



**Portland General Electric**  
121 SW Salmon Street · Portland, Ore. 97204

November 19, 2019

Public Utility Commission of Oregon  
Attn: Filing Center  
201 High Street, S.E.  
P.O. Box 1088  
Salem, OR 97308-1088

**RE: PGE's UM 1987 Request to Update Schedule 201 and Standard Power Purchase Agreements**

In his November 14, 2019, Prehearing Conference Memorandum and Ruling, Administrative Law Judge (ALJ) Allan Arlow ordered Portland General Electric Company (PGE) to file "redlined" versions of its revised Schedule 201 and standard power purchase agreements (PPAs) identified in the cover letter of PGE's October 1, 2019 Revised Filing comparing the revised documents to PGE's currently effective standard PPAs and Schedule 201.<sup>1</sup> PGE has prepared the requested redlines, which show the October 1st changes as redlines in the currently effective documents. Attachments A-1 through A-9 provide redlines comparing the standard PPAs and Schedule 201 in PGE's October 1, 2019 Revised Filing to the analogous currently effective documents.<sup>2</sup>

PGE notes that, to assist parties and the Commission in understanding how PGE's Revised Filing compares with its currently effective Schedule 201 and standard PPAs, PGE prepared and filed a detailed PPA Matrix and Schedule 201 Matrix.<sup>3</sup> The matrices show the currently effective language that is analogous to each provision of the Revised Filing, or indicate "n/a" for the provisions in the Revised Filing that do not have an analog in the currently effective documents. The matrices also explain why PGE added or changed each provision. PGE believes that the matrices are more helpful to understanding how the Revised Filing changes the currently effective documents than a redline comparing the documents because many provisions have been moved around

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<sup>1</sup> *In the Matter of Portland Gen. Elec. Co., Request to Update its Schedule 201 and Standard Power Purchase Agreements*, Docket UM 1987, Prehearing Conference Memorandum and Ruling (Nov. 14, 2019).

<sup>2</sup> Please note that the redlines do not contain Exhibit G, which is a new exhibit and is available only in pdf format.

<sup>3</sup> Power Purchase Agreement Explanatory Matrix, Revised Filing at 400 (Oct. 1, 2019) & Schedule 201 Explanatory Matrix, Revised Filing at 492. PGE also prepared and filed matrices comparing its Original Filing and its currently effective standard PPAs and Schedule 201. Power Purchase Agreement Explanatory Matrix, Initial Filing at 339 (Dec. 7, 2018) & Schedule 201 Explanatory Matrix, Initial Filing at 322.

or reworded in the Revised Filing, and these changes are difficult to track in a “redlined” comparison document.

In addition, as PGE noted in its Revised Filing cover letter,<sup>4</sup> PGE has already prepared redlined documents showing the differences between the original, December 7, 2018 filing—with which the parties were already familiar from workshops and settlement discussions—and the October 1, 2019 Revised Filing, and PGE has provided these documents to parties upon request. Specifically, PGE provided the redlines in Microsoft Word format to Greg Adams, Ken Kaufmann, and Irion Sanger on October 10, 2019, and to Stephanie Andrus and Brittany Andrus on October 14, 2019. In response to the ALJ’s request for material “to assist the parties and Staff in addressing the joint motion to stay,”<sup>5</sup> PGE is now filing the same redlines with the Commission as well. Attachments B-1 through B-9 provide redlines comparing the standard PPAs and Schedule 201 in PGE’s October 1, 2019 Revised Filing to the analogous documents from PGE’s December 7, 2018 filing.

Please direct all formal correspondence and requests to the following email address [pge.opuc.filings@pgn.com](mailto:pge.opuc.filings@pgn.com)

Sincerely,



Robert Macfarlane  
Manager, Pricing & Tariffs

Enclosures

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<sup>4</sup> Docket UM 1987, Revised Filing Cover Letter at 2 n.2.

<sup>5</sup> Prehearing Conference Memorandum and Ruling at 2.

PGE UM 1987  
Attachment A1 – A9

PGE UM 1987  
Attachment B1 – B9



**STANDARD OFF-SYSTEM NON-VARIABLE  
POWER PURCHASE AGREEMENT  
BETWEEN  
[COUNTERPARTY NAME]  
AND  
PORTLAND GENERAL ELECTRIC COMPANY**

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**STANDARD OFF-SYSTEM NON-VARIABLE  
POWER PURCHASE AGREEMENT**

This STANDARD OFF-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT (“**Agreement**”) is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] (“**Seller**”) and Portland General Electric Company, an Oregon corporation (“**PGE**”) (hereinafter each a “**Party**” and collectively, “**Parties**”).

**RECITALS**

A. [New QF] Seller ~~is a New QF and~~ intends to construct, own, operate and maintain a New QF \_\_\_\_\_ ~~[identify resource type]~~ facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B**. ~~(“Facility”).~~

A. [Existing QF] Seller ~~is an Existing QF and~~ owns and intends to operate and maintain an Existing QF \_\_\_\_\_ ~~[identify resource type]~~ facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B**. ~~(“Facility”).~~

B. Seller intends to operate the Facility as a “Qualifying Facility,” as that term is defined in the FERC Federal Energy Regulatory Commission regulations codified at 18 CFR Part 292.

C. Seller wishes to sell and PGE is willing to purchase the Net Output from the Facility, subject to and in accordance with the terms and conditions of this Agreement, and Seller wishes to provide energy and capacity pursuant to this Agreement.

**AGREEMENT**

NOW, THEREFORE, the Parties agree as follows:  
**ARTICLE 1:**

**DEFINITIONS AND CONTRACT INTERPRETATION**

1.1 Defined Terms.

For all purposes of this Agreement, the following terms shall have the following meanings:

“Adjusted Delivered Net Output” means, for any given period, Net Output delivered as Firm Energy to the Delivery Point during the period plus Net Output that would have been delivered as Firm Energy to the Delivery Point during any period in which Seller was excused from its delivery obligations due to a Force Majeure Event, based on the Estimated Monthly Average Net Output set forth in Exhibit C (pro-rated for partial months as applicable).

“**Affiliate**” means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller, ~~or that shares management or that acts jointly or in concert with or exercises influence over the policies or actions of Seller.~~ For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

“**Agreement**” means this Standard Off-System Non-Variable Power Purchase Agreement and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

“**Alternative Minimum Net Output**” has the meaning set forth in **Exhibit C**.

“**Ancillary Services**” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services.” ~~” including energy imbalance services, generation imbalance services, regulation and frequency response services, reactive supply services, voltage control services, inadvertent energy flow services, control area services, system integration services, operating spinning reserve services, and operating supplemental reserve services.~~

“**Applicable Law**” means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

“**As-built Supplement**” means a supplement to **Exhibit A** and **Exhibit B** provided by Seller in accordance with Section 2.2 following completion of construction of the Facility, or modifications to the Facility, which describes the Facility as actually built.

“**Balancing Authority**” means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to in which the Facility ~~is located~~.

“**Bankrupt**” means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, or (iii)(iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they become due.

“**Billing Period**” means one calendar month.

“**Business Day**” means any day or such other than Saturday, Sunday or period (not to exceed three months) as PGE may establish by written notice to Seller, during the following holidays: New Year’s Day, January 1; Memorial Day, last Monday Delivery Period, in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25 the event that PGE reasonably determines that changing the length of a Billing Period will have a *de minimis* effect on the cost of Seller’s Net Output to PGE.

~~“**Capacity Attributes**” means any current or future attribute, as may be currently defined or otherwise defined in the future, including but not limited to a characteristic, certificate, tag, credit, ancillary service or attribute thereof, or accounting construct, associated with the electric generation capability and capacity of the Facility or the Facility’s capability and ability to produce or curtail energy, including any attribute counted towards any current or future resource adequacy or reserve requirements. Notwithstanding any other provision of this Agreement, “Capacity Attributes” do not include: (i) tax credits, deductions, or tax benefits associated with the Facility, or (ii) any state, federal, local, or private cash payments or grants relating in any way to the Facility or the Net Output.~~

“**Cash Escrow**” means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller’s placement of cash in the custody of the escrow agent for delivery to PGE after the fulfillment of any of the conditions specified in Section 8.2. Amounts in the Cash Escrow shall earn interest at the rate applicable to money market deposits at escrow agent.

“**Claims**” means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.

“**Commercial Operation**” has the meaning given to it in Section 2.45.

“**Commercial Operation Date**” has the meaning given to it in Section 2.56.

“**Commission**” means the Public Utility Commission of Oregon.

“**Contract Price**” means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under the Non-Renewable Fixed Price Option for- \_\_\_\_\_ *[specify applicable Non-Renewable Fixed Price Option based on resource type, in accordance with Schedule].* as published in the Schedule and attached as **Exhibit F**, and thereafter, for the remainder of the Term, the Daily Market Index Price in effect during the interval when the energy is generated.

“**Contract Year**” means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time (“PPT”) on January 1 and ending at 24:00 hours PPT on December 31; *provided, however,* that the first Contract Year shall commence on the Commercial Operation Date and end on December 31<sup>st</sup> of the calendar year in which the Commercial Operation Date occurs, and the last Contract Year shall end on the last day of the Term.

“**Credit Support**” has the meaning given to it in Section 8.1.

“**Creditworthiness Requirements**” has the meaning given to it in Section 7.1.6.

“**Daily Market Index Price**” means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>. In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Delivery Point.

“**Delay Damages**” has the meaning given to it in Section 2.67.

“**Delivery Period**” has the meaning given to it in Section 3.1.

“**Delivery Point**” means the point of delivery where Seller delivers energy to on the PGE systems ~~side of the interface with the applicable Balancing Authority, where the Parties have agreed that Seller will deliver energy to PGE from the Facility,~~ as specified in **Exhibit B**. PGE and Seller may mutually agree to amend the Delivery Point.

“e-Tag” means NERC electronic tag.

~~“e-Tags” has the meaning given to it in Section 3.6.1.2.~~

“Effective Date” has the meaning given to it in Section 2.1.

“Estimated Annual Average Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Annual Maximum Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Average Net Output” means the relevant amounts specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Maximum Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Existing QF” means a QF that (1) is or has been operational before the Effective Date of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party.

“Expiration Date Facility” has the meaning given to it in Section 2.1.

“Facility” is the entire facility as specified in Exhibit A and Exhibit B Recitals.

“Facility Nameplate Capacity Rating” means the sum of the Nameplate Capacity Ratings for all Generation Units~~Generators~~ comprising the Facility.

“FERC” means the Federal Energy Regulatory Commission or any successor government agency.

“Firm Energy” means energy scheduled and delivered on a firm basis hourly~~on an uninterruptible basis~~ to the Delivery Point via firm transmission rights.

“Force Majeure” or “Force Majeure Event” has in accordance with the meaning given to it in Section 12.1. Transmission Agreement(s).

\_\_\_\_\_  
“Generator” means the electrical component within the Facility measured in kW that converts mechanical energy ~~radiation~~ into electrical energy.

\_\_\_\_\_  
“Generation Unit” means a complete each separate electrical generation system within Generator of the Facility that is able to generate and deliver energy contributes to the Point of Interconnection independent of other Generation Units within the same Specified Facility. Nameplate Capacity Rating included in Exhibit A.

“Governmental Authority” means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.



“**Imbalance Energy**” means that portion of Firm Energy, measured in kWh, scheduled and delivered to the Delivery Point that was not Net Output.

“**Interconnection Agreement**” means an agreement governing the interconnection of the Facility with \_\_\_\_\_’s [*specify relevant transmission system*~~Transmission Provider or distribution system owner~~] electric system, ~~having a term ending no earlier than the expiration date of this Agreement.~~

~~“**Interconnection Rating**” means the Facility capacity rating specified in the Interconnection Agreement, or, if no Interconnection Agreement exists, in the application seeking interconnection.~~

“**kW**” and “**kWh**” mean kilowatt and kilowatt hour, respectively.

~~“**Lender**” means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.~~

“**Letter of Credit**” means an irrevocable standby letter of credit from an institution selected by the Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

“**Licensed Professional Engineer**” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in 2.4.2, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.

“**Lost Energy**” means (in kWh): ~~either~~

- A. In connection with a Facility after the Commercial Operation Date, if Seller fails to meet the Minimum Delivery Guarantee, then with respect to a Contract Year~~given period~~, an amount equal to the Minimum Net Output ~~delivered to the Delivery Point less the~~ Adjusted Delivered Net Output ~~for the period~~; or
- B. In connection with a Facility that does not establish the Commercial Operation Date on or before the Commercial Operation Date, if the Seller fails to meet the Scheduled Commercial Operation Date, the ~~sum of the~~ Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see Exhibit C) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual Commercial Operation Date or contract termination pursuant to Section 9. The Estimated Monthly Average Net Output ~~shall~~may be pro-rated for any partial months; or

- C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 9 of this Agreement because of Seller's ~~for~~ default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month from the date of termination through the end of the ~~T~~ term. The Estimated Monthly Average Net Output ~~shall~~may be pro-rated for any partial months.

“Lost Energy Value” means:

A. In connection with Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly ~~respect~~ to each calendar month in the Contract Year and then allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in Exhibit C (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the ~~given~~ period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours ~~an amount calculated as follows:~~ Lost Energy for each ~~the applicable calendar month (or partial calendar month) in the Contract Year~~ period multiplied by ~~(the (applicable greater of zero (0) or the Replacement Price for On-Peak Hours~~ the period less the time-weighted average of the Contract Price for On-Peak Hours for the same period); and
- The Off-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year multiplied by ~~(the applicable Replacement Price for Off-Peak Hours less the Contract Price for Off-Peak Hours for the same period).~~

If the above calculation of the Lost Energy Value for the Contract Year results in a negative value, the Lost Energy Value for the Contract Year shall be deemed zero. See the example calculation in Exhibit G.

In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during which Seller has failed to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below) ~~for the period;~~ plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:



- The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) shall not exceed the Contract Price for On-Peak Hours for the same period; and
- The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.

If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in **Exhibit G**.

- B. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for On-Peak Hours for the period *less* the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for Off-Peak Hours for the period *less* the Contract Price for Off-Peak Hours for the period); and
- Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in **Exhibit G**.

~~“Market Index Price” means the applicable Powerdex hourly Mid-Columbia Index price for firm energy at the time the energy is delivered. In the event Powerdex no longer publishes this index or PGE elects to use nodal pricing, PGE will select an alternative successor index or other published pricing (or independent system operator or regional transmission organization settlement pricing) representative of the Delivery Point.~~

**“Minimum Delivery Guarantee”** has the meaning ~~“Net Output”~~ means, for a given to it in Section 3.4.

**“Minimum Net Output”** means, for a Contract Year~~period~~, seventy-five percent (75%) of the ~~Estimated Annual Average~~expected Net Output from the Facility for the period, ~~based on the expected Net Output of the Facility for the period~~ as set forth in **Exhibit C** (pro-rated ~~for partial months~~ as required for partial Contract Years and partial months, as applicable), unless Seller selects an Alternative Minimum Net Output consistent with the terms of Exhibit C of this Agreement (pro-rated for any period less than 12 calendar months), in which case the Minimum Net Output equals the selected Alternative Minimum Net Output.~~applicable).~~

**“Nameplate Capacity Rating”** means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.

**“NERC”** means the North American Electric Reliability Corporation.

**“Net Available Capacity”** means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Point of Interconnection continuously for at least sixty (60) minutes; ~~which is equivalent to the lesser of: (1) the Specified Facility Nameplate Capacity Rating, or (2) the Interconnection Rating, in either case less station service (parasitic power and electrical losses).~~

**“Net Output”** means all energy, expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the Point of Interconnection.

**“New QF”** means any QF that is not an Existing QF.

**“Off-Peak Hours”** means all hours other than ~~has the meaning provided in the Schedule.~~

**“On-Peak Hours”** ~~has the meaning provided in the Schedule.~~

**“On-Peak Energy Imbalance Accumulation”** and **“Off-Peak Energy Imbalance Accumulation”** have the meanings given to them in Section 3.2.

**“On-Peak Hours”** means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.

**“Person”** means any individual, corporation, ~~a~~ limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.

**“Planned Maintenance”** means outages scheduled 90 calendar days in advance, with ~~PGE’s~~ prior written notice to PGE consent, which shall not be unreasonably withheld.

**“Point of Interconnection”** means the point of interconnection between the Facility and the interconnecting Transmission Provider or distribution system owner, as specified in **Exhibit B**.

“**Prime Rate**” means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

“**Product**” means, each and together, as a single bundled product, Net Output and, if applicable, Imbalance Energy, together with all associated ~~capacity~~Capacity Attributes.

“**Prudent Electrical Practices**” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the WECC that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all Applicable Law. Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

“**PURPA**” means the Public Utility Regulatory Policies Act of 1978.

“**Qualifying Facility**” has the meaning set forth in the Recitals.

“**Reliability Entity**” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

~~“**Remedial Action Scheme**” means an automatic protection system designed to detect abnormal or predetermined system conditions, and take corrective actions other than or in addition to the isolation of faulted components to maintain system reliability. Such action may include changes in demand, generation, or system configuration to maintain system stability, acceptable voltage, or power flows.~~

“**Replacement Price**” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at which PGE, acting in a commercially reasonable manner, purchases for delivery at the Mid-Columbia trading hub Delivery Point replacement energy for any Net Output that Seller fails to deliver as required under this Agreement.

When PGE elects not to make such a purchase, the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Delivery Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices for a given period shall be calculated as follows for each applicable calendar month (or partial calendar month):

- For Lost Energy During On-Peak Hours: the hourly the greater of zero (0) or the time-weighted average of the on-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).
- For Lost Energy During Off-Peak Hours: the hourly average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

When the Replacement Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 9, the Replacement Price shall be the respective for On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices during the applicable period.

“**Required Facility Documents**” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as, including the Interconnection Agreement and, the Transmission Agreement, and those set forth in Exhibit D.

“**Schedule**” means PGE’s Schedule 201 filed with the Commission and in effect on the date that Seller delivers to PGE an executed copy of this Agreement, the terms of which are hereby incorporated by reference. For ease of reference and informational purposes only, a copy of the Schedule is attached hereto as **Exhibit F**; however, if there is any difference between **Exhibit F** and the Schedule, the terms of the Schedule shall apply and prevail.

“**Scheduled Commercial Operation Date**” has the meaning given to it in Section 2.67.

“**Senior Lien**” means a prior lien thatwhich has precedence as to the property under the lien over another lien or encumbrance.

“**Specified Facility Nameplate Capacity Rating**” means the Facility Nameplate Capacity Rating set forth in **Exhibit A**, as it may be amended from time to time in accordance with this Agreement.

“**Start-Up Testing**” means the performancecompletion of applicable required factory and start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in **Exhibit E** (as it may be updated by Seller) during the Test Period.

“**Step-in Rights**” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.

“**Surplus Delivery**” has the meaning given to it in Section 3.2. By definition, Surplus Delivery shall always be a positive number.

“**Term**” has the meaning given to it in Section 2.1.

“**Test Energy**” means electric energy generated by the Facility during the Test Period, and all RECs and Capacity Rights associated with such electric energy.

“**Test Period**” means a period of no more than sixty (60) calendar days, during which Start-Up Testing is to be conducted.

“**Transmission Agreement**” means an agreement (or agreements) between Seller and the Transmission Provider(s) that provide(s) for ~~the long-term, firm, point-to-point~~ transmission and delivery of Firm Energy from the Facility to the Delivery Point, energy at no less than the Specified Facility Nameplate Capacity Rating. ~~The Transmission Agreement shall have from the Facility to the Delivery Point for a term of at least the lesser of (i) not less than five (5) years, with renewal rights, or (ii) until the Expiration Date of together with any and all other services (including Ancillary Services) required for transmission and delivery of energy to the Delivery Point, as scheduled in accordance with~~ this Agreement.

“**Transmission Provider(s)**” means \_\_\_\_\_, the transmission system operator(s) with whom Seller will enter or has entered into the Transmission Agreement(s) to provide for delivery of Firm Energy from the Facility to the Delivery Point in accordance with this Agreement.

“**WECC**” means the Western Electricity Coordinating Council or any successor thereto.

~~“**WECC Pre Scheduling Day**” means the WECC Pre Scheduling Day prior to the delivery day or day(s) as defined by the most recent WECC Pre Schedule calendar. For example, Thursday is typically the WECC Pre Scheduling Day for delivery days of Friday and Saturday.~~

## 1.2 Interpretation.

In this Agreement, references to Recitals, Sections, and Exhibits are references to the recitals, sections and exhibits of this Agreement. The article and section headings in this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms “includes” or “including” mean “includes but is not limited to” and “including but not limited to,” respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in this Agreement in accordance with such recognized meanings.

### ARTICLE 2:

## TERM; FACILITY; COMMERCIAL OPERATION

### 2.1 Term.

The term of this Agreement (“**Term**”) commences on the date this Agreement is signed by both Parties (“**Effective Date**”) and ends on the earlier of \_\_\_\_\_ [Seller-selected date or fixed-interval period of time], 20\_\_\_\_ [date that is no more than 20 years from the Scheduled Commercial Operation Date] (“**Expiration Date**”) or the date on which this Agreement is terminated pursuant to the terms of the Agreement.

### 2.2 Construction of the Facility.

2.2.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE’s system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement. Seller shall, at its sole cost, design and construct the Facility and, obtain all necessary transmission and interconnection rights, necessary and make or cause to be made all necessary modifications to PGE’s or the Transmission Provider’s (or Transmission Providers’) systems to enable the delivery of energy from the Facility to the Delivery Point, all in compliance with this Agreement, the Required Facility Documents, and Prudent Electrical Practices.



-Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement ~~may~~**must** be reviewed ~~and approved~~ by PGE, which ~~review~~**approval** shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE's information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section 6.3-1.

~~2.3~~ Seller's Responsibility for Costs.

~~Seller is responsible for all costs associated with the study or construction of necessary modifications and upgrades to the Facility or PGE's or the Transmission Provider's (or Transmission Providers') systems related to the delivery of energy from the Facility to the Delivery Point, or any increase in the Facility Nameplate Capacity Rating or the generating capability of the Facility. Without limiting the generality of the foregoing:~~

~~2.3.1~~ If the Facility is subject to a Transmission Provider's Remedial Action Scheme and PGE has an obligation to the Transmission Provider for said Remedial Action Scheme, Seller shall make necessary arrangements prior to the Commercial Operation Date, including installing any required equipment and entering into any necessary agreements to enable PGE to include the Facility in the list of resources used to satisfy PGE's obligation under the Transmission Provider's Remedial Action Scheme.

~~2.3.2~~ PGE will evaluate available delivery capability on PGE's transmission system between the Delivery Point and PGE's load that is required to enable PGE to accept delivery of the Facility's Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to PGE's designated sink point. If PGE determines that sufficient delivery capability exists on PGE's transmission system, PGE will arrange for, be responsible for, and make available transmission service on PGE's transmission system from the Delivery Point to the designated sink point. If PGE determines that insufficient delivery capability exists on PGE's transmission system, Seller will be responsible for (i) obtaining and paying for necessary transmission studies and paying for any transmission upgrades necessary to enable PGE to accept deliveries of Net Output from the Facility and to effectuate delivery from the Delivery Point to PGE's designated sink point, or (ii) paying for any necessary transmission service from Transmission Providers to effectuate delivery from the Delivery Point to PGE's designated sink point. If any upgrades to PGE's system are identified pursuant to part (i), PGE and Seller shall enter into a separate agreement to establish the terms under which PGE shall arrange for and Seller will pay for such upgrades; provided, however, that if the costs of such upgrades is reasonably projected to exceed One Hundred Thousand Dollars (\$100,000), Seller may terminate this Agreement by providing written notice to Buyer, unless, within thirty (30) days after Buyer receives such notice, Buyer agrees in its sole discretion to bear costs in excess of that amount. After all necessary upgrades have been completed in accordance with Prudent Electrical Practices, PGE will arrange for, be responsible for, and make available transmission service from the Delivery Point to the designated sink point.

~~2.4~~2.3 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with **Exhibit E** (as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility),<sup>5</sup> and shall provide written notice to PGE when the Start-Up Testing has

been successfully completed. Seller must provide no less than one (1) business day written notice to PGE prior to the commencement of Start-Up Testing, ~~and must provide. Seller shall use its best efforts to schedule and deliver Test Energy to its Transmission Provider, to a third party or to an organized market via its Transmission Provider's system. Seller shall be entitled to any and all compensation received from its Transmission Provider or any third party or organized market for such Test Energy. If it is necessary for Seller to schedule and deliver Test Energy to PGE~~ ten (10) business day's written notice prior to commencing sales of Test Energy to PGE. ~~In~~ order to complete Start-Up Testing, Seller may schedule and deliver Test Energy to PGE ~~do so~~ pursuant to the scheduling procedures set forth in Section 3.5, and PGE shall compensate the Seller for delivered Test Energy in accordance with Section 4.1.1.3.6, but shall not be entitled to compensation from PGE for Test Energy. Seller shall pay any costs or additional expenses that are required for PGE to receive Test Energy, including procurement of any necessary capacity costs or reserves. This Section 2.34 does not apply if the Facility is an Existing QF unless the Existing QF elects to conduct Start-Up Testing.

#### 2.5.2.4 Commercial Operation.

“**Commercial Operation**” will be achieved when the Facility is fully constructed and determined by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have occurred:

2.5.1.2.4.1 If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with Exhibit E, and PGE has received Seller's written certification of completion of Start-Up Testing.

2.5.2.2.4.2 PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that the Facility is interconnected and operational ~~interconnection has been completed~~ in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.

2.5.3.2.4.3 PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE's reasonable satisfaction, which may include equipment specifications.

2.5.4.2.4.4 PGE has received a letter certificate addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement and Transmission Agreement (s), and any other Required Facility Documents requested by PGE.

2.5.5.2.4.5 PGE has received the following documents with respect to the Facility: the As-built Supplement, including but not limited to an electrical single-line diagram, a 12x24 estimated net energy profile, and a 8760 net energy production estimate.

2.5.6.2.4.6 PGE has received copies of all insurance certificates required under Section 11. 12.

2.5.7.2.4.7 PGE has received any Credit Support required under Section 8.1.

~~2.5.8—If any upgrades to PGE’s system between the Delivery Point and PGE’s load are required in order to enable PGE to accept delivery of the Facility’s Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to PGE’s designated sink point, the Company and the Seller have entered into an agreement concerning such upgrades as required under Section 2.3.2.~~

2.62.5 Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section 2.45, Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, including but not limited to information required in Exhibit A and Exhibit B. PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, provided that PGE shall not unreasonably withhold such certification. The date of Seller’s notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the “**Commercial Operation Date**” for all purposes under this Agreement.

2.72.6 Scheduled Commercial Operation Date.

By no later than \_\_\_\_\_ (“Scheduled Commercial Operation Date”), Seller shall have completed all requirements under Section 2.4 and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE’s negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE’s negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before Seller guarantees that Commercial Operation shall occur no later than \_\_\_\_\_, 20\_\_ (“Scheduled Commercial Operation Date”). If Commercial Operation does not occur by the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay for the period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date (“Delay Damages”). If Commercial Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section 9.32.

2.82.7 Status of the Facility.

2.8.12.7.1 Seller shall construct and operate the Facility so as to ensure its status as a Qualifying Facility and in a manner consistent with its FERC Qualifying Facility certification. At any time during the Term, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE’s request, ~~(i) a written legal opinion from an attorney who is in good standing in the state of Oregon and is not employed by a Person having an~~



~~economic interest in the Facility stating that the Facility is a Qualifying Facility, and (ii)~~ documentation acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility.

~~2.8.22.7.2~~ Seller shall not make any changes in its ownership, control or management that would cause the Facility to fail to satisfy the eligibility requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement. Seller shall provide upon request by PGE, not more frequently than every 36 months, any documentation and information as may be reasonably requested by PGE to establish Seller's continued compliance with the applicable eligibility requirements such definition. PGE shall take reasonable steps to maintain the confidentiality of any such documentation and information that Seller identifies as confidential, provided that PGE may provide all such information to the Commission upon the Commission's request.

## DELIVERY AND SALE OF ENERGY; SCHEDULING

### 3.1 Delivery and Sale of Energy.

#### ARTICLE 3:

Except as otherwise provided in this Agreement, commencing on the Commercial Operation Date and continuing until the end of the Term (the "**Delivery Period**"), Seller shall deliver and sell and PGE shall receive and purchase all of the Net Output delivered as Firm Energy at the Delivery Point. In reliance on Seller's representations and warranties in Section ~~7.17.1.10~~, Seller may also deliver and PGE shall receive and purchase Imbalance Energy delivered at the Delivery Point, subject to Section 3.2. ~~Notwithstanding the foregoing, Seller shall not deliver and PGE shall not be obligated to receive or purchase energy delivered at a rate, on an hourly basis, greater than the Net Available Capacity.~~ Title and risk of loss related to the Product shall transfer from Seller to PGE at the Delivery Point.

### 3.2 Surplus Delivery.

For purposes of this Agreement, (i) "**On-Peak Energy Imbalance Accumulation**" means ~~total Firm Energy aggregate energy~~ delivered to the Delivery Point during On-Peak Hours during a Billing Period ~~less total aggregate Net Output delivered to the Delivery Point~~ during On-Peak Hours during such Billing Period; and (ii) "**Off-Peak Energy Imbalance Accumulation**" means ~~total Firm Energy aggregate energy~~ delivered to the Delivery Point during Off-Peak Hours during a Billing Period ~~less total aggregate Net Output delivered to the Delivery Point~~ during Off-Peak Hours during such Billing Period. Any positive On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation shall be deemed "**Surplus Delivery.**" PGE shall accept but ~~is not obligated to~~ pay for Surplus Delivery. Any negative On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation during a Billing Period implies that Seller has delivered less than the aggregate Net Output during the applicable hours in the ~~Billing Period. billing period.~~ For the avoidance of doubt, the Parties agree that Seller is not entitled to compensation for ~~any portion of total Net Output that exceeds total is not delivered as~~ Firm Energy delivered to the Delivery Point during the applicable Billing Period.

### 3.3 Estimated Net Output.

Seller's good faith, commercially reasonable estimate of the Facility's ~~average~~ monthly and annual average and maximum Net Output during the Delivery Period, and Seller's basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in **Exhibit C, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section 6.3.** Seller acknowledges that PGE will use

these estimates in its resource planning and for purposes of determining the Minimum Delivery Guarantee, ~~described in Section 3.4.~~

### 3.4 Minimum Delivery Guarantee.

Seller ~~hereby~~ guarantees that ~~it will deliver to PGE from the Facility, for, during~~ each Contract Year, ~~the Adjusted Delivered Net Output equal to or greater than shall be no less than~~ the Minimum Net Output, ~~pro-rated for any partial years. This guarantee is referred to in this Agreement as (the “Minimum Delivery Guarantee.”)~~. ~~As damages for Seller’s failure to satisfy the Minimum Delivery Guarantee in any Contract Year, Seller shall owe PGE the Lost Energy Value for such Contract Year.~~

### ~~3.5 Forecasting and Scheduling.~~

~~3.5.1 During the Delivery Period, Seller shall provide PGE with a rolling hourly generation forecast for the next fourteen (14) days, updated hourly (each a “Generation Forecast”). Each Generation Forecast shall be performed by a third party forecasting agent and shall be provided in a commercially reasonable format specified by PGE.~~

~~3.5.23.4.1 Seller shall schedule, following the procedures set forth in Section 3.6, deliveries of the Product at the Delivery Point in the amount of expected Net Output (less transformation and transmission losses to the Delivery Point), consistent with the Generation Forecast. Seller shall make reasonable efforts to minimize the delivery of Imbalance Energy to PGE. Seller and PGE agree that the intent of this Section is for Seller to schedule and deliver energy resembling actual production from the Facility for each hour.~~

### ~~3.6.5 Scheduling Procedures.~~

~~3.6.1 Seller shall provide preschedule schedule energy in hourly blocks for delivery at the Delivery Point in accordance with the following procedures:~~

~~3.6.1.1~~

~~For each day during the Delivery Period, Seller shall by 5:00 a.m. PPT of the customary WECC Pre-Scheduling Day, communicate to PGE’s Pre-schedule Desk the expected hourly energy to be delivered at the Delivery Point for that day, consistent with the Generation Forecast.~~

~~3.6.1.2~~

~~Seller shall schedule the energy by submitting a NERC e-Tag (“e-Tags”) prior to 1:00 p.m. PPT of the applicable WECC Pre-Scheduling Day for all deliveries hours of the applicable delivery day or days.~~

~~3.6.1.3~~

~~Seller shall schedule the energy hereunder, including identification of receiving with e-Tags according to prevailing WECC, NERC, or Transmission Provider Pre-scheduling provisions and generating control areas, by 9:00:00 PPT on the last business day prior to the protocols. Seller shall schedule the Facility as the identified e-Tag source. Seller may not net or otherwise combine schedules from resources other than the Facility, except as necessary for Ancillary Services.~~

~~3.6.1.4~~

~~Seller shall not schedule energy using a Dynamic or Pseudo-Tie e-Tag as such terms are defined and used by NERC.~~

~~3.6.2 Seller may make adjustments to the energy scheduled date of delivery. All energy shall be scheduled according to the most current NERC and WECC scheduling rules and practices. The Parties’~~

~~respective representatives shall maintain hourly as described above each hour in real-time schedule coordination; provided, however, that in the absence. If Seller elects to make such real-time adjustments, Seller shall submit and receive approval of such coordination, the hourly schedule established by the exchange of preschedules shall any e-Tag adjustment no later than seventy-five (75) minutes prior to the flow hour. Seller shall be considered final. Seller responsible for any and all costs, charges, or fees associated with any changes Seller makes to the e-Tag after seventy-five (75) minutes prior to the flow hour.~~

~~3.6.3 In the event that the regional market design, Balancing Authority, or other Reliability Entity causes PGE's scheduling practices to change after the Effective Date, PGE shall have the right but not the obligation to update the scheduling procedures described in this Section 3.6 by giving sixty (60) days' prior written notice to Seller of such update.~~

~~3.6.4 Seller shall be responsible for all costs or charges associated with the Product or its delivery to the extent such costs or charges are imposed on Seller's side of the Delivery Point.~~

~~3.6.5.1 Seller shall maintain records of hourly energy schedules for accounting and operating purposes. The final E-Tag shall be the controlling evidence of the Parties' schedule. All energy shall be prescheduled according to customary WECC scheduling practices. Seller shall make commercially reasonable efforts to schedule in any hour an amount equal to its expected Net Output for such hour. Seller shall maintain a minimum of two years' records of the Net Output and shall agree to allow PGE to have access to such records and to imbalance information kept by the Transmission Provider. The cost of delivering energy from the Facility to PGE shall be the sole responsibility of the Seller.(s).~~

### 3.7.6 Loss of Interconnection and Curtailment.

PGE shall not be liable to Seller and shall have no obligation to purchase the Product from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the extent that, due to the action of a Reliability Entity, ~~an event of Force Majeure Event~~, or PGE's construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility to the electric system is disconnected, suspended or interrupted, or (ii) generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller's control.

### 3.8 Carbon Emissions.

~~Seller is responsible for and shall pay for all future costs, if any, whether incurred by Seller or PGE, resulting from any carbon emissions generated by or associated with the Product delivered by Seller to the Delivery Point in accordance with this Agreement. Seller may provide PGE with carbon emissions offsets that are reasonably satisfactory to PGE in lieu of a monetary settlement. Within fifteen (15) business days after PGE's request, Seller shall provide PGE with the carbon emissions data for the Product that is delivered during the Delivery Period.~~

## **PRICE, BILLING AND PAYMENT**

### 4.1 Prices and Payment for Delivered Product.

4.1.1 During the Delivery Period, PGE shall pay Seller an amount for Product delivered during a Billing Period calculated as follows: the Contract Price multiplied by the lesser of (i) Net Output during the Billing Period and Imbalance Energy (but not including Surplus Delivery or (ii) energy delivered at an hourly rate in excess of the Net Available Capacity) delivered as Firm Energy delivered to the Delivery Point during the Billing Period. PGE shall not pay for Surplus Delivery. An illustrative example is provided in Exhibit G. In determining the amount due to Seller for the Product, the amount of Net Output generated in any hour shall be deemed to be zero or greater. , multiplied by the Contract Price.

4.1.2 Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy multiplied by the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.

~~4.1.24.1.3~~ Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.

#### 4.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.

By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE will in the ordinary course~~shall~~ deliver to Seller an invoice showing PGE's computation (and supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE to PGE in respect thereof for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the preceding calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in Exhibit G.

#### 4.3 Invoicing and Payment for Lost Energy Value Related to Minimum Delivery Guarantee.

If Seller fails to satisfy the Minimum Delivery Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following the end of the Contract Year, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar. No later than ten (10) days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future energy deliveries by the amount of such Delay Damages.

#### ~~4.3 Invoicing and Payment for Lost Energy Value.~~

~~If Seller fails to satisfy the Minimum Delivery Guaranty during any Contract Year, on or before the thirtieth (30th) day following the end of such Contract Year, PGE shall deliver to Seller an invoice showing PGE's computation of any deficit in the guaranteed amount. Thereafter, the amount payable by PGE for future deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period of such reduction (not to exceed one year) so as to minimize the risk of Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy~~

Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.

4.4 Form of Payment and Interest on Late Payments.

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.-

4.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.-

## METERING

5.1 Metering.      **ARTICLE 5:**

Metering shall be performed at the location and in a manner consistent with this Agreement, as specified in **Exhibit B.** Seller shall provide to PGE all information in hourly increments for all regarding Net Output and any other energy purchased under this Agreement. ~~in hourly increments. Seller shall provide PGE with a real time ICCP and EIDE communications link to the Facility metered output.~~

5.2 Meter Installation, Inspection and Correction.

Seller shall arrange ~~and pay~~ for the installation, testing, and maintenance of the metering equipment required by Section ~~5.15.1~~ in accordance with Prudent Electrical Practices. PGE shall have reasonable access to observe, at its own expense, all inspection, testing, repair and replacement of the metering equipment. Upon request, Seller shall provide obtain documentation regarding all inspection, testing, repair and replacement of the metering equipment.

If the Facility has a revenue grade meter in addition to the meter used to calculate deliveries and payments and the revenue grade meter is installed near the meter used to calculate deliveries and payments, Seller will send an annual report to PGE comparing the readings between the two meters. If the difference between the two meters is more than two percent (2.0%), PGE may request that the meters be recalibrated and that PGE receive the results of the tests. Also, PGE will be notified promptly of any other recalibration or calibration tests on the meter used to calculate deliveries and payments. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter Meters must be tested and recalibrated during the term of the Agreement and consistent with the terms of this Section. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter be tested and recalibrated 12 months after the Commercial Operation Date, at Seller's expense. If the test demonstrates a variance of more than two percent (2.0%) then PGE may request another test and recalibration twenty-four (24) months after the last test. If the test demonstrates a variance of ~~no~~ less than two percent (2.0%), then PGE may not request a test and recalibration at the Seller's expense for thirty ~~frequently than every~~ six (36) months. PGE may



arrange for testing and recalibration at its own expense, after reasonable notice and opportunity for Seller to have a representative on site.

