CT II PURCHASE AND SALE AGREEMENT

between

BLACK HILLS WYOMING, LLC

as the Seller

and

CONSOLIDATED WYOMING MUNICIPALITIES
ELECTRIC POWER SYSTEM
JOINT POWERS BOARD

as the Buyer

May __, 2013

TABLE OF CONTENTS

EXHIBITS

CT II Purchase and Sale Agreement

This Purchase and Sale Agreement (this "Agreement") is entered into as of May __, 2013, between Black Hills Wyoming, LLC, a Wyoming limited liability company (the "Seller"), and the Consolidated Wyoming Municipalities Electric Power System Joint Powers Board, a body corporate and politic, and a public corporation, duly created and existing pursuant to the provisions of the Wyoming Joint Powers Act, Wyo. Stat. §§ 16-1-102 through 16-1-109 (the "Buyer").

1.0 RECITALS.

This Agreement is made with reference to the following facts, among others:

1.1. The Seller is a power generation company with ownership or leasehold interests in electric generating facilities in Wyoming.

1.2. The Seller owns a 100% fee simple ownership interest a gas-fired electric generating facility known as "CT II" near Gillette, Wyoming, with a designed generating capacity of 40 MW (the "Facility," as defined with greater particularity below).

1.3. The Buyer exists for the purpose of expanding, financing, or operating the electrical systems of the Town of Basin, Wyoming ("Basin"), the City of Gillette, Wyoming ("Gillette"), and the City of Torrington, Wyoming (together with Basin and Gillette, the "Participating Agencies").

1.4. The Participating Agencies own and operate municipal electric systems, and the Buyer may acquire ownership electric generating facilities, and may designate one of its Participating Agencies as its agent, or may act as agent for one of its Participating Agencies, in connection with the planning, construction, acquisition, or operation of any such facility.

1.5. In accordance with the terms and conditions of this Agreement, the Seller and the Buyer wish to consummate a transaction whereby the Buyer would purchase from the Seller a 100% fee simple ownership interest in the Facility.

1.6. The Buyer will, pursuant to separate documentation, lease its ownership interest to Gillette on a year-to-year basis, subject to annual appropriation. At the end of the expected renewal terms under the lease, Gillette will have the opportunity to purchase the Buyer's ownership interest in the Facility for $1.00.

2.0 DEFINITIONS.

The following terms, when used herein, have the meanings specified below:

2.1. "Acquired Assets" is defined in Section 3.1.

2.2. "Affiliate" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the specified Person. The term "control" with respect to an Affiliate means the possession, directly or indirectly, of the power to direct or cause the direction of the management and the policies of the relevant entity, whether through an ownership interest, by contract, or otherwise. The term "Affiliate" also means, with respect to the Buyer, any Participating Agency and any subdivision or department of any Participating Agency.

2.3. "Affiliated Group" means any affiliated group within the meaning of § 1504(a) of the Code or any similar group defined under a similar provision of Law.

2.4. "Amended GDEMA" means an amendment and restatement of the existing Generation and Dispatch and Energy Management Agreement between BHP and Gillette, dated July 14, 2010, in substantially the form attached hereto as Exhibit A.

2.5. "Ancillary Document" means any agreement (other than this Agreement), instrument, or other document referenced herein to be delivered at Closing.

2.6. "Assignment and Assumption Agreement" means an assignment and assumption agreement between the Seller and the Buyer in substantially the form attached hereto as Exhibit B.

2.7. "Assumed Liabilities" is defined in Section 3.3.

2.8. "Basket" is defined in Section 13.6(b).

2.9. "Benefit Plan" means any employee benefit plan (as such term is defined in § 3(3) of ERISA) and each other plan, program, or arrangement providing benefits to employees that is maintained by, contributed to, or required to be contributed to by the Seller (or any of its ERISA Affiliates) as of the date hereof, including any fringe benefit plans (as such term is defined in Section 6039D of the Code), any multiemployer plan (as defined in Section 3(37) of ERISA), and any and all other incentive compensation, deferred compensation, layoff/severance/salary continuation, vacation, holiday, sick-leave and any other employee compensation or benefit plan (whether qualified or non-qualified, written or unwritten).

2.10. "BHP" means Black Hills Power, Inc., a South Dakota corporation and an Affiliate of Seller.

2.11. "Bill of Sale" means a bill of sale from the Buyer to the Seller in substantially the form attached hereto as Exhibit C.

2.12. "Breach" means: (i) with respect to a representation or warranty, the breach or inaccuracy of such representation or warranty; (ii) with respect to a covenant, the breach of or failure to perform or comply with such covenant; and (iii) with respect to this Agreement generally, a breach of a representation, warranty, or covenant contained in this Agreement.

2.13. "Business Day" means any day of the calendar year except Saturday, Sunday, or any day on which national banking institutions in Gillette, Wyoming are not generally open to the public for conducting business.

2.14. "Buyer's Excluded Representations and Warranties" is defined in Section 13.6(a)(ii).

2.15. "Buyer's Knowledge" means the actual knowledge of any board member of the Buyer, after due inquiry or reasonable investigation.

2.16. "Cap" is defined in Section 13.6(c).

2.17. "Capital Expenditures Adjustment Amount" is defined in Section 4.4.

2.18. "Capital Expenditures Amount" is defined in Section 4.4.

2.19. "Claim Notice" is defined in Section 13.7(a).

2.20. "Claim Threshold" is defined in Section 13.6(b).

2.21. "Claims" means any and all civil, criminal, administrative, regulatory, or judicial actions or causes of action, suits, petitions, proceedings (including arbitration proceedings), investigations, audits, hearings, demands, demand letters, claims, or notices of noncompliance or violation delivered by any Person.

2.22. "CLFP PPA" means that certain Extended Gillette Turbine Power Purchase Agreement dated as of March 30, 2011, between the Seller and Cheyenne Light, Fuel and Power Company, which will expire by its terms on August 31, 2014, a copy of which has been provided to Buyer.

2.23. "Closing" is defined in Section 5.1.

2.24. "Closing Date" is defined in Section 5.1.

2.25. "Closing Payment Amount" is defined in Section 4.3.

2.26. "Code" means the Internal Revenue Code of 1986, as amended and the regulations thereunder.

2.27. "Consent" means any consent, approval, authorization, qualification, or waiver of any Person.

2.28. "Contract" means any contract, agreement, lease, license, indenture, bond, promise, undertaking, or commitment, whether oral or written, but not including any Permit.

2.29. "Damages" means any loss, liability, penalty, fine, cost, expense, or damage, including judgments and settlement payments.

2.30. "Deed" means a General Warranty Deed, in substantially the form attached hereto as Exhibit D.

2.31. "Deposit" is defined in Section 4.2(b).

2.32. "Disclosing Party" is defined in Article 14.0.

2.33. "Disclosure Schedules" means, collectively, all Schedules attached to this Agreement (which shall be arranged in sections corresponding to the sections contained in this Agreement) that contain a disclosure required by, or an exception to, any of the representations and warranties of the Seller in Article 6.0 or the Buyer in Article 7.0.

2.34. "Economy Energy PPA" means a power purchase agreement between Gillette and the Seller, in substantially the form attached hereto as Exhibit E.

2.35. "Easement Assignment" means an assignment and assumption instrument between the Seller and the Buyer, in substantially the form attached hereto as Exhibit F.

2.36. "Effective Time" is defined in Section 5.1.

2.37. "Emission Allowances" means all present and future authorizations to emit specified units of pollutants, which units are established by Governmental Authorities with jurisdiction over the Facility under (i) an air pollution control and emission reduction program designed to mitigate the interstate or intrastate transport or deposition of pollutants or (ii) any other air pollution reduction program with a similar purpose, in each case, irrespective of whether the Governmental Authority establishes such authorizations or designates such authorizations by a name other than "allowances."

2.38. "Environment" means all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings and the air within other natural or man-made structures above or below ground), plant and animal life, and any other natural resource.

2.39. "Environmental Attributes" means all attributes of an environmental nature (including Emission Allowances, environmental air quality credits, carbon credits, emissions reduction credits, certificates, tags, or offsets, or similar products or rights) that are created or otherwise arise under any Law and attributable or allocated to the Facility.

2.40. "Environmental Claims" mean any and all Claims (including Claims involving toxic torts, public or private nuisance, or similar liabilities in tort, whether based on negligence or other fault, strict or absolute liability, or any other basis) relating in any way to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release (or alleged

presence, Release, or threatened Release) into the Environment of any Hazardous Materials, including any and all Claims for enforcement, cleanup, remediation, removal, response, remedial or other actions for Damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law.

2.41. "Environmental Laws" mean any and all Laws relating to pollution, the Environment, or damage to natural resources, including Laws relating to Releases and threatened Releases or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of Hazardous Materials. Environmental Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 *et seq.*; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*; the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*; the Clean Air Act, 42 U.S.C. § 7401 *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*; the Oil Pollution Act, 33 U.S.C. § 2701 *et seq.*; the Endangered Species Act, 16 U.S.C. § 1531 *et seq.*; the National Environmental Policy Act, 42 U.S.C. § 4321, *et seq.*; the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 *et seq.*; the Atomic Energy Act, 42 U.S.C. § 2014 *et seq.*; the Nuclear Waste Policy Act, 42 U.S.C. § 10101 *et seq.*; and their state and local counterparts or equivalents, all as amended from time to time, and regulations issued pursuant to any of those statutes.

2.42. "Environmental Permits" mean any and all Permits issued under or with respect to applicable Environmental Laws and used for the repair, maintenance, or operation of the Facility.

2.43. "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations thereunder.

2.44. "ERISA Affiliate" means any Person that, together with the Seller, would be considered a single employer under § 414 of the Code.

2.45. "Excess Use Amount" is defined in Section 4.5.

2.46. "Excluded Assets" is defined in Section 3.2.

2.47. "Excluded Matter" is defined in Section 2.72.

2.48. "Excluded Representations and Warranties" are defined in Sections 13.6(b).

2.49. "Facility" means the gas-fired electric generating facility known as "CT II," with a designed generating capacity of 40 MW, which consists of (i) the equipment located on the Real Property and related solely to CT II, including the boiler island, turbine-generator, fuel handling equipment, pollution control equipment, the buildings housing any such equipment, and the auxiliary equipment in respect of the foregoing, (ii) the inventories of materials and supplies related solely to CT II, including spare parts, tools and equipment; (iii) the Interconnection Facilities; and (iv) subject to Section 3.5 below, the Permits held by the Seller and required in connection with the Buyer's ownership of, and related solely to, CT II (the "Facility Permits").

2.50. "Facility Permits" is defined in Section 2.49.

2.51. "FERC" means the Federal Energy Regulatory Commission.

2.52. "Financing Contingency" is defined in Section 11.2(h).

2.53. "GAAP" means United States generally accepted accounting principles as of the date hereof.

2.54. "Gas Line" means the approximately 27-mile long, 8-inch diameter, high-pressure steel natural gas pipeline located in Campbell County, Wyoming, that supplies natural gas to the Facility.

2.55. "Gas Transportation Agreement" means a Transportation Service Agreement between the Seller and Gillette, in substantially the form attached hereto as Exhibit G.

2.56. "Good Utility Practice" means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

2.57. "Governmental Authority" means the United States, any state, local, or other political subdivision thereof, and any court, commission, authority, agency, department, or body exercising executive, legislative, judicial, regulatory, or administrative functions of or pertaining to national, state, or local government.

2.58. "Ground Lease" means a Ground Lease between Seller, as lessor, and the Buyer, as lessee, in substantially the form attached hereto as Exhibit H.

2.59. "Guaranty" means a Guaranty from Black Hills Corporation, in substantially the form attached hereto as Exhibit N.

2.60. "Hazardous Materials" means (i) any chemicals, materials, substances, or wastes which are defined as or included in the definition of "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic substance," "extremely hazardous substance," "pollutant," "contaminant," or words of similar import under any applicable Environmental Law; (ii) any petroleum or petroleum byproducts (including crude oil or any fraction thereof), polychlorinated biphenyls, asbestos-containing materials, mercury, radiation or radioactive materials, and lead-based paints; and (iii) any other chemical, material, substances, waste, or mixture thereof which is prohibited, limited, or regulated by Environmental Laws.

