin E. Parzyck
Vice President

## Schedule 20.1.6(g)

## Real Property

None.

## Schedule 20.1.6(h)

## Deviations Schedule

None.

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

| | | |
|---|---|---|
| In the matter, on the Commission's own motion, regarding the regulatory reviews, revisions, determinations, and or approvals necessary for DTE ELECTRIC COMPANY to fully comply with Public Acts 286 and 295 of 2008 | ) | Case No. U-18111 (Paperless e-file) |

**PROOF OF SERVICE**

STATE OF MICHIGAN )
) ss.
COUNTY OF WAYNE )

ESTELLA R. BRANSON, being duly sworn, deposes and says that on the 5th day of March, 2018, she served a copy of the DTE Electric Company's Application for Approval of the Polaris Wind Park Build-Transfer Contract and Related Relief, Affidavit, and Redacted Contract, via electronic mail upon the persons listed on the attached service list.

Estella R. Branson
Digitally signed by Estella R. Branson
DN: cn=Estella R. Branson, o=Regulatory Affairs, ou=DTE Energy, email=bransone@dteenergy.com, c=US
Date: 2018.03.05 14:57:39 -05'00'

ESTELLA R. BRANSON

Subscribed and sworn to before
me this 5th day of March, 2018.

Lorri A. Hanner
Digitally signed by Lorri A. Hanner
DN: cn=Lorri A. Hanner, o=General Counsel - Regulatory, ou=General Counsel - Regulatory, email=lorri.hanner@dteenergy.com, c=US
Date: 2018.03.05 15:06:06 -05'00'

Lorri A. Hanner, Notary Public
Wayne County, Michigan
My Commission Expires: 4-20-2020
Acting in Wayne County

**MPSC Case No. U-18111**
**SERVICE LIST**

**ADMINISTRATIVE LAW JUDGE**
Hon. Mark D. Eyster
7109 W. Saginaw Hwy
Lansing, MI 48917-1120
eysterm@michigan.gov

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