~~6) months and Seller shall promptly notify PGE if any metering equipment is not functioning properly.~~ If any of inspections or tests reveal an error exceeding two percent (2.0%), either fast or slow, appropriate correction, based upon the inaccuracy found, shall be made with respect to previous readings for the period during which the Facility metering equipment rendered inaccurate measurements (such period not to exceed ~~twelve (12) six (6)~~ months). If the period of inaccuracy cannot be ascertained, correction shall be made to measurements taken since the metering equipment was last tested, provided that such period shall not exceed three (3) months. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered. Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of the metering inaccuracy.

## OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES

### 6.1 Seller's Duty to Operate and Maintain the Facility. ARTICLE 6:

6.1.1 Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.

6.1.2 Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide ~~upon request~~ copies of the same to PGE upon request.

### 6.2 Outages.

6.2.1 On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with ~~an~~ annual schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the Specified generating capacity of the Facility Nameplate Capacity Rating for twenty-four (24) two (2) or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of Section 13.13. ~~13.13. Seller shall use commercially reasonable efforts to plan scheduled activities (i) to maximize the productive output of the Facility, and (ii) not to occur between July 1 and September 30 or between December 1 and February 28 of any calendar year.~~

6.2.2 ~~Seller shall give notice to the interconnecting Transmission Provider of any forced or unplanned outages or reductions in generation capability of the Facility in accordance with such Transmission Provider's outage notice requirements. Seller shall also give PGE's Real-Time Desk immediate telephonic notice (within twenty minutes) of any such events that will curtail or adversely affect scheduled or forecasted Product deliveries. Such notice must include a description of the cause of the outage, the resulting change in capacity and an estimate of the duration of the outage. Seller shall provide PGE regular and frequent updates regarding any changes of status set forth in the initial notice, and shall notify PGE's Real-Time Desk when the Facility is ready to return to service. Seller shall use commercially~~

reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use ~~commercially reasonable~~<sup>best</sup> efforts to avoid or mitigate outages during PGE's system emergencies. ~~PGE may, after providing written notice to Seller, make commercially reasonable changes to the means by which Seller provides notice pursuant to this subsection 6.2.2 of this Agreement.~~

### 6.3 Facility Upgrades.

#### 6.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

~~6.3.1~~<sup>6.3.2</sup> At any time after the Commercial Operation Date upon at least six months<sup>2</sup> prior written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in **Exhibit C**, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in **Exhibit C** for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

If any upgrades or other modifications are made to the Facility in accordance with Section ~~6.3.1~~<sup>6.3.2</sup> or Section 6.3.2 that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend **Exhibit A** and **Exhibit C** as appropriate to reflect the modifications.

~~6.3.2~~<sup>6.3.3</sup> -So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 10,000 kW, then Seller will continue to receive the Contract Price for all delivered Net Output.

~~6.3.3~~<sup>6.3.4</sup> If Seller increases the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 10,000 kW, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 10,000 kW, consistent with then-current Applicable Law, provided that the new power purchase agreement must be a negotiated agreement under Schedule 202.

## REPRESENTATIONS AND WARRANTIES

### 7.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

7.1.1 Seller is a \_\_\_\_\_ duly organized and in good standing under the laws of the state of incorporation or formation.

7.1.2 The execution, delivery and performance of this Agreement are within Seller's powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

7.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

7.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

7.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

7.1.6 Either Seller satisfies the requirements set forth in Section ~~7.1.6.1 through 7.1.6.3~~~~7.1.6.1 through 7.1.6.4~~ below (the "**Creditworthiness Requirements**"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section 8.1.

~~Neither Seller nor any of its principal equity owners is not and~~ has ~~not~~ been Bankrupt within the past two (2) years, and there are no proceedings pending or being contemplated by ~~Seller~~<sup>7.1.6.1</sup> or, to Seller's knowledge, threatened against ~~Seller~~<sup>7.1.6.1</sup> that would result in ~~Seller~~<sup>7.1.6.1</sup> being or becoming Bankrupt.

7.1.6.2 Seller is not in default under any of its material agreements and is current on all of its financial obligations, including construction-related financial obligations.

7.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

~~If the Facility has a Specified Facility Nameplate Capacity Rating greater than 3,000 kW, Seller has a senior, unsecured long term debt rating (or corporate rating if such debt rating is unavailable) of (i) "BBB-" or greater from S&P, or (ii) "Baa3" or greater from Moody's, and if such ratings are split, the lower of the two ratings must be at least "BBB-" or "Baa3" from S&P or Moody's, respectively, or other indicia of creditworthiness satisfactory to PGE in its reasonable judgment.~~

7.1.7 No later than the Commercial Operation Date, Seller ~~will possess~~<sup>possesses</sup> a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

7.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

7.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.



~~7.1.10~~ In connection with Seller's delivery of Firm Energy as required under this Agreement:

- Seller's delivery of Imbalance Energy, if any, results from Seller's purchase of energy imbalance ancillary service that the Transmission Provider(s) require(s) Seller to procure, as a condition of providing transmission service, in order to correct a mismatch between energy scheduled by the Facility and the real-time production of the Facility.

~~7.1.10.1~~ ~~7.1.9.1~~ Such Transmission Provider(s) require(s) Seller to schedule deliveries of Net Output in one (1) megawatt increments; and

~~7.1.10.2~~ Seller is not attempting to sell PGE energy less than or in excess of its Net Output, as generated hourly.

~~7.1.11~~ ~~7.1.10.3~~ 7.1.10 Seller has the right to sell the Product to PGE free and clear of liens or encumbrances.

## 7.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

7.2.1 It is a corporation duly organized under the laws of Oregon.

7.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

7.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

7.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

7.2.5 It is not and has not been Bankrupt within the past two (2) years ~~been Bankrupt~~ and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

7.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

## 7.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article ~~7~~8 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the

remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

## CREDIT SUPPORT

### 8.1 Required Credit Support.

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall immediately notify PGE in writing and shall promptly (and in no less than ten (10) ~~business calendar~~ days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). ~~In~~ ~~in~~ each case, ~~the in an amount of Credit Support required shall be~~ calculated as follows: (aggregate number of On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the weighted average Contract Price for On-Peak Hours – the weighted average Contract Price for Off-Peak Hours) x (Net Available Capacity). The amount of Credit Support required shall be updated annually, on the anniversary of the month Credit Support was first required to be provided. The updated amount of Credit Support shall be calculated for each subsequent 12-month period, consistent with the calculation described in this Section. ~~(the "Credit Support"):~~

~~(i) — the net present value of the following amount: the forward power prices at Mid-Columbia for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term), as determined by PGE in good faith using information from a commercially reasonable independent source (e.g., indicative of the most relevant ICE forward price curve for the Mid-Columbia), multiplied by one hundred and ten percent (110%), multiplied by aggregate Minimum Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term); less~~

~~(ii) — the net present value of: the average of the fixed prices specified in the Schedule for both On-Peak Hours and Off-Peak Hours, multiplied by aggregate Minimum Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term).~~

~~To calculate net present value for purposes of this Section, the Parties shall use the Bloomberg "S23 Corp" (Bloomberg ID "YCSW0023") interest-rate swap cure as the discount rate.~~

~~Notwithstanding the foregoing, the amount of Credit Support shall in no event be less than the amount equal to the payments PGE would make for three (3) average months based on Seller's average monthly volume over the term of this Agreement and utilizing the average fixed prices specified in the Schedule.~~

If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.

Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its reasonable discretion, grant an exception to the requirements to provide default security if the Seller has negotiated financial arrangements with the ~~Lender~~reconstruction loan lender that mitigate Seller's financial risk to PGE.

## 8.2 Right to Draw on Credit Support.

At any time after the occurrence and during the continuation of an Event of Default, or upon an early termination of this Agreement by PGE pursuant to Section ~~9.39.2~~, PGE may draw on Seller's Credit Support to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the Credit Support during the Term, PGE shall inform Seller within fifteen (15) business days, and Seller shall promptly, and in no ~~event~~ more than fifteen (15) business days following notice from PGE, restore the Credit Support to the amount required under Section 8.1. However, for avoidance of doubt, Seller shall have no obligation to replenish the Credit Support if PGE has terminated the Agreement.

## DEFAULT, REMEDIES AND TERMINATION

### 9.1 Events of Default.

An "**Event of Default**" means, with respect to a Party, the occurrence of any of the following unless otherwise excused under this Agreement:

9.1.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;

9.1.2 any representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;

9.1.3 the failure of a Party to perform any material covenant or obligation set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party ~~explaining gives the circumstances supporting defaulting Party notice of~~ the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;

9.1.4 with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

9.1.5 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement or Transmission Agreement(s) within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement or Transmission Agreement(s) at any time during the term of this Agreement;

9.1.6 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE; ;

9.1.7 with respect to Seller, Seller fails, for any two or more consecutive Contract Years to satisfy the Minimum Delivery Guarantee;

9.1.8 with respect to Seller, Seller fails to establish the Commercial Operation Date does not occur on or before the first anniversary of the Scheduled Commercial Operation Date. Seller shall have one (1) year to cure default under this Section 9.1.8, during which time Seller shall pay PGE Delay Damages pursuant to the terms of Section 2.6 and Section 4.2.

## 9.2 Lender's Right to Cure a Seller Event of Default.

Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under Section 13.13 of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement.

## 9.29.3 Termination for Default.

If an Event of Default has occurred and is continuing, the non-defaulting Party may immediately terminate this Agreement at its sole discretion, and without the non-defaulting Party incurring any liability to the defaulting Party, by delivering written notice to the defaulting Party. In addition, the non-defaulting Party may pursue any and all other legal or equitable remedies available to it, including recovery of damages as set forth below. ~~For avoidance of doubt, PGE's resource sufficiency or deficiency position has no bearing on PGE's right to terminate this Agreement under this Section.~~

## 9.39.4 Damages.

If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value, ~~with respect to the lesser of (i) twenty four (24) months following the date of termination or (ii) the period from the date of termination until the expiration date of this Agreement.~~ Amounts owed by Seller pursuant to this Section shall be due within fifteen (15) five (5) business days after any invoice from PGE for the same. Damages owing under this Section 9.4 shall be cumulative and in addition to damages owing pursuant to Sections 2.6, 4.2, 4.3 and 9.1.8. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.

## 9.49.5 Payment of Outstanding Obligations.

If this Agreement is terminated pursuant to Section ~~9.39.2~~, then within thirty (30) calendar days of termination, PGE shall make all payments due and owing to Seller as of the time of receipt of notice of termination; provided that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section ~~9.49.3~~ or otherwise. PGE shall not be required to pay Seller for Product delivered by Seller after the effective date of any termination notice.

## 9.59.6 Post-Termination PURPA Status.

In the event (~~ix~~) PGE terminates this Agreement pursuant to this Article ~~910~~ or Seller terminates this Agreement without cause, and (~~iiy~~) Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, wishes to sell Net Output to PGE from the Facility following such termination, then PGE may, (but will not be obliged to) require that Seller, its Affiliate, or its successor do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to the terms of this Agreement, then Seller and PGE shall promptly execute a written document ratifying the terms of this Agreement. PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.

## INDEMNIFICATION AND LIABILITY

### 10.1 Seller's Indemnity.

**ARTICLE 10:**

Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, including the delivery of energy to and at the Delivery Point; (ii) Seller's development, construction, ownership, operation, maintenance, or decommissioning of the Facility; (iii) the violation of any law, rule, order or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.

### 10.2 PGE's Indemnity.

PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) PGE's receipt of energy under this Agreement after its delivery at the Delivery Point; (ii) the violation of any law, rule, order or regulation by PGE or any of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure to perform any of PGE's obligations under this Agreement; (iv) PGE's breach of any representation or warranty set forth in this Agreement; or (v) PGE's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by Seller's breach of this Agreement or by the negligence or willful misconduct of Seller, its directors, officers, employees, agents or representatives.

### 10.3 No Dedication.

Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent Person.



10.4 Disclaimer of Consequential Damages.

**NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.**

**INSURANCE**

11.1 Certificates of Insurance.

Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.

11.2 Required Insurance.

Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than “B+” by the A.M. Best Company the insurance coverage specified below:

11.2.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, ~~which limits may be required to be increased or decreased by PGE as PGE determines in its reasonable judgement, economic conditions or claims experience may warrant,~~ to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.

11.2.2 All Risk Property Insurance providing coverage in an amount at least equal to the full replacement value of the Facility against “all risks” of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk Policy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the Facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers’ rights of subrogation against PGE regarding Facility property losses.

### 11.3 Required Provisions.

11.3.1 The Comprehensive General Liability Policy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

11.3.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days' prior written notice to PGE.

11.3.3 Insurance coverage provided on a "claims-made" basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

## FORCE MAJEURE

### 12.1 Definition of Force Majeure.

As used in this Agreement, "**Force Majeure**" or "~~event of Force Majeure~~ **Event**" means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party's from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility's equipment, or -(viii) smoke, haze, ash or other obstruction of sunlight (except to the extent such obstruction is caused by fires or volcanic eruptions).-

### 12.2 Effect of Force Majeure.

If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: (i) the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section ~~13.13-13.13~~ of this Agreement describing the particulars of the occurrence; (ii) the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure;

and (iii) the non-performing Party uses ~~commercially reasonable~~ ~~its best~~ efforts to remedy its inability to perform its obligations under this Agreement.

## GENERAL PROVISIONS

### 13.1 Relationship of the Parties.

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint ~~venture~~ ~~or~~ to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such Party shall be jointly and severally liable for Seller's obligations under this Agreement.

### 13.2 No Third Party Beneficiaries.

This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

### 13.3 Governing Law.

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~ ~~which~~ may direct the application of the laws of another jurisdiction.

~~This Agreement is subject to the jurisdiction of those governmental agencies and courts having control over either party or this Agreement. The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.~~

### ~~13.4~~ Dispute Resolution.

Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement is subject to the jurisdiction of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, any complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute. ~~or governmental agency with jurisdiction over the dispute; provided, however, that any dispute within the jurisdiction of the Commission shall first be brought before the Commission, and each Party hereby irrevocably waives, to the fullest extent permitted by Applicable Law, any objection it may now or hereafter have to the initial jurisdiction of the Commission with respect to any such dispute.~~

The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

### ~~13.5~~ 13.4 Severability.



If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void as being contrary to any Applicable Law or public policy, all other terms of this Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the intent of the Parties to this Agreement.

13.613.5 Effect of PURPA Repeal.

The repeal of PURPA shall not result in the early termination of this Agreement unless such termination is mandated by state or federal law.

13.713.6 Waiver.

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

13.813.7 Survival.

Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.

13.913.8 Successors and Assigns.

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. Neither party may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that either party PGE may assign its rights or delegate its obligations, in whole or in part, without such consent and upon thirty (30) calendar days' prior written notice to the other party Seller, to an entity that acquires all or substantially all of the business or assets of the assigning party PGE to which this Agreement pertains, whether by merger, reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective.

13.9 Financing Documents.

Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and

respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and expense associated with PGE’s review and activities reasonably required under this Section 13.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE’s sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.

13.10 Entire Agreement; Amendments; Order of Precedence.

This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding the contents of the Agreement, including PGE’s purchase of energy from the Facility. No amendment or modification of this Agreement shall be effective unless it is in writing and signed by both parties. If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail.

13.11 Seller Release.

By executing this Agreement, Seller releases PGE from any ~~third-party~~ claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

13.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

13.13 Notices.

All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.:

<b>Notices</b>	<b>PGE</b>	<b>Seller</b>
<b>Invoices</b>	<del>Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204</del>	
<b>Scheduling</b>	<del>By telephone: Merchant Real Time Desk (503) 464-8851</del>	
<b>Planned Outages</b>	<del>Merchant Outage Coordinator Attn: Power Operations 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 (503) 464-7013</del>	
<b>Unplanned Outages</b>	<del>Merchant Real Time Desk</del>	

Standard Off-System Non-Variable Power Purchase Agreement  
Form Effective \_\_\_\_\_

	(503) 464-8851	
<del>Payments</del>	<del>Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 Energyinvoicing@pgn.com</del>	
<del>Wire Transfer</del>	<del>Bank Name: US National Bank of Oregon Routing Number: 123000220 Account Number: 153600043512</del>	
<del>Credit Support</del>	<del>Portland General Electric Attn: Credit Manager 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204</del>	
<del>All Other Notices</del>	<del>Portland General Electric C/O Attn: QF Contract Management 3WTC-0306 121 SW Salmon St. 3WTC0306 Portland, <u>OR</u>Oregon 97204</del>	
<del>Copy in the case of Event of Default or Termination</del>	<del>Portland General Electric 121 SW Salmon St. 4WTC17 Portland, Oregon 97204 Attn: General Counsel</del>	

The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section 13.13.

*Signature Page Follows.*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(Name Seller)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**FACILITY DESCRIPTION**

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

Seller's Facility consists of generators fueled by \_\_\_\_\_. ~~Specifically, each type generator at the Facility is described as:~~

**~~A. Generator Manufacturer's Nameplate Data:~~**

~~Make:~~

~~Model:~~

~~Rated Output (kW):~~

~~Number of Generators with Similar Attributes:~~

~~Facility Nameplate Capacity Rating: \_\_\_\_\_ kW~~

~~Net Available Capacity: \_\_\_\_\_ kW~~

~~Interconnection Rating: \_\_\_\_\_ kW~~

~~Identify and describe any differences between the Facility Nameplate Capacity Rating and the Net Available Capacity: \_\_\_\_\_~~

~~Station service requirements, and other loads served by the Facility, if any, are described as follows:~~

\_\_\_\_\_  
\_\_\_\_\_

**~~B. Specified Facility Nameplate Capacity Rating \_\_\_\_\_ (kW) (calculated as the sum of the Nameplate Capacity Ratings for all Generators).~~**

**~~C. Location of the Facility:~~** The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_, with GPS coordinates of \_\_\_\_\_

The location is more particularly described as follows:

[legal description of parcel]

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND TRANSMISSION ATTRIBUTES**

[Seller to provide diagram and description]

Description to include the following:

~~Point(s)~~

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section 6.3.2).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW ~~metering, including~~

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating type of meter(s) and the Net Available Capacity:

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Interconnection Rating: \_\_\_\_\_ kW (owner of the Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

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1. \_\_\_\_\_ meter(s)

2.1. \_\_\_\_\_ Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.



**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES**

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

**3.2. Point of Delivery:** \_\_\_\_\_

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

**Entity with whom the Facility is or will be interconnected:** \_\_\_\_\_

**4.3. Transmission Provider(s):** \_\_\_\_\_

**The following information shall be provided in the As-built Supplement prior to Commercial Operation:**

**Point(s) of metering, including the type of meter(s) and the owner of the meter(s):**

\_\_\_\_\_

**5.4. Specification of Point of Interconnection:** \_\_\_\_\_

**EXHIBIT C**

**SELLER'S NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of ~~Estimated~~~~expected~~ Monthly Average Net Output and Estimated Monthly~~and~~ Maximum Net Output during the Delivery Period, and the resulting Estimated Annual ~~Estimated~~-Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output, ~~Minimum Net Output~~ and Estimated Monthly Maximum Net Output (as measured at the Facility meter at the Point of Interconnection)**

Month	Estimated <u>Monthly</u> Average Net Output (kWh)		<del>Percentage</del> <u>Minimum Net Output (75% of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%))</u> (kWh)		Estimated <u>Monthly</u> Maximum Net Output (kWh)	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
January						
February						
March						
April						
May						
June						
July						
August						
September						
October						
November						
December						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated Annual Average ~~Annual~~ Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Average Net Output)

Estimated Annual Maximum ~~Annual~~ Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Maximum Net Output)

**C.3. Alternative Minimum Net Output**

Seller may at its option designate an alternative to the Minimum Net Output value of seventy-five (75%) percent of the Estimated Annual Average Net Output set forth above in this Exhibit. If designated, such alternative shall be known as the “Alternative Minimum Net Output.” Such Alternative Minimum Net Output, if provided, shall exceed zero, and shall be established in accordance with Prudent Electrical Practices, and documentation supporting such a determination shall be provided to PGE upon execution of the Agreement. Such documentation shall be commercially reasonable, and may include, but is not limited to, documents used in financing the project, and data on output of similar projects operated by Seller, PGE or others.

Annual Alternative Minimum Net Output: \_\_\_\_\_ kWh

<u>Month</u>	<u>Alternative Minimum Net Output (if specified) (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>		
<u>February</u>		
<u>March</u>		
<u>April</u>		
<u>May</u>		
<u>June</u>		
<u>July</u>		
<u>August</u>		
<u>September</u>		
<u>October</u>		
<u>November</u>		
<u>December</u>		

**EXHIBIT D**

**COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM**

**(Power Purchase Agreement – \_\_\_\_\_)**

This Collateral Assignment and Consent Agreement (the “*Agreement*”) is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY (“PGE” or “Buyer”)**, **[INSERT LENDER]**, a \_\_\_\_\_ company (the “*Lender*”), and **[INSERT SELLER]**, a \_\_\_\_\_ company (the “*Borrower*” or “*Seller*”) (the “*Parties*” or each a “*Party*”).

**RECITALS**

A. \_\_\_\_\_ Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the “*Loan Agreement*”), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.

B. \_\_\_\_\_ Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the “*PPA*” or the “*Assigned Agreement*”), a copy of which is attached as *Exhibit A*, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power” from which Seller shall sell and PGE shall purchase Net Output (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).

C. \_\_\_\_\_ As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the “*Security Agreement*”), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other “Collateral” defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the “*Secured Obligations*”). The Loan Agreement and the Security Agreement are referred to herein as the “*Security Documents*.”

**AGREEMENTS**

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. \_\_\_\_\_ Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower’s right, title and interest in and to the Assigned Agreement.

2. \_\_\_\_\_ Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are

capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller's rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.



8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_ If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

\_\_\_\_\_ If to Lender:

\_\_\_\_\_ With a copy to:

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected,

impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**REQUIRED FACILITY DOCUMENTS**

~~[List all agreements, permits and authorizations required for the Facility]~~

~~Interconnection Agreement~~

~~Transmission Agreement~~

~~—EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM REQUIRED FACILITY DOCUMENTS~~

~~FERC Qualifying Facility Self Certification~~  
~~As-Built Operating One Line Diagram~~  
~~As-Built Operating 12x24 Generation Profile~~

## EXHIBIT E

### START-UP TESTING

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing only.]

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

1. Pressure tests of all steam system equipment;
2. Calibration of all pressure, level, flow, temperature and monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Insulation resistance and point-to-point continuity tests;
6. Bench tests of all protective devices;
7. Tests required by manufacturer of equipment; and
8. Complete pre-parallel checks with PGE.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

1. Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
2. Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Stator windings dielectric test;
7. Armature and field windings resistance tests;
8. Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
9. Heat runs;
10. Tests required by manufacturer of equipment;
11. Excitation and voltage regulation operation tests;
12. Open circuit and short circuit;
13. Saturation tests;
14. Governor system steady state stability test;
15. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
16. Auto stop/start sequence;
17. Level control system tests; and
18. Completion of all state and federal environmental testing requirements.



**EXHIBIT F**

**SCHEDULE 201**

[Attach Schedule 201]



**EXHIBIT G**

**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**



**STANDARD OFF-SYSTEM VARIABLE  
POWER PURCHASE AGREEMENT  
BETWEEN  
[COUNTERPARTY NAME]  
AND  
PORTLAND GENERAL ELECTRIC COMPANY**

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Exhibit A	Description of Facility
Exhibit B	Seller's Interconnection Facilities and <del>Delivery</del> <u>Transmission</u> Attributes
Exhibit C	Seller's Net Output Estimates
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<del>Exhibit H</del> <u>Exhibit G</u>	Negotiated Prices for Option B, Solar Standard Terms and Negotiated Price Agreement (if applicable)

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**STANDARD OFF-SYSTEM VARIABLE  
POWER PURCHASE AGREEMENT**

This STANDARD OFF-SYSTEM VARIABLE POWER PURCHASE AGREEMENT (“**Agreement**”) is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] (“**Seller**”) and Portland General Electric Company, an Oregon corporation (“**PGE**”) (hereinafter each a “**Party**” and collectively, “**Parties**”).

Option A: Standard Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating no greater than 3 MW and other qualifying facilities with Facility Nameplate Capacity Rating no greater than 10 MW]; or

Option B: Solar Standard Terms and Negotiated Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating above 3 MW but no greater than 10 MW; if this option is selected, there will be an **Exhibit HG** containing the negotiated prices agreed to by the Parties].

**RECITALS**

A. [New QF] ~~Seller is a New QF and~~ intends to construct, own, operate and maintain a New QF \_\_\_\_\_ *[identify resource type]* facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B**  ~~(“Facility”)~~.

A. [Existing QF] ~~Seller is an Existing QF and~~ owns and intends to operate and maintain an Existing QF \_\_\_\_\_ *[identify resource type]* facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B**  ~~(“Facility”)~~.

B. Seller intends to operate the Facility as a “Qualifying Facility,” as that term is defined in the ~~FERC Federal Energy Regulatory Commission~~ regulations codified at 18 CFR Part 292.

C. Seller wishes to sell and PGE is willing to purchase the Net Output from the Facility, subject to and in accordance with the terms and conditions of this Agreement, and Seller wishes to provide energy and capacity pursuant to this Agreement.

**AGREEMENT**

NOW, THEREFORE, the Parties agree as follows:

**ARTICLE 1: DEFINITIONS AND CONTRACT INTERPRETATION**

1.1 Defined Terms.

For all purposes of this Agreement, the following terms shall have the following meanings:

-“**Affiliate**” means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller, ~~or that shares management or that acts jointly or in concert with or exercises influence over the policies or actions of~~

**Seller.** For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

“**Agreement**” means this Standard Off-System Variable Power Purchase Agreement (Option A or Option B) and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

“**Ancillary Services**” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services.” ~~” including energy imbalance services, generation imbalance services, regulation and frequency response services, reactive supply services, voltage control services, inadvertent energy flow services, control area services, system integration services, operating spinning reserve services, and operating supplemental reserve services.~~

“**Applicable Law**” means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

“**As-built Supplement**” means a supplement to **Exhibit A and Exhibit B** provided by Seller in accordance with Section 2.2 following completion of construction of the Facility, or modifications to the Facility, which describes the Facility as actually built.

“**Balancing Authority**” means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to ~~in which~~ the Facility ~~is located~~.

“**Bankrupt**” means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, ~~or (iii)(iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they become due.~~

“**Base Hours**” means the total number of hours in each Contract Year (8,760 or 8,784 for leap years), ~~provided, however,;~~

~~“**Billing Period**” means one calendar month or such other period (not to exceed three months) as PGE may establish by written notice to Seller, during the Delivery Period, in the event that Base Hours for the first Contract Year shall be the number PGE reasonably determines that changing the length of hours commencing a Billing Period will have a de minimis effect on the first hour east of the day after Seller’s Net Output to PGE.~~

~~“**Capacity Attributes**” means any current or future attribute, as may be currently defined or otherwise defined in the Commercial Operation Date and ending on future, including but not limited to a characteristic, certificate, tag, credit, ancillary service or attribute thereof, or accounting construct, associated with the last hour of December 31<sup>st</sup> ~~electric generation capability and capacity of the calendar year in which Facility or the Commercial Operation Date occurs, Facility’s capability and that Base Hours for ability to produce or curtail energy, including any attribute counted towards any current or future resource adequacy or reserve requirements. Notwithstanding any other provision of this Agreement,~~~~



~~“Capacity Attributes” do not include: (i) tax credits, deductions, or tax benefits associated with the last Contract Year shall be Facility, or (ii) any state, federal, local, or private cash payments or grants relating in any way to the number of hours commencing on January 1 of Facility or the calendar year in which the Term ends and ending the last hour of the last day of the Term.~~  
~~Net Output.~~

“Billing Period” means one calendar month.

“Business Day” means any day other than Saturday, Sunday or the following holidays: New Year’s Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.

“Cash Escrow” means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller’s placement of cash in the custody of the escrow agent for delivery to PGE after the fulfillment of any of the conditions specified in Section ~~8.1.8.2~~. Amounts in the Cash Escrow shall earn interest at the rate applicable to money market deposits at escrow agent.

“Claims” means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.

“Commercial Operation” has the meaning given to it in Section ~~2.45~~.

“Commercial Operation Date” has the meaning given to it in Section ~~2.56~~.

“Commission” means the Public Utility Commission of Oregon.

“Contract Price” means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under the Non-Renewable Fixed Price Option for \_\_\_\_\_ *[specify applicable Non-Renewable Fixed Price Option based on resource type, in accordance with Schedule]*, as published in the Schedule and attached as **Exhibit F<sub>7</sub>** (or in the case of QFs electing Option B, the Solar Standard Terms and Negotiated Price Agreement, as set forth in the price matrix attached as **Exhibit HG**, which reflects the negotiated price, including on-peak and off-peak prices), and thereafter, for the remainder of the Term, the Daily Market Index Price in effect during the interval when the energy is generated.

“Contract Year” means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time (“PPT”) on January 1 and ending at 24:00 hours PPT on December 31; *provided, however*, that the first Contract Year shall commence on the Commercial Operation Date and end on December 31<sup>st</sup> of the calendar year in which the Commercial Operation Date occurs, and the last Contract Year shall end on the last day of the Term.

“Credit Support” has the meaning given to it in Section 8.1.

“Creditworthiness Requirements” has the meaning given to it in Section 7.1.6.

**“Daily Market Index Price”** means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>. In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Delivery Point.

**“Delay Damages”** has the meaning given to it in Section 2.67.

**“Delivery Period”** has the meaning given to it in Section 3.1.

**“Delivery Point”** means the point of delivery ~~where Seller delivers energy to on~~ the PGE system ~~side of the interface with the Balancing Authority, where the Parties have agreed that Seller will deliver energy to PGE from the Facility,~~ as specified in **Exhibit B**. PGE and Seller may mutually agree to amend the Delivery Point.

**“e-Tag”** means NERC electronic tag.

~~“e-Tags” has the meaning given to it in Section 3.6.1.2.~~

**“Effective Date”** has the meaning given to it in Section 2.1.

**“Estimated Annual Average Net Output”** means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

**“Estimated Annual Maximum Net Output”** means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

**“Estimated Monthly Average Net Output”** means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

**“Estimated Monthly Maximum Net Output”** means the relevant amount specified ~~table~~ in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

**“Existing QF”** means a QF that (1) is or has been operational before the Effective Date of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party.

**“Expiration Date”** ~~Facility~~ has the meaning given to it in **Section 2.1**.

**“Facility”** is the entire facility as specified in **Exhibit A** and **Exhibit B** ~~Recitals~~.

**“Facility Nameplate Capacity Rating”** means the sum of the Nameplate Capacity Ratings for all ~~Generation Units~~ ~~Generators~~ comprising the Facility.

**“FERC”** means the Federal Energy Regulatory Commission or any successor government agency.

**“Firm Energy”** means energy scheduled and delivered on a firm basis hourly to the Delivery Point ~~on an uninterruptible basis via firm transmission rights, in accordance with the Transmission Agreement(s).~~

**“Force Majeure”** or **“Force Majeure Event”** has the meaning given to it in **Section 12.1**.

“**Generator**” means the electrical component within the Facility measured in kW that converts mechanical energy or solar radiation into electrical energy.

“**Generation Unit**” means ~~a complete~~~~each separate~~ electrical generation system within Generator of the Facility that is able to generate and deliver energy~~contributes~~ to the Point of Interconnection independent of other Generation Units within the same~~Specified~~ Facility. For example, for a solar facility, a Generation Unit is an inverter and the panels associated with such inverter~~Nameplate Capacity Rating included in Exhibit A.~~

“**Governmental Authority**” means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

“**Imbalance Energy**” means that portion of Firm Energy, measured in kWh, scheduled and delivered to the Delivery Point that was not Net Output.

“**Interconnection Agreement**” means an agreement governing the interconnection of the Facility with \_\_\_\_\_’s [*specify relevant transmission system*~~Transmission Provider or distribution system owner~~] electric system, ~~having a term ending no earlier than the expiration date of this Agreement.~~

~~“**Interconnection Rating**” means the Facility capacity rating specified in the Interconnection Agreement, or, if no Interconnection Agreement exists, in the application seeking interconnection.~~

“**kW**” and “**kWh**” mean kilowatt and kilowatt hour, respectively.

~~“**Lender**” means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.~~

“**Letter of Credit**” means an irrevocable standby letter of credit from an institution selected by the Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

“**Licensed Professional Engineer**” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in Section 2.4.2. and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.

“**Lost Energy**” means (in kWh): ~~either~~

- A. In connection with a Facility after the Commercial Operation Date, if the Mechanical Availability Percentage falls below the Minimum Availability Guarantee for a Contract Year, ((the Minimum Availability Guarantee as determined pursuant to Section 3.43.4 / the actual Mechanical Availability Percentage for the applicable Contract Year) X actual Net Output for the applicable Contract Year) - actual Net Output for the applicable Contract Year; or
- B. In connection with a Facility that does not establish before the Commercial Operation Date on or before, if the Seller fails to meet the Scheduled Commercial Operation Date, the sum of the Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see Exhibit C) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual Commercial Operation Date or contract termination pursuant to Section 9.- The Estimated Monthly Average Net Output shall be pro-rated for any partial months; or
- C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 9 of this Agreement because of Seller's default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month from the date of termination through the end of the T term. The Estimated Monthly Average Net Output shall be pro-rated for any partial months.

“Lost Energy Value” means:

A. In connection, with Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly respect to each calendar month in the Contract Year and then allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in Exhibit C (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the given period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours an amount calculated as follows:— Lost Energy for each the applicable calendar month (or partial calendar month) in the Contract Year period multiplied by (the (applicable greater of zero (0) or the Replacement Price for On-Peak Hours the period less the time-weighted average of the Contract Price for On-Peak Hours for the same period); and
- The Off-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year multiplied by the (applicable Replacement Price for Off-Peak Hours less the Contract Price for Off-Peak Hours for the same period).

If the above calculation of the Lost Energy Value for the Contract Year results in a negative value, the Lost Energy Value for the Contract Year shall be deemed zero. See the example calculation in **Exhibit G**.

In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during which Seller has failed to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below) ~~for the period~~, **plus** any commercially reasonable **third-party** costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) **multiplied by** the (applicable Replacement Price for On-Peak Hours **less** the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) shall not exceed the Contract Price for On-Peak Hours for the same period; and
- The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) **multiplied by** the (applicable Replacement Price for Off-Peak Hours **less** the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.

If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in **Exhibit G**.

B. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Lost Energy for the applicable calendar month or partial calendar month **multiplied by** (the Replacement Price for On-Peak Hours for the period **less** the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month **multiplied by** (the Replacement Price for Off-Peak Hours for the period **less** the Contract Price for Off-Peak Hours for the period); and

- Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in Exhibit G.

~~“Market Index Price” means the applicable Powerdex hourly Mid-Columbia Index price for firm energy at the time the energy is delivered. In the event Powerdex no longer publishes this index or PGE elects to use nodal pricing, PGE will select an alternative successor index or other published pricing (or independent system operator or regional transmission organization settlement pricing) representative of the Delivery Point.~~

“Mechanical Availability Percentage” or “MAP” means that percentage for any Contract Year for the Facility calculated in accordance with the following formula:

$$\text{MAP} = 100 \times (\text{Operational Hours}) / (\text{Base Hours} \times \text{Number of Units})$$

~~“Minimum Availability Guarantee” has the meaning given to it in Section 3.4.3.4.~~

“Nameplate Capacity Rating” means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.

“NERC” means the North American Electric Reliability Corporation.

“Net Available Capacity” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Point of Interconnection continuously for at least sixty (60) minutes, ~~which is equivalent to the lesser of: (1) the Specified Facility Nameplate Capacity Rating, or (2) the Interconnection Rating, in either case less station service (parasitic power and electrical losses).~~

“Net Output” means all energy, expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the Point of Interconnection.

“New QF” means any QF that is not an Existing QF.

“Number of Units” means the number of Generation Units in the Facility, as specified in **Exhibit A**.

~~“Off-Peak Hours” means all hours other than has the meaning provided in the Schedule.~~

~~“On-Peak Hours” has the meaning provided in the Schedule.~~



“**On-Peak Energy Imbalance Accumulation**” and “**Off-Peak Energy Imbalance Accumulation**” have the meanings given to them in Section 3.2.

“**On-Peak Hours**” means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.

“**Operational Hours**” for the Facility means the total across all Generation Units of the number of hours each of the Facility’s Generation Units is capable of producing power ~~at its Nameplate Capacity Rating~~ regardless of actual weather, season and time of day or night, without any mechanical operating constraint or restriction, and potentially capable of delivering such power to the Delivery Point in a Contract Year. For each Contract Year, each Generation Unit is eligible to include no more than 200 hours as Operational Hours when the Generation Unit is not operational because of Planned Maintenance or an event of Force Majeure. For example, if the Facility consists of two separate ~~Generation Units~~solar arrays of 1.5 MW each and ~~Generation Unit Array~~ 1 is operational for 8,460 hours and is not operational for 300 hours due to Planned Maintenance or an event of Force Majeure; and ~~Generation Unit Array~~ 2 is operational for 8,560 hours and is not operational for 200 hours due to Planned Maintenance or an event of Force Majeure, then the Operational Hours for the Facility for the Contract Year would be calculated as follows: ~~Generation Unit Array~~ 1 Operational Hours = 8,460 + 200 = 8,660. ~~Generation Unit Array~~ 2 Operational Hours = 8,560 + 200 = 8,760. Operational Hours of the Facility = 8,760 + 8,660 = 17,420.

“**Person**” means any individual, corporation, ~~a~~ limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.

“**Planned Maintenance**” means outages scheduled 90 calendar days in advance, with ~~PGE’s~~ prior written notice to PGE, provided however that maintenance during Off-Peak Hours (except Sundays between 6:00 a.m. and 10:00 p.m. PPT) on a Facility comprised of only solar Generator consent, which shall not be ~~considered Planned Maintenance unreasonably withheld.~~

“**Point of Interconnection**” means the point of interconnection between the Facility and the interconnecting Transmission Provider or distribution system owner, as specified in **Exhibit B**.

“**Prime Rate**” means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

“**Product**” means, each and together, as a single bundled product, Net Output and, if applicable, Imbalance Energy, together with all associated ~~capacity~~Capacity Attributes.

“**Prudent Electrical Practices**” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the WECC that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all Applicable



Law. Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

“**PURPA**” means the Public Utility Regulatory Policies Act of 1978.

“**Qualifying Facility**” has the meaning set forth in the Recitals.

