

PURCHASE FOR RESALE AGREEMENT

by and between

BASIN ELECTRIC POWER COOPERATIVE

AND

[CUSTOMER]

THIS AGREEMENT, has been entered into and is made effective this _____ day of _____ by and between Basin Electric Power Cooperative (Basin Electric) a North Dakota cooperative corporation headquartered at 1717 East Interstate Avenue, Bismarck, North Dakota and [Customer], a _____ headquartered at _____. Basin Electric and [Customer] (Customer) hereinafter will be sometimes referred to collectively as "Parties" and individually as "Party".

RECITALS

Basin Electric has established a program whereby it will agree to enter into discrete transactions regarding the purchase for resale of electric power and energy with pre-qualified parties in accordance with the general terms and conditions set forth in this Agreement and subject to all terms, conditions, special provisions, parameters, qualifications and limitations with respect to specific transactions as set forth from time-to-time on the web page referred to as the Basin Electric purchase for resale application (hereafter referred to as the "Application").

NOW THEREFORE, in consideration of the premises and the covenants set forth below, the Parties do hereby agree as follows:

1. **ELIGIBLE CUSTOMERS**. Customer will, as of the effective date of this Agreement and at all times thereafter, satisfy the following conditions relating to creditworthiness:
 - 1.1. **Creditworthiness**. The Customer's senior unsecured debt shall be rated investment grade by a nationally recognized rating agency. If its debt does not meet that requirement or falls below that standard at any point after execution of this Agreement, Customer must deliver to Basin Electric an unconditional and irrevocable letter of credit in a principal amount equal to its Aggregate Exposure (as hereinafter defined) and issued in favor of Basin Electric in a format and by a bank or other financial institution acceptable to Basin Electric. "Aggregate Exposure" for purposes of this Agreement, shall mean the current value of the total (expressed in U.S. Dollars) of Customer's payment obligations to Basin Electric hereunder for all transaction pending or proposed under this Agreement. Customer understands and agrees that satisfaction of the creditworthiness standards stated above at all times is an absolute condition precedent to the

conduct of any and all transactions under this Agreement. Customer further agrees that in the event that its debt rating falls below the required standard, it will so advise Basin Electric immediately. Any attempt to initiate a specific transaction under this Agreement at any time that the Customer is not in strict compliance with the creditworthiness provisions stated above shall constitute a material breach of this Agreement.

- 1.2. **Suspension.** Customer agrees that at any time Basin Electric determines, in the exercise of its sole discretion, that Customer is not meeting the creditworthiness standards described above, Basin Electric shall have full power and authority, unilaterally to suspend the conduct of transactions with the Customer until such time as Basin Electric determines that Customer has come into full compliance with applicable creditworthiness requirements.
 - 1.3. **Cash Collateral.** As an alternative to compliance with the general credit worthiness provisions described above, Customer may elect to deposit cash with Basin Electric as and for prepayment of its obligations for transactions under this Agreement. If the Customer so elects this option, such prepayment shall be subject to and governed by the terms and conditions set forth in **Addendum A** hereto.
 - 1.4. **Alternative security.** Basin Electric, in the exercise of its sole discretion, may elect to accept alternative credit support arrangements (including but not limited to guarantees from entities that meet the Creditworthiness criteria outlined in subsection 1.1) proposed by the Customer.
2. **TERM AND TERMINATION.** The primary term of this Agreement shall be one calendar year from the effective date as stated above. This Agreement shall automatically renew on the same terms and conditions for successive one-year terms; provided either Party may cancel this Agreement at any time and for any reason by written notice to the other Party per subsection 7.3 of this Agreement. Termination of this Agreement, however and whenever such termination occurs, shall not diminish, terminate or otherwise modify, qualify or restrict the relative rights and obligations of the Parties relating to any specific transaction commenced but not fully completed prior to the date of such termination.
 3. **TERMS AND CONDITIONS FOR SPECIFIC TRANSACTIONS.** Basin Electric will from time-to-time post on the Application the specific values, amounts, parameters, terms, conditions and special provisions upon which it is willing to enter into any specific purchase and sale of electric power and energy. Customer agrees that any specific transaction that it wishes to undertake under this Agreement will be initiated on the Application in strict accordance with all of the foregoing items on the Application which Basin Electric can and will change (on a prospective basis) from time-to-time at its pleasure and in the unrestricted exercise of its discretion. With respect to any and specific transactions under this Agreement, Customer acknowledges and agrees that all terms, conditions, special provisions, notices and all other items appearing on the Application at the time of the initiation by Customer of a specific transaction under this Agreement shall be incorporated in and shall constitute valid and binding provisions of this Agreement.
 4. **CONFIRMATION STATEMENTS.** All of the details relating to a specific transaction initiated by the Customer under this Agreement shall be set forth in a "Confirmation Statement" substantially in the form attached hereto as **Exhibit A**. Confirmation Statements shall be e-mailed to both Customer and Basin Electric, and all such Confirmation Statements will stand as the complete description and the valid and binding final statement of all specific transactions conducted by and between Customer and Basin Electric hereunder.