2.61. "Improvements" is defined in Section 6.20(a).

2.62. "Indemnification Claim" means a claim by an Indemnitee for indemnification under Section 13.2 or 13.3, as the case may be.

2.63. "Indemnitee" means the party entitled to indemnification under Section 13.2 or 13.3, as the case may be.

2.64. "Indemnitor" means the party obligated to provide indemnification under Section 13.2 or 13.3, as the case may be.

2.65. "Initial Deposit" is defined in Section 4.2(a).

2.66. "Interconnection Agreement" means that certain Agreement for Interconnection Service dated as of April 25, 2001, between BHP and Black Hills Generation, Inc. (predecessor in interest to the Seller), a copy of which has been provided to the Buyer.

2.67. "Interconnection Agreement Assignment" means an assignment and assumption instrument between the Seller and the Buyer, in substantially the form attached hereto as Exhibit I.

2.68. "Interconnection Facilities" means the interconnection facilities owned by the Seller, as defined in the Interconnection Agreement.

2.69. "Law" means any federal, state, or local statute, code, ordinance, rule, regulation, other law, and similar acts or promulgations of any Governmental Authority.

2.70. "Legal Proceeding" means any (i) judicial or administrative action, suit, hearing, or proceeding (public or private) by or before a Governmental Authority or (ii) hearing or proceeding before an arbitrator, mediator, or other Person (or group of Persons) engaged or appointed for the resolution of disputes.

2.71. "Lien" means any lien, pledge, mortgage, deed of trust, security interest, or other encumbrance on the Acquired Assets.

2.72. "Material Adverse Effect" means any event, effect, change, or development (regardless of whether such event, effect, change, or development can be cured or whether Buyer has knowledge of such event, effect, change, or development on the date hereof) that individually or in the aggregate results in a diminution in value of the Acquired Assets of more than $2,500,000 (including any diminution in value caused in whole or in part by increased operating costs); and, provided further, that no such event, effect, change, or development shall be taken into account in determining whether a Material Adverse Effect has occurred if it results from an Excluded Matter. For this purpose, an "Excluded Matter" means any one or more of the following: (i) any change in the economy or securities or financial markets in general, except to the extent that the Acquired Assets, taken as a whole, are adversely affected in a substantially disproportionate manner as compared to similarly situated gas-fired electric generating facilities in the region; (ii) any change,

including changes in the Laws, Orders, or GAAP, that affects the power marketing, electric utility, or any other industry generally, except to the extent that the Acquired Assets, taken as a whole, are adversely affected in a substantially disproportionate manner as compared to similarly situated gas-fired electric generating facilities in the region; (iii) any natural disasters, hostilities, acts of war, sabotage, or terrorism, or military actions or any escalation or material worsening of any such hostilities, acts of war, sabotage, or terrorism, or military actions existing or underway as of the date hereof; or (iv) any action taken by the Buyer or its Affiliates other than as required under the terms of this Agreement or with the Seller's written consent.

2.73. "Most Recent Fiscal Year End" means December 31, 2011.

2.74. "Neil Simpson Complex" means, at any given time and considered collectively, the electric generating facilities, coal mining operations, and ancillary equipment, facilities, and properties (including natural gas pipelines and parts and inventory storage facilities) in or near Gillette, Wyoming and owned or leased in whole or in part at that time by the Seller and its Affiliates.

2.75. "Occupational Safety and Health Claims" mean any and all Claims (including any such Claims involving any occupational health or safety matter or condition or similar liabilities in tort, whether based on negligence or other fault, strict or absolute liability, or any other basis) relating in any way to any Occupational Safety and Health Law, including any and all Claims for enforcement, response, remedial or other actions or Damages, or injunctive relief pursuant to any Occupational Safety and Health Law.

2.76. "Occupational Safety and Health Law" means any and all Laws concerning public health and safety or worker health and safety, or designed to reduce occupational safety and health hazards, including the Occupational Safety and Health Act, 29 U.S.C. § 651 *et seq.*, and the Emergency Planning and Community Right to Know Act, 42 U.S.C. § 11001 *et seq.*

2.77. "Oil Leak" means the condition described in item 1 of Schedule 6.8.

2.78. "O&M Agreement" means an Operating and Maintenance Agreement between the Buyer and the Seller (including the Accounting Manual attached thereto), in substantially the form attached hereto as Exhibit J.

2.79. "Order" means any (i) order, decree, judgment, injunction, writ, ruling, assessment, or award of or by a Governmental Authority; (ii) consent decree, memorandum of understanding, settlement agreement, or similar Contract with a Governmental Authority; or (iii) binding decision, ruling, or award of or by an arbitrator, mediator, or other Person (or group of Persons) engaged or appointed for the resolution of disputes.

2.80. "Outside Date" means December 31, 2014.

2.81. "Permit" means any and all permits, certifications, licenses, franchises, approvals, consents, waivers, or other authorizations of any Governmental Authority issued under or with respect to applicable Laws or Orders.

2.82. "Permitted Liens" means: (i) statutory liens for current Taxes or assessments not yet due or delinquent or the validity or amount of which is being contested in good faith by appropriate proceedings, none of which contested matters is material; (ii) mechanics', carriers', workers', repairers', landlords', and other similar liens arising or incurred in the ordinary course of business relating to obligations as to which there is no default on the part of the Seller or the validity or amount of which is being contested in good faith by appropriate proceedings, none of which contested matters is material; (iii) pledges, deposits, or other liens securing the performance of bids, trade contracts, leases, or statutory obligations (including workers' compensation, unemployment insurance, or other social security legislation); (iv) zoning, entitlement, restriction, and other land use, water use, and environmental regulations by Governmental Authorities regulating the use or occupancy of the Real Property or the activities conducted thereon or anticipated to be conducted thereon which are not violated by the present use or occupancy of the Real Property; (v) any Liens set forth in any state, local, or municipal franchise or governing ordinance to which any portion of the Facility is subject as to which there is no default on the part of the Seller or the validity or amount of which is being contested in good faith by appropriate proceedings, none of which contested matters is material; (vi) all rights of condemnation, eminent domain, or other similar rights of any Person to the extent that the same are threatened or exercised after the date of this Agreement; (vii) any Lien of record as of the date of this Agreement which is disclosed in the Disclosure Schedules; and (viii) such other Liens (including consent requirements) which do not and will not materially interfere with the Buyer's repair, maintenance, and operation or anticipated repair, maintenance and operation of the Facility in the ordinary course of business.

2.83. "Person" means any individual, corporation, partnership, limited liability company, firm, joint venture, association, joint enterprise, joint-stock company, trust, unincorporated organization, Governmental Authority, or other entity.

2.84. "Purchase Price" is defined in Section 4.2.

2.85. "Real Property" means the real property described on Exhibit K attached hereto.

2.86. "Receiving Party" is defined in Article 14.0.

2.87. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

2.88. "Retained Liabilities" is defined in Section 3.4.

2.89. "ROFR Agreement" means a Right of First Refusal Agreement between the Seller and the Buyer, in substantially the form attached hereto as Exhibit L.

2.90. "Seller's Excluded Representations and Warranties" is defined in Section 13.6(a)(i).

2.91. "Seller's Knowledge" means the actual knowledge of Mark Lux, Brent Voorhees, Todd Brink, Greg Hager, Andy Butcher, or Kyle White, after due inquiry or reasonable investigation.

2.92. "Shared Facilities Agreement" means a Shared Facilities Agreement between the Seller and the Buyer, in substantially the form attached hereto as Exhibit M.

2.93. "Tax" means any tax, fee, levy, tariff, assessment, or charge of any kind whatsoever, together with any interest, penalties, fines, and other additions with respect thereto, imposed by any Governmental Authority.

2.94. "Tax Affiliate" of a Person means a member of the Person's Affiliated Group and any other subsidiary of that Person which is a partnership or is a disregarded entity under the Code for Tax purposes.

2.95. "Tax Return" means: (i) any report, declaration, filing, questionnaire, estimate, return, information statement, and similar document relating to, or required to be filed in respect of, any Tax, including any additional or supporting material and any amendments or supplements thereof; and (ii) any statement, return, report, or similar document required to be filed pursuant to Part III of Subchapter A of Chapter 61 of the Code, or pursuant to any similar income, excise, or other Tax provision of any Law, including any amendments thereof.

2.96. "Third Party Claim" means a Legal Proceeding threatened, instituted, or asserted by a Person (including a Governmental Authority) other than the Buyer, the Seller, or any of their respective Affiliates against an Indemnitee.

2.97. "Time Limit" is defined in Section 13.6(a).

2.98. "Transaction" means the purchase and sale of the Acquired Assets and the related transactions contemplated by this Agreement.

3.0 PURCHASE AND SALE OF THE ACQUIRED ASSETS.

3.1. Acquired Assets. On and subject to the terms and conditions set forth in this Agreement, at the Closing, the Seller will sell to the Buyer, and the Buyer will purchase from the Seller, all of the Seller's right, title, and interest in and to the Acquired Assets (including a 100% fee simple ownership in the Facility), free and clear of all Liens, except for Permitted Liens. "Acquired Assets" means only the following assets:

(a) The Facility (including, subject to Section 3.5, the Facility Permits);

(b) The Interconnection Agreement, subject to the terms and conditions of the Interconnection Agreement Assignment;

(c) Any computer hardware, software, or systems located at the Facility and used exclusively in connection with the repair, maintenance and operation of the Facility or any of its components (subject to the terms of any license with respect thereto);

(d) Any designs, drawings, plans, schematics, plant data, design specifications, equipment lists, operating and maintenance manuals, testing protocols, and other similar documents relating exclusively to the repair, maintenance and operation of the Facility or any component thereof;

(e) All Environmental Attributes attributable or allocated to the Facility for periods after the Effective Time;

(f) As applicable, the Ancillary Documents (including the rights granted thereunder and the interests conveyed thereby); and

(g) Any third-party warranties, guaranties, and other similar rights in respect of any other assets described in this Section 3.1.

3.2. Excluded Assets. The Seller will not sell, and the Buyer will not purchase, any Excluded Assets. "Excluded Assets" means all assets that are not Acquired Assets, including the following:

(a) The Gas Line or any interest therein;

(b) Other than the Interconnection Agreement and the Ancillary Documents (including the rights granted thereunder and the interests conveyed thereby), any Contracts;

(c) Any and all rights, demands, claims, credits, allowances, rebates, causes of action, or rights of set-off, in each case known or unknown, pending or threatened, of the Seller in respect of the Excluded Assets or the Retained Liabilities;

(d) Any Benefit Plan;

(e) All Environmental Attributes attributable or allocated to the Facility for periods before the Effective Time;

(f) Except as otherwise provided in Section 3.1 above, any intellectual property of any nature whatsoever, including any name, trademark, patent, technology, or know-how;

(g) Except as provided in the Ancillary Documents, any right, title, or interest of any Person (including any Affiliate of the Seller) other than the Seller in any property or asset (including any Shared Capital Asset, as defined in the Shared Facilities Agreement, irrespective of whether such Shared Capital Asset is located on the Real Property); and

(h) Except as provided in the Ancillary Documents, any right, title, or interest in or to the Real Property.

3.3. Assumed Liabilities. On and subject to the terms and conditions set forth in this Agreement, at the Closing, the Seller will assign to the Buyer, and the Buyer will assume, pay,

perform, and discharge from and after the Closing in accordance with their respective terms, the Assumed Liabilities. "Assumed Liabilities" means any and all of the Buyer's liabilities and obligations under the Ancillary Documents arising after the Effective Time and, except as otherwise provided in the Ancillary Documents, all liabilities and obligations arising from the ownership, repair, maintenance and operation of the Facility from and after the Effective Time.