“**Reliability Entity**” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

~~“**Remedial Action Scheme**” means an automatic protection system designed to detect abnormal or predetermined system conditions, and take corrective actions other than or in addition to the isolation of faulted components to maintain system reliability. Such action may include changes in demand, generation, or system configuration to maintain system stability, acceptable voltage, or power flows.~~

“**Replacement Price**” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at which PGE, acting in a commercially reasonable manner, purchases for delivery at the Mid-Columbia trading hub Delivery Point replacement energy for any Net Output that Seller fails to deliver as required under this Agreement.

~~When PGE elects not to make such a purchase, the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Availability Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices for a given period shall be calculated as follows for each applicable calendar month (or partial calendar month):~~

- ~~• For Lost Energy During On-Peak Hours: the hourly the greater of zero (0) or the time-weighted average of the on-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).~~
- ~~• For Lost Energy During Off-Peak Hours: the hourly average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).~~

~~When the Replacement Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 9, the Replacement Price shall be the respective for On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices during the applicable period.~~

“**Required Facility Documents**” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as, including the Interconnection Agreement and, the Transmission Agreement, and those set forth in Exhibit D.

“**Schedule**” means PGE’s Schedule 201 filed with the Commission and in effect on the date that Seller delivers to PGE an executed copy of this Agreement, ~~the terms of which are hereby incorporated by reference.~~ For ease of reference and informational purposes only, a copy of the Schedule is attached hereto as **Exhibit F**; however, if there is any difference between **Exhibit F** and the Schedule, the terms of the Schedule shall apply and prevail.

“**Scheduled Commercial Operation Date**” has the meaning given to it in Section 2.67.

“**Senior Lien**” means a prior lien ~~that which~~ has precedence as to the property under the lien over another lien or encumbrance.

“**Specified Facility Nameplate Capacity Rating**” means the Facility Nameplate Capacity Rating set forth in **Exhibit A**, as it may be amended from time to time in accordance with this Agreement.

“**Start-Up Testing**” means the ~~performance completion~~ of applicable ~~required factory and~~ start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in **Exhibit E** (as it may be updated by Seller) during the Test Period.

“**Step-in Rights**” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.

“**Surplus Delivery**” has the meaning given to it in Section 3.2. By definition, Surplus Delivery shall always be a positive number.

“**Term**” has the meaning given to it in Section 2.1.

“**Test Energy**” means electric energy generated by the Facility during the Test Period, ~~and Capacity Rights associated with such electric energy.~~

“**Test Period**” means a period ~~of no more than sixty (60) calendar days~~, during which Start-Up Testing is to be conducted.

“**Transmission Agreement**” means an agreement (or agreements) between Seller and the Transmission Provider(s) that provide(s) for ~~the long term, firm, point to point~~ transmission and delivery of Firm Energy from the Facility to the Delivery Point, energy at no less than the Specified Facility Nameplate Capacity Rating. ~~The Transmission Agreement shall have from the Facility to the Delivery Point for a term of at least the lesser of (i) not less than five (5) years, with renewal rights, or (ii) until the Expiration Date of together with any and all other services (including Ancillary Services) required for transmission and delivery of energy to the Delivery Point, as scheduled in accordance with this Agreement.~~

“**Transmission Provider(s)**” means \_\_\_\_\_, the transmission system operator(s) with whom Seller will enter or has entered into the Transmission Agreement(s) to provide for delivery of Firm Energy from the Facility to the Delivery Point in accordance with this Agreement.

“**WECC**” means the Western Electricity Coordinating Council or any successor thereto.

~~“**WECC Pre-Scheduling Day**” means the WECC Pre-Scheduling Day prior to the delivery day or day(s) as defined by the most recent WECC Pre-Schedule calendar. For example, Thursday is typically the WECC Pre-Scheduling Day for delivery days of Friday and Saturday.~~

## 1.2 Interpretation.

In this Agreement, references to Recitals, Sections, and Exhibits are references to the recitals, sections and exhibits of this Agreement. The article and section headings in this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms “includes” or “including” mean “includes but is not limited to” and “including but not limited to,” respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in this Agreement in accordance with such recognized meanings.

## ARTICLE 2: TERM; FACILITY; COMMERCIAL OPERATION

### 2.1 Term.

The term of this Agreement (“Term”) commences on the date this Agreement is signed by both Parties (“Effective Date”) and ends on the earlier of \_\_\_\_\_ [Seller-selected date or fixed-interval period of time] \_\_\_\_\_, 20\_\_ [date that is no more than 20 years from the Scheduled Commercial Operation Date] (“Expiration Date”) or the date on which this Agreement is terminated pursuant to the terms of the Agreement.

### 2.2 Construction of the Facility.

2.2.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE’s system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement. Seller shall, at its sole cost, design and construct the Facility and; obtain all ~~necessary~~ transmission and interconnection rights, ~~necessary and make or cause to be made all necessary modifications to PGE’s or the Transmission Provider’s (or Transmission Providers’) systems~~ to enable the delivery of energy from the Facility to the Delivery Point, all in compliance with this Agreement, the Required Facility Documents, and Prudent Electrical Practices.

~~-~~Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement ~~may~~must be reviewed ~~and approved~~ by PGE, which ~~review approval~~ shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE’s information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section 6.3~~4~~.

### ~~2.3 Seller’s Responsibility for Costs:~~

~~Seller is responsible for all costs associated with the study or construction of necessary modifications and upgrades to the Facility or PGE’s or the Transmission Provider’s (or Transmission Providers’) systems related to the delivery of energy from the Facility to the Delivery Point, or any increase in the Facility Nameplate Capacity Rating or the generating capability of the Facility. Without limiting the generality of the foregoing:~~

~~2.3.1—If the Facility is subject to a Transmission Provider’s Remedial Action Scheme and PGE has an obligation to the Transmission Provider for said Remedial Action Scheme, Seller shall make necessary arrangements prior to the Commercial Operation Date, including installing any required equipment and entering into any necessary agreements to enable PGE to include the Facility in the list of resources used to satisfy PGE’s obligation under the Transmission Provider’s Remedial Action Scheme.~~

~~2.3.2—PGE will evaluate available delivery capability on PGE’s transmission system between the Delivery Point and PGE’s load that is required to enable PGE to accept delivery of the Facility’s Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to PGE’s designated sink point. If PGE determines that sufficient delivery capability exists on PGE’s transmission system, PGE will arrange for, be responsible for, and make available transmission service on PGE’s transmission system from the Delivery Point to the designated sink point. If PGE determines that insufficient delivery capability exists on PGE’s transmission system, Seller will be responsible for (i) obtaining and paying for necessary transmission studies and paying for any transmission upgrades necessary to enable PGE to accept deliveries of Net Output from the Facility and to effectuate delivery from the Delivery Point to PGE’s designated sink point, or (ii) paying for any necessary transmission service from Transmission Providers to effectuate delivery from the Delivery Point to PGE’s designated sink point. If any upgrades to PGE’s system are identified pursuant to part (i), PGE and Seller shall enter into a separate agreement to establish the terms under which PGE shall arrange for and Seller will pay for such upgrades; provided, however, that if the costs of such upgrades is reasonably projected to exceed One Hundred Thousand Dollars (\$100,000), Seller may terminate this Agreement by providing written notice to Buyer, unless, within thirty (30) days after Buyer receives such notice, Buyer agrees in its sole discretion to bear costs in excess of that amount. After all necessary upgrades have been completed in accordance with Prudent Electrical Practices, PGE will arrange for, be responsible for, and make available transmission service from the Delivery Point to the designated sink point.~~

#### 2.4.2.3 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with **Exhibit E** (as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility),<sup>5</sup> and shall provide written notice to PGE when the Start-Up Testing has been successfully completed. Seller must provide no less than one (1) business day’s ten (10) working days’ written notice to PGE prior to the commencement of Start-Up Testing, and must provide, ~~Seller shall use its best efforts to schedule and deliver Test Energy to its Transmission Provider, to a third party or to an organized market via its Transmission Provider’s system. Seller shall be entitled to any and all compensation received from its Transmission Provider or any third party or organized market for such Test Energy. If it is necessary for Seller to schedule and deliver Test Energy to PGE~~ ten (10) business days’ written notice prior to commencing sales of Test Energy to PGE. ~~In~~ in order to complete Start-Up Testing, Seller may schedule and deliver Test Energy to PGE ~~do so~~ pursuant to the scheduling procedures set forth in Section 3.5, and PGE shall compensate the Seller for delivered Test Energy in accordance with Section 4.1.1.3.6, but shall not be entitled to compensation from PGE for Test Energy. ~~Seller shall pay any costs or additional expenses that are required for PGE to receive Test Energy, including procurement of any necessary capacity costs or reserves.~~ This Section 2.34 does not apply if the Facility is an Existing QF unless the Existing QF elects to conduct Start-Up Testing.

2.5.2.4 Commercial Operation.

“**Commercial Operation**” will be achieved when the Facility is fully constructed and determined by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have occurred:

2.5.12.4.1 If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with **Exhibit E**, and PGE has received Seller’s written certification of completion of Start-Up Testing.

2.5.22.4.2 PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that the Facility is interconnected and operational~~interconnection has been completed~~ in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.

2.5.32.4.3 PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE’s reasonable satisfaction, which may include equipment specifications.

2.5.42.4.4 PGE has received a ~~letter~~certificate addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement and Transmission Agreement~~(s)~~,<sup>5</sup> and any other Required Facility Documents requested by PGE.

2.5.52.4.5 PGE has received the following documents with respect to the Facility: the As-built Supplement, including but not limited to an electrical single-line diagram, a 12x24 estimated net energy profile, a 8760 net energy production estimate, and (for solar QFs) an annual degradation factor.

2.5.62.4.6 PGE has received copies of all insurance certificates required under Section 11.12.

2.5.72.4.7 PGE has received any Credit Support required under Section 8.1.

~~2.5.8 If any upgrades to PGE’s system between the Delivery Point and PGE’s load are required in order to enable PGE to accept delivery of the Facility’s Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to PGE’s designated sink point, the Company and the Seller have entered into an agreement concerning such upgrades as required under Section 2.3.2.~~

2.62.5 Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section 2.45, Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, including but not limited to information required in Exhibit A and Exhibit B. PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as



necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, provided that PGE shall not unreasonably withhold such certification. The date of Seller's notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the "**Commercial Operation Date**" for all purposes under this Agreement.

2.72.6 Scheduled Commercial Operation Date.

By no later than \_\_\_\_\_ ("**Scheduled Commercial Operation Date**"), Seller shall have completed all requirements under Section 2.4 and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE's negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE's negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before Seller guarantees that Commercial Operation shall occur no later than \_\_\_\_\_, 20\_\_\_\_ ("**Scheduled Commercial Operation Date**"). If Commercial Operation does not occur by the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay for the period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date ("**Delay Damages**"). If Commercial Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section 9.32.

2.82.7 Status of the Facility.

2.8.12.7.1 Seller shall construct and operate the Facility so as to ensure its status as a Qualifying Facility and in a manner consistent with its FERC Qualifying Facility certification. At any time during the Term, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE's request, ~~(i) a written legal opinion from an attorney who is in good standing in the state of Oregon and is not employed by a Person having an economic interest in the Facility stating that the Facility is a Qualifying Facility, and (ii)~~ documentation acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility.

2.8.2—Seller shall not make any changes in its ownership, control or management that would cause the Facility to fail to satisfy the eligibility requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement. Seller shall provide upon request by PGE, not more frequently than every 36 months, any documentation and information as may be reasonably required requested by PGE to establish Seller's continued compliance with the applicable eligibility requirements such definition. PGE shall take reasonable steps to maintain the confidentiality of any such documentation and information that Seller identifies as confidential, provided that PGE may provide all such information to the Commission upon the Commission's request.

### ARTICLE 3: DELIVERY AND SALE OF ENERGY; SCHEDULING

#### 3.1 Delivery and Sale of Energy.

Except as otherwise provided in this Agreement, commencing on the Commercial Operation Date and continuing until the end of the Term (the “**Delivery Period**”), Seller shall deliver and sell and PGE shall receive and purchase all of the Net Output delivered as Firm Energy at the Delivery Point. In reliance on Seller’s representations and warranties in Section ~~7.17.1.10~~, Seller may also deliver and PGE shall receive and purchase Imbalance Energy delivered at the Delivery Point, subject to Section 3.2. ~~Notwithstanding the foregoing, Seller shall not deliver and PGE shall not be obligated to receive or purchase energy delivered at a rate, on an hourly basis, greater than the Net Available Capacity.~~ Title and risk of loss related to the Product shall transfer from Seller to PGE at the Delivery Point.

#### 3.2 Surplus Delivery.

For purposes of this Agreement, (i) “**On-Peak Energy Imbalance Accumulation**” means ~~total Firm Energy aggregate energy~~ delivered to the Delivery Point during On-Peak Hours during a Billing Period ~~less total aggregate Net Output delivered to the Delivery Point~~ during On-Peak Hours during such Billing Period; and (ii) “**Off-Peak Energy Imbalance Accumulation**” means ~~total Firm Energy aggregate energy~~ delivered to the Delivery Point during Off-Peak Hours during a Billing Period ~~less total aggregate Net Output delivered to the Delivery Point~~ during Off-Peak Hours during such Billing Period. Any positive On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation shall be deemed “**Surplus Delivery.**” PGE shall accept but ~~is not obligated to~~ pay for Surplus Delivery. Any negative On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation during a Billing Period implies that Seller has delivered less than the aggregate Net Output during the applicable hours in the Billing Period. For the avoidance of doubt, the Parties agree that Seller is not entitled to compensation for any portion of total Net Output that exceeds total is not delivered as Firm Energy delivered to the Delivery Point during the applicable Billing Period.

#### 3.3 Estimated Net Output.

Seller’s good faith, commercially reasonable estimate of the Facility’s ~~average~~ monthly and annual average and maximum Net Output during the Delivery Period, and Seller’s basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in Exhibit C, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section 6.3. Seller acknowledges that PGE will use these estimates in its resource planning.

#### 3.4 Minimum Availability Guarantee.

~~3.4.1~~—Seller hereby guarantees that the Facility will achieve Mechanical Availability Percentages that meet or exceed the following (“Minimum Availability Guarantee”):

- (i) Ninety percent (90%) beginning in the first Contract Year and extending through the Term of this Agreement if the Facility was operational and sold electricity to PGE or another buyer prior to the Effective Date is an Existing QF; or
- (ii) Ninety percent (90%) beginning in Contract Year three and extending through the Term of this Agreement ~~if the Facility is a New QF~~.



~~3.4.2.—~~Annually, within 90 calendar days of the end of each Contract Year, Seller shall send to PGE a detailed written report demonstrating and providing evidence of the actual Mechanical Availability Percentage for the previous Contract Year.

~~3.4.3.—~~As a remedy~~damages~~ for Seller's failure to satisfy the Minimum Availability Guarantee in any Contract Year, Seller shall owe PGE damages equal to the Lost Energy Value ~~for such Contract Year~~.

### ~~3.5 —~~ Forecasting and Scheduling:

~~3.5.1 —~~ During the ~~Delivery Period~~, Seller shall provide PGE with a rolling hourly generation forecast for the next fourteen (14) days, updated hourly (each a "Generation Forecast"). Each Generation Forecast shall be performed by a third party forecasting agent and shall be provided in a commercially reasonable format specified by PGE.

~~3.5.2 —~~ Seller shall schedule, following the procedures set forth in Section 3.6, deliveries of the Product at the Delivery Point in the amount of expected Net Output (less transformation and transmission losses to the Delivery Point), consistent with the Generation Forecast. Seller shall make reasonable efforts to minimize the delivery of Imbalance Energy to PGE. Seller and PGE agree that the intent of this Section is for Seller to schedule and deliver energy resembling actual production from the Facility for each hour.

### ~~3.6.3.5~~ Scheduling Procedures.

~~3.6.1 —~~ Seller shall provide preschedule~~schedule~~ energy in hourly blocks for delivery at the Delivery Point in accordance with the following procedures:

~~3.6.1.1 —~~ For each day during the Delivery Period, Seller shall, by 5:00 a.m. PPT of the customary WECC Pre-Scheduling Day, communicate to PGE's Pre-schedule Desk the expected hourly energy to be delivered at the Delivery Point for that day, consistent with the Generation Forecast.

~~3.6.1.2 —~~ Seller shall schedule the energy by submitting a NERC e-Tag ("e-Tags") prior to 1:00 p.m. PPT of the applicable WECC Pre-Scheduling Day for all deliveries~~hours~~ of the applicable delivery day or days.

~~3.6.1.3 —~~ Seller shall schedule the energy hereunder, including identification of receiving with e-Tags according to prevailing WECC, NERC, or Transmission Provider Pre-scheduling provisions and generating control areas, by 9:00:00 PPT on the last business day prior to the protocols. Seller shall schedule the Facility as the identified e-Tag source. Seller may not net or otherwise combine schedules from resources other than the Facility, except as necessary for Ancillary Services.

~~3.6.1.4 —~~ Seller shall not schedule energy using a Dynamic or Pseudo-Tie e-Tag as such terms are defined and used by NERC.

~~3.6.2 —~~ Seller may make adjustments to the energy scheduled date of delivery. All energy shall be scheduled according to the most current NERC and WECC scheduling rules and practices. The Parties' respective representatives shall maintain hourly as described above each hour in real-time schedule coordination; provided, however, that in the absence. If Seller elects to make such real-time adjustments, Seller shall:

~~3.6.2.1 submit and receive approval of such coordination, the hourly schedule established by the exchange of preschedules shall any e-Tag adjustment no later than seventy five (75) minutes prior to the flow hour. Seller shall be considered final. Seller responsible for any and all costs, charges, or fees associated with any changes Seller makes to the e-Tag after seventy five (75) minutes prior to the flow hour.~~

~~3.6.3 In the event that the regional market design, Balancing Authority, or other Reliability Entity causes PGE's scheduling practices to change after the Effective Date, PGE shall have the right but not the obligation to update the scheduling procedures described in this Section 3.6 by giving sixty (60) days' prior written notice to Seller of such update.~~

~~3.6.4 Seller shall be responsible for all costs or charges associated with the Product or its delivery to the extent such costs or charges are imposed on Seller's side of the Delivery Point.~~

~~3.6.5.1 Seller shall maintain records of hourly energy schedules for accounting and operating purposes. The final E-Tag shall be the controlling evidence of the Parties' schedule. All energy shall be prescheduled according to customary WECC scheduling practices. Seller shall make commercially reasonable efforts to schedule in any hour an amount equal to its expected Net Output for such hour. Seller shall maintain a minimum of two years' records of the Net Output and shall agree to allow PGE to have access to such records and to imbalance information kept by the Transmission Provider. The cost of delivering energy from the Facility to PGE shall be the sole responsibility of the Seller.(s).~~

### 3.7.3.6 Loss of Interconnection and Curtailment.

PGE shall not be liable to Seller and shall have no obligation to purchase the Product from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the extent that, due to the action of a Reliability Entity, ~~an event of Force Majeure Event~~, or PGE's construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility to the electric system is disconnected, suspended or interrupted, or (ii) generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller's control.

### ~~3.8 Carbon Emissions:~~

~~Seller is responsible for and shall pay for all future costs, if any, whether incurred by Seller or PGE, resulting from any carbon emissions generated by or associated with the Product delivered by Seller to the Delivery Point in accordance with this Agreement. Seller may provide PGE with carbon emissions offsets that are reasonably satisfactory to PGE in lieu of a monetary settlement. Within fifteen (15) business days after PGE's request, Seller shall provide PGE with the carbon emissions data for the Product that is delivered during the Delivery Period.~~

## **ARTICLE 4: PRICE, BILLING AND PAYMENT**

### 4.1 Prices and Payment for Delivered Product.

4.1.1 During the Delivery Period, PGE shall pay Seller an amount for Product delivered during a Billing Period calculated as follows: the Contract Price multiplied by the lesser of (i) Net Output during

~~the Billing Period and Imbalance Energy (but not including Surplus Delivery or (ii) energy delivered at an hourly rate in excess of the Net Available Capacity) delivered as Firm Energy delivered to the Delivery Point during the Billing Period. PGE shall not pay for Surplus Delivery. An illustrative example is provided in Exhibit G. In determining the amount due to Seller for the Product, the amount of Net Output generated in any hour shall be deemed to be zero or greater, multiplied by the Contract Price.~~

~~4.1.2 Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy multiplied by the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.~~

~~4.1.24.1.3 Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.~~

~~4.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.~~

~~By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE will in the ordinary course shall deliver to Seller an invoice showing PGE's computation (and supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE to PGE in respect thereof for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the preceding calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in Exhibit G.~~

~~4.3 Invoicing and Payment for Lost Energy Value Related to Minimum Availability Guarantee.~~

~~If Seller fails to satisfy the Minimum Availability Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following PGE's receipt of Seller's detailed written report for such Contract Year in accordance with Section 3.4.2, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar, No later than ten (10) days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future energy deliveries by the amount of such Delay Damages.~~

~~4.3 Invoicing and Payment for Lost Energy Value.~~

~~If Seller fails to satisfy the Minimum Availability Guaranty during any Contract Year, on or before the thirtieth (30th) day following the end of such Contract Year, PGE shall deliver to Seller an invoice showing PGE's computation of any deficit in the guaranteed amount. Thereafter, the amount payable by PGE for future deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period of such reduction (not to exceed one year) so as to minimize the risk of Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy~~

Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.

#### 4.4 Form of Payment and Interest on Late Payments.

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.-

#### 4.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.-

### ARTICLE 5: METERING

#### 5.1 Metering.

Metering shall be performed at the location and in a manner consistent with this Agreement, as specified in **Exhibit B.** Seller shall provide to PGE all information in hourly increments for all regarding Net Output and any other energy purchased under this Agreement. ~~in hourly increments. Seller shall provide PGE with a real time ICCP and EIDE communications link to the Facility metered output.~~

#### 5.2 Meter Installation, Inspection and Correction.

Seller shall arrange ~~and pay~~ for the installation, testing, and maintenance of the metering equipment required by Section ~~5.15.4~~ in accordance with Prudent Electrical Practices. PGE shall have reasonable access to observe, at its own expense, all inspection, testing, repair and replacement of the metering equipment. Upon request, Seller shall provide obtain documentation regarding all inspection, testing, repair and replacement of the metering equipment.

If the Facility has a revenue grade meter in addition to the meter used to calculate deliveries and payments and the revenue grade meter is installed near the meter used to calculate deliveries and payments, Seller will send an annual report to PGE comparing the readings between the two meters. If the difference between the two meters is more than two percent (2.0%), PGE may request that the meters be recalibrated and that PGE receive the results of the tests. Also, PGE will be notified promptly of any other recalibration or calibration tests on the meter used to calculate deliveries and payments. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter ~~Meters must~~ be tested and recalibrated during the term of the Agreement and consistent with the terms of this Section. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter be tested and recalibrated 12 months after the Commercial Operation Date, at Seller's expense. If the test demonstrates a variance of more than two percent (2.0%) then PGE may request another test and recalibration twenty-four (24) months after the last test. If the test demonstrates a variance of ~~no~~ less than two percent (2.0%), then PGE may not request a test and recalibration at the Seller's expense for thirty ~~frequently than every~~ six (36) months. PGE may

arrange for testing and recalibration at its own expense, after reasonable notice and opportunity for Seller to have a representative on site.

~~6) months and Seller shall promptly notify PGE if any metering equipment is not functioning properly.~~ If any of inspections or tests reveal an error exceeding two percent (2.0%), either fast or slow, appropriate correction, based upon the inaccuracy found, shall be made with respect to previous readings for the period during which the Facility metering equipment rendered inaccurate measurements (such period not to exceed ~~twelve (12) six (6)~~ months). If the period of inaccuracy cannot be ascertained, correction shall be made to measurements taken since the metering equipment was last tested, provided that such period shall not exceed three (3) months. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered. Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of the metering inaccuracy.

## ARTICLE 6: OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES

### 6.1 Seller's Duty to Operate and Maintain the Facility.

6.1.1 Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.

6.1.2 Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide ~~upon request~~ copies of the same to PGE upon request.

### 6.2 Outages.

6.2.1 On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with ~~an annual~~ annual schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the ~~Specified generating capacity of the Facility~~ Nameplate Capacity Rating for ~~twenty-four (24) two (2)~~ or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of Section 13.13. ~~Seller shall use commercially reasonable efforts to plan scheduled activities (i) to maximize the productive output of the Facility, and (ii) not to occur between July 1 and September 30 or between December 1 and February 28 of any calendar year.~~

~~6.2.2 Seller shall give notice to the interconnecting Transmission Provider of any forced or unplanned outages or reductions in generation capability of the Facility in accordance with such Transmission Provider's outage notice requirements. Seller shall also give PGE's Real Time Desk immediate telephonic notice (within twenty minutes) of any such events that will curtail or adversely affect scheduled or forecasted Product deliveries. Such notice must include a description of the cause of the outage, the resulting change in capacity, and an estimate of the duration of the outage. Seller shall provide~~



~~PGE regular and frequent updates regarding any changes of status set forth in the initial notice, and shall notify PGE's Real Time Desk when the Facility is ready to return to service. Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable best efforts to avoid or mitigate outages during PGE's system emergencies. PGE may, after providing written notice to Seller, make commercially reasonable changes to the means by which Seller provides notice pursuant to this subsection 6.2.2 of this Agreement.~~

### 6.3 Facility Upgrades.

#### 6.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

~~6.3.1.6.3.2~~ At any time after the Commercial Operation Date upon at least six months<sup>2</sup> prior written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in **Exhibit C**, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in **Exhibit C** for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

6.3.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section 6.3.1 or Section 6.3.2 that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend **Exhibit A** and **Exhibit C** as appropriate to reflect the modifications.

~~6.3.2.6.3.3~~ So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller will continue to receive the Contract Price for all delivered Net Output.

~~6.3.3.6.3.4~~ If Seller increases the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 3,000 kW (solar) or 10,000 kW (all other QFs), consistent with then-current Applicable Law, ~~provided that:~~

~~6.3.3.16.3.4.1~~ If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to more than 3,000 kW and no greater than 10,000 kW, then Seller may elect to enter either (a) a standard power purchase agreement with negotiated prices, or (b) a negotiated power purchase agreement with negotiated prices.

~~6.3.3.26.3.4.2~~ If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

~~6.3.3-36.3.4.3~~ If the Facility produces Net Output through any ~~other~~-resource types other than solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

## ARTICLE 7: REPRESENTATIONS AND WARRANTIES

### 7.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

7.1.1 Seller is a \_\_\_\_\_ duly organized and in good standing under the laws of the state of incorporation or formation.

7.1.2 The execution, delivery and performance of this Agreement are within Seller's powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

7.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

7.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

7.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

7.1.6 Either Seller satisfies the requirements set forth in Section ~~7.1.6.1 through 7.1.6.37.1.6.1 through 7.1.6.4~~ below (the "**Creditworthiness Requirements**"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section 8.1.

7.1.6.1 ~~Neither~~ Seller ~~nor any of its principal equity owners~~ is not under has not been Bankrupt within the past two (2) years, and there are no proceedings pending or being contemplated by ~~Seller~~ or, to Seller's knowledge, threatened against ~~Seller~~ that would result in ~~Seller~~ being or becoming Bankrupt.

7.1.6.2 Seller is not in default under any of its material agreements and is current on all of its financial obligations, including construction-related financial obligations.

7.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and



~~payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.~~

~~7.1.6.4 If the Facility has a Specified Facility Nameplate Capacity Rating greater than 3,000 kW, Seller has a senior, unsecured long term debt rating (or corporate rating if such debt rating is unavailable) of (i) "BBB" or greater from S&P, or (ii) "Baa3" or greater from Moody's, and if such ratings are split, the lower of the two ratings must be at least "BBB" or "Baa3" from S&P or Moody's, respectively, or other indicia of creditworthiness satisfactory to PGE in its reasonable judgment.~~

7.1.7 No later than the Commercial Operation Date, Seller ~~will possess~~ possesses a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

7.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

7.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

~~7.1.10~~ In connection with Seller's delivery of Firm Energy as required under this Agreement:

~~7.1.10.17.1.9.1~~ - Seller's delivery of Imbalance Energy, if any, results from Seller's purchase of energy imbalance ancillary service that the Transmission Provider(s) require(s) Seller to procure, as a condition of providing transmission service, in order to correct a mismatch between energy scheduled by the Facility and the real-time production of the Facility;

~~7.1.10.2~~ Such Transmission Provider(s) require(s) Seller to schedule deliveries of Net Output in one (1) megawatt increments; and

~~7.1.10.3~~ Seller is not attempting to sell PGE Energy less than or in excess of its Net Output, as generated hourly.

~~7.1.11~~ 7.1.10 Seller has the right to sell the Product to PGE free and clear of liens or encumbrances.

## 7.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

7.2.1 It is a corporation duly organized under the laws of Oregon.

7.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

7.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its

governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

7.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

7.2.5 It ~~is not and~~ has not ~~been Bankrupt~~ within the past two (2) years ~~been Bankrupt~~ and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

7.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

### 7.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article 7 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

## ARTICLE 8: CREDIT SUPPORT

### 8.1 Required Credit Support.

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall immediately notify PGE in writing and shall promptly (and in no less than ten (10) ~~businesses~~ ~~calendar~~ days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). In ~~in each case, the in an amount of Credit Support required shall be~~ calculated as follows: (aggregate number of On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the weighted average Contract Price for OnPeak Hours – the weighted average Contract Price for OffPeak Hours) x (Net Available Capacity). The amount of Credit Support required shall be updated annually, on the anniversary of the month Credit Support was first required to be provided. The updated amount of Credit Support shall be calculated for each subsequent 12-month period, consistent with the calculation described in this Section. (the "Credit Support"):

~~(i) — the net present value of the following amount: the forward power prices at Mid-Columbia for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term), as determined by PGE in good faith using information from a commercially reasonable independent source (e.g., indicative of the most relevant ICE forward price curve for the Mid-Columbia), multiplied by one hundred and ten percent (110%), multiplied by aggregate Estimated Monthly Average Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term); less~~

~~(ii) — the net present value of: the average of the fixed prices specified in the Schedule (or in the case of a solar facility with a Specified Facility Nameplate Capacity Rating over 3 MW, as set forth in the~~

~~price matrix attached to Exhibit G) for both On Peak Hours and Off Peak Hours, multiplied by aggregate Estimated Monthly Average Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term).~~

~~To calculate net present value for purposes of this Section, the Parties shall use the Bloomberg "S23 Corp" (Bloomberg ID "YCSW0023") interest rate swap cure as the discount rate.~~

~~Notwithstanding the foregoing, the amount of Credit Support shall in no event be less than the amount equal to the payments PGE would make for three (3) average months based on Seller's average monthly volume over the term of this Agreement and utilizing the average fixed prices specified in the Schedule (or in the case of a solar facility with a Specified Facility Nameplate Capacity Rating over 3 MW, as set forth in the price matrix attached to Exhibit G).~~

If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.

Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its reasonable discretion, grant an exception to the requirements to provide default security if the Seller has negotiated financial arrangements with the ~~Lender~~reconstruction loan lender that mitigate Seller's financial risk to PGE.

## 8.2 Right to Draw on Credit Support.

At any time after the occurrence and during the continuation of an Event of Default, or upon an early termination of this Agreement by PGE pursuant to Section ~~9.39.2~~, PGE may draw on Seller's Credit Support to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the Credit Support during the Term, PGE shall inform Seller within fifteen (15) business days, and Seller shall promptly, and in no ~~event~~ more than fifteen (15) business days following notice from PGE, restore the Credit Support to the amount required under Section 8.1. However, for avoidance of doubt, Seller shall have no obligation to replenish the Credit Support if PGE has terminated the Agreement.

## ARTICLE 9: DEFAULT, REMEDIES AND TERMINATION

### 9.1 Events of Default.

An "**Event of Default**" means, with respect to a Party, the occurrence of any of the following unless otherwise excused under this Agreement:

9.1.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;

9.1.2 any representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;

9.1.3 the failure of a Party to perform any material covenant or obligation set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party explaining gives the circumstances supporting defaulting Party notice of the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;

9.1.4 with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

9.1.5 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement or Transmission Agreement(s) within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement or Transmission Agreement(s) at any time during the term of this Agreement;

9.1.6 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE; ;

9.1.7 with respect to Seller, Seller fails, for any two or more consecutive Contract Years to satisfy the Minimum Availability Guarantee ~~or Seller's failure to provide any written report required by Section 3.4;~~

9.1.8 Seller's failure to provide any written report required by Section 3.4.2 if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

~~9.1.89.1.9~~ with respect to Seller, Seller fails to establish the Commercial Operation Date does not occur on or before the first anniversary of the Scheduled Commercial Operation Date. Seller shall have one (1) year to cure default under this Section 9.1.9, during which time Seller shall pay PGE Delay Damages pursuant to the terms of Section 2.6 and Section 4.2.

## 9.2 Lender's Right to Cure a Seller Event of Default.

Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under Section 13.13 of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement.

## 9.29.3 Termination for Default.

If an Event of Default has occurred and is continuing, the non-defaulting Party may immediately terminate this Agreement at its sole discretion, and without the non-defaulting Party incurring any liability

to the defaulting Party, by delivering written notice to the defaulting Party. In addition, the non-defaulting Party may pursue any and all other legal or equitable remedies available to it, including recovery of damages as set forth below. ~~For avoidance of doubt, PGE's resource sufficiency or deficiency position has no bearing on PGE's right to terminate this Agreement under this Section.~~

#### 9.39.4 Damages.

If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value ~~with respect to the lesser of (i) twenty four (24) months following the date of termination or (ii) the period from the date of termination until the expiration date of this Agreement.~~ Amounts owed by Seller pursuant to this Section shall be due within fifteen (15) ~~five (5)~~ business days after any invoice from PGE for the same. Damages owing under this Section 9.4 shall be cumulative and in addition to damages owing pursuant to Sections 2.6, 4.2, 4.3 and 9.1.9. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.

#### 9.49.5 Payment of Outstanding Obligations.

If this Agreement is terminated pursuant to Section ~~9.39.2~~, then within thirty (30) calendar days of termination, PGE shall make all payments due and owing to Seller as of the time of receipt of notice of termination; provided that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section ~~9.43~~ or otherwise. PGE shall not be required to pay Seller for Product delivered by Seller after the effective date of any termination notice.

#### 9.59.6 Post-Termination PURPA Status.

In the event ~~(ix)~~ PGE terminates this Agreement pursuant to this Article 9 or Seller terminates this Agreement without cause, and ~~(iiy)~~ Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, wishes to sell Net Output to PGE from the Facility following such termination, then PGE may, (but will not be obliged to) require that Seller, its Affiliate, or its successor do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to the terms of this Agreement, then Seller and PGE shall promptly execute a written document ratifying the terms of this Agreement. PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.

## ARTICLE 10: INDEMNIFICATION AND LIABILITY

### 10.1 Seller's Indemnity.

Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, including the delivery of energy to and at the Delivery Point; (ii) Seller's development, construction, ownership, operation, maintenance, or decommissioning of the Facility; (iii) the violation of any law, rule, order or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is

caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.

10.2 PGE's Indemnity.

PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) PGE's receipt of energy under this Agreement after its delivery at the Delivery Point; (ii) the violation of any law, rule, order or regulation by PGE or any of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure to perform any of PGE's obligations under this Agreement; (iv) PGE's breach of any representation or warranty set forth in this Agreement; or (v) PGE's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by Seller's breach of this Agreement or by the negligence or willful misconduct of Seller, its directors, officers, employees, agents or representatives.

10.3 No Dedication.

Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent Person.

10.4 Disclaimer of Consequential Damages.

**NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.**

**ARTICLE 11: INSURANCE**

11.1 Certificates of Insurance.

Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.

11.2 Required Insurance.

Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure



and continuously carry for the Term, with an insurance company or companies rated no lower than “B+” by the A.M. Best Company the insurance coverage specified below:

11.2.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, ~~which limits may be required to be increased or decreased by PGE as PGE determines in its reasonable judgement, economic conditions or claims experience may warrant,~~ to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.

11.2.2 All Risk Property ~~I~~nsurance providing coverage in an amount at least equal to the full replacement value of the Facility against “all risks” of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk ~~P~~olicy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the ~~F~~facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers’ rights of subrogation against PGE regarding Facility property losses.

### 11.3 Required Provisions.

11.3.1 The Comprehensive General Liability ~~P~~olicy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

11.3.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days’ prior written notice to PGE.

11.3.3 Insurance coverage provided on a “claims-made” basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

## ARTICLE 12: FORCE MAJEURE

### 12.1 Definition of “Force Majeure.”

As used in this Agreement, “**Force Majeure**” or “~~event of Force Majeure~~ Event” means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party’s from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay



or failure in the performance as a result of any action or inaction on behalf of a public authority. Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility's equipment, or ~~(viii) smoke, haze, ash or other obstruction of sunlight~~ (except to the extent such obstruction is caused by fires or volcanic eruptions).

#### 12.2 Effect of Force Majeure.

If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: (i) the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section ~~13.1314.13~~ of this Agreement describing the particulars of the occurrence; (ii) the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the non-performing Party uses commercially reasonable~~its best~~ efforts to remedy its inability to perform its obligations under this Agreement.

### ARTICLE 13: GENERAL PROVISIONS

#### 13.1 Relationship of the Parties.

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such Party shall be jointly and severally liable for Seller's obligations under this Agreement.

#### 13.2 No Third Party Beneficiaries.

This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

#### 13.3 Governing Law.

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that which~~ may direct the application of the laws of another jurisdiction.

~~This Agreement is subject to the jurisdiction of those governmental agencies and courts having control over either party or this Agreement. The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission~~

~~of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.~~

~~13.4~~ Dispute Resolution.

Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement is subject to the jurisdiction of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, any complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute. ~~or governmental agency with jurisdiction over the dispute; provided, however, that any dispute within the jurisdiction of the Commission shall first be brought before the Commission, and each Party hereby irrevocably waives, to the fullest extent permitted by Applicable Law, any objection it may now or hereafter have to the initial jurisdiction of the Commission with respect to any such dispute.~~

The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

~~13.5~~ 13.4 Severability.

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void as being contrary to any Applicable Law or public policy, all other terms of this Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the intent of the Parties to this Agreement.

~~13.6~~ 13.5 Effect of PURPA Repeal.

The repeal of PURPA shall not result in the early termination of this Agreement unless such termination is mandated by state or federal law.

~~13.7~~ 13.6 Waiver.

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

~~13.8~~ 13.7 Survival.

Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.

13.913.8 Successors and Assigns.

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. Neither party may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that either party~~PGE~~ may assign its rights or delegate its obligations, in whole or in part, without such consent and upon thirty (30) calendar days' prior written notice to the other party~~Seller~~, to an entity that acquires all or substantially all of the business or assets of the assigning party~~PGE~~ to which this Agreement pertains, whether by merger, reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective.