5. **RESPONSIBILITIES OF CUSTOMER.** Customer fully understands and agrees as follows:
- 5.1. All specific transactions under this Agreement shall be initiated by Customer on and using the Application in accordance with all values, parameters, limitations, restrictions, special provisions and all other items appearing on the Application at the time of initiation of any specific transaction.
 - 5.2. Customer is wholly responsible for reading and understanding all items thereupon and understanding how to use the Application to initiate a specific transaction. Accordingly, Customer shall be solely responsible for and exclusively shall bear the consequences of all specific transactions initiated using the Application, including but not limited to consequences attributable to input errors, misunderstandings relating to proper use of the Application, etc.
 - 5.3. It shall be the responsibility of Customer in all transactions under this Agreement to accurately schedule and deliver to Basin Electric, electric power and energy at the time and the point of delivery and in the quantities described in the Confirmation statement. In the event Customer over-schedules the quantities described in the Confirmation Statement, Customer acknowledges that such over schedule could cause economic and other damages, and Customer hereby agrees, without limitation, to indemnify and to hold Basin Electric harmless from any and all damages, costs, expenses and claims attributable directly or indirectly to such over-schedule. Likewise, if under-scheduled, Basin Electric will sell and deliver to Customer only the amount of power actually scheduled, but Customer will be billed for the charges associated with the full amount of energy reflected on the Confirmation Statement.
 - 5.4. Customer accepts full responsibility for the protection, safekeeping and use of any and all passwords, identification numbers and/or other security tools issued to it by Basin Electric for purposes of enabling Customer to access and use the Application.
6. **PAYMENT.** Basin Electric shall submit invoices by the tenth working day of each month to Customer at the address shown in subsection 7.3 of this Agreement for all specific transactions from the previous calendar month. Customer payment to Basin Electric in immediately available funds shall be due to Basin Electric no later than fifteen (15) days following the date of receipt of such invoice. Wire transfer shall accomplish payment to the account of Basin Electric in accordance with the instructions posted from time-to-time on the Application. Payment received subsequent to this due date shall be subject to a prorated annual interest charge equal to the JP Morgan Chase Bank, or its successor's prime rate plus two (2) percent, applied to late payments on a daily basis, on a three hundred and sixty-five (365) day year. If the due date falls on a weekend or a recognized holiday, the due date shall be the next business day. Customer shall have thirty (30) days from the receipt of any invoice to question or challenge any item thereon. After sixty (60) days, an invoice shall be deemed correct, and Customer will not dispute or challenge any item thereon after such period has expired. If Customer does dispute any portion of an invoice, it will nevertheless pay the entire amount of the undisputed portion leaving only the disputed portion to be resolved.