3.4. Retained Liabilities. The Buyer will not assume or otherwise be obligated to pay, perform, or discharge the Retained Liabilities. "Retained Liabilities" means all liabilities and obligations that are not Assumed Liabilities, including the following (except, in each case, as otherwise provided in the Ancillary Documents):

(a) Any liabilities or obligations of the Seller or its Affiliates to the extent related to any Excluded Assets;

(c) Any liabilities or obligations in respect of Taxes of the Seller or any Tax Affiliate of the Seller, or any liability of the Seller for unpaid Taxes of any Person under Treas. Reg. § 1.1502-6 (or similar Law) as a transferee or successor, by contract or otherwise;

(d) Any and all liabilities or obligations of the Seller or an ERISA Affiliate of the Seller to any former or current employee under or in connection with any of the Benefit Plans, including under any deferred compensation arrangement or severance policy or any obligation to make any parachute or retention payment;

(e) Any liabilities or obligations of the Seller in respect of indebtedness for borrowed money or the deferred purchase price of property; and

(f) Any other liability, obligation, duty, or responsibility of the Seller to the extent not related to the Acquired Assets.

3.5. Non-Assignment of Certain Permits. Anything contained herein to the contrary notwithstanding, (i) this Agreement does not constitute an agreement to assign any Facility Permit if the assignment thereof, without obtaining a Consent, would constitute a breach thereof, violate any applicable Law or Order, or in any way negatively affect the rights of the Seller or the Buyer thereunder, and such Consent is not obtained, and (ii) no Breach of this Agreement will have occurred by virtue of such nonassignment. The Seller will use commercially reasonable efforts, without being required to make any payment to any Person or incur any economic burden (other than administrative costs and its attorneys' fees), to obtain any such required Consent as soon as reasonably practicable, and the Buyer will reasonably cooperate, without being required to make any payment to any Person or incur any economic burden (other than administrative costs and its attorneys' fee), with the Seller in its efforts to obtain any such Consent. If the failure to obtain any such Consent for a Facility Permit would not cause Buyer's use or utilization of the unit contingent electric generation capacity of the Facility to be unlawful or would not materially interfere with Buyer's use of the Facility, and if the Consent is not obtained at or before the Effective Time, then the Seller and the Buyer will, to the maximum extent permitted by law, use commercially reasonable efforts to implement an arrangement to provide the Buyer with the benefits and obligations of such Facility Permit from and after the Effective Time.

3.6. Prorations. All day-to-day expenses of owning and operating the Acquired Assets customarily prorated will be prorated as of the Effective Time, including (i) vendor expenses and other accounts payable, (ii) water, sewer, gas, electricity, and other utility charges, (iii) prepaid expenses, advance payments, surety accounts, deposits, and other similar prepaid items, including for inventories of materials and supplies, and (iv) ordinary course payments under Facility Permits. Each of the Buyer and the Seller will take such actions, including by making payments to the other, as may be necessary to implement the prorations contemplated by this Section 3.6.

4.0 CONSIDERATION.

4.1. Consideration. The consideration to be paid by the Buyer for the Acquired Assets will be (i) the Purchase Price, (ii) the assumption of the Assumed Liabilities, and (iii) Buyer's obligations under the Ancillary Documents (including the Economy Energy PPA).

4.2. Purchase Price. The "Purchase Price" will be (i) $22 million, plus (ii) the Capital Expenditures Amount (if any), less (iii) the Excess Use Amount (if any). The Purchase Price will be paid as follows:

(a) The Buyer previously paid to the Seller $50,000.00 (the "Initial Deposit") as a deposit pending the execution and delivery of this Agreement, and the Seller acknowledges receipt of the Initial Deposit and will credit the same to the Full Deposit and Purchase Price.

(b) On the date of this Agreement, the Buyer will pay to the Seller an additional $950,000.00 (together with the Initial Deposit, the "Deposit") as an earnest money deposit pending the Closing. The Full Deposit will be either credited to the Purchase Price (if the Closing occurs) or, in accordance with Section 12.2, returned to the Buyer or retained by the Seller.

(c) At Closing, the Buyer will pay the Closing Payment Amount to the Seller by wire transfer of immediately available funds in accordance with wire transfer instructions provided to the Buyer by the Seller on or prior to the Closing Date.

(d) The Capital Expenditures Adjustment Amount, if any, will be paid by the Seller in accordance with Section 4.4 below, and the Excess Use Amount, if any, will be paid by the Seller in accordance with Section 4.5 below.

4.3. Closing Payment Amount. No later than 20 days prior to the Closing Date, the Seller will prepare and deliver to the Buyer (i) a good-faith estimate of the Capital Expenditures Amount, if any, and (ii) the amount of the Purchase Price to be paid at Closing, based on such estimate (the "Closing Payment Amount").

4.4. Capital Expenditures Adjustment Amount. As used herein, the term "Capital Expenditures Amount" means the actual amount of the expenditures made by the Seller in respect of the Facility in the period beginning on the date hereof and ending on the Closing Date, that are capitalized in accordance with GAAP and consistent with the Seller's past practice, but, except as provided in Section 10.3 below, only if (a) the Seller consults with the Buyer in advance of making

any such expenditure, and (b) the Seller reasonably determines, after such consultation, that each such expenditure is either required by an applicable Law, Order, or Permit or necessary in order for the Seller to operate the Facility in accordance with Good Utility Practice; provided, however, that any such expenditures to fix the Oil Leak shall not be included in the Capital Expenditures Amount. Within 60 days after the Closing Date, the Seller will prepare and deliver to the Buyer a statement that sets forth the Seller's determination of the actual Capital Expenditures Amount (which shall not be higher than the estimated Capital Expenditures Amount used for purposes of determining the Closing Payment Amount), together with reasonable supporting documentation. If the estimated Capital Expenditures Amount is higher than the actual Capital Expenditures Amount, the difference is referred to herein as the "Capital Expenditures Adjustment Amount," and the Seller will pay the Capital Expenditures Adjustment Amount to the Buyer by wire transfer of immediately available funds (in accordance with wire transfer instructions provided by the Buyer) on the first Business Day following the delivery of such statement by the Seller.

4.5. Excess Use Amount. As used herein, the term "Excess Use Amount" means the amount obtained by multiplying $1,000,000 by a quotient, the numerator of which is the total number of operating hours of the Facility as of the Closing Date in excess of 16,500, and the denominator of which is 3,500. Within 60 days after the Closing Date, the Seller will prepare and deliver to the Buyer a statement that sets forth the Seller's determination of the Excess Use Amount, together with reasonable supporting documentation. The Excess Use Amount, if any, will be paid by the Seller to the Buyer by wire transfer of immediately available funds (in accordance with wire transfer instructions provided by the Buyer) on the first Business Day following the delivery of such statement by the Seller.

5.0 CLOSING AND DELIVERIES.

5.1. Closing. The closing of the Transaction (the "Closing") will take place on the second Business Day following the satisfaction or waiver by the appropriate party of all the conditions contained in Article 11.0 hereof (other than those conditions that can only be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions), or on such other date as may be agreed by the parties (the "Closing Date"). Unless otherwise agreed by the parties, the Closing will occur via the exchange of copies of signed documents via email (PDF) or facsimile transmission, with original signed documents to follow by overnight delivery. For all purposes, the Closing will be effective as of 11:59:59 p.m. (prevailing time in Gillette, Wyoming) on the Closing Date (the "Effective Time").

5.2. The Seller's Closing Deliveries. At the Closing, the Seller will deliver to the Buyer the following items:

(a) The Bill of Sale, duly executed by the Seller;

(b) The Assignment and Assumption Agreement, duly executed by the Seller;

(c) The Deed, duly executed by the Seller;

(d) The O&M Agreement, duly executed by the Seller;

(e) The Shared Facilities Agreement, duly executed by the Seller;

(f) The Ground Lease, duly executed by the Seller;

(g) The Easement Assignment, duly executed by the Seller;

(h) The Amended GDEMA, duly executed by BHP;

(i) The Interconnection Agreement Assignment, duly executed by the Seller;

(j) The Economy Energy PPA, duly executed by the Seller;

(k) The Gas Transportation Agreement, duly executed by the Seller;

(l) The ROFR Agreement, duly executed by the Seller;

(m) The Guaranty, duly executed by Black Hills Corporation;

(n) All Consents obtained by the Seller in connection with the Transaction;

(o) A certificate of an officer of the Seller, in a form reasonably acceptable to the Buyer, confirming, to the best of such officer's knowledge, the satisfaction of the conditions set forth in Sections 11.2(a), (b), and (c); and

(p) A copy, certified by the Seller's Secretary, of the resolutions adopted by the Seller's Member(s) authorizing the execution, delivery, and performance of this Agreement.

5.3. The Buyer's Closing Deliveries. At the Closing, the Buyer will deliver to the Seller the following items:

(a) In accordance with Section 4.2, the Closing Payment Amount;

(b) The Bill of Sale, duly executed by the Buyer;

(c) The Assignment and Assumption Agreement, duly executed by the Buyer;

(d) The O&M Agreement, duly executed by the Buyer;

(e) The Shared Facilities Agreement, duly executed by the Buyer;

(f) The Ground Lease, duly executed by the Buyer;

(g) The Easement Assignment, duly executed by the Buyer;

(h) The Amended GDEMA, duly executed by Gillette;

(i) The Interconnection Agreement Assignment, duly executed by the Buyer;

(j) The Economy Energy PPA, duly executed by Gillette;

(k) The Gas Transportation Agreement, duly executed by Gillette;

(l) The ROFR Agreement, duly executed by the Buyer;

(m) All Consents obtained by the Buyer in connection with the Transaction;

(n) A copy, certified by the Buyer's secretary, of the resolutions adopted by the Buyer authorizing the execution, delivery, and performance of this Agreement; and

(o) A certificate of an officer of the Buyer, in a form reasonably acceptable to the Seller, confirming, to the best of such officer's knowledge, the satisfaction of the conditions set forth in Sections 11.1(a), (b), and (c).

6.0 REPRESENTATIONS AND WARRANTIES OF THE SELLER.

Except as set forth in the Disclosure Schedules, the Seller hereby represents and warrants to the Buyer as follows:

6.1. Organization. The Seller is a limited liability company duly organized, validly existing, and in good standing under the Laws of the state of Wyoming, with full power and authority to (i) own the Facility, (ii) execute and deliver this Agreement and the Ancillary Documents and perform its obligations hereunder and thereunder, and (iii) conduct its business as it is now being conducted and as it is contemplated to be conducted pursuant to this Agreement and any Ancillary Document.

6.2. Authorization of Transaction. The execution and delivery of this Agreement and the Ancillary Documents, and the consummation of the Transaction, have been duly and validly authorized by the Seller and no other proceedings on the part of the Seller are necessary to authorize this Agreement and the Ancillary Documents or to consummate the Transaction. This Agreement and the Ancillary Documents have been duly and validly executed and delivered by the Seller and constitute valid and binding agreements of the Seller, enforceable against the Seller in accordance with their terms (subject to bankruptcy, insolvency, and similar Laws of general applicability relating to or affecting creditors' rights and general equity principles).

6.3. Non-Contravention. The execution and delivery of this Agreement and the Ancillary Documents do not (i) contravene or violate the charter or organizational documents of the Seller or any of its Affiliates, (ii) contravene or violate any Order or Law to which the Seller, any of its Affiliates, or the Acquired Assets or Real Property are subject, (iii) conflict with, contravene, result in a breach of, or constitute a default (including with notice, lapse of time, or both) under, or result in the acceleration, termination, or cancellation of, any material Contract to which the Seller or any of

its Affiliates is a party, by which the Seller or any of its Affiliates is bound, or by which the Acquired Assets are subject, or (iv) result in any Lien (other than a Permitted Lien) upon the Acquired Assets or the Real Property.

6.4. Operation of the Facility. All actions by the Seller and any of its Affiliates in connection with the repair, maintenance and operation of the Facility have been performed in accordance with Good Utility Practice.

6.5. Legal Proceedings and Orders. There are no pending or, to the Seller's Knowledge, threatened Legal Proceedings or Claims against the Seller relating to any of the Acquired Assets or Real Property that would, or could reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect. There is no Order in effect that would, or could reasonably be expected to, have a Material Adverse Effect, individually or in the aggregate, following Closing.