13.9 Financing Documents.

Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and expense associated with PGE's review and activities reasonably required under this Section 13.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE's sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.

13.10 Entire Agreement; Amendments; Order of Precedence.

This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding the contents of the Agreement, including PGE's purchase of energy from the Facility. No amendment or modification of this Agreement shall be effective unless it is in writing and signed by both parties. If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail.

13.11 Seller Release.

By executing this Agreement, Seller releases PGE from any ~~third-party~~ claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

13.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

13.13 Notices.

All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.:

<b>Notices</b>	<b>PGE</b>	<b>Seller</b>
<b>Invoices</b>	Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204	
<b>Scheduling</b>	By telephone: Merchant Real Time Desk (503) 464 8851	
<b>Planned Outages</b>	Merchant Outage Coordinator Attn: Power Operations 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 (503) 464 7013	
<b>Unplanned Outages</b>	Merchant Real Time Desk (503) 464 8851	
<b>Payments</b>	Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 Energyinvoicing@pgn.com	
<b>Wire Transfer</b>	Bank Name: US National Bank of Oregon Routing Number: 123000220 Account Number: 153600043512	
<b>Credit Support</b>	Portland General Electric Attn: Credit Manager 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204	
<b>All Other Notices</b>	Portland General Electric C/O Attn: QF Contract Management	

Standard Off-System Variable Power Purchase Agreement  
Form Effective \_\_\_\_\_

	<del>3WTC-0306</del> <del>121 SW Salmon St.</del> <del>3WTC0306</del> <del>Portland, OR Oregon 97204</del>	
<del>Copy in the case of Event of Default or Termination</del>	<del>Portland General Electric</del> <del>121 SW Salmon St.</del> <del>1WTC17</del> <del>Portland, Oregon 97204</del> <del>Attn: General Counsel</del>	

The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section 13.13.

*Signature Page Follows.*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(Name Seller)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**EXHIBIT A**

**FACILITY DESCRIPTION**

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

Seller's Facility consists of generators fueled by \_\_\_\_\_. ~~Specifically, each type generator at the Facility is described as:~~

**~~A. Generator Manufacturer's Nameplate Data:~~**

~~Make:~~

~~Model:~~

~~Rated Output (kW):~~

~~Number of Generators with Similar Attributes:~~

~~Facility Nameplate Capacity Rating: \_\_\_\_\_ kW~~

~~Net Available Capacity: \_\_\_\_\_ kW~~

~~Interconnection Rating: \_\_\_\_\_ kW~~

~~\_\_\_\_\_ Identify and describe any differences between the Facility Nameplate Capacity Rating and the Net Available Capacity: \_\_\_\_\_.~~

~~\_\_\_\_\_ Station service requirements, and other loads served by the Facility, if any, are described as follows:~~

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.~~

~~\_\_\_\_\_ **B. Specified Facility Nameplate Capacity Rating** \_\_\_\_\_ (kW) (calculated as the sum of the Nameplate Capacity Ratings for all Generators).~~

~~\_\_\_\_\_ **C: Location of the Facility:** The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_, with GPS coordinates of \_\_\_\_\_.~~

The location is more particularly described as follows:

[legal description of parcel]

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND TRANSMISSION ATTRIBUTES**

[Seller to provide diagram and description]

Description to include the following:

~~Point(s)~~

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section 6.3.2).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW

Identify and describe any differences between metering, including the Specified Facility Nameplate Capacity Rating type of meter(s) and the Net Available Capacity:

\_\_\_\_\_  
\_\_\_\_\_

1. Interconnection Rating: \_\_\_\_\_ kW (owner of the Facility capacity rating specified in the Interconnection Agreement meter(s))

Station service requirements, and other loads served by the Facility, if any, are described as follows:

\_\_\_\_\_

2. Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

As-built Average Annual Degradation Percentage (applicable only to QFs with solar Generation Units).

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES**

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

3. Point of Delivery: \_\_\_\_\_

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Entity with whom the Facility is or will be interconnected: \_\_\_\_\_

4. Transmission Provider(s): \_\_\_\_\_

**The following information shall be provided in the As-built Supplement prior to Commercial Operation:**

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):

\_\_\_\_\_  
\_\_\_\_\_

5. Specification of Point of Interconnection: \_\_\_\_\_

**EXHIBIT C**

**SELLER’S NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of ~~Estimated~~expected Monthly Average Net Output and Estimated Monthly~~and~~ Maximum Net Output during the Delivery Period, and the resulting Estimated Annual ~~Estimated~~-Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output (as measured at the Facility meter at the Point of Interconnection)**

Month	Estimated <u>Monthly</u> Average Net Output (kWh)		<u>Percentage of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%)</u>		Estimated <u>Monthly</u> Maximum Net Output (kWh)	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
January						
February						
March						
April						
May						
June						
July						
August						
September						
October						
November						
December						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated ~~Annual~~ Average ~~Annual~~ Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Average Net Output)

Estimated Annual Maximum ~~Annual~~ Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Maximum Net Output)

**EXHIBIT D**

**COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM**

**(Power Purchase REQUIRED FACILITY DOCUMENTS**

~~[List all agreements, permits and authorizations required for the Facility]~~

~~Interconnection Agreement – \_\_\_\_\_ )~~

~~This Collateral Assignment and Consent Agreement (the “*Agreement*”) is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY (“PGE” or “Buyer”)**, **[INSERT LENDER]**, a \_\_\_\_\_ company (the “*Lender*”), and **[INSERT SELLER]**, a \_\_\_\_\_ company (the “*Borrower*” or “*Seller*”) (the “*Parties*” or each a “*Party*”).~~

**RECITALS**

~~A. \_\_\_\_\_ Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the “*Loan Agreement*”), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.~~

~~B. \_\_\_\_\_ Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the “*PPA*” or the “*Assigned Agreement*”), a copy of which is attached as *Exhibit A*, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power from which Seller shall sell and PGE shall purchase Net Output” (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).~~

~~C. \_\_\_\_\_ As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the “*Security Agreement*”), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other “Collateral” defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the “*Secured Obligations*”). The Loan Agreement and the Security Agreement are referred to herein as the “*Security Documents*.”~~

**AGREEMENTS**

~~**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:~~

~~1. \_\_\_\_\_ Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower’s right, title and interest in and to the Assigned Agreement.~~



2. Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller's rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge

or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_ If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

\_\_\_\_\_ If to Lender:

\_\_\_\_\_ With a copy to:

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

~~Transmission Agreement~~

~~FERC Qualifying Facility Self-Certification~~

~~As Built Operating One Line Diagram~~

~~As Built Operating 12x24 Generation Profile~~

~~As Built Average Annual Degradation Percentage (only applicable for Solar QFs)~~

## EXHIBIT E

### START-UP TESTING

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing only.]

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

1. Pressure tests of all steam system equipment;
2. Calibration of all pressure, level, flow, temperature and monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Insulation resistance and point-to-point continuity tests;
6. Bench tests of all protective devices;
7. Tests required by manufacturer of equipment; and
8. Complete pre-parallel checks with PGE.

Required start-up tests are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

1. Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
2. Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Stator windings dielectric test;
7. Armature and field windings resistance tests;
8. Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
9. Heat runs;
10. Tests required by manufacturer of equipment;
11. Excitation and voltage regulation operation tests;
12. Open circuit and short circuit;
13. Saturation tests;
14. Governor system steady state stability test;
15. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
16. Auto stop/start sequence;
17. Level control system tests; and
- ~~18.~~ Completion of all state and federal environmental testing requirements.



**EXHIBIT F**  
**SCHEDULE 201**

[Attach Schedule 201]



**EXHIBIT G**

**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**

**EXHIBIT H**

[Attach negotiated prices for Option B – Solar Standard Terms and Negotiated Price Agreement]

**STANDARD ON-SYSTEM NON-VARIABLE  
POWER PURCHASE AGREEMENT  
BETWEEN  
[COUNTERPARTY NAME]  
AND  
PORTLAND GENERAL ELECTRIC COMPANY**

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Exhibits

Exhibit A	Description of Facility
Exhibit B	Seller's Interconnection Facilities and <del>Delivery</del> <u>Transmission</u> Attributes
Exhibit C	Seller's Net Output Estimates
Exhibit D	<u>Collateral Assignment and Consent Agreement Form</u> <del>Required Facility</del>
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Exhibit F	Schedule 201
<u>Exhibit G</u>	<u>Illustrative Examples of Payment and Lost Energy Value Calculations</u>

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**STANDARD ON-SYSTEM NON-VARIABLE  
POWER PURCHASE AGREEMENT**

This STANDARD ON-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT (“**Agreement**”) is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] (“**Seller**”) and Portland General Electric Company, an Oregon corporation (“**PGE**”) (hereinafter each a “**Party**” and collectively, “**Parties**”).

**RECITALS**

A. [New QF] ~~Seller is a New QF and~~ intends to construct, own, operate and maintain a ~~\_\_\_\_\_ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in Exhibit A and Exhibit B (“Facility”).~~

~~A. [Existing QF] Seller New QF is an Existing QF and owns and intends to operate and maintain a \_\_\_\_\_ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in Exhibit A and Exhibit B (“Facility”).~~

~~A. [Existing QF] Seller owns and intends to operate and maintain an Existing QF \_\_\_\_\_ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in Exhibit A and Exhibit B.~~

B. Seller intends to operate the Facility as a “Qualifying Facility,” as that term is defined in the ~~FERC Federal Energy Regulatory Commission~~ regulations codified at 18 CFR Part 292.

C. Seller wishes to sell and PGE is willing to purchase the Net Output from the Facility, subject to and in accordance with the terms and conditions of this Agreement, ~~and Seller wishes to provide energy and capacity pursuant to this Agreement.~~

**AGREEMENT**

NOW, THEREFORE, the Parties agree as follows:

**ARTICLE 1: DEFINITIONS AND CONTRACT INTERPRETATION**

1.1 Defined Terms.

For all purposes of this Agreement, the following terms shall have the following meanings:

“Adjusted Delivered Net Output” means, for any given period, Net Output delivered as Firm Energy to the Delivery Point during the period *plus* Net Output that would have been delivered as Firm Energy to the Delivery Point during any period in which Seller was excused from its delivery obligations due to a Force Majeure Event, based on the Estimated Monthly Average Net Output set forth in Exhibit C (pro-rated for partial months as applicable).

“Affiliate” means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller, ~~or that shares~~

~~management or that acts jointly or in concert with or exercises influence over the policies or actions of Seller.~~ For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

“**Agreement**” means this Standard On-System Non-Variable Power Purchase Agreement and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

“**Alternative Minimum Net Output**” has the meaning set forth in **Exhibit C**.

“**Ancillary Services**” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services.” ~~” including energy imbalance services, generation imbalance services, regulation and frequency response services, reactive supply services, voltage control services, inadvertent energy flow services, control area services, system integration services, operating spinning reserve services, and operating supplemental reserve services.~~

~~“**API**” means Application Program Interface.~~

“**Applicable Law**” means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

“**As-built Supplement**” means a supplement to **Exhibit A** and **Exhibit B** provided by Seller in accordance with Section 2.2 following completion of construction of the Facility, or modifications to the Facility, which describes the Facility as actually built.

“**Balancing Authority**” means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to ~~in which~~ the Facility ~~is located~~.

“**Bankrupt**” means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, or (iii) otherwise becomes bankrupt or insolvent (however evidenced), ~~(iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they become due.~~

“**Billing Period**” means one calendar month.

“**Business Day**” means any day other than Saturday, Sunday or the following holidays: New Year’s Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.

~~“**Billing Period**” means a period during the Delivery Period between PGE’s readings of its power purchase billing meter at the Facility in the normal course of PGE’s business. Such periods may vary and may not coincide with calendar month; however, PGE shall use best efforts to read the power purchase billing meter in 12 equally spaced periods per year.~~

~~“CAISO EIM” means the California Independent System Operator Energy Imbalance Market or any successor thereto.~~

~~“Capacity Attributes” means any current or future attribute, as may be currently defined or otherwise defined in the future, including but not limited to a characteristic, certificate, tag, credit, ancillary service or attribute thereof, or accounting construct, associated with the electric generation capability and capacity of the Facility or the Facility’s capability and ability to produce or curtail energy, including any attribute counted towards any current or future resource adequacy or reserve requirements. Notwithstanding any other provision of this Agreement, “Capacity Attributes” do not include: (i) tax credits, deductions, or tax benefits associated with the Facility, or (ii) any state, federal, local, or private cash payments or grants relating in any way to the Facility or the Net Output.~~

“Cash Escrow” means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller’s placement of cash in the custody of the escrow agent for delivery to PGE after the fulfillment of any of the conditions specified in Section 98.2. Amounts in the Cash Escrow shall earn interest at the rate applicable to money market deposits at escrow agent.

“Claims” means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.

“Commercial Operation” has the meaning given to it in Section 2.45.

“Commercial Operation Date” has the meaning given to it in Section 2.56.

“Commission” means the Public Utility Commission of Oregon.

“Contract Price” means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under the Non-Renewable Fixed Price Option for \_\_\_\_\_ *[specify applicable Non-Renewable Fixed Price Option based on resource type, in accordance with Schedule F]* as published in the Schedule and attached as **Exhibit F**, and thereafter, for the remainder of the Term, the Daily Market Index Price in effect during the interval when the energy is generated.

“Contract Year” means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time (“PPT”) on January 1 and ending at 24:00 hours PPT on December 31; *provided, however*, that the first Contract Year shall commence on the Commercial Operation Date and end on December 31<sup>st</sup> of the calendar year in which the Commercial Operation Date occurs, and the last Contract Year shall end on the last day of the Term.

“Credit Support” has the meaning given to it in Section 8.1.

“Creditworthiness Requirements” has the meaning given to it in Section 7.1.6.

~~“Daily Market Index Price” means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak~~



Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>. In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Point of Interconnection.

“**Delay Damages**” has the meaning given to it in Section 2.67.

“**Delivery Period**” has the meaning given to it in Section 3.1.

~~“**Delivery Point**” means the high side of the generation step up transformer(s) located at the point of interconnection between the Facility and PGE's distribution or transmission system, where the Parties have agreed that Seller will deliver energy to PGE from the Facility, as specified in Exhibit B and the Interconnection Agreement.~~

“**Effective Date**” has the meaning given to it in Section 2.1.

“**Estimated Annual Average Net Output**” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“**Estimated Annual Maximum Net Output**” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“**Estimated Monthly Average Net Output**” means the relevant amounts specified in ~~the table in~~ Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“**Estimated Monthly Maximum Net Output**” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“**Existing QF**” means a QF that (1) is or has been operational before the Effective Date of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party.

“~~Expiration Date~~**Facility**” has the meaning given to it in Section 2.1.

“**Facility**” is the entire facility as specified in Exhibit A and Exhibit B ~~Recitals~~.

“**Facility Nameplate Capacity Rating**” means the sum of the Nameplate Capacity Ratings for all ~~Generation Units~~ ~~Generators~~ comprising the Facility.

“**FERC**” means the Federal Energy Regulatory Commission or any successor government agency.

“**Force Majeure**” or “**Force Majeure Event**”~~“**Generation Forecast**”~~ has the meaning given to it in Section ~~12.1.3.4~~.

~~“**Generation Unit**” means each separate electrical Generator of the Facility that contributes to the Specified Facility Nameplate Capacity Rating included in Exhibit A.~~

“**Generator**” means the electrical component within the Facility measured in kW that converts mechanical energy ~~radiation~~ into electrical energy.

“Generation Unit” means a complete electrical generation system within the Facility that is able to generate and deliver energy to the Point of Interconnection independent of other Generation Units within the same Facility.

–“Governmental Authority” means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

“Interconnection Agreement” means an agreement between PGE and Seller governing the interconnection of the Facility with PGE’s electric system, ~~having a term ending no earlier than the expiration date of this Agreement.~~

~~“Interconnection Rating” means the Facility capacity rating specified in the Interconnection Agreement, or, if no Interconnection Agreement exists, in the application seeking interconnection.~~

“kW” and “kWh” mean kilowatt and kilowatt hour, respectively.

“Lender” means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.

“Letter of Credit” means an irrevocable standby letter of credit from an institution selected by the Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

“Licensed Professional Engineer” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in 2.4.2, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.

“Lost Energy” means (in kWh): ~~either~~

- A. In connection with a Facility after the Commercial Operation Date, if Seller fails to meet the Minimum Delivery Guarantee, then with respect to a Contract Year given period, an amount equal to the Minimum Net Output ~~delivered to the Delivery Point less the~~ Adjusted Delivered Net Output ~~for the period~~; or
- B. In connection with a Facility that does not establish the Commercial Operation Date on or before the ~~Commercial Operation Date, if the Seller fails to meet the~~ Scheduled Commercial Operation Date, the ~~sum of the~~ Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see Exhibit C) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual

Commercial Operation Date or contract termination pursuant to Section 9. The Estimated Monthly Average Net Output ~~shall~~may be pro-rated for any partial months; or

- C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 9 of this Agreement because of Seller's~~for~~ default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month from the date of termination through the end of the Tterm. The Estimated Monthly Average Net Output ~~shall~~may be pro-rated for any partial months.

“Lost Energy Value” means:

A. In connection, with Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly~~respect~~ to each calendar month in the Contract Year and then allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in Exhibit C (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the~~given~~ period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours~~an amount calculated as follows:~~ Lost Energy for each~~the~~ applicable calendar month (or partial calendar month) in the Contract Year~~period~~ multiplied by (the (applicable~~greater of zero (0) or the~~ Replacement Price for On-Peak Hours~~the period less the time-weighted average of the~~ Contract Price for On-Peak Hours for the same period); and
- The Off-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year multiplied by the (applicable Replacement Price for Off-Peak Hours less the Contract Price for Off-Peak Hours for the same period).

If the above calculation of the Lost Energy Value for the Contract Year results in a negative value, the Lost Energy Value for the Contract Year shall be deemed zero. See the example calculation in Exhibit G.

In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during which Seller has failed to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below)~~for the period),~~ plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) shall not exceed the Contract Price for On-Peak Hours for the same period; and
- The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.

If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in Exhibit G.

- B. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for On-Peak Hours for the period *less* the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for Off-Peak Hours for the period *less* the Contract Price for Off-Peak Hours for the period); and
- Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in Exhibit G.

~~“Market Index Price” means the applicable Powerdex hourly Mid-Columbia Index price for firm energy at the time the energy is delivered. In the event Powerdex no longer publishes this index or PGE elects to use nodal pricing, PGE will select an alternative successor index or other published pricing (or~~

~~independent system operator or regional transmission organization settlement pricing) representative of the Delivery Point.~~

~~“Minimum **Delivery Guarantee**” has the meaning **Net Output**” means, for a given to it in Section 3.3.~~

~~“Minimum **Net Output**” means, for a Contract Year period, seventy-five percent (75%) of the Estimated Annual Average expected Net Output from the Facility for the period, based on the expected Net Output of the Facility for that period as set forth in Exhibit C (pro-rated for partial months as required for partial Contract Years and partial months, as applicable), unless Seller selects an Alternative Minimum Net Output consistent with the terms of Exhibit C of this Agreement (pro-rated for any period less than 12 calendar months), in which case the Minimum Net Output equals the selected Alternative Minimum Net Output, applicable).~~

“**Nameplate Capacity Rating**” means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.

“**NERC**” means the North American Electric Reliability Corporation.

~~“Net Available Capacity” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Ppoint of Iinterconnection continuously for at least sixty (60) minutes,; which is equivalent to the lesser of: (1) the Specified Facility Nameplate Capacity Rating, or (2) the Intereconnection Rating, in either case less station service (parasitic power and electrical losses).~~

“**Net Output**” means all energy, expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the Point of Interconnection.

“**New QF**” means any QF that is not an Existing QF.

~~“Off-Peak Hours” means all hours other than has the meaning provided in the Schedule.~~

~~“On-Peak Hours” has the meaning provided in the Schedule.~~

~~“On-Peak Hours” means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.~~

“**Person**” means any individual, corporation, a limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.

“**Planned Maintenance**” means outages scheduled 90 calendar days in advance, with PGE’s prior written notice to PGE consent, which shall not be unreasonably withheld.

~~“Point of Interconnection” means the point of interconnection between the Facility and PGE’s system, as specified in Exhibit B.~~

“**Prime Rate**” means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

“**Product**” means, each and together, as a single bundled product, Net Output together with all associated ~~capacity~~ Capacity Attributes.

“**Prudent Electrical Practices**” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the WECC that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all Applicable Law. Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

“**PURPA**” means the Public Utility Regulatory Policies Act of 1978.

“**Qualifying Facility**” has the meaning set forth in the Recitals.

“**Reliability Entity**” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

“**Replacement Price**” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at the Mid-Columbia trading hub ~~which PGE, acting in a commercially reasonable manner, purchases for delivery at the Delivery Point replacement energy~~ for any Net Output that Seller fails to deliver as required under this Agreement.

~~When PGE elects not to make such a purchase,~~ the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Delivery Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices shall be calculated as follows for each applicable calendar month (or partial calendar month):

- For Lost Energy During On-Peak Hours: the hourly average of the on-peak Daily Market Index Prices for a given period shall be the applicable calendar month (greater of zero (0) or partial calendar month).



- ~~For Lost Energy During Off-Peak Hours: the hourlytime weighted average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).~~

~~When the Replacement Market Index Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 9, the Replacement Price shall be the respective On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices for On-Peak Hours and Off-Peak Hours during the applicable period.~~

“**Required Facility Documents**” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as, including the Interconnection Agreement, ~~and those set forth in Exhibit D.~~

“**Schedule**” means PGE’s Schedule 201 filed with the Commission and in effect on the date that Seller delivers to PGE an executed copy of this Agreement, ~~the terms of which are hereby incorporated by reference.~~ For ease of reference and informational purposes only, a copy of the Schedule is attached hereto as **Exhibit F**; however, if there is any difference between **Exhibit F** and the Schedule, the terms of the Schedule shall apply and prevail.

“**Scheduled Commercial Operation Date**” has the meaning given to it in Section 2.67.

“**Senior Lien**” means a prior lien ~~that~~which has precedence as to the property under the lien over another lien or encumbrance.

“**Specified Facility Nameplate Capacity Rating**” means the Facility Nameplate Capacity Rating set forth in **Exhibit A**, as it may be amended from time to time in accordance with this Agreement.

“**Start-Up Testing**” means the ~~performance completion~~ of applicable ~~required factory and~~ start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in **Exhibit E** (as it may be updated by Seller) during the Test Period.

“**Step-in Rights**” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.

“**Term**” has the meaning given to it in Section 2.1.

“**Test Energy**” means electric energy generated by the Facility during the Test Period, ~~and all RECs and Capacity Rights associated with such electric energy.~~

“**Test Period**” means a period ~~of no more than sixty (60) calendar days~~, during which Start-Up Testing is to be conducted.

“**WECC**” means the Western Electricity Coordinating Council or any successor thereto.

~~“**WECC Pre-Scheduling Day**” means the WECC Pre-Scheduling Day prior to the delivery day or day(s) as defined by the most recent WECC Pre-Schedule calendar. For example, Thursday is typically the WECC Pre-Scheduling Day for delivery days of Friday and Saturday.~~

## 1.2 Interpretation.



In this Agreement, references to Recitals, Sections, and Exhibits are references to the recitals, sections and exhibits of this Agreement. The article and section headings in this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms “includes” or “including” mean “includes but is not limited to” and “including but not limited to,” respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in this Agreement in accordance with such recognized meanings.

## ARTICLE 2: TERM; FACILITY; COMMERCIAL OPERATION

### 2.1 Term.

The term of this Agreement (“**Term**”) commences on the date this Agreement is signed by both Parties (“**Effective Date**”) and ends on the earlier of \_\_\_\_\_ [Seller-selected date or fixed-interval period of time] \_\_\_\_\_, 20\_\_ [date that is no more than 20 years from the Scheduled Commercial Operation Date] (“**Expiration Date**”) or the date on which this Agreement is terminated pursuant to the terms of the Agreement.

### 2.2 Construction of the Facility.

2.2.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE’s system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement. Seller shall, at its sole cost, design and construct the Facility and; obtain all ~~necessary~~ interconnection rights, ~~and make or cause to be made all necessary modifications to PGE’s system~~ to enable the delivery of energy from the Facility to the ~~Delivery~~ Point of Interconnection, all in compliance with this Agreement, the Required Facility Documents, and Prudent Electrical Practices.

~~Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement ~~may~~ must be reviewed ~~and approved~~ by PGE, which ~~review~~ approval shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE’s information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section 6.3-4.~~

### ~~2.3 Seller’s Responsibility for Costs.~~

~~Seller is responsible for all costs associated with the study or construction of necessary modifications and upgrades to the Facility or PGE’s system related to the delivery of energy from the Facility to the Delivery Point, or any increase in the Facility Nameplate Capacity Rating or the generating capability of the Facility. Without limiting the generality of the foregoing: PGE will evaluate available delivery capability on PGE’s transmission system between the Delivery Point and PGE’s load that is required to enable PGE to accept delivery of the Facility’s Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to PGE’s designated sink point. If PGE determines that sufficient delivery capability exists on PGE’s transmission system, PGE will arrange for, be responsible for, and make available transmission service on PGE’s transmission system from the Delivery Point to the designated sink~~

~~point. If PGE determines that insufficient delivery capability exists on PGE's transmission system, Seller will be responsible for (i) obtaining and paying for necessary transmission studies and paying for any transmission upgrades necessary to enable PGE to accept deliveries of Net Output from the Facility and to effectuate delivery from the Delivery Point to PGE's designated sink point, or (ii) paying for any necessary transmission service from Transmission Providers to effectuate delivery from the Delivery Point to PGE's designated sink point. If any upgrades to PGE's system are identified pursuant to part (i), PGE and Seller shall enter into a separate agreement to establish the terms under which PGE shall arrange for and Seller will pay for such upgrades; provided, however, that if the costs of such upgrades is reasonably projected to exceed One Hundred Thousand Dollars (\$100,000), Seller may terminate this Agreement by providing written notice to Buyer, unless, within thirty (30) days after Buyer receives such notice, Buyer agrees in its sole discretion to bear costs in excess of that amount. After all necessary upgrades have been completed in accordance with Prudent Electrical Practices, PGE will arrange for, be responsible for, and make available transmission service from the Delivery Point to the designated sink point.~~

#### 2.42.3 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with Exhibit E (as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility),<sup>5</sup> and shall provide written notice to PGE when the Start-Up Testing has been successfully completed. Seller must provide no less than one (1) business~~ten (10) working~~ days' written notice to PGE prior to the commencement of Start-Up Testing.~~If it is necessary for Seller to schedule and must provide PGE ten (10) business day's written notice prior to commencing sales of deliver~~ Test Energy to PGE. ~~PGE in order to complete Start-Up Testing, Seller may do so pursuant to the scheduling procedures set forth in Section 3.4, but shall compensate the Seller for delivered~~not be entitled to compensation from PGE for Test Energy in accordance with Section 4.1.1.~~Seller shall pay any costs or additional expenses that are required for PGE to receive Test Energy, including procurement of any necessary capacity costs or reserves.~~ This Section 2.34 does not apply if the Facility is an Existing QF unless the Existing QF elects to conduct Start-Up Testing.

#### 2.52.4 Commercial Operation.

"**Commercial Operation**" will be achieved when the Facility is fully constructed and determined by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have occurred:

2.5.12.4.1 If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with Exhibit E, and PGE has received Seller's written certification of completion of Start-Up Testing.

2.5.22.4.2 PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that the Facility is interconnected and operational~~interconnection has been completed~~ in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.

~~2.5.3~~2.4.3 PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE's reasonable satisfaction, which may include equipment specifications.

~~2.5.4~~2.4.4 PGE has received a ~~letter~~certificate addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement, and any other Required Facility Documents requested by PGE.

~~2.5.5~~2.4.5 PGE has received the following documents with respect to the Facility: the As-built Supplement, including but not limited to an electrical single-line diagram, a 12x24 estimated net energy profile, and a 8760 net energy production estimate.

~~2.5.6~~2.4.6 PGE has received copies of all insurance certificates required under Section 11.~~12~~.

~~2.5.7~~2.4.7 PGE has received any Credit Support required under Section 8.1.

#### 2.6~~2.5~~ Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section 2.~~45~~, Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, including but not limited to information required in Exhibit A and Exhibit B. PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, provided that PGE shall not unreasonably withhold such certification. The date of Seller's notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the "**Commercial Operation Date**" for all purposes under this Agreement.

#### 2.7~~2.6~~ Scheduled Commercial Operation Date.

By no later than \_\_\_\_\_ ("**Scheduled Commercial Operation Date**"), Seller shall have completed all requirements under Section 2.4 and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE's negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE's negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before Seller guarantees that Commercial Operation shall occur no later than \_\_\_\_\_, 20\_\_ ("**Scheduled Commercial Operation Date**"). If Commercial Operation does not occur by the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay for the period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date ("**Delay Damages**"). If Commercial Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section 9.~~32~~.

2.8.2.7 Status of the Facility.

~~2.8.2.7.1~~ Seller shall construct and operate the Facility so as to ensure its status as a Qualifying Facility and in a manner consistent with its FERC Qualifying Facility certification. At any time during the Term, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE's request, ~~(i) a written legal opinion from an attorney who is in good standing in the state of Oregon and is not employed by a Person having an economic interest in the Facility stating that the Facility is a Qualifying Facility, and (ii)~~ documentation acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility.

~~2.8.2.7.2~~ Seller shall not make any changes in its ownership, control or management that would cause the Facility to fail to satisfy the eligibility requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement. Seller shall provide upon request by PGE, not more frequently than every 36 months, any documentation and information as may be reasonably requested by PGE to establish Seller's continued compliance with the applicable eligibility requirements such definition. PGE shall take reasonable steps to maintain the confidentiality of any such documentation and information that Seller identifies as confidential, provided that PGE may provide all such information to the Commission upon the Commission's request.

**ARTICLE 3: DELIVERY AND SALE OF ENERGY; SCHEDULING**

3.1 Delivery and Sale of Energy.

Except as otherwise provided in this Agreement, commencing on the Commercial Operation Date and continuing until the end of the Term (the "**Delivery Period**"), Seller shall deliver and sell and PGE shall receive and purchase all of the Net Output delivered at the ~~Delivery Point of Interconnection.~~ ~~Notwithstanding the foregoing, Seller shall not deliver and PGE shall not be obligated to receive or purchase energy delivered at a rate, on an hourly basis, greater than the Net Available Capacity.~~ Title and risk of loss related to the Product shall transfer from Seller to PGE at the ~~Delivery Point of Interconnection.~~

3.2 Estimated Net Output.

Seller's good faith, commercially reasonable estimate of the Facility's ~~average~~ monthly and annual average and maximum Net Output during the Delivery Period, and Seller's basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in **Exhibit C, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section 6.3.** Seller acknowledges that PGE will use these estimates in its resource planning and for purposes of determining the Minimum Delivery Guarantee, ~~described in Section 3.3.~~

3.3 Minimum Delivery Guarantee.

~~Seller hereby~~ guarantees that it will deliver to PGE from the Facility, for, during each Contract Year, ~~the Adjusted Delivered~~ Net Output equal to or greater than ~~shall be no less than~~ the Minimum Net Output, pro-rated for any partial years. This guarantee is referred to in this Agreement as ~~(the~~ "**Minimum**

~~Delivery Guarantee.” 2). As damages for Seller’s failure to satisfy the Minimum Delivery Guarantee in any Contract Year, Seller shall owe PGE the Lost Energy Value for such Contract Year.~~

### ~~3.4 — Forecasting and Scheduling~~

~~[[This section is being revised to account for forecasting and scheduling requirements associated with participation in the California Independent System Operator Energy Imbalance Market. The revised provision will be provided in advance of a workshop that will include this topic]]~~

### ~~3.53.4 Loss of Interconnection and Curtailment.~~

PGE shall not be liable to Seller and shall have no obligation to purchase the Product from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the extent that, due to the action of a Reliability Entity, ~~an event of Force Majeure Event~~, or PGE’s construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility to the electric system is disconnected, suspended or interrupted, or (ii) generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller’s control.

### ~~3.6 — Carbon Emissions.~~

~~Seller is responsible for and shall pay for all future costs, if any, whether incurred by Seller or PGE, resulting from any carbon emissions generated by or associated with the Product delivered by Seller to the Delivery Point in accordance with this Agreement. Seller may provide PGE with carbon emissions offsets that are reasonably satisfactory to PGE in lieu of a monetary settlement. Within fifteen (15) business days after PGE’s request, Seller shall provide PGE with the carbon emissions data for the Product that is delivered during the Delivery Period.~~

## ARTICLE 4: PRICE, BILLING AND PAYMENT

### 4.1 Prices and Payment for Delivered Product.

4.1.1 During the Delivery Period, PGE shall pay Seller an amount for Product delivered during a Billing Period calculated as follows: the Contract Price multiplied by Net Output (but not including energy delivered at an hourly rate in excess of the Net Available Capacity) delivered to the Delivery Point during the Billing Period. An illustrative example is provided in Exhibit G. , multiplied by the Contract Price.

4.1.2 Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy multiplied by the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.

4.1.24.1.3 Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.

### 4.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.



By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE ~~will in the ordinary course~~ shall deliver to Seller an invoice showing PGE's computation ~~(and supporting data) of the Lost Energy Value, if any.~~ No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE to PGE in respect thereof for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the preceding calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in Exhibit G.

#### 4.3 Invoicing and Payment for Lost Energy Value Related to Minimum Delivery Guarantee.

~~If Seller fails to satisfy the Minimum Delivery Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following the end of the Contract Year, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar. No later than ten (10) days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future energy deliveries by the amount of such Delay Damages.~~

#### ~~4.3 Invoicing and Payment for Lost Energy Value.~~

~~If Seller fails to satisfy the Minimum Delivery Guaranty during any Contract Year, on or before the thirtieth (30th) day following the end of such Contract Year, PGE shall deliver to Seller an invoice showing PGE's computation of any deficit in the guaranteed amount. Thereafter, the amount payable by PGE for future deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period of such reduction (not to exceed one year) so as to minimize the risk of Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.~~

#### 4.4 Form of Payment and Interest on Late Payments.

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.

#### 4.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.

## ARTICLE 5: METERING

### 5.1 Metering Equipment and Location.

5.1.1 PGE shall design, furnish, install, own, inspect, test, maintain and replace all metering equipment at Seller's cost and as required pursuant to the Interconnection Agreement.

~~Metering shall be performed at the location and in a manner consistent with this Agreement and, as specified in the Exhibit B. Seller shall provide to PGE all information regarding Interconnection Agreement. All Net Output purchased hereunder shall be adjusted to account for electrical losses, if and any, between the point of metering and the Point of Interconnection, so that the purchased amount reflects the net amount of power flowing into PGE's system at the Point of Interconnection other energy purchased under this Agreement in hourly increments. Seller shall provide PGE with a real time ICCP and EIDE communications link to the Facility metered output.~~

### 5.2 Meter Installation, Inspection and Correction.

~~Buyer, at Seller's cost, shall arrange, design, furnish, install, own, inspect, test, and maintain metering equipment for the Facility in accordance with Prudent Electrical Practices. PGE shall periodically inspect, test, repair and/or replace the metering equipment as provided in the Interconnection Agreement, at Seller's cost, and provide such results to Seller upon Seller's request. If any of the inspections or tests discloses/reveal an error exceeding two (2%) percent of the actual energy delivery, (2.0%), either fast or slow, appropriate correction, based upon the inaccuracy found, shall be made of with respect to previous readings for the actual period during which the Facility metering equipment rendered inaccurate measurements if that (such period can be ascertained, not to exceed six (6) months). If the actual period of inaccuracy cannot be ascertained, the proper correction shall be made to the measurements taken during the time since the metering equipment was in service since last tested, but not exceeding provided that such period shall not exceed three (3) months, in the amount the metering equipment shall have been shown to be in error by such test.- Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered.- Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of such the metering inaccuracy of metering equipment.-~~

### 5.3 Metering Costs.

To the extent not otherwise provided in the Interconnection Agreement, all of PGE's costs relating to all metering equipment installed to accommodate Seller's Facility shall be borne by Seller.

## ARTICLE 6: OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES

### 6.1 Seller's Duty to Operate and Maintain the Facility.

6.1.1 Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.-



6.1.2 Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide ~~upon request~~ copies of the same to PGE upon request.

## 6.2 Outages.

6.2.1 On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with ~~an annual~~ schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the ~~Specified generating capacity of the~~ Facility Nameplate Capacity Rating for ~~twenty-four (24) two (2)~~ or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of Section ~~13.13. 13.13.~~ ~~Seller shall use commercially reasonable efforts to plan scheduled activities (i) to maximize the productive output of the Facility, and (ii) not to occur between July 1 and September 30 or between December 1 and February 28 of any calendar year.~~

6.2.2 ~~Seller shall give PGE immediate telephonic notice (within twenty minutes) of any such events that will curtail or adversely affect scheduled or forecasted Product deliveries. Such notice must include a description of the cause of the outage, the resulting change in capacity, and an estimate of the duration of the outage. Seller shall provide PGE regular and frequent updates regarding any changes of status set forth in the initial notice, and shall notify PGE's Real Time Desk when the Facility is ready to return to service. Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable best efforts to avoid or mitigate outages during PGE's system emergencies. PGE may, after providing written notice to Seller, make commercially reasonable changes to the means by which Seller provides notice pursuant to this subsection 6.2.2 of this Agreement.~~

## 6.3 Facility Upgrades.

6.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

~~6.3.1~~ 6.3.2 At any time after the Commercial Operation Date upon at least six months<sup>2</sup> prior written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in **Exhibit C**, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in **Exhibit C** for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

6.3.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section 6.3.1 or Section 6.3.2 that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend **Exhibit A** and **Exhibit C** as appropriate to reflect the modifications.

~~6.3.26.3.3~~ -So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 10,000 kW, then Seller will continue to receive the Contract Price for all delivered Net Output.

~~6.3.36.3.4~~ If Seller increases the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 10,000 kW, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 10,000 kW, consistent with then-current Applicable Law, provided that the new power purchase agreement must be a negotiated agreement under Schedule 202.

## ARTICLE 7: REPRESENTATIONS AND WARRANTIES

### 7.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

7.1.1 Seller is a \_\_\_\_\_ duly organized and in good standing under the laws of the state of incorporation or formation.

7.1.2 The execution, delivery and performance of this Agreement are within Seller's powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

7.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

7.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

7.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

7.1.6 Either Seller satisfies the requirements set forth in Section ~~7.1.6.1 through 7.1.6.37.1.6.1 through 7.1.6.4~~ below (the "**Creditworthiness Requirements**"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section 8.1.

