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APPENDIX D

**MEMORANDUM OF AGREEMENT BETWEEN
SOUTH DAKOTA STATE ARCHAEOLOGIST AND POWERTECH (USA) INC.**

MAP NOTES:

- NOT NHRP ELIGIBLE-MAP No.s 1 and 4 (Maps 2&3 not included since Map 1 & 4 provide coverage for site).
- 2008 EVALUATED SITES – MAP No.s 1 & 2
- ELIGIBLE SITES – MAP 1 (site numbers shown for 2 sites only).

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**MEMORANDUM OF AGREEMENT
BETWEEN POWERTECH (USA) INC.**

**AND THE
ARCHAEOLOGICAL RESEARCH CENTER (ARC), A PROGRAM OF THE
SOUTH DAKOTA STATE HISTORICAL SOCIETY,
REGARDING THE DEWEY-BURDOCK PROJECT
Located in Custer and Fall River Counties, South Dakota
Establishing Procedures to Avoid or Mitigate Potential Effects on Archeological
and Historic Sites pursuant to SDCL 45-6D-14 and SDCL ch. 45-6B**

WHEREAS Powertech (USA) Inc. (Powertech) plans to seek a mining permit for the Dewey-Burdock Uranium In Situ Mining Project ("Project") pursuant to the South Dakota Mined Land Reclamation Act (SDCL ch. 45-6B);

WHEREAS the Project consists of construction, operation and reclamation of uranium in situ mining and recovery facilities in Custer and Fall River Counties;

WHEREAS, Powertech has defined the Project's area of potential effect ("APE") as described in Attachment A;

WHEREAS Powertech has determined that the Project may have an affect on archaeological or historic sites that contain or are likely to contain information significant to the state or local history or prehistory, and has consulted, and will continue to consult, with the ARC Archaeologist pursuant to SDCL 45-6D-14 and SDCL ch. 45-6B;

WHEREAS, Powertech has also consulted with the South Dakota Department of Environment and Natural Resources (DENR) regarding the effects of the Project on archaeological or historic properties;

NOW, THEREFORE, Powertech and the ARC agree that the Project shall be implemented in accordance with the following stipulations in order to prevent or mitigate any effect of the Project on archeological or historic sites.

STIPULATIONS

Powertech shall ensure that the following measures are carried out:

- I.** Archaeological or historic sites threatened or potentially threatened by proposed ground disturbing activity in the current and projected phases of the Project will be investigated prior to the proposed activity to determine their significance or research potential.
- II.** Historic or archaeological sites located in the remainder of the APE that are not

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proposed to be affected, and that were previously identified in the archaeological investigation conducted by Augustana Laboratory ("Augustana") entitled, *A Level III Cultural Resources Evaluation of Powertech (USA) Incorporated's Proposed Dewey-Burdock Uranium Project Locality within the Southern Black Hills, Custer and Fall River Counties, South Dakota* by Kruse *et al.*, that was provided to the ARC, will be avoided. If surface disturbance of a site becomes necessary, the ARC will be notified at least 30 days in advance of surface disturbance.

III. Augustana will be authorized to proceed with the evaluation of the selected sites pursuant to the scope of work described in Attachment WWW upon execution of this MOA.

IV. Each quarter during the first year and each year thereafter following the execution of this MOA until it expires or is terminated, Powertech shall provide ARC a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in Powertech's efforts to carry out the terms of this MOA.

V. DURATION

This MOA will be null and void if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, Powertech may consult with the other signatory to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

VI. UNANTICIPATED DISCOVERIES

If historic or archaeological sites are discovered or unanticipated effects on historic or archeological sites are found during any phase of the Project, Powertech shall temporarily halt any surface disturbing activities in the immediate vicinity and contact ARC. Powertech will not resume its activities in the area until and unless the unanticipated effects or sites are investigated and clearance to proceed is granted by ARC.

VII. REPORTING

Refer to article IV in this MOA.

VIII. DISPUTE RESOLUTION

Should either party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, Powertech and ARC shall consult to resolve the objection. If Powertech determines the objection cannot be resolved, Powertech will:

- A. File a petition for a contested case hearing that includes all documentation relevant to the dispute, including Powertech's proposed resolution, with the South

Dakota Board of Minerals and Environment (BME), which is the entity with jurisdiction over such mining activities pursuant to SDCL ch. 45-6B, and including 45-6B-33.3 to -33.8, inclusive. The BME shall timely schedule a hearing on the issues and shall notify all parties of the hearing. All parties shall be allowed to present evidence and argument to the BME at the hearing. Powertech will proceed in accordance with the final decision of the BME.

B. Powertech may not proceed until the BME has issued a final decision on the dispute.

C. Powertech's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

IX. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by both parties. The amendment will be effective on the date a copy signed by ARC.

X. TERMINATION

If either party to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by both parties) an amendment cannot be reached, either party may terminate the MOA upon written notification to the other signatories.

Execution of this MOA by Powertech and ARC and implementation of its terms constitute evidence that Powertech has taken into account the effects of this Project on potential significant historic and archaeological sites and is committed to working closely with ARC to avoid and/or mitigate any potential affects on such properties.

This MOA does not supersede any future Federal involvement in the Project and does not constitute compliance with Federal laws such as the National Historic Preservation Act or the National Environmental Policy Act.

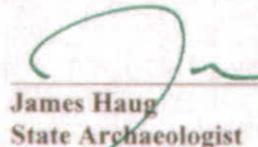
SIGNATORIES:

Powertech (USA) Inc.

 Date 9/10/08

Richard E. Blubaugh
Vice President-Environmental,
Health and Safety Resources

Archaeological Research Center

 Date 9.15.08

James Haug
State Archaeologist

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ATTACHMENT A

Powertech (USA) Inc.'s Dewey-Burdock Project in Custer and Fall River Counties, South Dakota is outlined by its proposed **Project Boundary** in Figure A (Confidential), following this Attachment. The Project Boundary encompasses the following sections (or portions thereof):

T6S, R1E:
Sections 20, 21, and 27 - 35

T7S, R1E:
Sections 1 - 5, 10 - 12, and 15

The **Area of Potential Effect (APE)** is defined as the areas that would potentially be affected by the surface-disturbing activities of the project and is a much smaller area than the area encompassed by the Project Boundary. The APE is based on known mining resources and is subject to change as additional resources are identified. The APE is depicted in Figure A (Confidential) and is generally described as follows:

T6S, R1E:
Sections (or portions thereof): 28, 29, 32, 33, 35

T7S, R1E:
Sections (or portions thereof): 1 - 3, 10 - 12

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