6.6. Consents. The Seller and its Affiliates require no Consents to execute, deliver, and perform their obligations under this Agreement and the Ancillary Documents (including at the Closing), or for the parties to consummate the Transaction, other than as set forth in Schedule 6.6.

6.7. Permits and Title. The Seller (a) has all of the Permits necessary to operate the Facility pursuant to the terms of the Ancillary Documents, and (b) has good and marketable title to, and is the sole and exclusive owner of, the Acquired Assets, free and clear of all Liens other than Permitted Liens.

6.8. Condition of the Acquired Assets. Except as set forth in Schedule 6.8, the Acquired Assets have been maintained in accordance with Good Utility Practice and are in good operating condition and repair (subject to normal wear and tear), and are suitable for the purposes for which they are to be used and are proposed to be used.

6.9. Contracts and Rights.

(a) Each written material Contract principally relating to the Acquired Assets (as amended to date) is listed or referenced in Schedule 6.9, and Schedule 6.9 summarizes the terms and conditions of each oral material Contract, if any, principally relating to the Acquired Assets. With respect to each such material Contract: (i) the Contract is, with respect to the Seller or any of its Affiliates, legal, valid, binding, enforceable, and in full force and effect (subject to bankruptcy, insolvency, and similar Laws of general applicability relating to or affecting creditors' rights and general equity principles); (ii) neither the Seller nor any of its Affiliates is in breach or default of, and no event has occurred that with notice or lapse of time would, or could reasonably be expected to, constitute a breach or default of, or permit the early termination of or acceleration of rights under, the Contract; and (iii) to the Seller's Knowledge, no contracting party is in breach or default of, and no event has occurred that with notice or lapse of time would, or could reasonably be expected to, constitute a breach or default of, or permit the early termination of or acceleration of rights under, the Contract.

(b) The Seller and its Affiliates have all rights, including contractual rights and easements, rights-of-way, and other real property rights, necessary to own and operate the Facility in the ordinary course of business and in accordance with Good Utility Practice.

6.10. Compliance with Laws and Permits.

(a) With respect to the Facility and the Real Property, the Seller and its Affiliates have complied with, and are in compliance with, all applicable Laws, Orders, and Permits. There are no Claims against Seller or any of its Affiliates with respect to the Real Property or the Acquired Assets, or to the Seller's Knowledge threatened against the foregoing, alleging any failure to so comply with any and all applicable Laws and Orders.

(b) The Seller and its Affiliates have all of the Permits necessary to operate the Facility, and all such Permits are listed in Schedule 6.10(b). Each such Permit is valid and in full force and effect, and is not subject to any pending or, to the Seller's Knowledge, threatened Claims to revoke, cancel, suspend, or declare invalid such Permit. The Seller is in compliance in all material respects with each such Permit.

6.11. Environmental Matters. Except as set forth on Schedule 6.11:

(a) Seller and its Affiliates (i) possess all Environmental Permits necessary to operate the Facility in accordance with Good Utility Practice, (ii) have been and are, with respect to the Acquired Assets and the Real Property, in compliance with the requirements of such Environmental Permits and all Environmental Laws, and (iii) have not received any Environmental Claim by an applicable Governmental Authority to suspend, revoke, or withdraw any such Environmental Permit, except with respect to any Environmental Permit that, if suspended, revoked, or withdrawn, individually or in the aggregate, would not, or could not reasonably be expected to, have a Material Adverse Effect.

(b) None of the following exists at the Acquired Assets or the Real Property: (i) underground storage tanks, (ii) asbestos-containing material in any form or condition, (iii) materials or equipment containing polychlorinated biphenyls, (iv) groundwater monitoring wells, drinking water wells, or production water wells, or (v) landfills, surface impoundments, or disposal areas.

(c) There is and has been no material Release caused by the Seller or any of its Affiliates from, in, on, or beneath the Real Property that would, or could reasonably be expected to, form a basis for an Environmental Claim. To the Seller's Knowledge, there is and has been no material Release caused by any other Person (i.e., any Person other than the Seller or any of its Affiliates) from, in, on, or beneath the Real Property that would, or could reasonably be expected to, form a basis for an Environmental Claim.

(d) There are no Environmental Claims related to the Acquired Assets or the Real Property that are pending or, to the Seller's Knowledge, threatened against the Seller or any of its Affiliates.

(e) Neither this Agreement nor the consummation of the Transaction will result in any obligations for site investigation or cleanup, or notification to or consent of any Governmental Authority or other Person, pursuant to any of the so-called "transaction-triggered" or "responsible property transfer" Environmental Laws.

(f) Without limiting any of the foregoing representations and warranties in this Section 6.11 with respect to the Facility, the Acquired Assets, and the Real Property, the operation by the Seller and its Affiliates of the coal mine, coal handling facilities, other power plants, and other facilities at the Neil Simpson Complex will not, with respect to the operation of the Facility, (i) prevent, hinder, or limit continued compliance with Environmental Laws, (ii) give rise to any Environmental Claim pursuant to Environmental Laws, or (iii) give rise to any other liabilities pursuant to Environmental Laws.

6.12. Fees and Commissions. No broker, finder, or other Person is entitled to any brokerage fees, commissions, or finder's fees for which the Buyer could become liable or obligated in connection with the Transaction by reason of any action taken by the Seller.

6.13. OSHA.

(a) The Seller and its Affiliates have at all times complied and are in compliance with all Occupational Safety and Health Laws with respect to the Acquired Assets or the Real Property; and

(b) There are no Occupational Safety and Health Claims related to the Acquired Assets, the Real Property, or any other facility located at the Neil Simpson Complex that are pending or, to the Seller's Knowledge, threatened against the Seller or any of its Affiliates.

6.14. Insurance. Schedule 6.14 sets forth (i) a complete and correct list of all the policies of insurance, including the scope and coverage amounts, periods of coverage, and description of any retroactive premium adjustments or other loss sharing arrangements, carried by or for the benefit of the Seller on the date of this Agreement which cover the Facility and its operations and (ii) a five-year history of insurance claims made by the Seller or any of its Affiliates in respect of the Facility and its operations or the operations of any other facility located at the Neil Simpson Complex. The Seller has not received, and to the Seller's Knowledge it has not been threatened with, any written notice of cancellation or termination with respect to any insurance policy that in whole or in part provides coverage with respect to the Acquired Assets. None of the Seller, any of Affiliates, and, to the Seller's Knowledge, any other party is in material breach or default under any of such policies of insurance, and, to the Seller's Knowledge, all such insurance policies are valid, binding, and in full force and effect.

6.15. Governmental Filings. The Seller and its Affiliates have filed or caused to be filed with FERC or any other applicable Governmental Authority all material forms, statements, reports, and documents (including all exhibits, amendments, and supplements thereto) required by Law or Order to be filed by the Seller or any of its Affiliates with FERC or any other applicable Governmental Authority with respect to the Acquired Assets. As of the respective dates on which such forms, statements, reports, and documents were filed, each (to the extent prepared by the Seller or any of its Affiliates and excluding information prepared or provided by third parties) complied in

all material respects with all requirements of any Law or Order applicable to such form, statement, report, or document in effect on such date.

6.16. No Material Adverse Effect. No event, effect, change, or development has occurred which, individually or in the aggregate, has had, would have, or could reasonably be expected to have, a Material Adverse Effect.

6.17. Labor and Employment Matters.

(a) Except as disclosed on Schedule 6.17, neither Seller nor any of its Affiliates is a party to or bound by any collective bargaining agreement or other union Contract applicable to any employee of Seller or any of its Affiliates at the Neil Simpson Complex, no collective bargaining agent has been certified as a representative of any of the employees of Seller or any of its Affiliates at the Neil Simpson Complex, and no representation petition has been filed with the National Labor Relations Board with respect to any such employees. There is not any pending or, to the Seller's Knowledge, threatened (i) strike, slowdown, lockout, work stoppage, or other material labor dispute involving any of the employees, current or former, of the Seller or any of its Affiliates at the Neil Simpson Complex, or (ii) Claim or Legal Proceeding against Seller or any of its Affiliates arising out of or under any collective bargaining agreement, which Claim or Legal Proceeding relates to the activities of a current or former employee with respect to the Acquired Assets or Real Property or any other facility located at the Neil Simpson Complex. None of Seller nor any of its Affiliates have received in the last five years notice of any unfair or illegal labor, workplace or employment-related Claim pending or threatened against or involving Seller or any of its Affiliates before the National Relations Board, the Equal Employment Opportunity Commission, the Department of Labor or any other Governmental Authority in any way relating to the Acquired Assets, Real Property, or any other facility located at the Neil Simpson Complex.

(b) Seller and its Affiliates are, and have been in the past five years, in compliance in all material respects with all applicable Laws respecting labor and employment with regard to current and past employees of Seller and its Affiliates at the Neil Simpson Complex, including Laws regarding discrimination, harassment, retaliation, disability, labor relations, hours of work, recordkeeping, the WARN Act, background checks under the Fair Credit Reporting Act, exempt and nonexempt classifications, payment of wages and overtime compensation, pay equity, immigration, workers' compensation, working conditions, employee scheduling, affirmative action obligations, unemployment taxes, tax withholding and employee termination.

(c) Except with respect to wages, severance, employee benefits and other employment related obligations accrued in the ordinary course of business, neither Seller nor any of its Affiliates is indebted to or a creditor of any current employee related to the Acquired Assets, the Real Property, or any other facility located at the Neil Simpson Complex.

6.18. Undisclosed Liabilities. To the Seller's Knowledge, there is no liability principally relating to the Acquired Assets or Real Property that, in accordance with GAAP (applied in a manner consistent with the Seller's past accounting practices), would need to be disclosed in audited

financial statements of the Seller, except for liabilities that have arisen since the Most Recent Fiscal Year End either in the ordinary course of business or in the ordinary course of the repair, maintenance and operation of the Facility (none of which results from, arises out of, relates to, is in the nature of, or was caused by any breach of contract, breach of warranty, tort, infringement, or violation of Law by Seller). For purposes of this Section 6.18 only, and without modifying any other element of GAAP, the materiality standard for liabilities of the Seller required to be disclosed under GAAP shall be $1 million for any individual liability or $6 million for liabilities in the aggregate.

6.19. Tax Matters.

(a) The Seller and each Affiliated Group of which the Seller is or has been a member has timely filed all material Tax Returns that it was required to file. All such Tax Returns were correct and complete in all material respects under all applicable Laws. All material Taxes owed by the Seller or any Affiliated Group or Tax Affiliate of the Seller (whether or not shown or required to be shown on any Tax Return) have been paid except to the extent being contested in good faith by Legal Proceedings or Claims. Neither the Seller nor any Affiliated Group of which the Seller is or has been a member has waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency that would or could reasonably be expected to have any adverse effect on the Buyer.

(b) There are no pending or, to the Seller's Knowledge, threatened Legal Proceedings or Claims against the Seller or any Affiliated Group or Tax Affiliate of the Seller relating to Taxes that would, or could reasonably be expected to, adversely affect the Transaction or the Acquired Assets. There are no Liens on any of the Acquired Assets that arose, or to Seller's Knowledge, could arise, in connection with any failure (or alleged failure) of the Seller or any Affiliated Group or Tax Affiliate of the Seller to pay any Tax.

(c) The Seller has withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder, or other third party and all Forms W-2 and 1099 required with respect thereto have been properly completed and timely filed.

(d) The Seller does not have any liability for the Taxes of any Person (other than the Seller) under Treas. Reg. § 1.1502-6 (or any similar provision of Law), as a transferee or successor, by Contract, or otherwise that would, or could reasonably be expected to, give rise to a Lien with respect to the Buyer's ownership of the Acquired Assets.

6.20. Real Property and Improvements.

(a) Except as set forth in Schedule 6.21, all buildings, structures, fixtures, building systems and equipment, and all components thereof, including the roof, foundation, load-bearing walls and other structural elements thereof, heating, ventilation, air conditioning, mechanical, electrical, plumbing and other building systems, environmental control, remediation and abatement systems, sewer, storm and waste water systems, irrigation and other water distribution systems, parking facilities, fire protection, security and surveillance systems, and telecommunications, computer wiring, and cable installations,

included in the Acquired Assets (the "Improvements") have been maintained in accordance with Good Utility Practice and are in good operating condition and repair (subject to normal wear and tear). To the Seller's Knowledge, there are no structural deficiencies affecting any of the Improvements and there are no facts or conditions affecting any of the Improvements that would, or could reasonably be expected to, individually or in the aggregate, interfere with the use or occupancy of the Improvements or any portion thereof.