7.1.6.1 ~~Neither Seller nor any of its principal equity owners is not and/or~~ has not been Bankrupt within the past two (2) years, and there are no proceedings pending or being contemplated by ~~Sellerthem~~ or, to Seller's knowledge, threatened against ~~Sellerthem~~ that would result in ~~Sellerthem~~ being or becoming Bankrupt.

7.1.6.2 Seller is not in default under any of its material agreements and is current on all of its financial obligations, including construction-related financial obligations.

7.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

~~7.1.6.4 If the Facility has a Specified Facility Nameplate Capacity Rating greater than 3,000 kW, Seller has a senior, unsecured long term debt rating (or corporate rating if such debt rating is unavailable) of (i) "BBB" or greater from S&P, or (ii) "Baa3" or greater from Moody's, and if such ratings are split, the lower of the two ratings must be at least "BBB" or "Baa3" from S&P or Moody's, respectively, or other indicia of creditworthiness satisfactory to PGE in its reasonable judgment.~~

7.1.7 No later than the Commercial Operation Date, Seller ~~will possess~~possesses a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

7.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

7.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

7.1.10 Seller has the right to sell the Product to PGE free and clear of liens ~~or~~of encumbrances.

## 7.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

7.2.1 It is a corporation duly organized under the laws of Oregon.

7.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

7.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

7.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

7.2.5 It is not and has not been Bankrupt within the past two (2) years ~~been Bankrupt~~ and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

7.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

7.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article ~~7~~8 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

## ARTICLE 8: CREDIT SUPPORT

8.1 Required Credit Support.

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall immediately notify PGE in writing and shall promptly (and in no less than ten (10) ~~business~~~~calendar~~ days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). ~~In~~ ~~in each case,~~ ~~the in an amount of Credit Support required shall be~~ calculated as follows: (aggregate number of On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the weighted average Contract Price for On-Peak Hours – the weighted average Contract Price for Off-Peak Hours) x (Net Available Capacity). The amount of Credit Support required shall be updated annually, on the anniversary of the month Credit Support was first required to be provided. The updated amount of Credit Support shall be calculated for each subsequent 12-month period, consistent with the calculation described in this Section. ~~(the "Credit Support"):~~

~~(i) — the net present value of the following amount: the forward power prices at Mid-Columbia for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term), as determined by PGE in good faith using information from a commercially reasonable independent source (e.g., indicative of the most relevant ICE forward price curve for the Mid-Columbia), multiplied by one hundred and ten percent (110%), multiplied by aggregate Minimum Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term); less~~

~~(ii) — the net present value of: the average of the fixed prices specified in the Schedule for both On-Peak Hours and Off-Peak Hours, multiplied by aggregate Minimum Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term).~~

~~To calculate net present value for purposes of this Section, the Parties shall use the Bloomberg "S23 Corp" (Bloomberg ID "YCSW0023") interest rate swap cure as the discount rate.~~

~~Notwithstanding the foregoing, the amount of Credit Support shall in no event be less than the amount equal to the payments PGE would make for three (3) average months based on Seller's average monthly volume over the term of this Agreement and utilizing the average fixed prices specified in the Schedule.~~

If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.

Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its reasonable discretion, grant an exception to the requirements to provide default security if the Seller has negotiated financial arrangements with the Lendereconstruction loan lender that mitigate Seller's financial risk to PGE.

#### 8.2 Right to Draw on Credit Support.

At any time after the occurrence and during the continuation of an Event of Default, or upon an early termination of this Agreement by PGE pursuant to Section 9.39.2, PGE may draw on Seller's Credit Support to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the Credit Support during the Term, PGE shall inform Seller within fifteen (15) business days, and Seller shall promptly, and in no ~~event~~ more than fifteen (15) business days following notice from PGE, restore the Credit Support to the amount required under Section 8.1. However, for avoidance of doubt, Seller shall have no obligation to replenish the Credit Support if PGE has terminated the Agreement.

### ARTICLE 9: DEFAULT, REMEDIES AND TERMINATION

#### 9.1 Events of Default.

An "**Event of Default**" means, with respect to a Party, the occurrence of any of the following unless otherwise excused under this Agreement:

9.1.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;

9.1.2 any representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;

9.1.3 the failure of a Party to perform any material covenant or obligation set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party explaining gives the circumstances supporting defaulting Party notice of the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;

9.1.4 with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

9.1.5 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement at any time during the term of this Agreement;

9.1.6 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

9.1.7 with respect to Seller, Seller fails, for any two or more consecutive Contract Years to satisfy the Minimum Delivery Guarantee;

9.1.8 with respect to Seller, Seller fails to establish the Commercial Operation Date does not occur on or before the first anniversary of the Scheduled Commercial Operation Date. Seller shall have one (1) year to cure default under this Section 10.1.9, during which time Seller shall pay PGE Delay Damages pursuant to the terms of Section 2.6 and Section 4.2.

#### 9.2 Lender's Right to Cure a Seller Event of Default.

Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under Section 13.13 of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement.

#### 9.29.3 Termination for Default.

If an Event of Default has occurred and is continuing, the non-defaulting Party may immediately terminate this Agreement at its sole discretion, and without the non-defaulting Party incurring any liability to the defaulting Party, by delivering written notice to the defaulting Party. In addition, the non-defaulting Party may pursue any and all other legal or equitable remedies available to it, including recovery of damages as set forth below. For avoidance of doubt, PGE's resource sufficiency or deficiency position has no bearing on PGE's right to terminate this Agreement under this Section.

#### 9.39.4 Damages.

If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value, with respect to the lesser of (i) twenty four (24) months following the date of termination or (ii) the period from the date of termination until the expiration date of this Agreement. Amounts owed by Seller pursuant to this Section shall be due within fifteen (15 five (5)) business days after any invoice from PGE for the same. Damages owing under this Section 10.4 shall be cumulative and in addition to damages owing pursuant to Sections 2.6, 4.2, 4.3 and 9.1.8. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.

#### 9.49.5 Payment of Outstanding Obligations.



If this Agreement is terminated pursuant to Section 9.39-2, then within thirty (30) calendar days of termination, PGE shall make all payments due and owing to Seller as of the time of receipt of notice of termination; provided that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section 9.49-3 or otherwise. PGE shall not be required to pay Seller for Product delivered by Seller after the effective date of any termination notice.

9.59.6 Post-Termination PURPA Status.

In the event (~~ix~~) PGE terminates this Agreement pursuant to this Article 910 or Seller terminates this Agreement without cause, and (~~iiy~~) Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, wishes to sell Net Output to PGE from the Facility following such termination, then PGE may, (but will not be obliged to) require that Seller, its Affiliate, or its successor do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to the terms of this Agreement, then Seller and PGE shall promptly execute a written document ratifying the terms of this Agreement. PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.

## ARTICLE 10: INDEMNIFICATION AND LIABILITY

### 10.1 Seller's Indemnity.

Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, including the delivery of energy to and at the Delivery-Point of Interconnection; (ii) Seller's development, construction, ownership, operation, maintenance, or decommissioning of the Facility; (iii) the violation of any law, rule, order or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.

### 10.2 PGE's Indemnity.

PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) PGE's receipt of energy under this Agreement after its delivery at the Delivery-Point of Interconnection; (ii) the violation of any law, rule, order or regulation by PGE or any of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure to perform any of PGE's obligations under this Agreement; (iv) PGE's breach of any representation or warranty set forth in this Agreement; or (v) PGE's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by Seller's breach of this Agreement or by the negligence or willful misconduct of Seller, its directors, officers, employees, agents or representatives.

### 10.3 No Dedication.



Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent Person.

10.4 Disclaimer of Consequential Damages.

**NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.**

**ARTICLE 11: INSURANCE**

11.1 Certificates of Insurance.

Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.

11.2 Required Insurance.

Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than "B+" by the A.M. Best Company the insurance coverage specified below:

11.2.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, ~~which limits may be required to be increased or decreased by PGE as PGE determines in its reasonable judgement, economic conditions or claims experience may warrant,~~ to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.

11.2.2 All Risk Property ~~I~~nsurance providing coverage in an amount at least equal to the full replacement value of the Facility against "all risks" of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk ~~P~~olicy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace

the damaged or destroyed Facility, or if the Facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers' rights of subrogation against PGE regarding Facility property losses.

### 11.3 Required Provisions.

11.3.1 The Comprehensive General Liability Policy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

11.3.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days' prior written notice to PGE.

11.3.3 Insurance coverage provided on a "claims-made" basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

## ARTICLE 12: FORCE MAJEURE

### 12.1 Definition of "Force Majeure."

As used in this Agreement, "**Force Majeure**" or "~~event of Force Majeure~~ **Event**" means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party's from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility's equipment, or ~~(viii) smoke, haze, ash or other obstruction of sunlight~~ (except to the extent such obstruction is caused by fires or volcanic eruptions).

### 12.2 Effect of Force Majeure.

If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such

obligation, provided that: (i) the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section ~~13.13~~~~13.13~~ of this Agreement describing the particulars of the occurrence; (ii) the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the non-performing Party uses commercially reasonable~~its best~~ efforts to remedy its inability to perform its obligations under this Agreement.

## ARTICLE 13: GENERAL PROVISIONS

### 13.1 Relationship of the Parties.

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such Party shall be jointly and severally liable for Seller's obligations under this Agreement.

### 13.2 No Third Party Beneficiaries.

This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

### 13.3 Governing Law.

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~~~which~~ may direct the application of the laws of another jurisdiction.

~~This Agreement is subject to the jurisdiction of those governmental agencies and courts having control over either party or this Agreement. The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.~~

### ~~13.4 Dispute Resolution.~~

~~Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement is subject to the jurisdiction of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, any complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute. ~~or governmental agency with jurisdiction over the dispute; provided, however, that any dispute within the jurisdiction of the Commission shall first be brought before the Commission, and each Party hereby irrevocably waives, to the fullest extent permitted by Applicable Law, any objection it may now or hereafter have to the initial jurisdiction of the Commission with respect to any such dispute.~~~~

~~The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of~~

initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

13.5 13.4 Severability.

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void as being contrary to any Applicable Law or public policy, all other terms of this Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the intent of the Parties to this Agreement.

13.6 13.5 Effect of PURPA Repeal.

The repeal of PURPA shall not result in the early termination of this Agreement unless such termination is mandated by state or federal law.

13.7 13.6 Waiver.

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

13.8 13.7 Survival.

Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.

13.9 13.8 Successors and Assigns.

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. Neither party may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that either party PGE may assign its rights or delegate its obligations, in whole or in part, without such consent and upon thirty (30) calendar days prior written notice to the other party Seller, to an entity that acquires all or substantially all of the business or assets of the assigning party PGE to which this Agreement pertains, whether by merger, reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective.

13.9 Financing Documents.

Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE’s collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and expense associated with PGE’s review and activities reasonably required under this Section 13.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE’s sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.

13.10 Entire Agreement; Amendments; Order of Precedence.

This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding the contents of the Agreement, including PGE’s purchase of energy from the Facility. No amendment or modification of this Agreement shall be effective unless it is in writing and signed by both parties. If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail.

13.11 Seller Release.

By executing this Agreement, Seller releases PGE from any ~~third party~~ claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

13.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

13.13 Notices.

All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.:

<b>Notices</b>	<b>PGE</b>	<b>Seller</b>
<b>Invoices</b>	<del>Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204</del>	
<b>Scheduling</b>	<del>By telephone: Merchant Real Time Desk (503) 464-8851</del>	
<b>Planned Outages</b>	<del>Balancing Authority Operator (503) 464-8650</del>	

Standard On-System Non-Variable Power Purchase Agreement  
Form Effective \_\_\_\_\_

	<del>Merchant Outage Coordinator Attn: Power Operations 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 (503) 464-7013</del>	
<del>Unplanned Outages</del>	<del>Merchant Real Time Desk (503) 464-8851</del>	
<del>Payments</del>	<del>Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 Energyinvoicing@pgn.com</del>	
<del>Wire Transfer</del>	<del>Bank Name: US National Bank of Oregon Routing Number: 123000220 Account Number: 153600043512</del>	
<del>Credit Support</del>	<del>Portland General Electric Attn: Credit Manager 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204</del>	
<del>All Other Notices</del>	<del>Portland General Electric C/O Attn: QF Contract Management 3WTC-0306 121 SW Salmon St. 3WTC0306 Portland, OR Oregon 97204</del>	
<del>Copy in the case of, Event of Default or Termination</del>	<del>Portland General Electric 121 SW Salmon St. 1WTC17 Portland, Oregon 97204 Attn: General Counsel</del>	

The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section 13.13.

*Signature Page Follows.*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(Name Seller)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**EXHIBIT A**

**FACILITY DESCRIPTION**

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

Seller's Facility consists of generators fueled by \_\_\_\_\_. ~~Specifically, each type generator at the Facility is described as:~~

~~**A. Generator Manufacturer's Nameplate Data:**~~

~~Make:~~

~~Model:~~

~~Rated Output (kW):~~

~~Number of Generators with Similar Attributes:~~

~~Facility Nameplate Capacity Rating: \_\_\_\_\_ kW~~

~~Net Available Capacity: \_\_\_\_\_ kW~~

~~Interconnection Rating: \_\_\_\_\_ kW~~

~~Identify and describe any differences between the Facility Nameplate Capacity Rating and the Net Available Capacity: \_\_\_\_\_~~

~~Station service requirements, and other loads served by the Facility, if any, are described as follows:~~

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

~~**B. Specified Facility Nameplate Capacity Rating \_\_\_\_\_ (kW) (calculated as the sum of the Nameplate Capacity Ratings for all Generators).**~~

~~**C: Location of the Facility:** The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_, with GPS coordinates of \_\_\_\_\_~~

The location is more particularly described as follows:

|  
[legal description of parcel]

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND TRANSMISSION ATTRIBUTES**

[Seller to provide diagram and description]

Description to include the following:

~~Point(s)~~

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section 6.3.2).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW ~~metering, including~~

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating type of meter(s) and the Net Available Capacity:

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Interconnection Rating: \_\_\_\_\_ kW (owner of the Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

---

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1. \_\_\_\_\_ meter(s)

2.1. \_\_\_\_\_ Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES**

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

Point of Interconnection (name of distribution feeder or transmission line):

\_\_\_\_\_

3. ~~\_\_\_\_\_~~ **The following information shall be provided in the As-built Supplement prior to Commercial Operation:**Point of Delivery

4. ~~\_\_\_\_\_~~ Transmission Provider(s)

5. \_\_\_\_\_

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):

\_\_\_\_\_  
\_\_\_\_\_

Specification of Point of Interconnection:

\_\_\_\_\_

**EXHIBIT C**

**SELLER’S NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of ~~Estimated~~~~expected~~ Monthly Average Net Output and Estimated Monthly~~and~~ Maximum Net Output during the Delivery Period, and the resulting Estimated Annual ~~Estimated~~-Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output, ~~Minimum Net Output~~ and Estimated Monthly Maximum Net Output  
(as measured at the Facility meter at the Point of Interconnection)**

Month	Estimated <u>Monthly</u> Average Net Output (kWh)		<del>Percentage</del> <del>Minimum</del> <u>Net Output (75% of</u> <u>Estimated Monthly</u> <u>Average Net Output</u> <u>That is On-Peak and</u> <u>Off-Peak</u> <u>(Total = 100%)</u> (kWh)		Estimated <u>Monthly</u> Maximum Net Output (kWh)	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
January						
February						
March						
April						
May						
June						
July						
August						
September						
October						
November						
December						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated ~~Annual~~ Average ~~Annual~~ Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Average Net Output)

Estimated Annual Maximum ~~Annual~~ Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Maximum Net Output)

**C.3. Alternative Minimum Net Output**

Seller may at its option designate an alternative to the Minimum Net Output value of seventy-five (75%) percent of the Estimated Annual Average Net Output set forth above in this Exhibit. If designated, such alternative shall be known as the “Alternative Minimum Net Output.” Such Alternative Minimum Net Output, if provided, shall exceed zero, and shall be established in accordance with Prudent Electrical Practices, and documentation supporting such a determination shall be provided to PGE upon execution of the Agreement. Such documentation shall be commercially reasonable, and may include, but is not limited to, documents used in financing the project, and data on output of similar projects operated by Seller, PGE or others.

Annual Alternative Minimum Net Output: \_\_\_\_\_ kWh

<u>Month</u>	<u>Alternative Minimum Net Output (if specified) (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>		
<u>February</u>		
<u>March</u>		
<u>April</u>		
<u>May</u>		
<u>June</u>		
<u>July</u>		
<u>August</u>		
<u>September</u>		
<u>October</u>		
<u>November</u>		
<u>December</u>		



**EXHIBIT D**

**REQUIRED FACILITY DOCUMENTS**

[List all agreements, permits and authorizations required for the Facility]

~~Interconnection Agreement~~ **COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM**

**(Power Purchase Agreement – \_\_\_\_\_)**

This Collateral Assignment and Consent Agreement (the "**Agreement**") is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY ("PGE"** or "**Buyer**"), **[INSERT LENDER]**, a \_\_\_\_\_ company (the "**Lender**"), and **[INSERT SELLER]**, a \_\_\_\_\_ company (the "**Borrower**" or "**Seller**") (the "**Parties**" or each a "**Party**").

**RECITALS**

A. Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the "**Loan Agreement**"), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.

B. Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the "**PPA**" or the "**Assigned Agreement**"), a copy of which is attached as **Exhibit A**, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power" from which Seller shall sell and PGE shall purchase Net Output (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).

C. As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the "**Security Agreement**"), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other "Collateral" defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the "**Secured Obligations**"). The Loan Agreement and the Security Agreement are referred to herein as the "**Security Documents**."

**AGREEMENTS**

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. **Consent to Assignment.** PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower's right, title and interest in and to the Assigned Agreement.

2. **Limitations on Assignment.** Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender

shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller's rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further

assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_ If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

\_\_\_\_\_ If to Lender:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof,

or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

~~FERC Qualifying Facility Self Certification~~  
~~As-Built Operating One Line Diagram~~

~~As Built Operating 12x24 Generation Profile~~

## EXHIBIT E

### START-UP TESTING

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing only.]

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

1. Pressure tests of all steam system equipment;
2. Calibration of all pressure, level, flow, temperature and monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Insulation resistance and point-to-point continuity tests;
6. Bench tests of all protective devices;
7. Tests required by manufacturer of equipment; and
8. Complete pre-parallel checks with PGE.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

1. Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
2. Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Stator windings dielectric test;
7. Armature and field windings resistance tests;
8. Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
9. Heat runs;
10. Tests required by manufacturer of equipment;
11. Excitation and voltage regulation operation tests;
12. Open circuit and short circuit;
13. Saturation tests;
14. Governor system steady state stability test;
15. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
16. Auto stop/start sequence;
17. Level control system tests; and
18. Completion of all state and federal environmental testing requirements.

|

|



**EXHIBIT F**

**SCHEDULE 201**

[Attach Schedule 201]

**EXHIBIT G**

**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**

**STANDARD ON-SYSTEM VARIABLE  
POWER PURCHASE AGREEMENT  
BETWEEN  
[COUNTERPARTY NAME]  
AND  
PORTLAND GENERAL ELECTRIC COMPANY**

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**STANDARD ON-SYSTEM VARIABLE  
POWER PURCHASE AGREEMENT**

This STANDARD ON-SYSTEM VARIABLE POWER PURCHASE AGREEMENT (“**Agreement**”) is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] (“**Seller**”) and Portland General Electric Company, an Oregon corporation (“**PGE**”) (hereinafter each a “**Party**” and collectively, “**Parties**”).

Option A: Standard Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating no greater than 3 MW and other qualifying facilities with Facility Nameplate Capacity Rating no greater than 10 MW]; or

Option B: Solar Standard Terms and Negotiated Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating above 3 MW but no greater than 10 MW; if this option is selected, there will be an **Exhibit HG** containing the negotiated prices agreed to by the Parties].

**RECITALS**

A. [New QF] Seller ~~is a New QF and~~ intends to construct, own, operate and maintain a New QF \_\_\_\_\_ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B<sub>2</sub>** (“**Facility**”).

A. [Existing QF] Seller ~~is an Existing QF and~~ owns and intends to operate and maintain an Existing QF \_\_\_\_\_ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B<sub>2</sub>** (“**Facility**”).

B. Seller intends to operate the Facility as a “Qualifying Facility,” as that term is defined in the ~~FERC Federal Energy Regulatory Commission~~ regulations codified at 18 CFR Part 292.

C. Seller wishes to sell and PGE is willing to purchase the Net Output from the Facility, subject to and in accordance with the terms and conditions of this Agreement, and Seller wishes to provide energy and capacity pursuant to this Agreement.

**AGREEMENT**

NOW, THEREFORE, the Parties agree as follows:

**ARTICLE 1: DEFINITIONS AND CONTRACT INTERPRETATION**

1.1 Defined Terms.

For all purposes of this Agreement, the following terms shall have the following meanings:

-“**Affiliate**” means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller, ~~or that shares management or that acts jointly or in concert with or exercises influence over the policies or actions of~~

**Seller.** For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

“**Agreement**” means this Standard On-System Variable Power Purchase Agreement (Option A or Option B) and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

“**Ancillary Services**” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services.” ~~” including energy imbalance services, generation imbalance services, regulation and frequency response services, reactive supply services, voltage control services, inadvertent energy flow services, control area services, system integration services, operating spinning reserve services, and operating supplemental reserve services.~~

~~“**API**” means Application Program Interface.~~

“**Applicable Law**” means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

“**As-built Supplement**” means a supplement to **Exhibit A and Exhibit B** provided by Seller in accordance with Section 2.2 following completion of construction of the Facility, or modifications to the Facility, which describes the Facility as actually built.

“**Balancing Authority**” means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to in which the Facility ~~is located.~~

“**Bankrupt**” means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, ~~or (iii)(iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they become due.~~

“**Base Hours**” means the total number of hours in each Contract Year (8,760 or 8,784 for leap years), ~~provided, however, that Base Hours for the first Contract Year shall be the number of hours commencing on the first hour of the day after the Commercial Operation Date and ending on the last hour of December 31<sup>st</sup> of the calendar year in which the Commercial Operation Date occurs, and that Base Hours for the last Contract Year shall be the number of hours commencing on January 1 of the calendar year in which the Term ends and ending the last hour of the last day of the Term.~~

“**Billing Period**” means one calendar month.

“**Business Day**” means any day other than Saturday, Sunday or the following holidays: New Year’s Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.

~~“Billing Period” means a period during the Delivery Period between PGE’s readings of its power purchase billing meter at the Facility in the normal course of PGE’s business. Such periods may vary and may not coincide with calendar month; however, PGE shall use best efforts to read the power purchase billing meter in 12 equally spaced periods per year.~~

~~“CAISO EIM” means the California Independent System Operator Energy Imbalance Market or any successor thereto.~~

~~“Capacity Attributes” means any current or future attribute, as may be currently defined or otherwise defined in the future, including but not limited to a characteristic, certificate, tag, credit, ancillary service or attribute thereof, or accounting construct, associated with the electric generation capability and capacity of the Facility or the Facility’s capability and ability to produce or curtail energy, including any attribute counted towards any current or future resource adequacy or reserve requirements. Notwithstanding any other provision of this Agreement, “Capacity Attributes” do not include: (i) tax credits, deductions, or tax benefits associated with the Facility, or (ii) any state, federal, local, or private cash payments or grants relating in any way to the Facility or the Net Output.~~

“Cash Escrow” means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller’s placement of cash in the custody of the escrow agent for delivery to PGE after the fulfillment of any of the conditions specified in Section 8.2. Amounts in the Cash Escrow shall earn interest at the rate applicable to money market deposits at escrow agent.

“Claims” means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.

“Commercial Operation” has the meaning given to it in Section 2.45.

“Commercial Operation Date” has the meaning given to it in Section 2.56.

“Commission” means the Public Utility Commission of Oregon.

“Contract Price” means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under the Non-Renewable Fixed Price Option for \_\_\_\_\_ [specify applicable Non-Renewable Fixed Price Option based on the resource type, in accordance with Schedule], as published in the Schedule and attached as **Exhibit F** (or in the case of QFs electing Option B, the Solar Standard Terms and Negotiated Price Agreement, as set forth in the price matrix attached as **Exhibit HG**, which reflects the negotiated price, including on-peak and off-peak prices), and thereafter, for the remainder of the Term, the Daily Market Index Price in effect during the interval when the energy is generated.

“Contract Year” means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time (“PPT”) on January 1 and ending at 24:00 hours PPT on December 31; *provided, however*, that the first Contract Year shall commence on the Commercial Operation Date and end on December 31<sup>st</sup>



of the calendar year in which the Commercial Operation Date occurs, and the last Contract Year shall end on the last day of the Term.

“**Credit Support**” has the meaning given to it in Section 8.1.

“**Creditworthiness Requirements**” has the meaning given to it in Section 7.1.6.

“**Daily Market Index Price**” means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>. In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Point of Interconnection.

“**Delay Damages**” has the meaning given to it in Section 2.67.

“**Delivery Period**” has the meaning given to it in Section 3.1.

“**Delivery Point**” means the high side of the generation step up transformer(s) located at the point of interconnection between the Facility and PGE's distribution or transmission system, where the Parties have agreed that Seller will deliver energy to PGE from the Facility, as specified in Exhibit B and the Interconnection Agreement.

“**Effective Date**” has the meaning given to it in Section 2.1.

“**Estimated Annual Average Net Output**” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“**Estimated Annual Maximum Net Output**” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“**Estimated Monthly Average Net Output**” means the relevant amounts specified in ~~the table in~~ Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“**Estimated Monthly Maximum Net Output**” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“**Existing QF**” means a QF that (1) is or has been operational before the Effective Date of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party.

“~~Expiration Date~~**Facility**” has the meaning given to it in Section 2.1.

“**Facility**” is the entire facility as specified in Exhibit A and Exhibit B~~Recitals.~~

“**Facility Nameplate Capacity Rating**” means the sum of the Nameplate Capacity Ratings for all ~~Generation Units~~**Generators** comprising the Facility.

“**FERC**” means the Federal Energy Regulatory Commission or any successor government agency.

“**Force Majeure**” or “**Force Majeure Event**”~~“**Generation Forecast**”~~ has the meaning given to it in Section 12.1.3-4.

~~“Generation Unit” means each separate electrical Generator of the Facility that contributes to the Specified Facility Nameplate Capacity Rating included in Exhibit A.~~

-“Generator” means the electrical component within the Facility measured in kW that converts mechanical energy or solar radiation into electrical energy.

“Generation Unit” means a complete electrical generation system within the Facility that is able to generate and deliver energy to the Point of Interconnection independent of other Generation Units within the same Facility. For example, for a solar facility, a Generation Unit is an inverter and the panels associated with such inverter.

-“Governmental Authority” means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

~~“Interconnection Agreement” means an agreement between PGE Seller and Seller PGE governing the interconnection of the Facility with PGE’s electric system, having a term ending no earlier than the expiration date of this Agreement.~~

~~“Interconnection Rating” means the Facility capacity rating specified in the Interconnection Agreement, or, if no Interconnection Agreement exists, in the application seeking interconnection.~~

“kW” and “kWh” mean kilowatt and kilowatt hour, respectively.

“Lender” means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.

“Letter of Credit” means an irrevocable standby letter of credit from an institution selected by the Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

“Licensed Professional Engineer” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in 2.4.2, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.

“Lost Energy” means (in kWh): ~~either~~

- A. In connection with a Facility after the Commercial Operation Date, if the Mechanical Availability Percentage falls below the Minimum Availability Guarantee for a Contract Year, ((the Minimum Availability Guarantee as determined pursuant to

Section ~~3.33-3~~ / the actual Mechanical Availability Percentage for the applicable Contract Year) X actual Net Output for the applicable Contract Year) - actual Net Output for the applicable Contract Year; or

- B. In connection with a Facility ~~that does not establish~~~~before~~ the Commercial Operation Date ~~on or before, if the Seller fails to meet~~ the Scheduled Commercial Operation Date, the ~~sum of the~~ Estimated Monthly Average Net Output ~~(by On-Peak Hours and Off-Peak Hours – see Exhibit C)~~ for each month during the period from the Scheduled Commercial Operation Date until the ~~earlier of the~~ actual Commercial Operation Date ~~or contract termination pursuant to Section 9.7~~. The Estimated Monthly Average Net Output ~~shall~~~~may~~ be pro-rated for any partial months; or
- C. In connection with a Facility whose Agreement has been terminated ~~by PGE pursuant to Section 9 of this Agreement because of Seller's~~~~for~~ default, the lesser of the sum of the Estimated Monthly Average Net Output ~~(by On-Peak and Off-Peak Hours – see Exhibit C)~~ for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output ~~(by On-Peak and Off-Peak Hours – see Exhibit C)~~ for each month from the date of termination through the end of the Term. The Estimated Monthly Average Net Output ~~shall~~~~may~~ be pro-rated for any partial months.

“Lost Energy Value” means:

~~In connection, with respect to a given period, an amount calculated as follows:—~~ Lost Energy described in subpart (A) ~~for the applicable period~~ ~~multiplied by (the greater of the definition~~~~zero (0) or the Replacement Price for the period~~ ~~less the time-weighted average of~~ Lost Energy, the Lost Energy is ~~allocated evenly to each calendar month in the Contract Year and then allocated to~~ ~~Price for On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in Exhibit C (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is~~~~for the~~ ~~sum of the of the monthly calculations of~~ Lost Energy Value (see below) ~~for the Contract Year~~~~period),~~ ~~plus~~ any commercially reasonable ~~third-party~~ costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year multiplied by the (applicable Replacement Price for On-Peak Hours less the Contract Price for On-Peak Hours for the same period); and
- The Off-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year multiplied by the (applicable Replacement Price for Off-Peak Hours less the Contract Price for Off-Peak Hours for the same period).

If the above calculation of the Lost Energy Value for the Contract Year results in a negative value, the Lost Energy Value for the Contract Year shall be deemed zero. See the example calculation in Exhibit G.

A. In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during which Seller has failed to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below) *plus* any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) shall not exceed the Contract Price for On-Peak Hours for the same period; and
- The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.

If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in **Exhibit G**.

B. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for On-Peak Hours for the period *less* the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for Off-Peak Hours for the period *less* the Contract Price for Off-Peak Hours for the period); and
- Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in Exhibit G.

~~“Market Index Price” means the applicable Powerdex hourly Mid-Columbia Index price for firm energy at the time the energy is delivered. In the event Powerdex no longer publishes this index or PGE elects to use nodal pricing, PGE will select an alternative successor index or other published pricing (or independent system operator or regional transmission organization settlement pricing) representative of the Delivery Point.~~

“Mechanical Availability Percentage” or “MAP” means that percentage for any Contract Year for the Facility calculated in accordance with the following formula:

$$\text{MAP} = 100 \times (\text{Operational Hours}) / (\text{Base Hours} \times \text{Number of Units})$$

~~“Minimum Availability Guarantee” has the meaning given to it in Section 3.3.3.3.~~

“Nameplate Capacity Rating” means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.

“NERC” means the North American Electric Reliability Corporation.

~~“Net Available Capacity” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Point of Interconnection continuously for at least sixty (60) minutes, which is equivalent to the lesser of: (1) the Specified Facility Nameplate Capacity Rating, or (2) the Interconnection Rating, in either case less station service (parasitic power and electrical losses).~~

“Net Output” means all energy, expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the Point of Interconnection.

“New QF” means any QF that is not an Existing QF.

“Number of Units” means the number of Generation Units in the Facility, as specified in Exhibit A.

~~“Off-Peak Hours” means all hours other than has the meaning provided in the Schedule.~~

~~“On-Peak Hours” has the meaning provided in the Schedule.~~

“On-Peak Hours” means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.

“Operational Hours” for the Facility means the total across all Generation Units of the number of hours each of the Facility’s Generation Units is capable of producing power ~~at its Nameplate Capacity Rating~~ regardless of actual weather, season and time of day or night, without any mechanical operating

constraint or restriction, and potentially capable of delivering such power to the ~~Delivery Point of Interconnection~~ in a Contract Year. For each Contract Year, each Generation Unit is eligible to include no more than 200 hours as Operational Hours when the Generation Unit is not operational because of Planned Maintenance or an event of Force Majeure. For example, if the Facility consists of two separate ~~Generation Units~~ solar arrays of 1.5 MW each and ~~Generation Unit Array 1~~ is operational for 8,460 hours and is not operational for 300 hours due to Planned Maintenance or an event of Force Majeure; and ~~Generation Unit Array 2~~ is operational for 8,560 hours and is not operational for 200 hours due to Planned Maintenance or an event of Force Majeure, then the Operational Hours for the Facility for the Contract Year would be calculated as follows: ~~Generation Unit Array 1~~ Operational Hours = 8,460 + 200 = 8,660. ~~Generation Unit Array 2~~ Operational Hours = 8,560 + 200 = 8,760. Operational Hours of the Facility = 8,760 + 8,660 = 17,420.

“**Person**” means any individual, corporation, a limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.

“**Planned Maintenance**” means outages scheduled 90 calendar days in advance, with ~~PGE’s~~ prior written notice to PGE, provided however that maintenance during Off-Peak Hours (except Sundays between 6:00 a.m. and 10:00 p.m. PPT) on a Facility comprised of only solar Generator consent, which shall not be considered Planned Maintenance ~~unreasonably withheld~~.

“**Point of Interconnection**” means the point of interconnection between the Facility and PGE’s system, as specified in **Exhibit B**.

“**Prime Rate**” means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

“**Product**” means, each and together, as a single bundled product, Net Output together with all associated capacity ~~Capacity~~ Attributes.

“**Prudent Electrical Practices**” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the WECC that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all Applicable Law. Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

“**PURPA**” means the Public Utility Regulatory Policies Act of 1978.

“**Qualifying Facility**” has the meaning set forth in the Recitals.



“**Reliability Entity**” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

“**Replacement Price**” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at the Mid-Columbia trading hub which PGE, acting in a commercially reasonable manner, purchases for delivery at the Delivery Point replacement energy for any Net Output that Seller fails to deliver as required under this Agreement.

When PGE elects not to make such a purchase, the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Availability Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices shall be calculated as follows for each applicable calendar month (or partial calendar month):

- For Lost Energy During On-Peak Hours: the hourly average of the on-peak Daily Market Index Prices for a given period shall be the applicable calendar month (greater of zero (0) or partial calendar month).
- For Lost Energy During Off-Peak Hours: the hourlytime weighted average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

When the Replacement Market Index Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 9, the Replacement Price shall be the respective On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices for On-Peak Hours and Off-Peak Hours during the applicable period.

“**Required Facility Documents**” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as, including the Interconnection Agreement and those set forth in Exhibit D.

“**Schedule**” means PGE’s Schedule 201 filed with the Commission and in effect on the date that Seller delivers to PGE an executed copy of this Agreement, the terms of which are hereby incorporated by reference. For ease of reference and informational purposes only, a copy of the Schedule is attached hereto as **Exhibit F**; however, if there is any difference between **Exhibit F** and the Schedule, the terms of the Schedule shall apply and prevail.

“**Scheduled Commercial Operation Date**” has the meaning given to it in Section 2.67.

“**Senior Lien**” means a prior lien thatwhich has precedence as to the property under the lien over another lien or encumbrance.

“**Specified Facility Nameplate Capacity Rating**” means the Facility Nameplate Capacity Rating set forth in **Exhibit A**, as it may be amended from time to time in accordance with this Agreement.



“**Start-Up Testing**” means the ~~performance completion~~ of applicable ~~required factory and~~ start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in **Exhibit E** (as it may be updated by Seller) during the Test Period.

“**Step-in Rights**” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.

“**Term**” has the meaning given to it in Section 2.1.

“**Test Energy**” means electric energy generated by the Facility during the Test Period, ~~and Capacity Rights associated with such electric energy~~

“**Test Period**” means a period ~~of no more than sixty (60) calendar days~~, during which Start-Up Testing is to be conducted.

“**WECC**” means the Western Electricity Coordinating Council or any successor thereto.

“**WECC Pre-Scheduling Day**” ~~means the WECC Pre-Scheduling Day prior to the delivery day or day(s) as defined by the most recent WECC Pre-Schedule calendar. For example, Thursday is typically the WECC Pre-Scheduling Day for delivery days of Friday and Saturday.~~

## 1.2 Interpretation.

In this Agreement, references to Recitals, Sections, and Exhibits are references to the recitals, sections and exhibits of this Agreement. The article and section headings in this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms “includes” or “including” mean “includes but is not limited to” and “including but not limited to,” respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in this Agreement in accordance with such recognized meanings.

## ARTICLE 2: TERM; FACILITY; COMMERCIAL OPERATION

### 2.1 Term.

The term of this Agreement (“**Term**”) commences on the date this Agreement is signed by both Parties (“**Effective Date**”) and ends on the earlier of \_\_\_\_\_ [Seller-selected date or fixed-interval period of time], 20\_\_ [date that is no more than 20 years from the Scheduled Commercial Operation Date] (“**Expiration Date**”) or the date on which this Agreement is terminated pursuant to the terms of the Agreement.

### 2.2 Construction of the Facility.

2.2.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE’s system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement. Seller shall, at its sole cost, design and construct the Facility and, obtain all ~~necessary~~ interconnection rights, ~~and make or cause to be made all~~ necessary ~~modifications to PGE’s system~~ to enable the delivery of energy from the Facility

to the Delivery Point of Interconnection, all in compliance with this Agreement, the Required Facility Documents, and Prudent Electrical Practices.

-Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement ~~may~~must be reviewed ~~and approved~~ by PGE, which ~~review approval~~ shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE's information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section 6.3-1.

### 2.3 Seller's Responsibility for Costs.

~~Seller is responsible for all costs associated with the study or construction of necessary modifications and upgrades to the Facility or PGE's system related to the delivery of energy from the Facility to the Delivery Point, or any increase in the Facility Nameplate Capacity Rating or the generating capability of the Facility. Without limiting the generality of the foregoing: PGE will evaluate available delivery capability on PGE's transmission system between the Delivery Point and PGE's load that is required to enable PGE to accept delivery of the Facility's Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to PGE's designated sink point. If PGE determines that sufficient delivery capability exists on PGE's transmission system, PGE will arrange for, be responsible for, and make available transmission service on PGE's transmission system from the Delivery Point to the designated sink point. If PGE determines that insufficient delivery capability exists on PGE's transmission system, Seller will be responsible for (i) obtaining and paying for necessary transmission studies and paying for any transmission upgrades necessary to enable PGE to accept deliveries of Net Output from the Facility and to effectuate delivery from the Delivery Point to PGE's designated sink point, or (ii) paying for any necessary transmission service from Transmission Providers to effectuate delivery from the Delivery Point to PGE's designated sink point. If any upgrades to PGE's system are identified pursuant to part (i), PGE and Seller shall enter into a separate agreement to establish the terms under which PGE shall arrange for and Seller will pay for such upgrades; provided, however, that if the costs of such upgrades is reasonably projected to exceed One Hundred Thousand Dollars (\$100,000), Seller may terminate this Agreement by providing written notice to Buyer, unless, within thirty (30) days after Buyer receives such notice, Buyer agrees in its sole discretion to bear costs in excess of that amount. After all necessary upgrades have been completed in accordance with Prudent Electrical Practices, PGE will arrange for, be responsible for, and make available transmission service from the Delivery Point to the designated sink point.~~

### 2.42.3 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with Exhibit E (as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility), and shall provide written notice to PGE when the Start-Up Testing has been successfully completed. Seller must provide no less than one (1) business day's written notice to PGE prior to the commencement of Start-Up Testing. ~~If it is necessary for Seller to schedule and must provide PGE ten (10) business day's written notice prior to commencing sales of delivered Test Energy to PGE. PGE in order to complete Start Up Testing, Seller may do so pursuant to the scheduling procedures set forth in Section 3.4, but shall compensate the Seller for delivered not be entitled to compensation from PGE for Test Energy in accordance with Section 4.1.1. Seller shall pay any costs~~

~~or additional expenses that are required for PGE to receive Test Energy, including procurement of any necessary capacity costs or reserves.~~ This Section 2.34 does not apply if the Facility is an Existing QF unless the Existing QF elects to conduct Start-Up Testing.