Bank Name: JPMorgan Chase
Account Name: Basin Electric Power Cooperative
Bank ABA #: 021000021
Account Number: 910-2-617926

7. **MISCELLANEOUS PROVISIONS.** The Parties further agree as follows:

- 7.1. **Representations.** The Parties hereby represent and warrant to one another that they have full power and authority to enter into and to perform fully all of the obligations and responsibilities imposed upon them by and under this Agreement, including all specific transactions initiated hereunder.
- 7.2. **Assignment.** Neither Party shall have the right to assign all or any portion of its respective rights and responsibilities under this Agreement (including any specific transaction), and any attempt to do so shall be null and void.
- 7.3. **Notices.** Notices required under or relating to this Agreement (including but not limited to any and all specific transactions initiated hereunder) shall be sent in writing by U.S. mail, delivered in person, sent by e-mail or facsimile to the persons and at the addresses set forth below:

Basin Electric Contact Information

Tucker Smith
Basin Electric Power Cooperative
1717 E Interstate Ave
Bismarck, ND 58503-0564
Phone: (701) 223-0441
Fax: (701) 557-5329

Customer Contact Information

[Contact Name]
[Company]
[Address]
[City, State Zip]
[Phone]
[Fax]

8. **LIMITATION OF LIABILITY.** Customer agrees that Basin Electric's sole obligation under this Agreement is to utilize good faith and fair dealing with respect to any and all specific transactions initiated hereunder. Basin Electric does not represent or warrant that the Application will be functional at all times, or that terms and conditions suitable to Customer's particular needs as to any specific transaction will be available at any particular time. Basin Electric will not be responsible or liable in any fashion for a failure of all or any portion of a specific transaction due to circumstances beyond its control, which shall include but not be limited to: transmission system contingencies, computer malfunction, mistakes by Customer relating to use of the Application and/or Customer's failure to schedule and deliver power and energy in accordance with the terms stated on any Confirmation Statement issued hereunder. Basin Electric's aggregate liability to Customer for acts or omissions by Basin Electric under this Agreement (excepting only acts or omissions constituting willful misconduct with the intent to harm) and on any theory of liability, whether sounding in tort or based upon breach of contract, shall be limited to the return to Customer of any amount(s) paid to Basin Electric by the

Customer with respect to a specific transaction that failed, in whole or in part, due to negligence or breach of contract by Basin Electric. Neither Party shall be liable to the other Party under any circumstances for any incidental, consequential or special damages directly or indirectly for acts or omissions relating to performance under this Agreement.

9. **CHOICE OF LAW.** This Agreement shall be construed and applied in accordance with the laws of the State of North Dakota (exclusive of North Dakota choice of law provisions). Customer hereby agrees to submit to personal jurisdiction and venue in the United States District Court for the District of North Dakota for the litigation of any and all disputes arising under or relating to this Agreement, including but not limited to the terms, conditions and performance of any specific transaction initiated hereunder and disputes relating to invoice, billing and/or payment of any invoice submitted to Customer by Basin Electric hereunder.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered on their respective behalves by duly authorized representatives thereof on the dates and at the locations shown below.

BASIN ELECTRIC POWER COOPERATIVE	[COMPANY]
By: _____	By: _____
Name: <u>David D. Raatz</u>	Name: _____
<u>Manager, Marketing & Power</u>	
Title: <u>Supply Planning</u>	Title: _____
Date: _____	Date: _____

ADDENDUM A

TERMS AND CONDITIONS FOR PREPAYMENT OF OBLIGATIONS

Upon mutual agreement of Basin Electric and Customer under the Purchase for Resale Agreement, Basin Electric will accept prepayment of the Customer's obligations with respect to specific transactions as an alternative to compliance with the creditworthiness requirements described in the body of the Agreement. If prepayment is selected, the following terms and conditions will apply:

1. Customer will deposit with Basin Electric an agreed amount of cash, which will be recorded in a designated general ledger account by Basin Electric. Customer will not be entitled to interest or any other form of compensation or remuneration with respect to the balance in such account.

2. Customer shall be entitled to initiate specific purchase for resale transactions on the Application only to the extent that the aggregate amount of the Customer's obligations pursuant to such transactions does not exceed the balance of the account.