(b) There is no condemnation, expropriation or other proceeding in eminent domain, pending or, to the Seller's Knowledge, threatened, affecting the Real Property or any portion thereof or interest therein. There is no Order or Legal Proceeding pending or, to the Seller's Knowledge, threatened, relating to the ownership, lease, use or occupancy of the Real Property or any portion thereof, or the operation of the Facility as currently conducted thereon.

(c) The Real Property is in compliance with all applicable Laws, including the Americans with Disabilities Act of 1990, as amended, and all insurance requirements affecting the Real Property, and the current use and occupancy of the Real Property and anticipated repair, maintenance and operation of the Facility thereon does not violate any Laws. To the Seller's Knowledge, there is no pending or anticipated change in any Law that will materially impair the ownership, lease, and expected occupancy of any Real Property or any portion thereof.

(d) All water, oil, gas, electrical, steam, compressed air, communication systems, telecommunications, sewer, storm and waste water systems and other utility services or systems for the Facility have been installed in accordance with Good Utility Practice and are sufficient for the anticipated repair, maintenance and operation of the Facility. Each such utility service enters the Real Property from an adjoining public street or valid private easement in favor of the supplier of such utility service or appurtenant to the Real Property.

(e) The classification of the Real Property under applicable zoning Laws permits the use and occupancy of the Real Property and the operation of the Facility and permits the improvements located thereon as currently operated. The Seller's or any of its Affiliate's use or occupancy of the Real Property or any portion thereof and the repair, maintenance and operation of the Facility is not dependent on a "permitted non-conforming use" or "permitted non-conforming structure" or similar variance, exemption or approval from any Governmental Authority.

(f) The current use and occupancy of the Real Property and the operation of the Facility conducted thereon do not, in any material way, violate any easement, covenant, condition, restriction or similar provision in any instrument of record or other unrecorded Contract affecting such Real Property. The Seller has not received any Claims with respect to any such instrument of record or other unrecorded Contract, and to the Seller's Knowledge, there is no basis for the issuance of any such Claim.

(g) None of the improvements located on the Real Property encroaches on any land that is not included in the Real Property or on any easement affecting such Real Property, or violates any building lines or set-back lines, and there are no encroachments onto any of the Real Property, or any portion thereof, that in any such case would, or could

reasonably be expected to, interfere with the use or occupancy of such Real Property or the repair, maintenance and operation of the Facility.

6.21. Sufficiency of Assets. The Acquired Assets, together with the Buyer's rights under the Ancillary Documents, constitute all of the assets and rights necessary for Buyer to receive the Facility's unit contingent electric generation capacity at the point of interconnection under the Interconnection Agreement.

6.22. ERISA.

(a) (i) Each Benefit Plan has been maintained, funded, and administered in material compliance with its terms and all applicable Laws, including ERISA, the Code, the Americans with Disabilities Act of 1990, the Family and Medical Leave Act of 1993 and the Health Insurance Portability and Accountability Act of 1996, (ii) there is no "accumulated funding deficiency" within the meaning of § 412 of the Code with respect to any Benefit Plan which is an "employee pension benefit plan" as defined in § 3(2) of ERISA, and (iii) no reportable event (within the meaning of § 4043 of ERISA) and no event described in §§ 4041, 4042, 4062 or 4063 of ERISA has occurred or exists in connection with any Benefit Plan, except in the case of (i), (ii), and (iii) as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. As of the date of this Agreement, no Legal Proceeding has been threatened or initiated to terminate any Benefit Plan nor has the Pension Benefit Guaranty Corporation threatened to terminate or initiated any Legal Proceeding to terminate any Benefit Plan. Neither the Seller nor any ERISA Affiliate has any obligation to contribute to or any other liability under or with respect to any multiemployer plan (as such term is defined in § 3(37) of ERISA), except as individually or in the aggregate would not, or could not reasonably be expected to, have a Material Adverse Effect. Specifically, with regard to any multiemployer plan, the Seller would not be subject to any withdrawal liability under ERISA if, as of the date hereof, the Seller were to engage in a complete withdrawal (ERISA Section 4203) or a "partial withdrawal" (ERISA 4205) from such multiemployer plan. No liability under Title IV or § 302 of ERISA has been incurred by the Seller or any ERISA Affiliate that has not been satisfied in full, and no condition exists that presents a material risk to the Seller or any ERISA Affiliate of incurring any such liability, other than liability for premiums due to the Pension Benefit Guaranty Corporation, except as individually or in the aggregate would not, or could not reasonably be expected to, have a Material Adverse Effect. No Person has provided or is required to provide security to any Benefit Plan under § 401(a)(29) of the Code due to a plan amendment that results in an increase in current liability, except as individually or in the aggregate could not reasonably be expected to have a Material Adverse Effect. With regard to any welfare benefit plan, Seller has complied and continues to comply with all applicable continuation of coverage requirements including those under Section 4980B of the Code and Sections 601 through 608 of ERISA as well as any and all applicable state laws mandating health insurance continuation.

(b) (i) There are no material Legal Proceedings or, to Seller's Knowledge, material Claims involving any Benefit Plan, and (ii) to the Seller's Knowledge, the administrator and the fiduciaries of each Benefit Plan have complied in all material respects with the applicable requirements of ERISA, the Code, and any other requirements of applicable Laws.

(c) There are no Liens on any of the Acquired Assets or Real Property that arose in connection with any failure (or alleged failure) to fund any Benefit Plan.

(d) No provision of any Benefit Plan would require the payment by the Buyer of any money or other property, or the provision by the Buyer of any other rights or benefits, to or on behalf of any employee of the Seller or any of its Affiliates or any other employee or former employee of the Seller or its Affiliates solely as a result of the Transaction, whether or not such payment would constitute a parachute payment within the meaning of § 280G of the Code.

7.0 REPRESENTATIONS AND WARRANTIES OF THE BUYER.

Except as set forth in the Disclosure Schedules, the Buyer hereby represents and warrants to the Seller as follows:

7.1. Organization. The Buyer is a body corporate and politic, and a public corporation duly organized, validly existing, and in good standing under the Laws of the state of Wyoming, with full power and authority to (i) purchase the Acquired Assets, (ii) execute and deliver this Agreement and the Ancillary Documents and perform its obligations hereunder and thereunder, and (iii) conduct its business as it is now being conducted and as it is contemplated to be conducted pursuant to this Agreement and any Ancillary Document.

7.2. Authorization. The execution and delivery of this Agreement and the Ancillary Documents, and the consummation of the Transaction, have been duly and validly authorized by the Buyer and no other proceedings on the part of the Buyer are necessary to authorize this Agreement and the Ancillary Documents or to consummate the Transaction. This Agreement and the Ancillary Documents have been duly and validly executed and delivered by the Buyer and constitute valid and binding agreements of the Buyer, enforceable against the Buyer in accordance with their terms (subject to bankruptcy, insolvency, and similar Laws of general applicability relating to or affecting creditors' rights and general equity principles).

7.3. Non-Contravention. The execution and delivery of this Agreement and the Ancillary Documents do not (i) contravene or violate the charter or organizational documents of the Buyer, (ii) contravene or violate any Order or Law to which the Buyer is subject, or (iii) conflict with, contravene, result in a breach of, or constitute a default (including with notice, lapse of time, or both) under, or result in the acceleration, termination, or cancellation of, in any case in any material way, any Contract to which the Buyer is a party, or by which the Buyer is bound.

7.4. Legal Proceedings and Orders. There are no pending or, to the Buyer's Knowledge, threatened Legal Proceedings or Claims against the Buyer that would, or could reasonably be expected to, have a material adverse effect on the Buyer's ability to perform its obligations under this Agreement.

7.5. Consents. The Buyer and its Affiliates require no Consents or Permits to execute, deliver, and perform its obligations under this Agreement and the Ancillary Documents (including at the Closing), other than as set forth in Schedule 7.5.

7.6. Due Diligence. The Buyer acknowledges that Gillette has conducted its own independent review and analysis of, among other things, the Acquired Assets, the Assumed Liabilities, the value of the Acquired Assets and the Assumed Liabilities, and the operations of the Facility. The Buyer acknowledges that the Seller has provided Gillette with access to the relevant personnel, current and anticipated properties, premises, and records of the Seller for this purpose. In entering into this Agreement, the Buyer has relied solely upon Gillette's investigation and analysis, and the express representations and warranties made by the Seller in this Agreement. To the Buyer's Knowledge, no Material Adverse Effect exists, and no condition, event, or circumstance exists that constitutes a Breach of this Agreement by the Seller.

7.7. Fees and Commissions. No broker, finder, or other Person is entitled to any brokerage fees, commissions, or finder's fees for which the Seller could become liable or obligated in connection with the Transaction by reason of any action taken by the Buyer.

8.0 COVENANTS OF THE SELLER.

8.1. Satisfaction of Conditions. Between the date of this Agreement and the Closing, the Seller will use commercially reasonable efforts to perform and satisfy as soon as reasonably practicable all conditions to either party's obligations to consummate the Transaction (as set forth in Article 11.0).

8.2. Facility Operations. Between the date of this Agreement and the Closing, the Seller will repair, maintain, and operate the Facility in the ordinary course of business in all respects, consistent with past practice and in accordance with Good Utility Practice.

8.3. Consents and Notices. The Seller will use commercially reasonable efforts to obtain any and all Consents required to be obtained by the Seller, and to provide notification to any and all Persons required to be notified by the Seller, in connection with the execution, delivery, and performance by the Seller of this Agreement.

8.4. Access to Properties and Records. Between the date hereof and the Closing Date, the Seller will afford the Buyer and its authorized representatives reasonable access during normal business hours to all books and records of the Seller, or in the Seller's possession, to the extent relating to Acquired Assets, the Real Property, and the operation of the Facility if (i) permitted under Law, (ii) such books and records are not subject to confidentiality agreements, provided that the Seller will use commercially reasonable efforts to obtain a waiver of any such confidentiality restrictions in order to permit such access, (iii) disclosing such books and records would not adversely affect any attorney-client, work product, or other privilege, and (iv) such books and records do not relate to any confidential information of the Seller or any of its Affiliates pertaining to energy project evaluation, power sales or purchase agreements, energy, natural gas, or other commodity price curves or projections, or other economic or predictive models. Upon reasonable prior notice, the Seller will also afford the Buyer reasonable access to the Facility during normal business hours between the date hereof and the Closing Date, and will allow the Buyer and its authorized representatives to observe any major maintenance or testing activities at or involving the Facility. The rights of access contained in this Section 8.4 are granted subject to the following terms and conditions: (A) any such access may not include physical testing or samplings, and will be exercised in a manner so as not to interfere unreasonably with Facility operations; (B) all information provided

to the Buyer or its authorized representatives by or on behalf of the Seller (whether pursuant to this Section 8.4 or otherwise) will be governed by and subject to Article 14.0; (C) such access will not affect or modify the conditions set forth in Article 11.0 in any way; (D) the Buyer will not contact any customer of or supplier (whether of goods or services) to the Seller relating to the Facility without the Seller's prior consent; (E) all such access will be at the Buyer's sole cost, expense, and risk, and the Buyer will indemnify the Seller for any Damages that the Seller or any third party may suffer as a result of the Buyer's exercise of its rights under this Section 8.4; and (F) the Buyer will comply with all safety policies and procedures applicable to the Facility.