#### 2.52.4 Commercial Operation.

“**Commercial Operation**” will be achieved when the Facility is fully constructed and determined by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have occurred:

~~2.5.12.4.1~~ If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with Exhibit E, and PGE has received Seller’s written certification of completion of Start-Up Testing.

~~2.5.22.4.2~~ PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that the Facility is interconnected and operational~~interconnection has been completed~~ in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.

~~2.5.32.4.3~~ PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE’s reasonable satisfaction, which may include equipment specifications.

~~2.5.42.4.4~~ PGE has received a ~~letter~~certificate addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement, and any other Required Facility Documents requested by PGE.

~~2.5.52.4.5~~ PGE has received the following documents with respect to the Facility: the As-built Supplement, including but not limited to an electrical single-line diagram, a 12x24 estimated net energy profile, a 8760 net energy production estimate, and (for solar QFs) an annual degradation factor.

~~2.5.62.4.6~~ PGE has received copies of all insurance certificates required under Section 11.12.

~~2.5.72.4.7~~ PGE has received any Credit Support required under Section 8.1.

~~2.5.8~~ ~~If any upgrades to PGE’s system between the Delivery Point and PGE’s load are required in order to enable PGE to accept delivery of the Facility’s Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to PGE’s designated sink point, the Company and the Seller have entered into an agreement concerning such upgrades as required under Section 2.3.~~

#### 2.62.5 Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section 2.45, Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, including but not limited to information required in Exhibit A and Exhibit B. PGE shall, within ten (10)

business days following receipt of such notice and documentation, deliver either a written certification stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, ~~provided that PGE shall not unreasonably withhold such certification.~~ The date of Seller's notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the "**Commercial Operation Date**" for all purposes under this Agreement.

#### 2.7.2.6 Scheduled Commercial Operation Date.

By no later than \_\_\_\_\_ ("**Scheduled Commercial Operation Date**"), Seller shall have completed all requirements under Section 2.4 and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE's negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE's negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before Seller guarantees that Commercial Operation shall occur no later than \_\_\_\_\_, 20\_\_ ("~~Scheduled Commercial Operation Date~~"). If Commercial Operation does not occur by the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay for the period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date ("**Delay Damages**"). If Commercial Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section 9.32.

#### 2.8.2.7 Status of the Facility.

~~2.8.12.7.1~~ Seller shall construct and operate the Facility so as to ensure its status as a Qualifying Facility and in a manner consistent with its FERC Qualifying Facility certification. At any time during the Term, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE's request, ~~(i) a written legal opinion from an attorney who is in good standing in the state of Oregon and is not employed by a Person having an economic interest in the Facility stating that the Facility is a Qualifying Facility, and (ii)~~ documentation acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility.

~~2.8.22.7.2~~ Seller shall not make any changes in its ownership, control or management that would cause the Facility to fail to satisfy the eligibility requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement. Seller shall provide upon request by PGE, not more frequently than every 36 months, any documentation and information as may be reasonably required requested by PGE to establish Seller's continued compliance with the applicable eligibility requirements such definition. PGE shall take reasonable steps to maintain the confidentiality of any such documentation and information that Seller identifies as confidential, provided that PGE may provide all such information to the Commission upon the Commission's request.

### ARTICLE 3: DELIVERY AND SALE OF ENERGY; SCHEDULING

#### 3.1 Delivery and Sale of Energy.

Except as otherwise provided in this Agreement, commencing on the Commercial Operation Date and continuing until the end of the Term (the “**Delivery Period**”), Seller shall deliver and sell and PGE shall receive and purchase all of the Net Output ~~at the Delivery Point. Notwithstanding the foregoing, Seller shall not deliver and PGE shall not be obligated to receive or purchase energy~~ delivered at the Point of Interconnection, a rate, on an hourly basis, greater than the Net Available Capacity. Title and risk of loss related to the Product shall transfer from Seller to PGE at the Delivery Point of Interconnection. .

#### 3.2 Estimated Net Output.

Seller’s good faith, commercially reasonable estimate of the Facility’s ~~average~~ monthly and annual average and maximum Net Output during the Delivery Period, and Seller’s basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in **Exhibit C, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section 6.3.** Seller acknowledges that PGE will use these estimates in its resource planning.

#### 3.3 Minimum Availability Guarantee.

**3.3.1**—Seller hereby guarantees that the Facility will achieve Mechanical Availability Percentages that meet or exceed the following (“Minimum Availability Guarantee”):

- (i) Ninety percent (90%) beginning in the first Contract Year and extending through the Term of this Agreement if the Facility was operational and sold electricity to PGE or another buyer prior to the Effective Date is an Existing QF; or
- (ii) Ninety percent (90%) beginning in Contract Year three and extending through the Term of this Agreement ~~if the Facility is a New QF.~~

**3.3.2.**—Annually, within 90 calendar days of the end of each Contract Year, Seller shall send to PGE a detailed written report demonstrating and providing evidence of the actual Mechanical Availability Percentage for the previous Contract Year.

**3.3.3.**—As a remedy damages for Seller’s failure to satisfy the Minimum Availability Guarantee in any Contract Year, Seller shall owe PGE damages equal to the Lost Energy Value. ~~for such Contract Year.~~

#### ~~3.4 — Forecasting and Scheduling~~

~~[[This section is being revised to account for forecasting and scheduling requirements associated with participation in the California Independent System Operator Energy Imbalance Market. The revised provision will be provided in advance of a workshop that will include this topic]]~~

#### ~~3.5~~**3.4** Loss of Interconnection and Curtailment.

PGE shall not be liable to Seller and shall have no obligation to purchase the Product from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the extent that, due to the action of a Reliability Entity, ~~an event of~~ Force Majeure Event, or PGE’s construction and maintenance



activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility to the electric system is disconnected, suspended or interrupted, or (ii) generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller's control.

### 3.6 Carbon Emissions:

~~Seller is responsible for and shall pay for all future costs, if any, whether incurred by Seller or PGE, resulting from any carbon emissions generated by or associated with the Product delivered by Seller to the Delivery Point in accordance with this Agreement. Seller may provide PGE with carbon emissions offsets that are reasonably satisfactory to PGE in lieu of a monetary settlement. Within fifteen (15) business days after PGE's request, Seller shall provide PGE with the carbon emissions data for the Product that is delivered during the Delivery Period.~~

## ARTICLE 4: PRICE, BILLING AND PAYMENT

### 4.1 Prices and Payment for Delivered Product.

4.1.1 During the Delivery Period, PGE shall pay Seller an amount for Product delivered during a Billing Period calculated as follows: ~~the Contract Price multiplied by Net Output (but not including energy delivered at an hourly rate in excess of the Net Available Capacity) delivered during the Billing Period. An illustrative example is provided in Exhibit G.~~ multiplied by the Contract Price.

4.1.2 Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy multiplied by the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.

4.1.2.1.3 Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.

### 4.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.

By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE will in the ordinary course~~shall~~ deliver to Seller an invoice showing PGE's computation (and supporting data) of the Lost Energy Value, if of any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE to PGE in respect thereof for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the preceding calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in Exhibit G.

### 4.3 Invoicing and Payment for Lost Energy Value Related to Minimum Availability Guarantee.

~~If Seller fails to satisfy the Minimum Availability Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following PGE's receipt of Seller's detailed written report for such Contract Year in accordance with Section 3.3.2, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar. No later than ten (10) days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future energy deliveries by the amount of such Delay Damages.~~

~~4.3 Invoicing and Payment for Lost Energy Value.~~

~~If Seller fails to satisfy the Minimum Availability Guaranty during any Contract Year, on or before the thirtieth (30th) day following the end of such Contract Year, PGE shall deliver to Seller an invoice showing PGE's computation of any deficit in the guaranteed amount. Thereafter, the amount payable by PGE for future deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period of such reduction (not to exceed one year) so as to minimize the risk of Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.~~

4.4 Form of Payment and Interest on Late Payments.

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.

4.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.

**ARTICLE 5: METERING**

5.1 Metering Equipment and Location.

5.1.1 PGE shall design, furnish, install, own, inspect, test, maintain and replace all metering equipment at Seller's cost and as required pursuant to the Interconnection Agreement.

~~Metering shall be performed at the location and in a manner consistent with this Agreement and, as specified in the Interconnection Agreement. All Exhibit B. Seller shall provide to PGE all information regarding Net Output purchased hereunder shall be adjusted to account for electrical losses, if and any, between the point of metering and the Point of Interconnection, so that the purchased amount reflects the net amount of power flowing into PGE's system at the Point of Interconnection other energy purchased~~



~~under this Agreement in hourly increments. Seller shall provide PGE with a real time ICCP and EIDE communications link to the Facility metered output.~~

## 5.2 Meter Installation, Inspection and Correction.

~~Buyer, at Seller's cost, shall arrange, design, furnish, install, own, inspect, test, and maintain metering equipment for the Facility in accordance with Prudent Electrical Practices. PGE shall periodically inspect, test, repair and/or replace the metering equipment as provided in the Interconnection Agreement, at Seller's cost, and provide such results to Seller upon Seller's request. If any of the inspections or tests discloses/reveal an error exceeding two (2%) percent of the actual energy delivery, (2.0%), either fast or slow, appropriate correction, based upon the inaccuracy found, shall be made of with respect to previous readings for the actual period during which the Facility metering equipment rendered inaccurate measurements if that (such period can be ascertained, not to exceed six (6) months). If the actual period of inaccuracy cannot be ascertained, the proper correction shall be made to the measurements taken during the time since the metering equipment was in service since last tested, but not exceeding provided that such period shall not exceed three (3) months, in the amount the metering equipment shall have been shown to be in error by such test.- Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered.- Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of such the metering inaccuracy of metering equipment.-~~

## 5.3 Metering Costs.

~~To the extent not otherwise provided in the Interconnection Agreement, all of PGE's costs relating to all metering equipment installed to accommodate Seller's Facility shall be borne by Seller.~~

# ARTICLE 6: OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES

## 6.1 Seller's Duty to Operate and Maintain the Facility.

6.1.1 Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.-

6.1.2 Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide ~~upon request~~ copies of the same to PGE upon request.

## 6.2 Outages.

6.2.1 On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with ~~an annual~~ annual schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the ~~Specified generating capacity of the Facility~~ Nameplate Capacity Rating

for ~~twenty-four (24) two (2)~~ or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of Section ~~13.13.~~ ~~13.13. Seller shall use commercially reasonable efforts to plan scheduled activities (i) to maximize the productive output of the Facility, and (ii) not to occur between July 1 and September 30 or between December 1 and February 28 of any calendar year.~~

6.2.2 ~~Seller shall give PGE immediate telephonic notice (within twenty minutes) of any such events that will curtail or adversely affect scheduled or forecasted Product deliveries. Such notice must include a description of the cause of the outage, the resulting change in capacity, and an estimate of the duration of the outage. Seller shall provide PGE regular and frequent updates regarding any changes of status set forth in the initial notice, and shall notify PGE's Real Time Desk when the Facility is ready to return to service. Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable best efforts to avoid or mitigate outages during PGE's system emergencies. PGE may, after providing written notice to Seller, make commercially reasonable changes to the means by which Seller provides notice pursuant to this subsection 6.2.2 of this Agreement.~~

### 6.3 Facility Upgrades.

#### 6.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

~~6.3.16.3.2~~ At any time after the Commercial Operation Date upon at least six months<sup>2</sup> prior written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in **Exhibit C**, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in **Exhibit C** for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

6.3.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section 6.3.1 or Section 6.3.2 that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend **Exhibit A** and **Exhibit C** as appropriate to reflect the modifications.

~~6.3.26.3.3~~ -So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller will continue to receive the Contract Price for all delivered Net Output.

~~6.3.36.3.4~~ If Seller increases the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 3,000 kW (solar) or 10,000 kW (all other QFs), consistent with then-current Applicable Law, provided that:

~~6.3.3.16.3.4.1~~ 6.3.3.16.3.4.1 If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to more than 3,000 kW and no greater than 10,000 kW, then Seller may elect to enter either (a) a standard power purchase agreement with negotiated prices, or (b) a negotiated power purchase agreement with negotiated prices.

~~6.3.3.26.3.4.2~~ 6.3.3.26.3.4.2 If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

~~6.3.3.36.3.4.3~~ 6.3.3.36.3.4.3 If the Facility produces Net Output through any ~~other~~ resource types other than solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

## ARTICLE 7: REPRESENTATIONS AND WARRANTIES

### 7.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

7.1.1 Seller is a \_\_\_\_\_ duly organized and in good standing under the laws of the state of incorporation or formation. \_\_\_\_\_.

7.1.2 The execution, delivery and performance of this Agreement are within Seller's powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

7.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

7.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

7.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

7.1.6 Either Seller satisfies the requirements set forth in Section ~~7.1.6.1 through 7.1.6.3~~ 7.1.6.1 through 7.1.6.4 below (the "**Creditworthiness Requirements**"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section 8.1.

7.1.6.1 ~~Neither Seller nor any of its principal equity owners is not and/or~~ Neither Seller nor any of its principal equity owners is not and/or has not been Bankrupt within the past two (2) years, and there are no proceedings pending or being contemplated by ~~Seller~~ Seller or, to Seller's knowledge, threatened against ~~Seller~~ Seller that would result in ~~Seller~~ Seller being or becoming Bankrupt.

7.1.6.2 Seller is not in default under any of its material agreements and is current on all of its financial obligations, including construction-related financial obligations.

7.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

~~7.1.6.4 If the Facility has a Specified Facility Nameplate Capacity Rating greater than 3,000 kW, Seller has a senior, unsecured long term debt rating (or corporate rating if such debt rating is unavailable) of (i) "BBB " or greater from S&P, or (ii) "Baa3" or greater from Moody's, and if such ratings are split, the lower of the two ratings must be at least "BBB " or "Baa3" from S&P or Moody's, respectively, or other indicia of creditworthiness satisfactory to PGE in its reasonable judgment.~~

7.1.7 No later than the Commercial Operation Date, Seller ~~will possess~~possesses a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

7.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

7.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

7.1.10 Seller has the right to sell the Product to PGE free and clear of liens ~~or~~of encumbrances.

## 7.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

7.2.1 It is a corporation duly organized under the laws of Oregon.

7.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

7.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

7.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

7.2.5 It ~~is not and~~ has not ~~been Bankrupt~~ within the past two (2) years ~~been Bankrupt~~ and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

7.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

### 7.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article ~~7~~8 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

## ARTICLE 8: CREDIT SUPPORT

### 8.1 Required Credit Support.

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall immediately notify PGE in writing and shall promptly (and in no less than ten (10) ~~business~~~~calendar~~ days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). ~~In~~ ~~in~~ each case, ~~the in an~~ amount of Credit Support required shall be calculated as follows: (aggregate number of On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the weighted average Contract Price for On-Peak Hours – the weighted average Contract Price for Off-Peak Hours) x (Net Available Capacity). The amount of Credit Support required shall be updated annually, on the anniversary of the month Credit Support was first required to be provided. The updated amount of Credit Support shall be calculated for each subsequent 12-month period, consistent with the calculation described in this Section. ~~(the "Credit Support")~~:

(i) ~~the net present value of the following amount: the forward power prices at Mid-Columbia for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term), as determined by PGE in good faith using information from a commercially reasonable independent source (e.g., indicative of the most relevant ICE forward price curve for the Mid-Columbia), multiplied by one hundred and ten percent (110%), multiplied by aggregate Estimated Monthly Average Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term); less~~

(ii) ~~the net present value of: the average of the fixed prices specified in the Schedule (or in the case of a solar facility with a Specified Facility Nameplate Capacity Rating over 3 MW, as set forth in the price matrix attached to Exhibit G) for both On-Peak Hours and Off-Peak Hours, multiplied by aggregate Estimated Monthly Average Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term).~~

~~To calculate net present value for purposes of this Section, the Parties shall use the Bloomberg "S23-Corp" (Bloomberg ID "YCSW0023") interest rate swap curve as the discount rate.~~

~~Notwithstanding the foregoing, the amount of Credit Support shall in no event be less than the amount equal to the payments PGE would make for three (3) average months based on Seller's average monthly volume over the term of this Agreement and utilizing the average fixed prices specified in the Schedule (or in the case of a solar facility with a Specified Facility Nameplate Capacity Rating over 3 MW, as set forth in the price matrix attached to **Exhibit G**).~~

If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.

Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its reasonable discretion, grant an exception to the requirements to provide default security if the Seller has negotiated financial arrangements with the ~~Lender~~reconstruction loan lender that mitigate Seller's financial risk to PGE.

#### 8.2 Right to Draw on Credit Support.

At any time after the occurrence and during the continuation of an Event of Default, or upon an early termination of this Agreement by PGE pursuant to Section 9.39.2, PGE may draw on Seller's Credit Support to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the Credit Support during the Term, PGE shall inform Seller within fifteen (15) business days, and Seller shall promptly, and in no ~~event~~ more than fifteen (15) business days following notice from PGE, restore the Credit Support to the amount required under Section 8.1. However, for avoidance of doubt, Seller shall have no obligation to replenish the Credit Support if PGE has terminated the Agreement.

### ARTICLE 9: DEFAULT, REMEDIES AND TERMINATION

#### 9.1 Events of Default.

An "**Event of Default**" means, with respect to a Party, the occurrence of any of the following unless otherwise excused under this Agreement:

9.1.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;

9.1.2 any representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;

9.1.3 the failure of a Party to perform any material covenant or obligation set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party explaining gives the circumstances supporting defaulting Party notice of the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the



defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;

9.1.4 with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

9.1.5 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement at any time during the term of this Agreement;

9.1.6 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

9.1.7 with respect to Seller, Seller fails, for any two or more consecutive Contract Years to satisfy the Minimum Availability Guarantee or Seller's failure to provide any written report required by Section 3.3;

9.1.8 Seller's failure to provide any written report required by Section 3.3.2 if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

~~9.1.89.1.9~~ with respect to Seller, Seller fails to establish the Commercial Operation Date does not occur on or before the first anniversary of the Scheduled Commercial Operation Date. Seller shall have one (1) year to cure default under this Section 9.1.9, during which time Seller shall pay PGE Delay Damages pursuant to the terms of Section 2.6 and Section 4.2.

## 9.2 Lender's Right to Cure a Seller Event of Default.

Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under Section 13.13 of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement.

## 9.29.3 Termination for Default.

If an Event of Default has occurred and is continuing, the non-defaulting Party may immediately terminate this Agreement at its sole discretion, and without the non-defaulting Party incurring any liability to the defaulting Party, by delivering written notice to the defaulting Party. In addition, the non-defaulting Party may pursue any and all other legal or equitable remedies available to it, including recovery of damages as set forth below. For avoidance of doubt, PGE's resource sufficiency or deficiency position has no bearing on PGE's right to terminate this Agreement under this Section.



9.39.4 Damages.

If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value, ~~with respect to the lesser of (i) twenty four (24) months following the date of termination or (ii) the period from the date of termination until the expiration date of this Agreement.~~ Amounts owed by Seller pursuant to this Section shall be due within fifteen (15) (five (5)) business days after any invoice from PGE for the same. Damages owing under this Section 10.4 shall be cumulative and in addition to damages owing pursuant to Sections 2.6, 4.2, 4.3 and 9.1.9. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.

9.49.5 Payment of Outstanding Obligations.

If this Agreement is terminated pursuant to Section 9.39.2, then within thirty (30) calendar days of termination, PGE shall make all payments due and owing to Seller as of the time of receipt of notice of termination; provided that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section 9.49.3 or otherwise. PGE shall not be required to pay Seller for Product delivered by Seller after the effective date of any termination notice.

9.59.6 Post-Termination PURPA Status.

In the event ~~(ix)~~ PGE terminates this Agreement pursuant to this Article 9 or Seller terminates this Agreement without cause, and ~~(iix)~~ Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, wishes to sell Net Output to PGE from the Facility following such termination, then PGE may (but will not be obliged to) require that Seller, its Affiliate, or its successor do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to the terms of this Agreement, then Seller and PGE shall promptly execute a written document ratifying the terms of this Agreement. PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.

## ARTICLE 10: INDEMNIFICATION AND LIABILITY

10.1 Seller's Indemnity.

Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, including the delivery of energy to and at the Delivery Point of Interconnection; (ii) Seller's development, construction, ownership, operation, maintenance, or decommissioning of the Facility; (iii) the violation of any law, rule, order or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.

10.2 PGE's Indemnity.

PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) PGE's receipt of energy under this Agreement after its delivery at the Delivery Point of Interconnection; (ii) the violation of any law, rule, order or regulation by PGE or any of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure to perform any of PGE's obligations under this Agreement; (iv) PGE's breach of any representation or warranty set forth in this Agreement; or (v) PGE's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by Seller's breach of this Agreement or by the negligence or willful misconduct of Seller, its directors, officers, employees, agents or representatives.

### 10.3 No Dedication.

Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent Person.

### 10.4 Disclaimer of Consequential Damages.

**NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.**

## ARTICLE 11: INSURANCE

### 11.1 Certificates of Insurance.

Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.

### 11.2 Required Insurance.

Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than "B+" by the A.M. Best Company the insurance coverage specified below:

11.2.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, ~~which limits may be required to be increased or decreased by PGE as~~

~~PGE determines in its reasonable judgement, economic conditions or claims experience may warrant,~~ to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.

11.2.2 All Risk Property ~~I~~nsurance providing coverage in an amount at least equal to the full replacement value of the Facility against “all risks” of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk ~~P~~olicy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the ~~F~~acility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers’ rights of subrogation against PGE regarding Facility property losses.

### 11.3 Required Provisions.

11.3.1 The Comprehensive General Liability ~~P~~olicy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

11.3.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days’ prior written notice to PGE.

11.3.3 Insurance coverage provided on a “claims-made” basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

## ARTICLE 12: FORCE MAJEURE

### 12.1 Definition of “Force Majeure.”

As used in this Agreement, “**Force Majeure**” or “~~event of Force Majeure~~ **Event**” means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party’s from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind

or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility's equipment, or ~~(viii) smoke, haze, ash or other obstruction of sunlight~~ (except to the extent such obstruction is caused by fires or volcanic eruptions).

12.2 Effect of Force Majeure.

If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: (i) the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section ~~13.13~~ 13.1343.13 of this Agreement describing the particulars of the occurrence; (ii) the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the non-performing Party uses commercially reasonable ~~its best~~ efforts to remedy its inability to perform its obligations under this Agreement.

**ARTICLE 13: GENERAL PROVISIONS**

13.1 Relationship of the Parties.

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such Party shall be jointly and severally liable for Seller's obligations under this Agreement.

13.2 No Third Party Beneficiaries.

This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

13.3 Governing Law.

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~ which may direct the application of the laws of another jurisdiction.

~~This Agreement is subject to the jurisdiction of those governmental agencies and courts having control over either party or this Agreement. The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.~~

~~13.4~~ Dispute Resolution.

Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement is subject to the jurisdiction of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, any complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute. ~~or governmental agency with jurisdiction over the dispute; provided, however, that any dispute within the jurisdiction of the Commission shall first be brought before the Commission, and each Party hereby irrevocably waives, to the fullest extent permitted by Applicable Law, any objection it may now or hereafter have to the initial jurisdiction of the Commission with respect to any such dispute.~~

The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

13.513.4 Severability.

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void as being contrary to any Applicable Law or public policy, all other terms of this Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the intent of the Parties to this Agreement.

13.613.5 Effect of PURPA Repeal.

The repeal of PURPA shall not result in the early termination of this Agreement unless such termination is mandated by state or federal law.

13.713.6 Waiver.

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

13.813.7 Survival.

Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.

13.913.8 Successors and Assigns.

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. Neither party may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that either party PGE may assign its rights or delegate its obligations, in whole or in part, without such consent and upon thirty (30) calendar days' prior written notice to the other party Seller, to an entity that acquires all or substantially all of the

business or assets of ~~the assigning party~~ PGE to which this Agreement pertains, whether by merger, reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective.

### 13.9 Financing Documents.

Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and expense associated with PGE's review and activities reasonably required under this Section 13.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE's sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.

### 13.10 Entire Agreement; Amendments; Order of Precedence.

This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding the contents of the Agreement, including PGE's purchase of energy from the Facility. No amendment or modification of this Agreement shall be effective unless it is in writing and signed by both parties. If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail.

### 13.11 Seller Release.

By executing this Agreement, Seller releases PGE from any ~~third party~~ claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

### 13.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

### 13.13 Notices.

All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered when deposited in the U.S. Mail, postage prepaid by certified or



registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.:

<b>Notices</b>	<b>PGE</b>	<b>Seller</b>
<del>Invoices</del>	<del>Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204</del>	
<del>Scheduling</del>	<del>By telephone: Merchant Real Time Desk (503) 464-8851</del>	
<del>Planned Outages</del>	<del>Balancing Authority Operator (503) 464-8650 Merchant Outage Coordinator Attn: Power Operations 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 (503) 464-7013</del>	
<del>Unplanned Outages</del>	<del>Merchant Real Time Desk (503) 464-8851</del>	
<del>Payments</del>	<del>Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 Energyinvoicing@pgn.com</del>	
<del>Wire Transfer</del>	<del>Bank Name: US National Bank of Oregon Routing Number: 123000220 Account Number: 153600043512</del>	
<del>Credit Support</del>	<del>Portland General Electric Attn: Credit Manager 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204</del>	
<del>All Other Notices</del>	<del>Portland General Electric C/O Attn: QF Contract Management 3WTC-0306 121 SW Salmon St. 3WTC0306 Portland, OR Oregon 97204</del>	
<del>Copy in the case of, Event of Default or Termination</del>	<del>Portland General Electric 121 SW Salmon St. 1WTC17 Portland, Oregon 97204</del>	



	<b>Attn: General Counsel</b>	
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The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section 13.13.

***Signature Page Follows.***

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(Name Seller)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**FACILITY DESCRIPTION**

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

Seller's Facility consists of generators fueled by \_\_\_\_\_. ~~Specifically, each type generator at the Facility is described as:~~

~~**A. Generator Manufacturer's Nameplate Data:**~~

~~Make:~~

~~Model:~~

~~Rated Output (kW):~~

~~Number of Generators with Similar Attributes:~~

~~Facility Nameplate Capacity Rating: \_\_\_\_\_ kW~~

~~Net Available Capacity: \_\_\_\_\_ kW~~

~~Interconnection Rating: \_\_\_\_\_ kW~~

~~Identify and describe any differences between the Facility Nameplate Capacity Rating and the Net Available Capacity: \_\_\_\_\_~~

~~Station service requirements, and other loads served by the Facility, if any, are described as follows:~~

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

~~**B. Specified Facility Nameplate Capacity Rating \_\_\_\_\_ (kW) (calculated as the sum of the Nameplate Capacity Ratings for all Generators).**~~

~~**C. Location of the Facility:** The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_, with GPS coordinates of \_\_\_\_\_~~

The location is more particularly described as follows:

EXHIBIT A – DESCRIPTION OF SELLER'S FACILITY

[legal description of parcel]

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND TRANSMISSION ATTRIBUTES**

[Seller to provide diagram and description]

Description to include the following:

~~Point(s)~~

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section 6.3.2).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW metering, including

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating type of meter(s) and the Net Available Capacity:

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Interconnection Rating: \_\_\_\_\_ kW (owner of the Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

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1. \_\_\_\_\_ meter(s)

2.1. \_\_\_\_\_ Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

As-built Average Annual Degradation Percentage (applicable only to QFs with solar Generation Units).

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES**

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

Point of Interconnection (name of distribution feeder or transmission line):

\_\_\_\_\_

3. ~~\_\_\_\_\_~~ **The following information shall be provided in the As-built Supplement prior to Commercial Operation:** ~~Point of Delivery~~

4. \_\_\_\_\_

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):

\_\_\_\_\_  
\_\_\_\_\_

Specification of Point of Interconnection:

\_\_\_\_\_



**EXHIBIT C**

**SELLER’S NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of ~~Estimated~~expected Monthly Average Net Output and Estimated Monthly~~and~~ Maximum Net Output during the Delivery Period, and the resulting Estimated Annual ~~Estimated~~-Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output (as measured at the Facility meter at the Point of Interconnection)**

Month	Estimated Monthly Average Net Output (kWh)		<u>Percentage of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%)</u>		<u>Estimated Monthly Maximum Net Output (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
January						
February						
March						
April						
May						
June						
July						
August						
September						
October						
November						
December						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated ~~Annual~~ Average ~~Annual~~ Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Average Net Output)

~~Estimated Annual~~ Maximum ~~Annual~~ Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Maximum Net Output)

**EXHIBIT D**

**REQUIRED FACILITY DOCUMENTS**

[List all agreements, permits and authorizations required for the Facility]

~~Interconnection Agreement~~ **COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM**

**(Power Purchase Agreement – \_\_\_\_\_)**

This Collateral Assignment and Consent Agreement (the “*Agreement*”) is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY (“PGE” or “Buyer”)**, [INSERT LENDER], a \_\_\_\_\_ company (the “*Lender*”), and [INSERT SELLER], a \_\_\_\_\_ company (the “*Borrower*” or “*Seller*”) (the “*Parties*” or each a “*Party*”).

**RECITALS**

A. Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the “*Loan Agreement*”), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.

B. Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the “*PPA*” or the “*Assigned Agreement*”), a copy of which is attached as *Exhibit A*, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power” from which Seller shall sell and PGE shall purchase Net Output (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).

C. As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the “*Security Agreement*”), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other “Collateral” defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the “*Secured Obligations*”). The Loan Agreement and the Security Agreement are referred to herein as the “*Security Documents*.”

**AGREEMENTS**

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower’s right, title and interest in and to the Assigned Agreement.

2. Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender

shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller's rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further

assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_ If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

\_\_\_\_\_ If to Lender:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof,

or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

~~FERC Qualifying Facility Self Certification  
As-Built Operating One Line Diagram~~

~~As Built Operating 12x24 Generation Profile~~

~~As Built Average Annual Degradation Percentage (only applicable for Solar QFs)~~



## EXHIBIT E

### START-UP TESTING

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing only.]

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

1. Pressure tests of all steam system equipment;
2. Calibration of all pressure, level, flow, temperature and monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Insulation resistance and point-to-point continuity tests;
6. Bench tests of all protective devices;
7. Tests required by manufacturer of equipment; and
8. Complete pre-parallel checks with PGE.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

1. Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
2. Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Stator windings dielectric test;
7. Armature and field windings resistance tests;
8. Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
9. Heat runs;
10. Tests required by manufacturer of equipment;
11. Excitation and voltage regulation operation tests;
12. Open circuit and short circuit;
13. Saturation tests;
14. Governor system steady state stability test;
15. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
16. Auto stop/start sequence;
17. Level control system tests; and
18. Completion of all state and federal environmental testing requirements.



**EXHIBIT F**  
**SCHEDULE 201**

[Attach Schedule 201]

**EXHIBIT G**

**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**

**EXHIBIT H**

[Attach negotiated prices for Option B – Solar Standard Terms and Negotiated Price Agreement]

**STANDARD RENEWABLE OFF-SYSTEM NON-VARIABLE  
POWER PURCHASE AGREEMENT  
BETWEEN  
[COUNTERPARTY NAME]  
AND  
PORTLAND GENERAL ELECTRIC COMPANY**

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Exhibits

Exhibit A Description of Facility  
Exhibit B Seller's Interconnection Facilities and ~~Delivery~~Transmission Attributes  
Exhibit C Seller's Net Output Estimates  
Exhibit D Collateral Assignment and Consent Agreement Form~~Required Facility~~  
~~Documents~~  
Exhibit E Start-Up Testing  
Exhibit F Schedule 201  
Exhibit G Illustrative Examples of  
Payment and Lost Energy Value Calculations



**STANDARD RENEWABLE OFF-SYSTEM NON-VARIABLE  
POWER PURCHASE AGREEMENT**

This STANDARD RENEWABLE OFF-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT (“**Agreement**”) is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] (“**Seller**”) and Portland General Electric Company, an Oregon corporation (“**PGE**”) (hereinafter each a “**Party**” and collectively, “**Parties**”).

**RECITALS**

A. [New QF] ~~Seller is a New QF and~~ intends to construct, own, operate and maintain a ~~\_\_\_\_\_~~ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B** (“**Facility**”).

~~A. [Existing QF] Seller New QF is an Existing QF and owns and intends to operate and maintain a \_\_\_\_\_~~ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B** (“**Facility**”).

~~A. [Existing QF] Seller owns and intends to operate and maintain an Existing QF \_\_\_\_\_~~ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B**.

B. Seller intends to operate the Facility as a “Qualifying Facility,” as that term is defined in the ~~FERC~~ Federal Energy Regulatory Commission regulations codified at 18 CFR Part 292.

C. Seller wishes to sell and PGE is willing to purchase the Net Output from the Facility, subject to and in accordance with the terms and conditions of this Agreement, and Seller wishes to provide energy and capacity pursuant to this Agreement.

**AGREEMENT**

NOW, THEREFORE, the Parties agree as follows:

**ARTICLE 1: DEFINITIONS AND CONTRACT INTERPRETATION**

1.1 Defined Terms.

For all purposes of this Agreement, the following terms shall have the following meanings:

“Adjusted Delivered Net Output” means, for any given period, Net Output delivered as Firm Energy to the Delivery Point during the period plus Net Output that would have been delivered as Firm Energy to the Delivery Point during any period in which Seller was excused from its delivery obligations due to a Force Majeure Event, based on the Estimated Monthly Average Net Output set forth in Exhibit C (pro-rated for partial months as applicable).

“Affiliate” means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller, ~~or that shares~~

~~management or that acts jointly or in concert with or exercises influence over the policies or actions of Seller.~~ For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

“**Agreement**” means this Standard Renewable Off-System Non-Variable Power Purchase Agreement and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

“**Alternative Minimum Net Output**” has the meaning set forth in **Exhibit C**.

“**Ancillary Services**” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services.” ~~” including energy imbalance services, generation imbalance services, regulation and frequency response services, reactive supply services, voltage control services, inadvertent energy flow services, control area services, system integration services, operating spinning reserve services, and operating supplemental reserve services.~~

“**Applicable Law**” means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

“**As-built Supplement**” means a supplement to **Exhibit A** and **Exhibit B** provided by Seller in accordance with Section 2.2 following completion of construction of the Facility, or modifications to the Facility, which describes the Facility as actually built.

“**Balancing Authority**” means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to in which the Facility ~~is located~~.

“**Bankrupt**” means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, ~~or (iii)(iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they become due.~~

“**Billing Period**” means one calendar month.

“**Business Day**” means any day ~~or such other~~ than Saturday, Sunday or period (not to exceed three months) as PGE may establish by written notice to Seller, during the following holidays: New Year’s Day, January 1; Memorial Day, last Monday ~~Delivery Period, in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25~~ the event that PGE reasonably determines that changing the length of a Billing Period will have a *de minimis* effect on the cost of Seller’s Net Output to PGE.

“**Capacity Attributes**” ~~means any current or future attribute, as may be currently defined or otherwise defined in the future, including but not limited to a characteristic, certificate, tag, credit, ancillary service or attribute thereof, or accounting construct, associated with the electric generation capability and capacity of the Facility or the Facility’s capability and ability to produce or curtail energy, including any~~

~~attribute counted towards any current or future resource adequacy or reserve requirements. Notwithstanding any other provision of this Agreement, "Capacity Attributes" do not include: (i) tax credits, deductions, or tax benefits associated with the Facility, (ii) any state, federal, local, or private cash payments or grants relating in any way to the Facility or the Net Output, or (iii) Environmental Attributes.~~

**"Cash Escrow"** means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller's placement of cash in the custody of the escrow agent for delivery to PGE after the fulfillment of any of the conditions specified in Section 9.2. Amounts in the Cash Escrow shall earn interest at the rate applicable to money market deposits at escrow agent.

**"Claims"** means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.

**"Commercial Operation"** has the meaning given to it in Section 2.45.

**"Commercial Operation Date"** has the meaning given to it in Section 2.56.

**"Commission"** means the Public Utility Commission of Oregon.

**"Contract Price"** means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under the Renewable Fixed Price Option for \_\_\_\_\_ *[specify applicable Renewable Fixed Price Option based on resource type, in accordance with Schedule L]* as published in the Schedule and attached as **Exhibit F**, and thereafter, for the remainder of the Term, the Daily Market Index Price in effect during the interval when the energy is generated.

**"Contract Year"** means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time ("PPT") on January 1 and ending at 24:00 hours PPT on December 31; *provided, however*, that the first Contract Year shall commence on the Commercial Operation Date and end on December 31<sup>st</sup> of the calendar year in which the Commercial Operation Date occurs, and the last Contract Year shall end on the last day of the Term.

**"Credit Support"** has the meaning given to it in Section 9.1.

**"Creditworthiness Requirements"** has the meaning given to it in Section 8.1.6.

**"Daily Market Index Price"** means the Day Ahead Intercontinental Exchange ("ICE") index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>. In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Delivery Point.

**"Delay Damages"** has the meaning given to it in Section 2.67.

**"Delivery Period"** has the meaning given to it in Section 3.1.

**“Delivery Point”** means the point of delivery ~~where Seller delivers energy to on the PGE systemside of the interface with the applicable Balancing Authority, where the Parties have agreed that Seller will deliver energy to PGE from the Facility,~~ as specified in **Exhibit B**. PGE and Seller may mutually agree to amend the Delivery Point.