3. The financial payment obligations of Customer with respect to a specific purchase for resale transaction shall immediately be satisfied from the customer's account, and the balance of the account shall be adjusted accordingly. A monthly statement shall be sent to Customer detailing the payment obligations associated with each, specific purchase for resale transaction and showing the corresponding deduction of such obligations from the customer's account.

4. Customer hereby grants to Basin Electric, and Basin Electric will at all times have a **perfected security interest**, constituting a first lien, in and with respect to all cash paid over to Basin Electric as prepayment for specific transactions to be initiated by the customer subsequent to such payment. The interest of Basin Electric in all such cash collateral shall be superior to any and all other creditors, secured and unsecured, of the Customer.

5. Upon five (5) business days of Customer's written request, Basin Electric will transfer the positive principal balance in such account to Customer. For purposes of this Agreement, the positive principal balance of the account shall mean the balance of the account at the time of receipt by Basin Electric of the request for disbursement **less** the amount necessary to satisfy in full all payment and other financial obligations on the part of Customer relating to transactions initiated by the Customer prior to the receipt by Basin Electric of the request for disbursement.

Exhibit A

[Customer],

This [Transmission Path] Confirmation Statement (Confirmation Statement) for Friday, May 1, 2009, between [Customer] and Basin Electric Power Cooperative (Basin Electric) is provided in accordance and subject to all of the terms and provisions of the Western System Power Pool (WSPP) Agreement, as amended from time to time. Terms used but not defined herein shall have the meanings ascribed to them in the WSPP Agreement. In the case of a conflict between the terms of this Confirmation Statement and the terms of the WSPP Agreement, the terms of the Confirmation Statement shall govern.

This Confirmation Statement confirms the agreement reached between [Customer] and Basin Electric regarding the purchase and sale of electric energy upon the terms and conditions set forth herein.

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Basin Electric will purchase WSPP schedule B from [Customer] at the [Transmission Path] [PointA] for the following amounts and hours:

10 MW at 30 mills for HE 0100 CST on Friday, May 1, 2009

10 MW at 30 mills for HE 0200 CST on Friday, May 1, 2009

[Customer] will purchase WSPP schedule B from Basin Electric at the [Transmission Path] [PointB] for the following amounts and hours:

10 MW at 35 mills for HE 0100 CST on Friday, May 1, 2009

10 MW at 35 mills for HE 0200 CST on Friday, May 1, 2009
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Special Provisions:

1. For tagging requirements, please use:
 - [Transmission Path] [PointA]: xxxxxxx
 - [Transmission Path] [PointB]: xxxxxxx
 - [PointA] to [PointB] TSR Aref #: xxxxxxx
 - [PointB] to [PointA] TSR Aref #: xxxxxxx
 - Basin Electric must be included in the tag as a PSE: BEPMWP
 - All transactions shall be tagged WSPP (Western System Power Pool) Schedule B.
 - Customer shall be responsible for all NERC tagging requirements.
2. Basin Electric reserves the right to reduce the availability of the [Transmission Path] to serve Basin Electric load but will not reduce for economic opportunities. In the event Basin Electric requires an availability reduction, Basin Electric or its agent will contact the customer to adjust tags under the Purchase for Resale Agreement. Failure to adjust schedule will result in liquidated damages.
3. Basin Electric will be responsible for the losses across the [Transmission Path] and will recover the cost of losses within Basin Electric's sale pricing.
4. Basin Electric's sale to Customer is contingent on the exact reciprocal Basin Electric purchase from Customer and on the [Transmission Path] condition.
5. Customer has read and agrees to Section 5.3 under the Responsibilities of Customer of the Purchase for Resale Agreement.
6. Basin Electric is not liable for any tagging curtailments.
7. Customer and Basin Electric acknowledge that nothing in the Confirmation Statement renders Customer a member of Basin Electric and Customer hereby releases and discharges Basin Electric from any and all claims for any patronage arising from or relating to the purchase of energy by Customer under the Confirmation Statement.