8.5. Condemnation and Casualty Loss. Notwithstanding any provision hereof to the contrary, if, before the Closing Date, all or any portion of the Acquired Assets are (i) condemned or taken by eminent domain or are the subject of a pending or threatened condemnation or taking which has not been consummated, or (ii) materially damaged or destroyed by fire or other casualty, the Seller shall notify the Buyer promptly in writing of such fact, and (A) in the case of a condemnation or taking, the Seller will assign or pay, as the case may be, the proceeds thereof to the Buyer at the Closing and (B) in the case of a fire or other casualty, the Seller will either restore such damage or assign the insurance proceeds therefrom to the Buyer at Closing. Notwithstanding the foregoing, if such condemnation, taking, damage, or destruction results, or would reasonably be expected to result, in a Material Adverse Effect, either the Seller or the Buyer may terminate this Agreement.

8.6. Removal of Liens. The Seller shall remove any and all Liens on the Acquired Assets arising out of or in any manner related to or arising out of (i) Taxes of the Seller or any Tax Affiliate of the Seller, or any liability of the Seller for unpaid Taxes of any Person under Treas. Reg. § 1.1502-6 (or similar Law) as a transferee or successor, by Contract or otherwise, except for ad valorem Taxes not yet payable, or (ii) any and all liabilities or obligations of the Seller or an ERISA Affiliate of the Seller to any employee or employees under or in connection with any of the Benefit Plans, including under any deferred compensation arrangement or severance policy or any obligation to make any parachute or retention payment.

9.0 COVENANTS OF THE BUYER.

9.1. Satisfaction of Conditions. Between the date of this Agreement and the Closing, the Buyer will use commercially reasonable efforts to perform and satisfy as soon as reasonably practicable all conditions to either party's obligations to consummate the Transaction (as set forth in Article 11.0). Without limiting the generality of the foregoing, the Buyer shall use commercially reasonable efforts to do, or cause to be done, all things necessary, proper, or advisable to obtain financing that satisfies the Financing Contingency as soon as reasonably practicable, including using commercially reasonable efforts to (i) enter into definitive agreements with respect to such financing on terms that would not materially adversely impact the ability or likelihood of the Buyer to consummate the Transaction and (ii) satisfy on a timely basis all conditions applicable to the Buyer to obtaining such financing and that are within the control of the Buyer. The Buyer shall keep the Seller informed on a reasonably current basis and in reasonable detail of the status of its efforts to satisfy the Financing Contingency.

9.2. Consents and Notices. The Buyer will use commercially reasonable efforts to obtain any and all Consents required to be obtained by the Buyer, and to provide notification to any and all

Persons required to be notified by the Buyer, in connection with the execution, delivery, and performance by the Buyer of this Agreement.

9.3. Notice of Breach. The Buyer will provide the Seller with reasonably prompt written notice of the Buyer's Knowledge of any Breach of this Agreement by the Seller.

9.4. Title Insurance. At the Buyer's option and at the Buyer's sole cost and expense, the Buyer may obtain (i) surveys desired by the Buyer in respect of the Real Property, in form and substance reasonably satisfactory to the Buyer and (ii) title insurance policies in current ALTA form or equivalent covering the Facility or the Real Property (insuring title to the Ground Lease as vested in the Buyer), in form, substance, and amounts reasonably satisfactory to the Buyer, and without limiting the generality of the foregoing, with all requirements satisfied or waived, with all exceptions deleted, and with all endorsements thereto to the extent desired by the Buyer. The Seller agrees to cooperate as reasonably requested by the Buyer (at the Buyer's expense) in its efforts to obtain such items. The Buyer agrees to provide the Seller with a copy of any such title commitment or survey obtained by the Buyer. Provided, if Buyer delivers any such title commitment to Seller not less than thirty (30) days prior to the anticipated Closing Date, and if such title commitment shows that the Seller does not own marketable title to the Facility or the Real Property, Buyer may terminate this Agreement and receive back all deposits and payments made hereunder, unless Seller has rendered such title marketable on or before the Closing Date.

9.5. Negative Covenants. The Buyer agrees not to directly or indirectly initiate, pursue, or support, or allow any Affiliate to initiate, pursue, or support, any Order or Legal Proceeding that would, or could reasonably be expected to, impede or frustrate the Transaction.

10.0 COOPERATION AND FURTHER ASSURANCES

10.1. Cooperation. Each party will use commercially reasonable efforts to cooperate with and assist the other party in connection with the performance by the other party of its duties, responsibilities, and obligations under this Agreement. Without limiting the generality of the foregoing, the parties will work together in good faith to prepare and file, within 30 days after the date hereof, an application seeking the Consent of FERC to the Transaction under § 203 of the Federal Power Act, as amended, at the Seller's sole cost and expense. Furthermore, each party will use commercially reasonable efforts to (i) keep the other party informed in all material respects regarding any material communication received by such party from, or given by such party to, any Governmental Authority or other Person in connection with the Facility or the Transaction and (ii) consult with the other party in advance of any meeting or conference with any Governmental Authority or other Person in connection with the Facility or the Transaction, subject in all cases to the provisions of Article 14.0 and any attorney-client, work product, or other privilege.

10.2. Further Assurances. Each party will from time to time before or after the Closing Date execute and deliver such documents, and otherwise take such actions, as the other party may reasonably request to implement or perfect the terms of this Agreement and the Transaction.

10.3. Discretionary Capital Expenditures. If, in connection with fixing the Oil Leak, the Seller becomes aware of discretionary capital expenditures that may be taken in respect of the Facility (for instance, capital expenditures suggested or recommended by a third party fixing the Oil

Leak), the Seller shall consult with the Buyer regarding such discretionary expenditures. If both the Seller and the Buyer agree to make such expenditures, then the Seller shall cause such agreed-upon expenditures to be made, and such agreed-upon expenditures shall be added to the Capital Expenditures Amount. If the Seller desires to make such expenditures but the Buyer does not agree, then the Seller may cause such expenditures to be made, but the expenditures shall not be added to the Capital Expenditures Amount. For clarity, this Section 10.3 shall not apply to capital expenditures that the Seller determines to be required by an applicable Law, Order, or Permit or necessary in order for the Seller to operate the Facility in accordance with Good Utility Practice, which shall be addressed as provided in Section 4.4.

11.0 CONDITIONS TO CLOSING.

11.1. Conditions Precedent to the Seller's Obligation to Close. The Seller's obligation to consummate the Transaction and to proceed with the Closing is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived in writing by the Seller in whole or in part to the extent permitted by applicable Law):

(a) The representations and warranties of the Buyer set forth in Article 7.0 shall be true and correct (disregarding any materiality qualifications therein) as of the Closing Date as though made at and as of the Closing Date (except to the extent that any such representation or warranty speaks as of a particular date, in which case such representation and warranty will be true and correct only as of such date), except for any failure or failures of such representations and warranties to be true and correct that would not, in the aggregate, cause such representations and warranties of the Buyer to be materially inaccurate taken as a whole or have a material adverse effect on the ability of the Buyer to perform its obligations under this Agreement or consummate the Transaction on a timely basis;

(b) The Buyer shall have performed and complied in all material respects with all covenants required by this Agreement to be performed or complied with by the Buyer on or prior to the Closing Date;

(c) No Order shall be in effect restraining, enjoining, or otherwise prohibiting the consummation of the Transaction, and no Legal Proceeding shall be pending seeking to restrain, enjoin, or otherwise prohibit the consummation of the Transaction;

(d) The Consents set forth in Schedule 6.6 and Schedule 7.5 shall have been obtained;

(e) The CLFP PPA shall have expired or been terminated;

(f) The out-of-pocket expenditures of the Seller (i.e., the expenditures not covered by warranty or insurance) to fix the Oil Leak shall not exceed $1.1 million; and

(g) The Buyer shall have made (or stand ready to make) all of the deliveries to be made by the Buyer at the Closing, as set forth in Section 5.3.

11.2. Conditions Precedent to the Buyer's Obligation to Close. The Buyer's obligation to consummate the Transaction and to proceed with the Closing is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions (any or all of which may be waived in writing by the Buyer in whole or in part to the extent permitted by applicable Law):

(a) The representations and warranties of the Seller set forth in Article 6.0 shall be true and correct (disregarding any materiality or Material Adverse Effect qualifications therein, and disregarding any supplement or amendment to the Disclosure Schedules made pursuant to Section 13.1(c)) as of the Closing Date as though made at and as of the Closing Date (except to the extent that any such representation or warranty speaks as of a particular date, in which case such representation and warranty will be true and correct only as of such date), except for any failure or failures of such representations and warranties to be true and correct that would not, in the aggregate, result in a Material Adverse Effect;

(b) The Seller shall have performed and complied in all material respects with all covenants required by this Agreement to be performed or complied with by the Seller on or prior to the Closing Date;

(c) No Order shall be in effect restraining, enjoining, or otherwise prohibiting the consummation of the Transaction, and no Legal Proceeding shall be pending seeking to restrain, enjoin, or otherwise prohibit the consummation of the Transaction;

(d) The Consents set forth in Schedule 6.6 and Schedule 7.5 shall have been obtained;

(e) The CLFP PPA shall have expired or been terminated;

(f) The Seller shall have made (or stand ready to make) all of the deliveries to be made by the Seller at the Closing, as set forth in Section 5.2;

(g) No Material Adverse Effect shall have occurred and remain uncured by the Seller (including by an equitable reduction in the Purchase Price);

(h) The Buyer shall have obtained tax-exempt financing on commercially reasonable terms in an amount sufficient to fund the Purchase Price, together with such reserves and other amounts as the Buyer shall reasonably deem necessary (the "Financing Contingency"); and

(i) The estimated Capital Expenditures Amount delivered by the Seller to the Buyer pursuant to Section 4.3 shall not exceed $1.1 million.

12.0 TERMINATION.

12.1. Termination. This Agreement may be terminated at any time prior to the Closing only as follows:

(a) Outside Date. By either party, if the Closing does not occur on or before the Outside Date, except that neither party will have the right to terminate this Agreement under this provision if the failure to close on or before the Outside Date is caused by a Breach of this Agreement by that party.

(b) Agreement. By mutual written agreement of the parties.

(c) Breach by the Seller. By the Buyer, upon written notice to the Seller, in the event of a Breach of this Agreement by the Seller causing any of the conditions precedent to the Buyer's obligations to proceed with the Closing, as set forth in Section 11.2, not to be satisfied and, if such Breach is reasonably capable of being cured, such Breach shall not have been cured (including by a reasonable reduction to the Purchase Price) within 30 days following the Seller's receipt of the written notice from the Buyer, except that the Seller may extend the cure period so that it expires no later than noon on the day prior to the Outside Date, but only if (x) the breach is capable of being cured by that time and (y) the Seller is diligently working to cure the breach. The Buyer may exercise its termination right under this Section 12.1(c) only if the Buyer (i) notifies the Seller of the Breach as soon as reasonably practicable and (ii) is not at the time of such termination in material Breach of this Agreement.

(d) Breach by the Buyer. By the Seller, upon written notice to the Buyer, in the event of a Breach of this Agreement by the Buyer causing any of the conditions precedent to the Seller's obligations to proceed with the Closing, as set forth in Section 11.1, not to be satisfied and, if such Breach is reasonably capable of being cured, such Breach shall not have been cured within 30 days following the Buyer's receipt of the written notice from the Seller, except that the Buyer may extend the cure period so that it expires no later than noon on the day prior to the Outside Date, but only if (x) the breach is capable of being cured by that time and (y) the Buyer is diligently working to cure the breach. The Seller may exercise its termination right under this Section 12.1(d) only if the Seller (i) notifies the Buyer of the Breach as soon as reasonably practicable and (ii) is not at the time of such termination in material Breach of this Agreement.

(e) Material Condemnation or Casualty Event. In accordance with Section 8.5 above.

12.2. Return or Retention of the Deposit . If this Agreement is terminated other than by the Seller under Section 12.1(d), the Seller will return the Deposit, without interest, to the Buyer within ten (10) Business Days following the termination date, by wire transfer of immediately available funds in accordance with wire transfer instructions provided by the Buyer. If this Agreement is terminated by the Seller under Section 12.1(d), the Seller will retain the Deposit.