**“e-Tag”** means NERC electronic tag.

~~“e-Tags” has the meaning given to it in Section 3.6.1.2.~~

**“Effective Date”** has the meaning given to it in Section 2.1.

**“Environmental Attributes”** ~~shall mean~~means any and all claims, credits, benefits, emissions reductions, offsets, and allowances, ~~howsoever entitled~~however named, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water. Environmental Attributes include but are not limited to: or otherwise arising as a result of the generation of electricity from the Facility, regardless of whether or not (i) such environmental attributes have been verified or certified, (ii) such environmental attributes are creditable under any applicable legislative or regulatory program, or (iii) such environmental attributes are recognized as of the Effective Date or at any time during the Term. ~~Environmental Attributes include:~~ (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; ~~and (2) any credit, allowance or instrument issued or issuable pursuant to a state implementation plan under the Clean Power Plan promulgated by the Environmental Protection Agency under the Clean Air Act;~~ (3) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), and other greenhouse gasses (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, ~~or otherwise by law,~~ to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; ~~and (4) the reporting rights to these avoided emissions, such as the carbon content of the energy generated by the Facility and REC Reporting Rights.~~ Environmental Attributes do not include (i) production tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, or (ii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits.

**“Estimated Annual Average Net Output”** means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

**“Estimated Annual Maximum Net Output”** means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

**“Estimated Monthly Average Net Output”** means the relevant amounts specified in ~~the table in~~ **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

**“Estimated Monthly Maximum Net Output”** means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

**“Existing QF”** means a QF that (1) is or has been operational before the Effective Date of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party.

**“Expiration DateFacility”** has the meaning given to it in Section 2.1.

**“Facility”** is the entire facility as specified in Exhibit A and Exhibit B ~~Recitals~~.

**“Facility Nameplate Capacity Rating”** means the sum of the Nameplate Capacity Ratings for all Generation Units ~~Generators~~ comprising the Facility.

**“FERC”** means the Federal Energy Regulatory Commission or any successor government agency.

**“Firm Energy”** means energy scheduled and delivered on a firm basis hourly to the Delivery Point ~~on an uninterruptible basis~~ via firm transmission rights.

**“Force Majeure” or “Force Majeure Event”** ~~has in accordance with~~ the meaning given to it in Section 13.1. Transmission Agreement(s).

**“Generator”** means the electrical component within the Facility measured in kW that converts mechanical energy ~~radiation~~ into electrical energy.

**“Generation Unit”** means a complete each separate electrical generation system within Generator of the Facility that is able to generate and deliver energy ~~contributes~~ to the Point of Interconnection independent of other Generation Units within the same ~~Specified~~ Facility. Nameplate Capacity Rating included in Exhibit A.

**“Governmental Authority”** means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

**“Imbalance Energy”** means that portion of Firm Energy, measured in kWh, scheduled and delivered to the Delivery Point that was not Net Output.

**“Interconnection Agreement”** means an agreement governing the interconnection of the Facility with \_\_\_\_\_’s [specify relevant transmission system ~~Transmission Provider or distribution system owner]~~ electric system, ~~having a term ending no earlier than the expiration date of this Agreement.~~

**“Interconnection Rating”** ~~means the Facility capacity rating specified in the Interconnection Agreement, or, if no Interconnection Agreement exists, in the application seeking interconnection.~~

**“kW”** and **“kWh”** mean kilowatt and kilowatt hour, respectively.

**“Lender”** means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.

**“Letter of Credit”** means an irrevocable standby letter of credit from an institution selected by the Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

“**Licensed Professional Engineer**” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in Section 2.4.2, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.

“**Lost Energy**” means (in kWh): ~~either~~

- A. In connection with a Facility after the Commercial Operation Date, if Seller fails to meet the Minimum Delivery Guarantee, then with respect to a Contract Year given period, an amount equal to the Minimum Net Output ~~delivered to the Delivery Point less the~~ Adjusted Delivered Net Output ~~for the period;~~ or
- B. In connection with a Facility that does not establish the Commercial Operation Date on or before the Commercial Operation Date, if the Seller fails to meet the Scheduled Commercial Operation Date, the ~~sum of the~~ Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see Exhibit C) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual Commercial Operation Date or contract termination pursuant to Section 10.; The Estimated Monthly Average Net Output ~~shall~~may be pro-rated for any partial months; or
- C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 10 of this Agreement because of Seller’s ~~for~~ default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month from the date of termination through the end of the T term. The Estimated Monthly Average Net Output ~~shall~~may be pro-rated for any partial months.

“**Lost Energy Value**” means:

A. In connection, with Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly ~~respect~~ to each calendar month in the Contract Year and then allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in Exhibit C (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the ~~given~~ period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours ~~an amount calculated as follows:—~~ Lost Energy for each ~~the~~ applicable calendar month (or partial calendar month) in the Contract Year ~~period~~



~~multiplied by (the (applicable greater of zero (0) or the Replacement Price for On-Peak Hours the period less the time weighted average of the Contract Price for On-Peak Hours for the same period); and~~

- ~~The Off-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year multiplied by the (applicable Replacement Price for Off-Peak Hours less the Contract Price for Off-Peak Hours for the same period).~~

~~If the above calculation of the Lost Energy Value for the Contract Year results in a negative value, the Lost Energy Value for the Contract Year shall be deemed zero. See the example calculation in Exhibit G.~~

~~In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during which Seller has failed to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below) for the period, plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.~~

~~The monthly calculation of Lost Energy Value equals the sum of the following:~~

- ~~The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) multiplied by the (applicable Replacement Price for On-Peak Hours less the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) shall not exceed the Contract Price for On-Peak Hours for the same period; and~~
- ~~The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) multiplied by the (applicable Replacement Price for Off-Peak Hours less the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.~~

~~If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in Exhibit G.~~

- ~~B. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:~~

~~The monthly calculation of Lost Energy Value equals the sum of the following:~~



- The On-Peak Lost Energy for the applicable calendar month or partial calendar month multiplied by (the Replacement Price for On-Peak Hours for the period less the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month multiplied by (the Replacement Price for Off-Peak Hours for the period less the Contract Price for Off-Peak Hours for the period); and
- Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in Exhibit G.

~~“Market Index Price” means the applicable Powerdex hourly Mid-Columbia Index price for firm energy at the time the energy is delivered. In the event Powerdex no longer publishes this index or PGE elects to use nodal pricing, PGE will select an alternative successor index or other published pricing (or independent system operator or regional transmission organization settlement pricing) representative of the Delivery Point.~~

~~“Minimum Net Output” means, for a Contract Year given period, seventy-five percent (75%) of the Estimated Annual Average expected Net Output from the Facility for the period, based on the expected Net Output of the Facility for the period as set forth in Exhibit C (pro-rated as required for partial Contract Years and partial months, as applicable), unless Seller selects an Alternative Minimum Net Output consistent with the terms of Exhibit C of this Agreement (pro-rated for any period less than 12 calendar months), in which case the Minimum Net Output equals the selected Alternative Minimum Net Output.~~

~~“Minimum Delivery Guarantee” has the meaning given to it in Section 3.4 for partial months as applicable).~~

~~“Nameplate Capacity Rating” means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.~~

~~“NERC” means the North American Electric Reliability Corporation.~~

~~“Net Available Capacity” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Point of Interconnection continuously for at least sixty (60) minutes, which is equivalent to the lesser of: (1) the Specified Facility Nameplate Capacity Rating, or (2) the Interconnection Rating, in either case less station service (parasitic power and electrical losses).~~

~~“Net Output” means all energy, expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the Point of Interconnection.~~

“New QF” means any QF that is not an Existing QF.

~~“Notice of Proposed REC Transfer” has the meaning given to it in Section 7.1.2.~~

~~“Off-Peak Hours” means all hours other than has the meaning provided in the Schedule.~~

~~“On-Peak Hours” has the meaning provided in the Schedule.~~

“On-Peak Energy Imbalance Accumulation” and “Off-Peak Energy Imbalance Accumulation” have the meanings given to them in Section 3.2.

~~“On-Peak Hours” means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.~~

“Oregon Renewable Portfolio Standard” means the renewable portfolio standard contemplated by ORS 469A.005 to 469A.200, and the implementing regulations, in each case as in effect on the Effective Date of this Agreement~~amended from time to time.~~

“Person” means any individual, corporation, ~~a~~ limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.

~~“Planned Maintenance” means outages scheduled 90 calendar days in advance, with PGE’s prior written notice to PGE consent, which shall not be unreasonably withheld.~~

“Point of Interconnection” means the point of interconnection between the Facility and the interconnecting Transmission Provider or distribution system owner, as specified in **Exhibit B**.

“Prime Rate” means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

“Product” means, each and together, as a single bundled product, Net Output and, if applicable, Imbalance Energy, together with all associated ~~capacity~~Capacity Attributes and Transferred RECs.

“Prudent Electrical Practices” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the WECC that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all Applicable Law. Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

“PURPA” means the Public Utility Regulatory Policies Act of 1978.

“Qualifying Facility” has the meaning set forth in the Recitals.

“REC” means Environmental Attributes and REC Reporting Rights, however commercially transferred or traded under any or other product names, such as “green tags,” “Green-e Certified,” or otherwise. RECs are accumulated on a MWh basis and one REC represents the Environmental Attributes and REC Reporting Rights made available by the generation of one MWh of energy by the Facility, as represented by the actual Net Output on an hourly basis. RECs do not include: (i) Environmental Attributes that are greenhouse gas offsets from methane capture not associated with the generation of electricity and not needed to ensure that there are zero net emissions associated with the generation of electricity; or (ii) thermal renewable energy certificates as defined in ORS 469A.132 and the implementing regulations. All RECs transferred~~lesser of the final e-Tag or the actual Net Output on an hourly basis. All RECs delivered~~ to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.

“REC Reporting Rights” are the rights of a Person to report the ownership of accumulated RECs in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at such Person’s discretion, and include without limitation those REC Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present federal, state, or local law, regulation or bill, and international or foreign emissions trading program.

“Reliability Entity” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

~~“Remedial Action Scheme” means an automatic protection system designed to detect abnormal or predetermined system conditions, and take corrective actions other than or in addition to the isolation of faulted components to maintain system reliability. Such action may include changes in demand, generation, or system configuration to maintain system stability, acceptable voltage, or power flows.~~

“Renewable Resource Deficiency Period” means the period beginning January 1, 2025 through~~has the termination or Expiration Date of this Agreement~~meaning given to it in the Schedule.

“Renewable Resource Sufficiency Period” ~~means~~ the period through 2024~~meaning given to it in the Schedule.~~

“Replacement Price” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at the Mid-Columbia trading hub~~which PGE, acting in a commercially reasonable manner, purchases for delivery at the Delivery Point replacement energy~~ for any Net Output that Seller fails to deliver as required under this Agreement.

~~When PGE elects not to make such a purchase,~~ the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Delivery Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices for a given period shall be calculated as follows for each applicable calendar month (or partial calendar month):

- ~~For Lost Energy During On-Peak Hours: the hourly average~~ the greater of the on-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).
- ~~For Lost Energy During Off-Peak Hours: the hourly~~ zero (0) or the time-weighted average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

When the Replacement Market Index Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 10, the Replacement Price shall be the respective for On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices during the applicable period.

“**Required Facility Documents**” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as, including the Interconnection Agreement and; the Transmission Agreement, ~~and those set forth in Exhibit D.~~

~~“ROFR Exercise Notice” has the meaning given to it in Section 7.1.2.~~

~~“ROFR Period” has the meaning given to it in Section 7.1.2.~~

“**Schedule**” means PGE’s Schedule 201 filed with the Commission and in effect on the date that Seller delivers to PGE an executed copy of this Agreement, ~~the terms of which are hereby incorporated by reference.~~ For ease of reference and informational purposes only, a copy of the Schedule is attached hereto as **Exhibit F**; however, if there is any difference between **Exhibit F** and the Schedule, the terms of the Schedule shall apply and prevail.

“**Scheduled Commercial Operation Date**” has the meaning given to it in Section 2.67.

“**Seller-Retained RECs**” has the meaning given to it in Section 7.1.

“**Senior Lien**” means a prior lien ~~that which~~ has precedence as to the property under the lien over another lien or encumbrance.

“**Specified Facility Nameplate Capacity Rating**” means the Facility Nameplate Capacity Rating set forth in **Exhibit A**, as it may be amended from time to time in accordance with this Agreement.

“**Start-Up Testing**” means the ~~performance completion~~ of applicable ~~required factory and~~ start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in **Exhibit E** (as it may be updated by Seller) during the Test Period.

“**Step-in Rights**” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.

“**Surplus Delivery**” has the meaning given to it in Section 3.2. By definition, Surplus Delivery shall always be a positive number.

“**Term**” has the meaning given to it in Section 2.1.

“**Test Energy**” means electric energy generated by the Facility during the Test Period, ~~and all RECs and Capacity Rights associated with such electric energy.~~

“**Test Period**” means a period ~~of no more than sixty (60) calendar days~~, during which Start-Up Testing is to be conducted.

“**Transferred RECs**” has the meaning given to it in Section 7.2.1.

“**Transmission Agreement**” means an agreement (or agreements) between Seller and the Transmission Provider(s) that provide(s) for ~~the long term, firm, point to point~~ transmission and delivery of Firm Energy from the Facility to the Delivery Point, energy at no less than the Specified Facility Nameplate Capacity Rating. ~~The Transmission Agreement shall have from the Facility to the Delivery Point for a term of at least the lesser of (i) not less than five (5) years, with renewal rights, or (ii) until the Expiration Date of together with any and all other services (including Ancillary Services) required for transmission and delivery of energy to the Delivery Point, as scheduled in accordance with this Agreement.~~

“**Transmission Provider(s)**” means \_\_\_\_\_, the transmission system operator(s) with whom Seller will enter or has entered into the Transmission Agreement(s) to provide for delivery of Firm Energy from the Facility to the Delivery Point in accordance with this Agreement.

“**WECC**” means the Western Electricity Coordinating Council or any successor thereto.

~~“**WECC Pre-Scheduling Day**” means the WECC Pre-Scheduling Day prior to the delivery day or day(s) as defined by the most recent WECC Pre-Schedule calendar. For example, Thursday is typically the WECC Pre-Scheduling Day for delivery days of Friday and Saturday.~~

“**WREGIS**” means the Western Renewable Energy Generation Information System.

## 1.2 Interpretation.

In this Agreement, references to Recitals, Sections, and Exhibits are references to the recitals, sections and exhibits of this Agreement. The article and section headings in this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms “includes” or “including” mean “includes but is not limited to” and “including but not limited to,” respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in this Agreement in accordance with such recognized meanings.

## ARTICLE 2: TERM; FACILITY; COMMERCIAL OPERATION

### 2.1 Term.

The term of this Agreement (“**Term**”) commences on the date this Agreement is signed by both Parties (“**Effective Date**”) and ends on the earlier of \_\_\_\_\_ ~~/Seller-selected date or fixed-interval period of time~~, 20 ~~/date that is no more than 20 years from the Scheduled Commercial Operation Date/~~ (“**Expiration Date**”) or the date on which this Agreement is terminated pursuant to the terms of the Agreement.

### 2.2 Construction of the Facility.

~~2.2.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE's system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement. Seller shall, at its sole cost, design and construct the Facility and, obtain all necessary transmission and interconnection rights, necessary and make or cause to be made all necessary modifications to PGE's or the Transmission Provider's (or Transmission Providers') systems to enable the delivery of energy from the Facility to the Delivery Point, all in compliance with this Agreement, the Required Facility Documents, and Prudent Electrical Practices.~~

~~—Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement may must be reviewed and approved by PGE, which review approval shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE's information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section 6.3.1.~~

~~2.3 Seller's Responsibility for Costs.~~

~~Seller is responsible for all costs associated with the study or construction of necessary modifications and upgrades to the Facility or PGE's or the Transmission Provider's (or Transmission Providers') systems related to the delivery of energy from the Facility to the Delivery Point, or any increase in the Facility Nameplate Capacity Rating or the generating capability of the Facility. Without limiting the generality of the foregoing:~~

~~2.3.1 If the Facility is subject to a Transmission Provider's Remedial Action Scheme and PGE has an obligation to the Transmission Provider for said Remedial Action Scheme, Seller shall make necessary arrangements prior to the Commercial Operation Date, including installing any required equipment and entering into any necessary agreements to enable PGE to include the Facility in the list of resources used to satisfy PGE's obligation under the Transmission Provider's Remedial Action Scheme.~~

~~2.3.2 PGE will evaluate available delivery capability on PGE's transmission system between the Delivery Point and PGE's load that is required to enable PGE to accept delivery of the Facility's Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to PGE's designated sink point. If PGE determines that sufficient delivery capability exists on PGE's transmission system, PGE will arrange for, be responsible for, and make available transmission service on PGE's transmission system from the Delivery Point to the designated sink point. If PGE determines that insufficient delivery capability exists on PGE's transmission system, Seller will be responsible for (i) obtaining and paying for necessary transmission studies and paying for any transmission upgrades necessary to enable PGE to accept deliveries of Net Output from the Facility and to effectuate delivery from the Delivery Point to PGE's designated sink point, or (ii) paying for any necessary transmission service from Transmission Providers to effectuate delivery from the Delivery Point to PGE's designated sink point. If any upgrades to PGE's system are identified pursuant to part (i), PGE and Seller shall enter into a separate agreement to establish the terms under which PGE shall arrange for and Seller will pay for such upgrades; provided, however, that if the costs of such upgrades is reasonably projected to exceed One Hundred Thousand Dollars (\$100,000), Seller may terminate this Agreement by providing written notice to Buyer, unless, within thirty (30) days after Buyer receives such notice, Buyer agrees in its sole discretion to bear costs in excess of that amount. After~~



~~all necessary upgrades have been completed in accordance with Prudent Electrical Practices, PGE will arrange for, be responsible for, and make available transmission service from the Delivery Point to the designated sink point.~~

#### 2.42.3 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with **Exhibit E** ~~(as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility),~~ and shall provide written notice to PGE when the Start-Up Testing has been successfully completed. Seller must provide no less than one (1) business day ~~ten (10) working days'~~ written notice to PGE prior to the commencement of Start-Up Testing, ~~and must provide. Seller shall use its best efforts to schedule and deliver Test Energy to its Transmission Provider, to a third party or to an organized market via its Transmission Provider's system. Seller shall be entitled to any and all compensation received from its Transmission Provider or any third party or organized market for such Test Energy. If it is necessary for Seller to schedule and deliver Test Energy to PGE ten (10) business days' written notice prior to commencing sales of Test Energy to PGE. In~~ order to complete Start-Up Testing, Seller may ~~schedule and deliver Test Energy to PGE~~ ~~do so~~ pursuant to the scheduling procedures set forth in Section ~~3.5,~~ and PGE shall ~~compensate the Seller for delivered Test Energy in accordance with Section 4.1.1.3.5,~~ but shall not be entitled to compensation from PGE for Test Energy. Seller shall pay any costs or additional expenses that are required for PGE to receive Test Energy, including procurement of any necessary capacity costs or reserves. This Section ~~2.34~~ does not apply if the Facility is an Existing QF unless the Existing QF elects to conduct Start-Up Testing.

#### 2.52.4 Commercial Operation.

“**Commercial Operation**” will be achieved when the Facility is fully constructed and ~~deter~~mined by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have occurred:

~~2.5.12.4.1~~ If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with **Exhibit E**, and PGE has received Seller's written certification of completion of Start-Up Testing.

~~2.5.22.4.2~~ PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that the Facility is interconnected and operational ~~interconnection has been completed~~ in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.

~~2.5.32.4.3~~ PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE's reasonable satisfaction, which may include equipment specifications.

~~2.5.42.4.4~~ PGE has received a ~~letter~~certificate addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement and Transmission Agreement~~(s)~~, and any other Required Facility Documents requested by PGE.



~~2.5.5~~2.4.5 PGE has received the following documents with respect to the Facility: the As-built Supplement, including but not limited to an electrical single-line diagram, a 12x24 estimated net energy profile, and a 8760 net energy production estimate.

~~2.5.6~~2.4.6 PGE has received copies of all insurance certificates required under Section 12.12.

~~2.5.7~~2.4.7 PGE has received any Credit Support required under Section 9.1.

~~2.5.8~~2.4.8 Seller has provided evidence of the registration of the Facility as a generating unit in WREGIS and satisfaction of any other requirements for the recording of RECs in WREGIS.

~~2.5.9~~ If any upgrades to PGE's system between the Delivery Point and PGE's load are required in order to enable PGE to accept delivery of the Facility's Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to PGE's designated sink point, the Company and the Seller have entered into an agreement concerning such upgrades as required under Section 2.3.2.

#### 2.62.5 Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section 2.~~4~~5, Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, including but not limited to information required in Exhibit A and Exhibit B. PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, provided that PGE shall not unreasonably withhold such certification. The date of Seller's notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the "**Commercial Operation Date**" for all purposes under this Agreement.

#### ~~2.7~~2.6 Scheduled Commercial Operation Date.

By no later than \_\_\_\_\_ ("Scheduled Commercial Operation Date"), Seller shall have completed all requirements under Section 2.4 and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE's negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE's negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before Seller guarantees that Commercial Operation shall occur no later than \_\_\_\_\_, 20\_\_\_\_ ("Scheduled Commercial Operation Date"). If Commercial Operation does not occur by the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay for the period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date ("**Delay Damages**"). If Commercial Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section 10.32.

2.8.2.7 Status of the Facility.

~~2.8.2.7.1~~ Seller shall construct and operate the Facility so as to ensure its status as a Qualifying Facility and in a manner consistent with its FERC Qualifying Facility certification. At any time during the Term, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE's request, ~~(i) a written legal opinion from an attorney who is in good standing in the state of Oregon and is not employed by a Person having an economic interest in the Facility stating that the Facility is a Qualifying Facility, and (ii)~~ documentation acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility.

~~2.8.2.7.2~~ Seller shall not make any changes in its ownership, control or management that would cause the Facility to fail to satisfy the eligibility requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement. Seller shall provide upon request by PGE, not more frequently than every 36 months, any documentation and information as may be reasonably requested by PGE to establish Seller's continued compliance with the applicable eligibility requirements such definition. PGE shall take reasonable steps to maintain the confidentiality of any such documentation and information that Seller identifies as confidential, provided that PGE may provide all such information to the Commission upon the Commission's request.

**ARTICLE 3: DELIVERY AND SALE OF ENERGY; SCHEDULING**

3.1 Delivery and Sale of Energy.

Except as otherwise provided in this Agreement, commencing on the Commercial Operation Date and continuing until the end of the Term (the "**Delivery Period**"), Seller shall deliver and sell and PGE shall receive and purchase all of the Net Output delivered as Firm Energy at the Delivery Point. In reliance on Seller's representations and warranties in Section ~~8.18.1.10~~, Seller may also deliver and PGE shall receive and purchase Imbalance Energy delivered at the Delivery Point, subject to Section 3.2. ~~Notwithstanding the foregoing, Seller shall not deliver and PGE shall not be obligated to receive or purchase energy delivered at a rate, on an hourly basis, greater than the Net Available Capacity.~~ Title and risk of loss related to the Product shall transfer from Seller to PGE at the Delivery Point, except that title to Transferred RECs shall transfer to PGE when generated.

3.2 Surplus Delivery.

For purposes of this Agreement, (i) "**On-Peak Energy Imbalance Accumulation**" means total Firm Energy aggregate energy delivered to the Delivery Point during On-Peak Hours during a Billing Period ~~less total aggregate Net Output delivered to the Delivery Point~~ during On-Peak Hours during such Billing Period; ~~and~~, and (ii) "**Off-Peak Energy Imbalance Accumulation**" means total Firm Energy aggregate energy delivered to the Delivery Point during Off-Peak Hours during a Billing Period ~~less total aggregate Net Output delivered to the Delivery Point~~ during Off-Peak Hours during such Billing Period. Any positive On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation shall be deemed "**Surplus Delivery.**" PGE shall accept but ~~is not obligated to~~ pay for Surplus Delivery. Any negative On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation during a Billing Period implies that Seller has delivered less than the aggregate Net Output during the applicable hours in the Billing Period. For the avoidance of doubt, the Parties agree that Seller is not entitled to compensation for any portion of total Net Output that exceeds total is not delivered as Firm Energy delivered to the Delivery Point during the applicable Billing Period.

3.3 Estimated Net Output.

Seller's good faith, commercially reasonable estimate of the Facility's ~~average~~ monthly and annual average and maximum Net Output during the Delivery Period, and Seller's basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in **Exhibit C, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section 6.3.** Seller acknowledges that PGE will use these estimates in its resource planning and for purposes of determining the Minimum Delivery Guarantee, ~~described in Section 3.4.~~

3.4 Minimum Delivery Guarantee.

Seller ~~hereby~~ guarantees that it will deliver to PGE from the Facility, for, during each Contract Year, ~~the Adjusted Delivered~~ Net Output equal to or greater than~~shall be no less than~~ the Minimum Net Output, pro-rated for any partial years. This guarantee is referred to in this Agreement as ~~(the "Minimum Delivery Guarantee.")~~. ~~As damages for Seller's failure to satisfy the Minimum Delivery Guarantee in any Contract Year, Seller shall owe PGE the Lost Energy Value for such Contract Year.~~

~~3.5~~ Forecasting and Scheduling.

~~3.5.1~~ During the Delivery Period, Seller shall provide PGE with a rolling hourly generation forecast for the next fourteen (14) days, updated hourly (each a "**Generation Forecast**"). Each Generation Forecast shall be performed by a third party forecasting agent and shall be provided in a commercially reasonable format specified by PGE.

~~3.5.23.4.1~~ Seller shall schedule, following the procedures set forth in Section 3.6, deliveries of the Product at the Delivery Point in the amount of expected Net Output (less transformation and transmission losses to the Delivery Point), consistent with the Generation Forecast. Seller shall make reasonable efforts to minimize the delivery of Imbalance Energy to PGE. Seller and PGE agree that the intent of this Section is for Seller to schedule and deliver energy resembling actual production from the Facility for each hour.

~~3.6~~3.5 Scheduling Procedures.

~~3.6.1~~ Seller shall provide preschedule~~schedule~~ energy in hourly blocks for delivery at the Delivery Point in accordance with the following procedures:

~~3.6.1.1~~ For each day during the Delivery Period, Seller shall, by 5:00 a.m. PPT of the customary WECC Pre-Scheduling Day, communicate to PGE's Pre-schedule Desk the expected hourly energy to be delivered at the Delivery Point for that day consistent with the Generation Forecast.

~~3.6.1.2~~ Seller shall schedule the energy by submitting a NERC e-Tag ("**e-Tags**") prior to 1:00 p.m. PPT of the applicable WECC Pre-Scheduling Day for all deliveries~~hours~~ of the applicable delivery day or days.

~~3.6.1.3~~ Seller shall schedule the energy hereunder, including identification of receiving~~with~~ e-Tags according to prevailing WECC, NERC, or Transmission Provider Pre-scheduling provisions and generating control areas, by 9:00:00 PPT on the last business day prior to the ~~protecols.~~

~~Seller shall schedule the Facility as the identified e-Tag source. Seller may not net or otherwise combine schedules from resources other than the Facility, except as necessary for Ancillary Services.~~

~~3.6.1.4 Seller shall not schedule energy using a Dynamic or Pseudo-Tie e-Tag as such terms are defined and used by NERC.~~

~~3.6.2 Seller may make adjustments to the energy scheduled date of delivery. All energy shall be scheduled according to the most current NERC and WECC scheduling rules and practices. The Parties' respective representatives shall maintain hourly as described above each hour in real-time schedule coordination; provided, however, that in the absence, If Seller elects to make such real-time adjustments, Seller shall submit and receive approval of such coordination, the hourly schedule established by the exchange of preschedules shall any e-Tag adjustment no later than seventy five (75) minutes prior to the flow hour. Seller shall be considered final. Seller responsible for any and all costs, charges, or fees associated with any changes Seller makes to the e-Tag after seventy five (75) minutes prior to the flow hour.~~

~~3.6.3 In the event that the regional market design, Balancing Authority, or other Reliability Entity causes PGE's scheduling practices to change after the Effective Date, PGE shall have the right but not the obligation to update the scheduling procedures described in this Section 3.6 by giving sixty (60) days' prior written notice to Seller of such update.~~

~~3.6.4 Seller shall be responsible for all costs or charges associated with the Product or its delivery to the extent such costs or charges are imposed on Seller's side of the Delivery Point.~~

~~3.6.5.1 Seller shall maintain records of hourly energy schedules for accounting and operating purposes. The final E-Tag shall be the controlling evidence of the Parties' schedule. All energy shall be prescheduled according to customary WECC scheduling practices. Seller shall make commercially reasonable efforts to schedule in any hour an amount equal to its expected Net Output for such hour. Seller shall maintain a minimum of two years' records of the Net Output and shall agree to allow PGE to have access to such records and to imbalance information kept by the Transmission Provider. The cost of delivering energy from the Facility to PGE shall be the sole responsibility of the Seller.(s).~~

### 3.7.3.6 Loss of Interconnection and Curtailment.

PGE shall not be liable to Seller and shall have no obligation to purchase the Product from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the extent that, due to the action of a Reliability Entity, ~~an event of Force Majeure Event~~, or PGE's construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility to the electric system is disconnected, suspended or interrupted, or (ii) generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller's control.

### ~~3.8 Carbon Emissions:~~

~~Seller is responsible for and shall pay for all future costs, if any, whether incurred by Seller or PGE, resulting from any carbon emissions generated by or associated with the Product delivered by Seller to the Delivery Point in accordance with this Agreement. Seller may provide PGE with carbon emissions offsets~~

~~that are reasonably satisfactory to PGE in lieu of a monetary settlement. Within fifteen (15) business days after PGE's request, Seller shall provide PGE with the carbon emissions data for the Product that is delivered during the Delivery Period.~~

#### ARTICLE 4: PRICE, BILLING AND PAYMENT

##### 4.1 Prices and Payment for Delivered Product.

4.1.1 ~~During the Delivery Period,~~ PGE shall pay Seller an amount for Product delivered during a Billing Period calculated as follows: ~~the Contract Price multiplied by the lesser of (i) Net Output during the Billing Period and Imbalance Energy (but not including Surplus Delivery or (ii) energy delivered at an hourly rate in excess of the Net Available Capacity) delivered as Firm Energy delivered to the Delivery Point during the Billing Period. PGE shall not pay for Surplus Delivery. An illustrative example is provided in Exhibit G. In determining the amount due to Seller for the Product, the amount of Net Output generated in any hour shall be deemed to be zero or greater. \_\_\_\_\_, multiplied by the Contract Price.~~

4.1.2 ~~Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy multiplied by the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.~~

~~4.1.24.1.3~~ Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.

##### 4.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.

By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE ~~will in the ordinary course~~ shall deliver to Seller an invoice showing PGE's computation ~~(and supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE to PGE in respect thereof for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the preceding calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in Exhibit G.~~

##### 4.3 Invoicing and Payment for Lost Energy Value Related to Minimum Delivery Guarantee.

~~If Seller fails to satisfy the Minimum Delivery Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following the end of the Contract Year, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar. No later than ten (10) days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future energy deliveries by the amount of such Delay Damages.~~

##### ~~4.3 — Invoicing and Payment for Lost Energy Value.~~



~~If Seller fails to satisfy the Minimum Delivery Guaranty during any Contract Year, on or before the thirtieth (30th) day following the end of such Contract Year, PGE shall deliver to Seller an invoice showing PGE's computation of any deficit in the guaranteed amount. Thereafter, the amount payable by PGE for future deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period of such reduction (not to exceed one year) so as to minimize the risk of Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.~~

4.4 Form of Payment and Interest on Late Payments.

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.

4.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.

## ARTICLE 5: METERING

5.1 Metering.

Metering shall be performed at the location and in a manner consistent with this Agreement, as specified in **Exhibit B**. ~~Seller shall provide to PGE all information in hourly increments for all regarding Net Output and any other energy purchased under this Agreement. in hourly increments. Seller shall provide PGE with a real time ICCP and EIDE communications link to the Facility metered output.~~

5.2 Meter Installation, Inspection and Correction.

Seller shall arrange ~~and pay~~ for the installation, testing, and maintenance of the metering equipment required by Section ~~5.15.1~~ in accordance with Prudent Electrical Practices. ~~Meters must be tested no less frequently than every six (6) months and Seller shall promptly notify PGE if any metering equipment is not functioning properly.~~ PGE shall have reasonable access to observe, at its own expense, all inspection, testing, repair and replacement of the metering equipment. Upon request, Seller shall ~~provide and obtain~~ documentation regarding all inspection, testing, repair and replacement of the metering equipment.

If the Facility has a revenue grade meter in addition to the meter used to calculate deliveries and payments and the revenue grade meter is installed near the meter used to calculate deliveries and payments, Seller will send an annual report to PGE comparing the readings between the two meters. If the difference between the two meters is more than two percent (2.0%), PGE may request that the meters be recalibrated and that PGE receive the results of the tests. Also, PGE will be notified promptly of any other recalibration or calibration tests on the meter used to calculate deliveries and payments. If the Facility does not have a

second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter be tested and recalibrated during the term of the Agreement and consistent with the terms of this Section. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter be tested and recalibrated 12 months after the Commercial Operation Date, at Seller's expense. If the test demonstrates a variance of more than two percent (2.0%) then PGE may request another test and recalibration twenty-four (24) months after the last test. If the test demonstrates a variance of less than two percent (2.0%), then PGE may not request a test and recalibration at the Seller's expense for thirty-six (36) months. PGE may arrange for testing and recalibration at its own expense, after reasonable notice and opportunity for Seller to have a representative on site.

If any of inspections or tests reveal an error exceeding two percent (2.0%), either fast or slow, appropriate correction, based upon the inaccuracy found, shall be made with respect to previous readings for the period during which the Facility metering equipment rendered inaccurate measurements (such period not to exceed ~~twelve (12) six (6) months~~). If the period of inaccuracy cannot be ascertained, correction shall be made to measurements taken since the metering equipment was last tested, provided that such period shall not exceed three (3) months. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered. Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of the metering inaccuracy.

## **ARTICLE 6: OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES**

### **6.1 Seller's Duty to Operate and Maintain the Facility.**

6.1.1 Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.

6.1.2 Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide ~~upon request~~ copies of the same to PGE upon request.

### **6.2 Outages.**

6.2.1 On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with ~~an annual~~ schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the ~~Specified generating capacity of the~~ Facility Nameplate Capacity Rating for ~~twenty-four (24) two (2)~~ or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of Section ~~14.13. 14.13. Seller shall use commercially reasonable efforts to plan scheduled activities (i) to maximize the productive output of the Facility, and (ii) not to occur between July 1 and September 30 or between December 1 and February 28 of any calendar year.~~



~~6.2.2 Seller shall give notice to the interconnecting Transmission Provider of any forced or unplanned outages or reductions in generation capability of the Facility in accordance with such Transmission Provider's outage notice requirements. Seller shall also give PGE's Real Time Desk immediate telephonic notice (within twenty minutes) of any such events that will curtail or adversely affect scheduled or forecasted Product deliveries. Such notice must include a description of the cause of the outage, the resulting change in capacity, and an estimate of the duration of the outage. Seller shall provide PGE regular and frequent updates regarding any changes of status set forth in the initial notice, and shall notify PGE's Real Time Desk when the Facility is ready to return to service. Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable best efforts to avoid or mitigate outages during PGE's system emergencies. PGE may, after providing written notice to Seller, make commercially reasonable changes to the means by which Seller provides notice pursuant to this subsection 6.2.2 of this Agreement.~~

### 6.3 Facility Upgrades.

#### 6.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

~~6.3.1.6.3.2~~ At any time after the Commercial Operation Date upon at least six months<sup>2</sup> prior written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in **Exhibit C**, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in **Exhibit C** for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

6.3.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section 6.3.1 or Section 6.3.2 that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend **Exhibit A** and **Exhibit C** as appropriate to reflect the modifications.

~~6.3.2.6.3.3~~ -So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 10,000 kW, then Seller will continue to receive the Contract Price for all delivered Net Output.

~~6.3.2.6.3.4~~ If Seller increases the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 10,000 kW, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 10,000 kW, consistent with then-current Applicable Law, provided that the new power purchase agreement must be a negotiated agreement under Schedule 202.

## ARTICLE 7: ENVIRONMENTAL ATTRIBUTES

### 7.1 Seller-Retained RECs.

7.1.1 Seller shall retain ownership of all RECs ("Seller-Retained RECs") and all other Environmental Attributes associated with Net Output of the Facility during the Test Period and during the

Renewable Resource Sufficiency Period, ~~(“Seller-Retained RECs”).~~ PGE shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Seller-Retained RECs belong to any Person other than Seller.

~~7.1.2—Seller shall give written notice (the “Notice of Proposed REC Transfer”) to PGE stating its bona fide intention to transfer Seller Retained RECs to a third party and specifying the material terms and conditions of such transfer, including the price to be paid to Seller for the Seller Retained RECs. The Notice of Proposed REC Transfer will constitute Seller’s offer to PGE to transfer the Seller Retained RECs on the terms therein specified and shall be irrevocable for a period of ten (10) business days (the “ROFR Period”). Upon receipt of the REC Transfer Notice, PGE shall have until the end of the ROFR Period to agree to purchase the Seller Retained RECs by delivering a written notice (a “ROFR Exercise Notice”) to Seller stating that it agrees to purchase the Seller Retained RECs on the terms specified in the Notice of Proposed REC Transfer. Any ROFR Exercise Notice so delivered shall be binding on PGE and irrevocable upon delivery. If PGE delivers a ROFR Exercise Notice to Seller in accordance with this Section, PGE and Seller shall thereafter negotiate in good faith and use their commercially reasonable efforts to enter into all necessary agreements and other arrangements to effectuate the sale of RECs to PGE as soon as practicable thereafter.~~

## 7.2 Transferred RECs.

7.2.1 Seller shall transfer to PGE and PGE shall acquire all RECs associated with Net Output from the start of the Renewable Resource Deficiency Period through the remainder of the Term (“**Transferred RECs**”). PGE’s payments for Product under this Agreement include full payment for all Transferred RECs. Seller shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Transferred RECs belong to any Person other than PGE. PGE shall be entitled to claim all rights associated with the Transferred RECs, including any value in the ownership, use or allocation of RECs created by legislation or regulation after the Effective Date.

7.2.2 Transferred RECs shall be deemed delivered and sold to PGE under this Agreement as they are produced, and title to Transferred RECs shall pass to PGE when generated. The Facility ~~output meter~~ at the point of interconnection shall serve as the record source for purposes of calculating, certifying, and auditing Transferred RECs. In the event Seller generates power and associated RECs are transferred but the power is not delivered to PGE by Seller due to a Force Majeure Event, curtailment, or other reason, PGE and Seller will work together in good faith to return such RECs to Seller.