12.3. Pre-Closing Remedies. Each party acknowledges that, prior to Closing, the termination rights and rights with respect to the Deposit set forth in Sections 12.1 and 12.2 above will

constitute the sole and exclusive remedies available to either party as a result of a Breach of this Agreement by the other party, other than (i) equitable remedies available to enforce either party's rights under Article 14.0 and (ii) either party's right to compel specific performance of this Agreement under Section 17.10. Accordingly, each party hereby waives, to the extent permissible under applicable Law, any and all other claims and remedies whatsoever arising from any such Breach. However, notwithstanding anything herein to the contrary, nothing herein shall limit either party's available remedies in the event of fraud by the other party.

12.4. Effect of Termination. If this Agreement is validly terminated pursuant to Section 12.1, then this Agreement shall become void and of no further force or effect (except for this Article 12.0 and Articles 14.0, 15.0, and 17.0, and provided that nothing herein shall limit the equitable remedies available to either party to enforce its rights under Article 14.0). Upon the termination of this Agreement, the parties will withdraw all filings, applications, and other submissions to Governmental Authorities made pursuant to this Agreement.

13.0 INDEMNIFICATION.

13.1. Additional Provisions Relating to Representations and Warranties.

(a) THE REPRESENTATIONS AND WARRANTIES CONTAINED IN ARTICLE 6.0 ARE THE SOLE AND EXCLUSIVE REPRESENTATIONS AND WARRANTIES GIVEN BY THE SELLER TO THE BUYER WITH RESPECT TO ITSELF, THE ACQUIRED ASSETS, THE ASSUMED LIABILITIES, AND THE TRANSACTION. THE REPRESENTATIONS AND WARRANTIES CONTAINED IN ARTICLE 7.0 ARE THE SOLE AND EXCLUSIVE REPRESENTATIONS AND WARRANTIES GIVEN BY THE BUYER TO THE SELLER WITH RESPECT TO ITSELF AND THE TRANSACTION. BOTH THE SELLER AND THE BUYER DISCLAIM ALL OTHER REPRESENTATIONS OR WARRANTIES, WHETHER MADE BY THE SELLER, THE BUYER, THE AFFILIATES OF EITHER THE BUYER OR THE SELLER, OR ITS OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR REPRESENTATIVES, AND WHETHER EXPRESS, IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING WARRANTIES AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(b) The information contained in the Disclosure Schedules as of the date of this Agreement constitutes exceptions to the applicable representations and warranties contained in Article 6.0 and Article 7.0 even if there is no specific reference in such representation or warranty to the Disclosure Schedules, provided the relation between the scheduled information and a particular representation or warranty is reasonably apparent and describes the facts in reasonable detail. The mere listing (or inclusion of a copy) of a document or other item shall not be deemed adequate to disclose an exception to a representation or warranty made herein (unless the representation or warranty has to do with the existence of the document or other item itself). The parties intend that each representation, warranty, and covenant contained herein shall have independent significance. If any party has breached any representation, warranty, or covenant contained herein in any respect, the fact that there exists another representation, warranty, or covenant relating to the same subject matter (regardless of the relative levels of specificity) that the party has not breached shall not

detract from or mitigate the fact that the party is in breach of the first representation, warranty, or covenant. The Disclosure Schedules may include certain information that is not required to be disclosed or that does not meet the minimum standards of materiality requiring disclosure, and the inclusion of such information does not constitute an acknowledgment by the party making the disclosure that such information is required to be disclosed or that it is material.

(c) If, from time to time between the date of this Agreement and the Closing, any matter arises after the date of this Agreement that makes any of the Seller's representations and warranties in Article 6.0 inaccurate, then the Seller may supplement or amend the Disclosure Schedules to the extent necessary to make such representations and warranties accurate; provided, however, that no such supplement or amendment will have any effect on the satisfaction of any of the Buyer's conditions to closing set forth in Section 11.2.

(d) All Indemnification Claims for the Breach of a representation or warranty will be based solely on the representations and warranties in Article 6.0 and Article 7.0 as modified by the Disclosure Schedules as they exist at the Closing.

13.2. Indemnification by the Seller. Subject to the terms, conditions, and limitations contained in other sections of this Article 13.0 and applicable Law, the Seller will indemnify and hold the Buyer harmless from and against any and all Damages incurred by the Buyer and arising or resulting from:

(a) Any Breach by the Seller of any of its representations or warranties in this Agreement;

(b) Any Breach by the Seller of any of its covenants in this Agreement, including without limitation the Seller's covenant in Section 8.2;

(c) The Retained Liabilities; and

(d) The failure of the Facility to operate within the current OEM-specified oil consumption standard for the Facility of 0.4 gallons per hour (as specified in the GE O&M manual, GEK 105061 Chapter 5-6.7, in effect on the date hereof), and provided that, for this purpose, Damages will include, notwithstanding Section 13.6(d) below, the excess, if any, of (i) the cost incurred by the Buyer to replace power that would have been provided from the Facility but for its unavailability due to the failure of the Facility to operate within the current OEM-specified oil consumption standard for the Facility (i.e., downtime for repair), over (ii) the cost that the Buyer would have incurred if such power had been provided from the Facility.

13.3. Indemnification by the Buyer. Subject to the terms, conditions, and limitations contained in other sections of this Article 13.0, and to the greatest extent permitted under applicable Law, the Buyer will indemnify and hold the Seller harmless from and against, or will otherwise be fully responsible for, any and all Damages incurred by the Seller and arising or resulting from:

(a) Any Breach by the Buyer of any of its representations or warranties in this Agreement;

(b) Any Breach by the Buyer of any of its covenants in this Agreement; and

(c) The Assumed Liabilities.

13.4. Enforcement Costs. Damages for which an Indemnitor is liable under Section 13.2 or 13.3 include all costs and expenses (including reasonable legal fees) incurred by the Indemnitee in enforcing its indemnification rights hereunder.

13.5. Duty to Mitigate. The Indemnitee will use commercially reasonable efforts to mitigate any Damages in respect of which it is entitled to indemnification hereunder. The amount of any indemnifiable Damages will be reduced to take into account any Tax benefit recognized by the Indemnitee arising from the indemnifiable Damages.

13.6. Limitations on Indemnification. The following limitations will apply to Indemnification Claims hereunder, except that no limitations will apply to any Indemnification Claim arising from the fraud of the Indemnitor.

(a) Time Limits. Neither party will have any obligation in respect of an Indemnification Claim asserted by the other under Section 13.2 or Section 13.3, as the case may be, unless such party delivers a Claim Notice in respect of such Indemnification Claim within the applicable "Time Limit," as defined herein.

(i) Buyer Claims. For Indemnification Claims by the Buyer pursuant to Section 13.2(c) or pursuant to Section 13.2(a) based upon the Breach by the Seller of a representation or warranty contained in Sections 6.1, 6.2, 6.3(i), 6.3(iv), 6.7, 6.12, or 6.20 (the "Seller's Excluded Representations and Warranties"), the Time Limit will be indefinite. For Indemnification Claims by the Buyer pursuant to Section 13.2(a) based upon the Breach by the Seller of a representation or warranty contained in Section 6.11, the Time Limit will be 48 months after the Closing Date. For Indemnification Claims by the Buyer pursuant to Section 13.2(d), the Time Limit will be the earlier of 24 months after the Closing Date or the period ending on the day that the Facility has run 2,628 hours following the Effective Time. For all other Indemnification Claims by the Buyer, the Time Limit will be 18 months after the Closing Date.

(ii) Seller Claims. For Indemnification Claims by the Seller pursuant to Section 13.3(c) or pursuant to Section 13.3(a) based upon the Breach by the Buyer of a representation or warranty contained in Sections 7.1, 7.2, 7.3(i), or 7.7 (the

"Buyer's Excluded Representations and Warranties"), the Time Limit will be indefinite. For all other Indemnification Claims by the Seller, the Time Limit will be 18 months after the Closing Date.

(b) Claim Threshold and Basket. Subject to the last sentence of this Section 13.6(b), neither party will have any indemnification obligation under Section 13.2 or Section 13.3, as the case may be, for any individual Indemnification Claim where the Damages in respect thereof are less than $10,000 (the "Claim Threshold"). Subject to the next sentence, neither party will have any indemnification obligation under Section 13.2 or Section 13.3, as the case may be, until the aggregate of all of such party's Damages under Indemnification Claims meeting the Claim Threshold exceeds $250,000 (the "Basket"), at which point the Indemnitor will have an indemnification obligation for Damages from dollar one. The Claim Threshold and Basket will not apply to any Indemnification Claim under Section 13.2(c), Section 13.2(d), Section 13.3(c), or based upon the Breach of any of the Seller's Excluded Representations and Warranties or the Buyer's Excluded Representations and Warranties (together, the "Excluded Representations and Warranties").

(c) Cap. The cumulative and aggregate liability of the Seller under Section 13.2(a) and 13.2(b) or of the Buyer under Section 13.3 will not exceed $7.5 million (the "Cap"), except that (i) the Cap will not apply to any Indemnification Claim under Section 13.2(c), Section 13.3(c), or based upon the Breach of any of the Excluded Representations and Warranties. The cumulative and aggregate liability of the Seller under Section 13.2(d) will not exceed $2 million.

(d) No Indirect Damages. In no event will either party be liable, either in contract or in tort, for any consequential, incidental, indirect, special, or punitive damages, including loss of future revenue, income, or profits, diminution of value, or loss of business reputation or opportunity, relating to the Breach or alleged Breach hereof or otherwise, irrespective of whether the possibility of such damages has been disclosed to such party in advance or could have been reasonably foreseen by such party.

13.7. Indemnification Procedures.

(a) Claim Notice. If the Indemnitee desires to make an Indemnification Claim against the Indemnitor, then, reasonably promptly after the Indemnitee becomes aware of a situation that has resulted in or might result in Damages for which it would be entitled to indemnification hereunder, the Indemnitee will submit a written notice (the "Claim Notice") to the Indemnitor, which notice will (i) state that the Indemnitee has incurred Damages or anticipates it will incur Damages for which it is entitled to indemnification hereunder, (ii) specify in reasonable detail, to the extent known by the Indemnitee at that time, the total amount of Damages claimed, each individual item of Damages included in such amount, the date such item was paid or incurred, the basis for any anticipated Damages, and the Breach or other basis upon which indemnification is claimed, and (iii) if the Damages are predicated upon a Third Party Claim, the name of the third party claimant(s) and a copy of all pleadings filed and written demands or threats made by the third party claimant(s). The Indemnitee will update the Claim Notice if and when additional information is known to it.

(b) Third Party Claims.

(i) If a Third Party Claim has been asserted against the Indemnitee and the Indemnitee has given a Claim Notice to the Indemnitor in accordance with Section 13.7(a), then the Indemnitor will be entitled to assume the defense of such claim, at its own expense, with counsel reasonably satisfactory to the Indemnitee, provided that the Indemnitor notifies the Indemnitee in writing of its election to assume the defense within 20 days following delivery to it of the Claim Notice. If the Indemnitor assumes the defense of a Third Party Claim, then (A) it will be conclusively established for purposes of this Agreement that such Third Party Claim is within the scope of the Indemnitor's indemnification obligations hereunder, (B) the Indemnitee will be entitled to monitor the defense, compromise, or settlement of such Third Party Claim, using counsel of its choice at its own expense (except as otherwise provided in Section 13.7(b)(iv)), but will not compromise or settle the Third Party Claim without the Indemnitor's prior written consent, which may be withheld in the Indemnitor's sole discretion, and (C) the Indemnitor will not compromise or settle the Third Party Claim without the Indemnitee's consent, which will not be unreasonably withheld or delayed. Without limiting the circumstances in which it would be reasonable for the Indemnitee to withhold or delay its consent, it will be reasonable for the Indemnitee to withhold or delay its consent in any of the following situations: (x) the compromise or settlement involves an acknowledgment or admission of liability, fault, or a violation of any Law or Order by the Indemnitee; (y) the compromise or settlement would, or could reasonably be expected to, have an adverse effect on any other claims that may be made by the third party claimant against the Indemnitee; or (z) the relief awarded to the third party claimant consists of more than monetary damages that are paid in full by the Indemnitor.

(ii) If, in accordance with Section 13.7(a), the Indemnitee delivers a Claim Notice in respect of a Third Party Claim for which the Indemnitee is entitled to indemnification hereunder, and the Indemnitor does not, within 20 days thereafter, give written notice to the Indemnitee of its election to assume the defense of the Third Party Claim, then the Indemnitee will be entitled to defend such Third Party Claim using counsel of its choice, at the Indemnitor's expense, and the Indemnitor will be bound by any judicial determination made in respect of such Third Party Claim or any reasonable compromise or settlement effected by the Indemnitee.

(iii) If an answer or other response is required by Law to be filed in respect of a Third Party Claim before the end of the 20-day period referenced in Sections 13.7(b)(i) and (b)(ii) and the Indemnitor has not assumed the defense of the Third Party Claim during such 20-day period, then the Indemnitee will use commercially reasonable efforts to obtain an extension of such due date. If the Indemnitee is unable to obtain an extension, then it will timely answer or respond to such Third Party Claim in such a manner, to the extent reasonably possible, as to not prejudice any claims, counterclaims, arguments, and defenses that may be available to the Indemnitor should it elect to assume the defense of such Third Party Claim; provided, however, that the Indemnitee will wait as long as possible before filing such answer or response and will use commercially reasonable efforts to coordinate such answer or response with the Indemnitor.

(iv) If both the Indemnitee and the Indemnitor are named as defendants in a Third Party Claim and, in the reasonable opinion of the Indemnitee's counsel, (A) there are or may be one or more defenses available to the Indemnitor that are not available to the Indemnitee, the assertion of which would be adverse to the interests of the Indemnitee, or (B) there otherwise exists a conflict or potential conflict of interest such that separate representation is advisable, then the Indemnitor will be liable for the expenses of the Indemnitee's counsel to the extent incurred defending a Third Party Claim for which the Indemnitor is liable under Section 13.2 or 13.3, as the case may be.

13.8. Exclusive Remedies. Following the Closing, and other than for claims of fraud, the sole and exclusive remedies for any Breach of this Agreement, or in respect of the Assumed Liabilities or the Retained Liabilities, will be (i) indemnification or other rights under this Article 13.0, (ii) equitable remedies available to enforce either party's rights under Article 14.0, or (iii) either party's right to compel specific performance of this Agreement under Section 17.10.

13.9. Treatment of Indemnification Payments. To the extent permitted by applicable Law, every payment made pursuant to Section 13.2 and 13.3 will constitute an adjustment to the Purchase Price for federal, state, and local income Tax purposes.

14.0 CONFIDENTIALITY.

Each party (the "Receiving Party") agrees that it will keep in strict confidence, and will instruct and cause its advisors and representatives to keep in strict confidence, all nonpublic information obtained from or about the other party (the "Disclosing Party") or its Affiliates in connection with the negotiation, drafting, or performance of this Agreement, or in connection with the Transaction, including all cost and other studies, unless such information is disclosed with the prior written consent of the Disclosing Party; provided, however, that this restriction shall not apply to information that (i) has at the time in question entered the public domain other than by reason of the breach of this provision by the Receiving Party; (ii) is, in the Receiving Party's reasonable judgment, required to be disclosed by applicable Law or Order, but only to the extent of such requirement, and provided that the Receiving Party promptly notifies the Disclosing Party of the disclosure and cooperates with the Disclosing Party in its efforts, if any, to ensure that confidential treatment will be accorded the nonpublic information, to the extent feasible; (iii) is reasonably required or requested by any utility regulatory agency or other Governmental Authority with jurisdiction over the Receiving Party, provided that the Receiving Party promptly notifies the Disclosing Party of the disclosure and cooperates with the Disclosing Party in its efforts, if any, to ensure that confidential treatment will be accorded such nonpublic information, to the extent feasible; (iv) is reasonably required to be provided to the Receiving Party's accountants, attorneys, mortgagees, lenders, rating agencies, or financial advisors in connection with this Agreement, any dispute hereunder, or the Transaction, provided that the Receiving Party causes such accountants, attorneys, mortgagees, lenders, rating agencies, or financial advisors to keep such nonpublic information in strict confidence; or (v) is provided to Gillette, provided that the Buyer shall cause Gillette to comply with the provisions of this Article 14.0 as if Gillette were the Buyer hereunder. The parties acknowledge (x) that as a part of the Buyer's financing of the Purchase Price, the Buyer has made certain disclosures regarding the terms and conditions of this Agreement and the Ancillary Documents, and such disclosure shall not be a

violation of this Article 14.0, notwithstanding the language contained herein, and (y) that the Buyer shall be solely responsible for the content of such disclosures.

15.0 NOTICES.

Any notice, demand, request, or consent under this Agreement will be effective upon receipt or refusal of delivery if given in writing and delivered by hand, by a national overnight delivery service, by registered or certified mail (with return receipt requested), or by facsimile (receipt confirmed), addressed as follows:

If to the Seller:
Black Hills Wyoming, LLC
Attn: Vice President of Power Delivery
P.O. Box 1400
625 Ninth Street
Rapid City, SD 57701
Fax No.: (605) 721-2550

With a copy to:
Black Hills Corporation
Attn: General Counsel
P.O. Box 1400
625 Ninth Street
Rapid City, SD 57701
Fax No.: (605) 721-2550

If to the Buyer:
Consolidated Wyoming Municipalities Electric
Power System Joint Powers Board
Attn: Chairman
436 East 22nd Avenue
P.O. Box 250
Torrington, WY 82240
Fax No.: (307) 532-2010

With copies to:
City of Gillette
Attn: Director of Utilities
611 North Exchange Avenue
P.O. Box 3003
Gillette, WY 82717
Fax No.: (307) 686-6564

and:
City of Gillette
Attn: City Administrator
201 E. Fifth Street
P.O. Box 3003
Gillette, WY 82717
Fax No.: (307) 686-1593

and:
City of Gillette
Attn: City Attorney

201 E. Fifth Street
P.O. Box 3003
Gillette, WY 82717
Fax No.: (307) 682-0726

Any party may, by written notice to the other party as provided above, at any time and from time to time change its designation of the person to whom notice will be given on its behalf.

16.0 TAX-DEFERRED EXCHANGE.

The Buyer acknowledges that the conveyance of the Facility to the Buyer hereunder may be structured by the Seller as a like-kind exchange pursuant to Section 1031 of the Code. The Buyer agrees to cooperate with the Seller in effecting such like-kind exchange, provided that the Seller shall bear all of the expenses associated therewith, and provided further that the Seller's ability to undertake any such exchange shall not in any manner be considered a condition of the Seller's obligations under this Agreement. It is contemplated that the Seller may assign this Agreement in whole or in part to a "qualified intermediary" pursuant to Treasury Regulation Section 1.103(k)-I(g)4(v) and, notwithstanding any other provision hereof (including Section 17.1), the Buyer expressly consents to such assignment. Accordingly, in the event of such assignment, the Buyer shall, upon notice from the Seller, direct all or any portion of the Buyer's payment for the Acquired Assets directly to the qualified intermediary and shall, to the extent of the assignment, treat the qualified intermediary as the valid assignee hereof. Notwithstanding anything contained herein, the Buyer shall not be required to acquire or hold legal or beneficial title to, or any other interest, in any property other than the Acquired Assets for purposes of consummating the exchange. In the event of any exchange, and notwithstanding that in connection with such exchange record title to all or a portion of the Acquired Assets may be conveyed by the Seller to an accommodation entity which thereupon conveys title to such Acquired Assets to the Buyer, all covenants, agreements and indemnifications of the Seller pursuant to this Agreement shall be deemed to be made by the Seller, shall survive any conveyance to an accommodation party, shall continue in favor of and inure to the benefit of the Buyer and shall be enforceable by the Buyer against the Seller to the extent provided in this Agreement as though all of the Acquired Assets had been conveyed directly by the Seller to the Buyer and the exchange shall in no way reduce, abridge or modify any of the Seller's obligations or any of the Buyer's rights or remedies hereunder. The Buyer will have no liability to the Seller under or in connection with the exchange, including in the event the exchange is not consummated, or in the event the Seller does not achieve the desired tax treatment.

17.0 MISCELLANEOUS.

17.1. Assignment. Neither party may assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the other party, which may withhold its consent for any or no reason. Any purported assignment not permitted by this Agreement will, to the greatest extent permitted by law, be null and void and of no force or effect whatever, and the party engaging or attempting to engage in any such prohibited assignment will indemnify and hold harmless the other party from all costs, liabilities, and damages (including incremental tax liabilities and attorneys' fees) that it may incur as a result of any such assignment or purported assignment. Notwithstanding the above or any other provision of this Agreement, the Buyer may assign any or all of its rights and obligations under this Agreement to Gillette without the prior written consent of the Seller.

17.2. Severability. The provisions of this Agreement will be deemed severable, and the invalidity or unenforceability of any provision in any jurisdiction will, as to that jurisdiction, be ineffective only to the extent of such invalidity or unenforceability, and will not affect the validity or enforceability of that or any other provision in any other jurisdiction. If any provision of this Agreement, or the application thereof to any person or any circumstance, is invalid or unenforceable in any jurisdiction, (i) a suitable and equitable provision will be substituted for the invalid or unenforceable provision in order to carry out in that jurisdiction, so far as may be valid and enforceable, the intent and purpose of the invalid or unenforceable provision, and (ii) the remainder of this Agreement, and the application of that provision to other persons or circumstances or in other jurisdictions, will not be affected.

17.3. Execution in Counterparts; Electronic Delivery. This Agreement may be executed by the parties on separate counterparts, each of which when so executed and delivered will be an original, but all of which together will constitute but one and the same instrument. This Agreement may be delivered by the facsimile or other electronic transmission of signed signature pages.

17.4. Section Headings. The Article and Section headings in this Agreement are for convenience of reference only and may not be utilized in construing or interpreting this Agreement.

17.5. Interpretation. This Agreement will be construed as the joint and equal work product of each party and will not be construed more or less favorably on account of its preparation or drafting. In this Agreement, (i) the word "including" means "including without limitation" and (ii) words such as "herein," "hereof," "hereby," and "hereunder" refer to this Agreement as a whole and not to any particular section or subsection.

17.6. Waivers. Any waiver by either party of any violation of, breach of, or default by the other party under any provision of this Agreement or any exhibit, schedule, or other document referred to in this Agreement, will not be construed as or constitute a waiver of any subsequent violation of, breach of, or default under that provision or any violation of, breach of, or default under any other provision of this Agreement or any other document referred to in this Agreement.

17.7. Publicity. Any publicity, including the timing and method of its release, prior to the Closing relating to this Agreement or the Transaction must be approved by both parties, which approval shall not be unreasonably withheld or delayed; provided, however, that if either party hereto is required by Law or by the terms of any listing agreement with a securities exchange to make a public announcement or statement relating to this Agreement or the Transaction, then such announcement or statement may be made without the prior approval of the other party, provided that, to the extent practicable, the party required to make such public announcement or statement affords the other party a reasonable opportunity to review the proposed public announcement or statement and considers in good faith the other party's comments with respect thereto. Each party agrees to consider in good faith the input of the other party with respect to post-Closing publicity relating specifically to this Agreement or the Transaction.

17.8. Entire Agreement; Amendments. This Agreement (including all schedules and exhibits attached hereto, which are incorporated herein by reference) constitutes the entire agreement between the parties relating to the Transaction, may not be modified except by a written instrument

signed by both parties, and supersedes and replaces all prior agreements and understandings, oral or written, with regard to the Transaction.

17.9. Governing Law. This Agreement is subject to the Laws of the state of Wyoming, without regard to conflicts of law principles.

17.10. Specific Performance. The parties hereto acknowledge and agree that in the event of a Breach of this Agreement, the non-breaching party may be irreparably harmed and may not be made whole by monetary damages. It is accordingly agreed that, in addition to the other remedies available under this Agreement or to which a party may be entitled at law or in equity, the parties shall be entitled to compel specific performance of this agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

Black Hills Wyoming, LLC

_____

Name: _____

Title: _____

Consolidated Wyoming Municipalities Power System Joint Powers Board

_____

Name: _____

Title: _____