7.2.3 Seller shall comply with all requirements necessary for all Transferred RECs to be issued, monitored, accounted for, and transferred by and through WREGIS, consistent with the provisions of OAR 330-160-0005 through OAR 330-160-0090. Without limiting the generality of the foregoing, Seller shall cause the Facility to implement all necessary generation information communications in WREGIS, and report generation information to WREGIS pursuant to a WREGIS-approved meter that is dedicated to the Facility and only the Facility. Seller shall cause delivery and transfer of the Transferred RECs to PGE’s WREGIS account to be perfected in accordance with WREGIS rules. Seller shall hold the Transferred RECs in trust for PGE until such delivery and transfer is perfected. Each Party shall take such steps and further actions as may be required by WREGIS or Applicable Law in order to effect and confirm the sale and delivery of the Transferred RECs to PGE for all purposes. PGE will reasonably cooperate in Seller’s efforts to meet such requirements, including, for example serving as the qualified reporting entity for the Facility if the Facility is located in PGE’s Balancing Authority.

7.2.4 All RECs delivered to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.

## ARTICLE 8: REPRESENTATIONS AND WARRANTIES

### 8.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

8.1.1 Seller is a \_\_\_\_\_ duly organized and in good standing under the laws of the state of incorporation or formation.

8.1.2 The execution, delivery and performance of this Agreement are within Seller's powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

8.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

8.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

8.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

8.1.6 Either Seller satisfies the requirements set forth in Section 8.1.6.1 through ~~8.1.6.3~~ 8.1.6.4 below (the "**Creditworthiness Requirements**"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section 9.1.

8.1.6.1 ~~Neither Seller nor any of its principal equity owners is not under~~ has not been Bankrupt within the past two (2) years, and there are no proceedings pending or being contemplated by ~~Seller~~ or, to Seller's knowledge, threatened against ~~Seller~~ that would result in ~~Seller~~ being or becoming Bankrupt.

8.1.6.2 Seller is not in default under any of its material agreements and is current on all of its financial obligations, including construction-related financial obligations.

8.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

~~8.1.6.4 If the Facility has a Specified Facility Nameplate Capacity Rating greater than 3,000 kW, Seller has a senior, unsecured long term debt rating (or corporate rating if such debt rating is unavailable) of (i) "BBB" or greater from S&P, or (ii) "Baa3" or greater from Moody's, and if such ratings are split, the lower of the two ratings must be at least "BBB" or "Baa3" from S&P or Moody's, respectively, or other indicia of creditworthiness satisfactory to PGE in its reasonable judgment.~~

8.1.7 No later than the Commercial Operation Date, Seller ~~will possess~~ possesses a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

8.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

8.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

~~8.1.10~~ In connection with Seller's delivery of Firm Energy as required under this Agreement:

~~8.1.10.18.1.9.1~~ - Seller's delivery of Imbalance Energy, if any, results from Seller's purchase of energy imbalance ancillary service that the Transmission Provider(s) require(s) Seller to procure, as a condition of providing transmission service, in order to correct a mismatch between energy scheduled by the Facility and the real-time production of the Facility;

~~8.1.10.2 Such Transmission Provider(s) require(s) Seller to schedule deliveries of Net Output in one (1) megawatt increments; and~~

~~8.1.10.3 Seller is not attempting to sell PGE energy less than or in excess of its Net Output, as generated hourly.~~

~~8.1.11~~ 8.1.10 Seller has the right to sell the Product to PGE free and clear of liens or encumbrances.

8.1.12 The Facility generates RECs associated with all Net Output that comply with the Oregon Renewable Portfolio Standard.

## 8.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

8.2.1 It is a corporation duly organized under the laws of Oregon.

8.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

8.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its

governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

8.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

8.2.5 It ~~is not and~~ has not ~~been Bankrupt~~ within the past two (2) years ~~been Bankrupt~~ and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

8.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

### 8.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article 8 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

## ARTICLE 9: CREDIT SUPPORT

### 9.1 Required Credit Support.

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall immediately notify PGE in writing and shall promptly (and in no less than ten (10) ~~businesses~~ ~~calendar~~ days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). In ~~, in each case, the in an amount of Credit Support required shall be~~ calculated as follows: (aggregate number of On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the weighted average Contract Price for On-Peak Hours – the weighted average Contract Price for Off-Peak Hours) x (Net Available Capacity). The amount of Credit Support required shall be updated annually, on the anniversary of the month Credit Support was first required to be provided. The updated amount of Credit Support shall be calculated for each subsequent 12-month period, consistent with the calculation described in this Section. ~~(the "Credit Support"):~~

~~(i) — the net present value of the following amount: the forward power prices at Mid-Columbia for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term), as determined by PGE in good faith using information from a commercially reasonable independent source (e.g., indicative of the most relevant ICE forward price curve for the Mid-Columbia), multiplied by one hundred and ten percent (110%), multiplied by aggregate Minimum Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term); less~~

~~(ii) — the net present value of: the average of the fixed prices specified in the Schedule for both On-Peak Hours and Off Peak Hours, **multiplied by** aggregate Minimum Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term).~~

~~To calculate net present value for purposes of this Section, the Parties shall use the Bloomberg “S23 Corp” (Bloomberg ID “YCSW0023”) interest rate swap cure as the discount rate.~~

~~Notwithstanding the foregoing, the amount of Credit Support shall in no event be less than the amount equal to the payments PGE would make for three (3) average months based on Seller’s average monthly volume over the term of this Agreement and utilizing the average fixed prices specified in the Schedule.~~

If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.

Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its reasonable discretion, grant an exception to the requirements to provide default security if the Seller has negotiated financial arrangements with the Lender ~~reconstruction loan lender~~ that mitigate Seller's financial risk to PGE.

## 9.2 Right to Draw on Credit Support.

At any time after the occurrence and during the continuation of an Event of Default, or upon an early termination of this Agreement by PGE pursuant to Section ~~10.340-2~~, PGE may draw on Seller’s Credit Support to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the Credit Support during the Term, PGE shall inform Seller within fifteen (15) business days, and Seller shall promptly, and in no ~~event~~ more than fifteen (15) business days following notice from PGE, restore the Credit Support to the amount required under Section 9.1. However, for avoidance of doubt, Seller shall have no obligation to replenish the Credit Support if PGE has terminated the Agreement.

## ARTICLE 10: DEFAULT, REMEDIES AND TERMINATION

### 10.1 Events of Default.

An “**Event of Default**” means, with respect to a Party, the occurrence of any of the following unless otherwise excused under this Agreement:

10.1.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;

10.1.2 any representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;



10.1.3 the failure of a Party to perform any material covenant or obligation set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party explaining gives the circumstances supporting defaulting Party notice of the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;

10.1.4 with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

10.1.5 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement or Transmission Agreement(s) within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement or Transmission Agreement(s) at any time during the term of this Agreement;

10.1.6 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE; ;

10.1.7 with respect to Seller, Seller fails, for any two or more consecutive Contract Years, to satisfy the Minimum Delivery Guarantee;

10.1.8 with respect to Seller, Seller fails to establish the Commercial Operation Date does not occur on or before the first anniversary of the Scheduled Commercial Operation Date. Seller shall have one (1) year to cure default under this Section 10.1.8, during which time Seller shall pay PGE Delay Damages pursuant to the terms of Section 2.6 and Section 4.2.

## 10.2 Lender's Right to Cure a Seller Event of Default.

Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under Section 14.13 of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement.

## 10.210.3 Termination for Default.

If an Event of Default has occurred and is continuing, the non-defaulting Party may immediately terminate this Agreement at its sole discretion, and without the non-defaulting Party incurring any liability to the defaulting Party, by delivering written notice to the defaulting Party. In addition, the non-defaulting Party may pursue any and all other legal or equitable remedies available to it, including recovery of damages as set forth below. For avoidance of doubt, PGE's resource sufficiency or deficiency position has no bearing on PGE's right to terminate this Agreement under this Section.



~~10.3~~10.4 Damages.

If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value, ~~with respect to the lesser of (i) twenty four (24) months following the date of termination or (ii) the period from the date of termination until the expiration date of this Agreement.~~ Amounts owed by Seller pursuant to this Section shall be due within ~~fifteen (15)~~ fifteen (15) business days after any invoice from PGE for the same. Damages owing under this Section 10.4 shall be cumulative and in addition to damages owing pursuant to Sections 2.6, 4.2, 4.3 and 10.1.8. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.

~~10.4~~10.5 Payment of Outstanding Obligations.

If this Agreement is terminated pursuant to Section ~~10.3~~10.2, then within thirty (30) calendar days of termination, PGE shall make all payments due and owing to Seller as of the time of receipt of notice of termination; provided that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section 10.43 or otherwise. PGE shall not be required to pay Seller for Product delivered by Seller after the effective date of any termination notice.

~~10.5~~10.6 Post-Termination PURPA Status.

In the event (~~ix~~) PGE terminates this Agreement pursuant to this Article 10 or Seller terminates this Agreement without cause, and (~~iiy~~) Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, wishes to sell Net Output to PGE from the Facility following such termination, then PGE may, (but will not be obliged to) require that Seller, its Affiliate, or its successor do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to the terms of this Agreement, then Seller and PGE shall promptly execute a written document ratifying the terms of this Agreement. PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.

## ARTICLE 11: INDEMNIFICATION AND LIABILITY

### 11.1 Seller's Indemnity.

Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, including the delivery of energy to and at the Delivery Point; (ii) Seller's development, construction, ownership, operation, maintenance, or decommissioning of the Facility; (iii) the violation of any law, rule, order or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.

### 11.2 PGE's Indemnity.

PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) PGE's receipt of energy under this Agreement after its delivery at the Delivery Point; (ii) the violation of any law, rule, order or regulation by PGE or any of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure to perform any of PGE's obligations under this Agreement; (iv) PGE's breach of any representation or warranty set forth in this Agreement; or (v) PGE's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by Seller's breach of this Agreement or by the negligence or willful misconduct of Seller, its directors, officers, employees, agents or representatives.

### 11.3 No Dedication.

Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent Person.

### 11.4 Disclaimer of Consequential Damages.

**NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.**

## ARTICLE 12: INSURANCE

### 12.1 Certificates of Insurance.

Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.

### 12.2 Required Insurance.

Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than "B+" by the A.M. Best Company the insurance coverage specified below:

12.2.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, ~~which limits may be required to be increased or decreased by PGE as~~

~~PGE determines in its reasonable judgement, economic conditions or claims experience may warrant,~~ to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.

12.2.2 All Risk Property ~~I~~nsurance providing coverage in an amount at least equal to the full replacement value of the Facility against “all risks” of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk ~~P~~olicy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the ~~F~~acility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers’ rights of subrogation against PGE regarding Facility property losses.

### 12.3 Required Provisions.

12.3.1 The Comprehensive General Liability ~~P~~olicy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

12.3.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days’ prior written notice to PGE.

12.3.3 Insurance coverage provided on a “claims-made” basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

## ARTICLE 13: FORCE MAJEURE

### 13.1 Definition of “Force Majeure.”

As used in this Agreement, “**Force Majeure**” or “~~event of Force Majeure~~ **Event**” means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party’s from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind

or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility's equipment, or ~~(viii) smoke, haze, ash, or other obstruction of sunlight~~ (except to the extent such obstruction is caused by fires or volcanic eruptions).

13.2 Effect of Force Majeure.

If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: (i) the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section ~~14.13~~ of this Agreement describing the particulars of the occurrence; (ii) the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the non-performing Party uses commercially reasonable ~~its best~~ efforts to remedy its inability to perform its obligations under this Agreement.

**ARTICLE 14: GENERAL PROVISIONS**

14.1 Relationship of the Parties.

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such Party shall be jointly and severally liable for Seller's obligations under this Agreement.

14.2 No Third Party Beneficiaries.

This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

14.3 Governing Law.

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~ which may direct the application of the laws of another jurisdiction.

~~This Agreement is subject to the jurisdiction of those governmental agencies and courts having control over either party or this Agreement. The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.~~

~~14.4~~ Dispute Resolution.

Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement is subject to the jurisdiction of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, any complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute. ~~or governmental agency with jurisdiction over the dispute; provided, however, that any dispute within the jurisdiction of the Commission shall first be brought before the Commission, and each Party hereby irrevocably waives, to the fullest extent permitted by Applicable Law, any objection it may now or hereafter have to the initial jurisdiction of the Commission with respect to any such dispute.~~

The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

14.514.4 Severability.

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void as being contrary to any Applicable Law or public policy, all other terms of this Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the intent of the Parties to this Agreement.

14.614.5 Effect of PURPA Repeal.

The repeal of PURPA shall not result in the early termination of this Agreement unless such termination is mandated by state or federal law.

14.714.6 Waiver.

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

14.814.7 Survival.

Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.

14.914.8 Successors and Assigns.

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. Neither party may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that either party PGE may assign its rights or delegate its obligations, in whole or in part, without such consent and upon thirty (30) calendar days' prior written notice to the other party Seller, to an entity that acquires all or substantially all of the

business or assets of ~~the assigning party~~ PGE to which this Agreement pertains, whether by merger, reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective.

#### 14.9 Financing Documents.

Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and expense associated with PGE's review and activities reasonably required under this Section 14.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE's sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.

#### 14.10 Entire Agreement; Amendments; Order of Precedence.

This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding the contents of the Agreement, including PGE's purchase of energy from the Facility. No amendment or modification of this Agreement shall be effective unless it is in writing and signed by both parties. If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail.

#### 14.11 Seller Release.

By executing this Agreement, Seller releases PGE from any ~~third party~~ claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

#### 14.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

#### 14.13 Notices.

All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered when deposited in the U.S. Mail, postage prepaid by certified or



Standard Renewable Off-System Non-Variable Power Purchase Agreement  
Form Effective \_\_\_\_\_

registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.:

Notices	PGE	Seller
<del>Invoices</del>	<del>Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204</del>	
<del>Scheduling</del>	<del>By telephone: Merchant Real Time Desk (503) 464 8851</del>	
<del>Planned Outages</del>	<del>Merchant Outage Coordinator Attn: Power Operations 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 (503) 464 7013</del>	
<del>Unplanned Outages</del>	<del>Merchant Real Time Desk (503) 464 8851</del>	
<del>Payments</del>	<del>Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 Energyinvoicing@pgn.com</del>	
<del>Wire Transfer</del>	<del>Bank Name: US National Bank of Oregon Routing Number: 123000220 Account Number: 153600043512</del>	
<del>Credit Support</del>	<del>Portland General Electric Attn: Credit Manager 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204</del>	
<del>All Other Notices</del>	<del>Portland General Electric C/O Attn: QF Contract Management 3WTC-0306 121 SW Salmon St. 3WTC0306 Portland, OR Oregon 97204</del>	
<del>Copy in the case of, Event of Default or Termination</del>	<del>Portland General Electric 121 SW Salmon St. 4WTC17 Portland, Oregon 97204 Attn: General Counsel</del>	



The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section 14.13.

*Signature Page Follows.*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(Name Seller)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**FACILITY DESCRIPTION**

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

\_\_\_\_ Seller's Facility consists of generators fueled by \_\_\_\_\_. ~~Specifically, each type generator at the Facility is described as:~~

**~~A. Generator Manufacturer's Nameplate Data:~~**

~~Make:~~

~~Model:~~

~~Rated Output (kW):~~

~~Number of Generators with Similar Attributes:~~

~~Facility Nameplate Capacity Rating: \_\_\_\_\_ kW~~

~~Net Available Capacity: \_\_\_\_\_ kW~~

~~Interconnection Rating: \_\_\_\_\_ kW~~

~~Identify and describe any differences between the Facility Nameplate Capacity Rating and the Net Available Capacity: \_\_\_\_\_~~

~~Station service requirements, and other loads served by the Facility, if any, are described as follows:~~

\_\_\_\_\_  
\_\_\_\_\_

**~~B. Specified Facility Nameplate Capacity Rating \_\_\_\_\_ (kW) (calculated as the sum of the Nameplate Capacity Ratings for all Generators).~~**

**~~C: Location of the Facility:~~** The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_, with GPS coordinates of \_\_\_\_\_

The location is more particularly described as follows:

[legal description of parcel]

|

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND TRANSMISSION ATTRIBUTES**

[Seller to provide diagram and description]

Description to include the following:

~~Point(s)~~

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section 6.3.2).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW ~~metering, including~~

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating type of meter(s) and the Net Available Capacity:

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Interconnection Rating: \_\_\_\_\_ kW (~~owner of the~~ Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

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1. \_\_\_\_\_ meter(s)

2-1. \_\_\_\_\_ Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES**

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

~~3.2.~~ Point of Delivery: \_\_\_\_\_

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Entity with whom the Facility is or will be interconnected: \_\_\_\_\_

4.3. Transmission Provider(s): \_\_\_\_\_

**The following information shall be provided in the As-built Supplement prior to Commercial Operation:**

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):

\_\_\_\_\_

5.4. Specification of Point of Interconnection:

\_\_\_\_\_

**EXHIBIT C**

**SELLER’S NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of ~~Estimated~~expected Monthly Average Net Output and Estimated Monthly~~and~~ Maximum Net Output during the Delivery Period, and the resulting Estimated Annual ~~Estimated~~-Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output, ~~Minimum Net Output~~ and Estimated Monthly Maximum Net Output (as measured at the Facility meter at the Point of Interconnection)**

Month	Estimated <u>Monthly Average Net Output</u> (kWh)		Percentage <del>Minimum Net Output (75% of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%))</del> (kWh)		Estimated <u>Monthly Maximum Net Output</u> (kWh)	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
January						
February						
March						
April						
May						
June						
July						
August						
September						
October						
November						
December						



**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated Annual Average ~~Annual~~ Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Average Net Output)

Estimated Annual Maximum ~~Annual~~ Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Maximum Net Output)

**C.3. Alternative Minimum Net Output**

Seller may at its option designate an alternative to the Minimum Net Output value of seventy-five (75%) percent of the Estimated Annual Average Net Output set forth above in this Exhibit. If designated, such alternative shall be known as the “Alternative Minimum Net Output.” Such Alternative Minimum Net Output, if provided, shall exceed zero, and shall be established in accordance with Prudent Electrical Practices, and documentation supporting such a determination shall be provided to PGE upon execution of the Agreement. Such documentation shall be commercially reasonable, and may include, but is not limited to, documents used in financing the project, and data on output of similar projects operated by Seller, PGE or others.

Annual Alternative Minimum Net Output: \_\_\_\_\_ kWh

<u>Month</u>	<u>Alternative Minimum Net Output (if specified) (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>		
<u>February</u>		
<u>March</u>		
<u>April</u>		
<u>May</u>		
<u>June</u>		
<u>July</u>		
<u>August</u>		
<u>September</u>		
<u>October</u>		
<u>November</u>		
<u>December</u>		

**EXHIBIT D**

**COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM**

**(Power Purchase Agreement – \_\_\_\_\_)**

This Collateral Assignment and Consent Agreement (the “*Agreement*”) is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY (“PGE” or “Buyer”)**, **[INSERT LENDER]**, a \_\_\_\_\_ company (the “*Lender*”), and **[INSERT SELLER]**, a \_\_\_\_\_ company (the “*Borrower*” or “*Seller*”) (the “*Parties*” or each a “*Party*”).

**RECITALS**

A. \_\_\_\_\_ Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the “*Loan Agreement*”), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.

B. \_\_\_\_\_ Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the “*PPA*” or the “*Assigned Agreement*”), a copy of which is attached as *Exhibit A*, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power from which Seller shall sell and PGE shall purchase Net Output” (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).

C. \_\_\_\_\_ As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the “*Security Agreement*”), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other “Collateral” defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the “*Secured Obligations*”). The Loan Agreement and the Security Agreement are referred to herein as the “*Security Documents*.”

**AGREEMENTS**

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. \_\_\_\_\_ Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower’s right, title and interest in and to the Assigned Agreement.

2. \_\_\_\_\_ Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring

the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller's rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_ If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

\_\_\_\_\_ If to Lender:

\_\_\_\_\_ With a copy to:

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected,

impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**REQUIRED FACILITY DOCUMENTS**

~~[List all agreements, permits and authorizations required for the Facility]~~

~~Interconnection Agreement~~

~~Transmission Agreement~~

~~—EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM REQUIRED FACILITY DOCUMENTS~~

~~FERC Qualifying Facility Self Certification~~  
~~As Built Operating One Line Diagram~~  
~~As Built Operating 12x24 Generation Profile~~



## EXHIBIT E

### START-UP TESTING

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing only.]

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

1. Pressure tests of all steam system equipment;
2. Calibration of all pressure, level, flow, temperature and monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Insulation resistance and point-to-point continuity tests;
6. Bench tests of all protective devices;
7. Tests required by manufacturer of equipment; and
8. Complete pre-parallel checks with PGE.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

1. Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
2. Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Stator windings dielectric test;
7. Armature and field windings resistance tests;
8. Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
9. Heat runs;
10. Tests required by manufacturer of equipment;
11. Excitation and voltage regulation operation tests;
12. Open circuit and short circuit;
13. Saturation tests;
14. Governor system steady state stability test;
15. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
16. Auto stop/start sequence;
17. Level control system tests; and
18. Completion of all state and federal environmental testing requirements.

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**EXHIBIT F**  
**SCHEDULE 201**

[Attach Schedule 201]

**EXHIBIT G**

**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**

**STANDARD RENEWABLE OFF-SYSTEM VARIABLE  
POWER PURCHASE AGREEMENT  
BETWEEN  
[COUNTERPARTY NAME]  
AND  
PORTLAND GENERAL ELECTRIC COMPANY**

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Exhibits

Exhibit A Description of Facility  
Exhibit B Seller’s Interconnection Facilities and ~~Delivery~~Transmission Attributes  
Exhibit C Seller’s Net Output Estimates  
Exhibit D Collateral Assignment and Consent Agreement Form~~Required Facility~~  
~~Documents~~  
Exhibit E Start-Up Testing  
Exhibit F Schedule 201  
Exhibit G Illustrative Examples of Payment and Lost Energy Value Calculations  
~~Exhibit H~~Exhibit G Negotiated Prices for Option B, Solar Standard Terms and Negotiated Price Agreement (if applicable)

**STANDARD RENEWABLE OFF-SYSTEM VARIABLE  
POWER PURCHASE AGREEMENT**

This STANDARD RENEWABLE OFF-SYSTEM VARIABLE POWER PURCHASE AGREEMENT (“**Agreement**”) is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] (“**Seller**”) and Portland General Electric Company, an Oregon corporation (“**PGE**”) (hereinafter each a “**Party**” and collectively, “**Parties**”).

Option A: Standard Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating no greater than 3 MW and other qualifying facilities with Facility Nameplate Capacity Rating no greater than 10 MW]; or

Option B: Solar Standard Terms and Negotiated Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating above 3 MW but no greater than 10 MW; if this option is selected, there will be an **Exhibit HG** containing the negotiated prices agreed to by the Parties].

**RECITALS**

A. [New QF] Seller ~~is a New QF and~~ intends to construct, own, operate and maintain a New QF \_\_\_\_\_ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B**. ~~(“Facility”).~~

A. [Existing QF] Seller ~~is an Existing QF and~~ owns and intends to operate and maintain an Existing QF \_\_\_\_\_ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B**. ~~(“Facility”).~~

B. Seller intends to operate the Facility as a “Qualifying Facility,” as that term is defined in the ~~FERC Federal Energy Regulatory Commission~~ regulations codified at 18 CFR Part 292.

C. Seller wishes to sell and PGE is willing to purchase the Net Output from the Facility, subject to and in accordance with the terms and conditions of this Agreement, and Seller wishes to provide energy and capacity pursuant to this Agreement.

**AGREEMENT**

NOW, THEREFORE, the Parties agree as follows:

**ARTICLE 1: DEFINITIONS AND CONTRACT INTERPRETATION**

1.1 Defined Terms.

For all purposes of this Agreement, the following terms shall have the following meanings:

“**Affiliate**” means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller, ~~or that shares management or that acts jointly or in concert with or exercises influence over the policies or actions of~~



**Seller.** For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

“**Agreement**” means this Standard Renewable Off-System Variable Power Purchase Agreement (Option A or Option B) and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

“**Ancillary Services**” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services.” ~~” including energy imbalance services, generation imbalance services, regulation and frequency response services, reactive supply services, voltage control services, inadvertent energy flow services, control area services, system integration services, operating spinning reserve services, and operating supplemental reserve services.~~

“**Applicable Law**” means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

“**As-built Supplement**” means a supplement to **Exhibit A** and **Exhibit B** provided by Seller in accordance with Section 2.2 following completion of construction of the Facility, or modifications to the Facility, which describes the Facility as actually built.

“**Balancing Authority**” means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to ~~in which~~ the Facility ~~is located~~.

“**Bankrupt**” means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, ~~or (iii)(iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they become due.~~

“**Base Hours**” means the total number of hours in each Contract Year (8,760 or 8,784 for leap years), ~~provided, however,;~~

~~“**Billing Period**” means one calendar month or such other period (not to exceed three months) as PGE may establish by written notice to Seller, during the Delivery Period, in the event that Base Hours for the first Contract Year shall be the number PGE reasonably determines that changing the length of hours commencing a Billing Period will have a *de minimis* effect on the first hour ~~of~~ the day after Seller’s Net Output to PGE.~~

~~“**Capacity Attributes**” means any current or future attribute, as may be currently defined or otherwise defined in the Commercial Operation Date and ending on ~~future~~, including but not limited to a characteristic, certificate, tag, credit, ancillary service or attribute thereof, or accounting construct, associated with the last hour of December 31<sup>st</sup> ~~electric generation capability and capacity of the calendar year in which Facility or the Commercial Operation Date occurs, Facility’s capability and that Base Hours for ability to produce or curtail energy, including any attribute counted towards any current or future resource adequacy or reserve requirements. Notwithstanding any other provision of this Agreement,~~~~

~~“Capacity Attributes” do not include: (i) tax credits, deductions, or tax benefits associated with the last Contract Year shall be Facility, (ii) any state, federal, local, or private cash payments or grants relating in any way to the number of hours commencing on January 1 of Facility or the calendar year in which the Term ends and ending the last hour of the last day of the Term, Net Output, or (iii) Environmental Attributes.~~

“Billing Period” means one calendar month.

“Business Day” means any day other than Saturday, Sunday or the following holidays: New Year’s Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.

“Cash Escrow” means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller’s placement of cash in the custody of the escrow agent for delivery to PGE after the fulfillment of any of the conditions specified in Section 9.2. Amounts in the Cash Escrow shall earn interest at the rate applicable to money market deposits at escrow agent.

“Claims” means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.

“Commercial Operation” has the meaning given to it in Section 2.45.

“Commercial Operation Date” has the meaning given to it in Section 2.56.

“Commission” means the Public Utility Commission of Oregon.

“Contract Price” means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under the Renewable Fixed Price Option for \_\_\_\_\_ *[specify applicable Renewable Fixed Price Option based on resource type, in accordance with Schedule]*, as published in the Schedule and attached as **Exhibit F** (or in the case of QFs electing Option B, the Solar Standard Terms and Negotiated Price Agreement, as set forth in the price matrix attached as **Exhibit HG**, which reflects the negotiated price, including on-peak and off-peak prices), and thereafter, for the remainder of the Term, the Daily Market Index Price in effect during the interval when the energy is generated.

“Contract Year” means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time (“PPT”) on January 1 and ending at 24:00 hours PPT on December 31; *provided, however*, that the first Contract Year shall commence on the Commercial Operation Date and end on December 31<sup>st</sup> of the calendar year in which the Commercial Operation Date occurs, and the last Contract Year shall end on the last day of the Term.

“Credit Support” has the meaning given to it in Section 9.1.

“Creditworthiness Requirements” has the meaning given to it in Section 8.1.6.

“Daily Market Index Price” means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>. In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Delivery Point.

“Delay Damages” has the meaning given to it in Section 2.67.

“Delivery Period” has the meaning given to it in Section 3.1.

“Delivery Point” means the point of delivery ~~where Seller delivers energy to on~~ the PGE ~~systems~~ ~~side of the interface with the applicable Balancing Authority, where the Parties have agreed that Seller will deliver energy to PGE from the Facility,~~ as specified in **Exhibit B**. PGE and Seller may mutually agree to amend the Delivery Point.

“e-Tag” means NERC electronic tag.

“e-Tags” has the meaning given to it in Section 3.6.1.2.

“Effective Date” has the meaning given to it in Section 2.1.

“Environmental Attributes” ~~shall mean~~ means any and all claims, credits, benefits, emissions reductions, offsets, and allowances, ~~howsoever entitled~~ ~~however named~~, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water. Environmental Attributes include but are not limited to: ~~or otherwise arising as a result of the generation of electricity from the Facility, regardless of whether or not (i) such environmental attributes have been verified or certified, (ii) such environmental attributes are creditable under any applicable legislative or regulatory program, or (iii) such environmental attributes are recognized as of the Effective Date or at any time during the Term.~~ Environmental Attributes include: (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; ~~and (2) any credit, allowance or instrument issued or issuable pursuant to a state implementation plan under the Clean Power Plan promulgated by the Environmental Protection Agency under the Clean Air Act;~~ (3) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), and other greenhouse gasses (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, ~~or otherwise by law,~~ to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; ~~and (4) the reporting rights to these avoided emissions, such as the carbon content of the energy generated by the Facility and REC Reporting Rights.~~ Environmental Attributes do not include (i) production tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, or (ii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits.

“Estimated Annual Average Net Output” means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Annual Maximum Net Output” means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

**“Estimated Monthly Average Net Output”** means the relevant amounts specified in ~~the table in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.~~

**“Estimated Monthly Maximum Net Output”** means the relevant amount specified in ~~Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.~~

**“Existing QF”** means a QF that (1) is or has been operational before the Effective Date of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party.

**“Expiration Date Facility”** has the meaning given to it in Section 2.1.

**“Facility”** is the entire facility as specified in Exhibit A and Exhibit B Recitals.

**“Facility Nameplate Capacity Rating”** means the sum of the Nameplate Capacity Ratings for all Generation Units ~~Generators~~ comprising the Facility.

**“FERC”** means the Federal Energy Regulatory Commission or any successor government agency.

**“Firm Energy”** means energy scheduled and delivered on a firm basis hourly to the Delivery Point ~~on an uninterruptible basis via firm transmission rights, in accordance with the Transmission Agreement(s).~~

**“Force Majeure”** or **“Force Majeure Event”** has the meaning given to it in Section 13.1.

**“Generator”** means the electrical component within the Facility measured in kW that converts mechanical energy or solar radiation into electrical energy.

**“Generation Unit”** means a complete each separate electrical generation system within Generator of the Facility that is able to generate and deliver energy contributes to the Point of Interconnection independent of other Generation Units within the same Specified Facility. For example, for a solar facility, a Generation Unit is an inverter and the panels associated with such inverter Nameplate Capacity Rating included in Exhibit A.

**“Governmental Authority”** means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

**“Imbalance Energy”** means that portion of Firm Energy, measured in kWh, scheduled and delivered to the Delivery Point that was not Net Output.

**“Interconnection Agreement”** means an agreement governing the interconnection of the Facility with \_\_\_\_\_’s *[specify relevant transmission system ~~Transmission Provider~~ or distribution system owner]* electric system, ~~having a term ending no earlier than the expiration date of this Agreement.~~

~~**“Interconnection Rating”** means the Facility capacity rating specified in the Interconnection Agreement, or, if no Interconnection Agreement exists, in the application seeking interconnection.~~

**“kW”** and **“kWh”** mean kilowatt and kilowatt hour, respectively.

“Lender” means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.

“Letter of Credit” means an irrevocable standby letter of credit from an institution selected by the Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

“Licensed Professional Engineer” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in Section 2.4.2, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.

“Lost Energy” means (in kWh):- either

- A. In connection with a Facility after the Commercial Operation Date, if the Mechanical Availability Percentage falls below the Minimum Availability Guarantee for a Contract Year, ((the Minimum Availability Guarantee as determined pursuant to Section 3.43-4 / the actual Mechanical Availability Percentage for the applicable Contract Year) X actual Net Output for the applicable Contract Year) - actual Net Output for the applicable Contract Year; or
- B. In connection with a Facility that does not establish before the Commercial Operation Date on or before, if the Seller fails to meet the Scheduled Commercial Operation Date, the sum of the Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see Exhibit C) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual Commercial Operation Date or contract termination pursuant to Section 10.- The Estimated Monthly Average Net Output shall may be pro-rated for any partial months; or
- C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 10 of this Agreement because of Seller’s for default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month from the date of termination through the end of the T term. The Estimated Monthly Average Net Output shall may be pro-rated for any partial months.

“Lost Energy Value” means:

- A. In connection, with Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly respect to each calendar month in the Contract Year and then



allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in Exhibit C (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year *plus* any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the given period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours ~~an amount calculated as follows:~~ Lost Energy for ~~each~~ the applicable calendar month (or partial calendar month) in the Contract Year ~~period~~ *multiplied by* (the ~~(applicable greater of zero (0) or the~~ Replacement Price for On-Peak Hours ~~the period less the time-weighted average of the~~ Contract Price for On-Peak Hours for the same period); and
- The Off-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period).

If the above calculation of the Lost Energy Value for the Contract Year results in a negative value, the Lost Energy Value for the Contract Year shall be deemed zero. See the example calculation in Exhibit G.

B. In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during which Seller has failed to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below) ~~for the period~~, *plus* any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) shall not exceed the Contract Price for On-Peak Hours for the same period; and
- The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.

If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in Exhibit G.

C. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for On-Peak Hours for the period *less* the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for Off-Peak Hours for the period *less* the Contract Price for Off-Peak Hours for the period); and

Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in Exhibit G.

~~“Market Index Price” means the applicable Powerdex hourly Mid-Columbia Index price for firm energy at the time the energy is delivered. In the event Powerdex no longer publishes this index or PGE elects to use nodal pricing, PGE will select an alternative successor index or other published pricing (or independent system operator or regional transmission organization settlement pricing) representative of the Delivery Point.~~

“Mechanical Availability Percentage” or “MAP” means that percentage for any Contract Year for the Facility calculated in accordance with the following formula:

$$\text{MAP} = 100 \times (\text{Operational Hours}) / (\text{Base Hours} \times \text{Number of Units})$$

“Minimum Availability Guarantee” has the meaning given to it in Section 3.4.3.4.

“Nameplate Capacity Rating” means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.

“NERC” means the North American Electric Reliability Corporation.



“**Net Available Capacity**” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Point of Interconnection continuously for at least sixty (60) minutes; ~~which is equivalent to the lesser of: (1) the Specified Facility Nameplate Capacity Rating, or (2) the Interconnection Rating, in either case less station service (parasitic power and electrical losses).~~

“**Net Output**” means all energy, expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the Point of Interconnection.

“**New QF**” means any QF that is not an Existing QF.

~~“**Notice of Proposed REC Transfer**” has the meaning given to it in Section 7.1.2.~~

“**Number of Units**” means the number of Generation Units in the Facility, as specified in Exhibit A.

~~“**Off-Peak Hours**” means all hours other than has the meaning provided in the Schedule.~~

~~“**On-Peak Hours**” has the meaning provided in the Schedule.~~

“**On-Peak Energy Imbalance Accumulation**” and “**Off-Peak Energy Imbalance Accumulation**” have the meanings given to them in Section 3.2.

“**On-Peak Hours**” means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.

“**Operational Hours**” for the Facility means the total across all Generation Units of the number of hours each of the Facility’s Generation Units is capable of producing power at its Nameplate Capacity Rating regardless of actual weather, season and time of day or night, without any mechanical operating constraint or restriction, and potentially capable of delivering such power to the Delivery Point in a Contract Year. For each Contract Year, each Generation Unit is eligible to include no more than 200 hours as Operational Hours when the Generation Unit is not operational because of Planned Maintenance or an event of Force Majeure. For example, if the Facility consists of two separate Generation Units ~~solar arrays~~ of 1.5 MW each and Generation Unit Array 1 is operational for 8,460 hours and is not operational for 300 hours due to Planned Maintenance or an event of Force Majeure; and Generation Unit Array 2 is operational for 8,560 hours and is not operational for 200 hours due to Planned Maintenance or an event of Force Majeure, then the Operational Hours for the Facility for the Contract Year would be calculated as follows: Generation Unit Array 1 Operational Hours = 8,460 + 200 = 8,660. Generation Unit Array 2 Operational Hours = 8,560 + 200 = 8,760. Operational Hours of the Facility = 8,760 + 8,660 = 17,420.

“**Oregon Renewable Portfolio Standard**” means the renewable portfolio standard contemplated by ORS 469A.005 to 469A.200, and the implementing regulations, in each case as in effect on the Effective Date of this Agreement ~~amended from time to time~~.

“**Person**” means any individual, corporation, ~~a~~ limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.

“**Planned Maintenance**” means outages scheduled 90 calendar days in advance, with ~~PGE’s~~ prior written notice to PGE, provided however that maintenance during Off-Peak Hours (except Sundays between 6:00 a.m. and 10:00 p.m. PPT) on a Facility comprised of only solar Generators consent, which shall not be considered Planned Maintenance.~~unreasonably withheld.~~

“**Point of Interconnection**” means the point of interconnection between the Facility and the interconnecting Transmission Provider or distribution system owner, as specified in **Exhibit B**.

“**Prime Rate**” means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

“**Product**” means, each and together, as a single bundled product, Net Output and, if applicable, Imbalance Energy, together with all associated ~~capacity~~Capacity Attributes and Transferred RECs.

“**Prudent Electrical Practices**” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the WECC that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all Applicable Law. Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

“**PURPA**” means the Public Utility Regulatory Policies Act of 1978.

“**Qualifying Facility**” has the meaning set forth in the Recitals.

“**REC**” means Environmental Attributes and REC Reporting Rights, however commercially transferred or traded under any or other product names, such as “green tags,” “Green-e Certified,” or otherwise. RECs are accumulated on a MWh basis and one REC represents the Environmental Attributes and REC Reporting Rights made available by the generation of one MWh of energy by the Facility, as represented by the actual Net Output on an hourly basis. RECs do not include: (i) Environmental Attributes that are greenhouse gas offsets from methane capture not associated with the generation of electricity and not needed to ensure that there are zero net emissions associated with the generation of electricity; or (ii) thermal renewable energy certificates as defined in ORS 469A.132 and the implementing regulations. All RECs transferred~~lessor of the final e-Tag or the actual Net Output on an hourly basis. All RECs delivered~~ to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.

“**REC Reporting Rights**” are the rights of a Person to report the ownership of accumulated RECs in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at such Person’s discretion, and include without limitation those REC Reporting Rights accruing under

Section 1605(b) of The Energy Policy Act of 1992 and any present federal, state, or local law, regulation or bill, and international or foreign emissions trading program.

“**Reliability Entity**” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

~~“**Remedial Action Scheme**” means an automatic protection system designed to detect abnormal or predetermined system conditions, and take corrective actions other than or in addition to the isolation of faulted components to maintain system reliability. Such action may include changes in demand, generation, or system configuration to maintain system stability, acceptable voltage, or power flows.~~

“**Renewable Resource Deficiency Period**” means the period beginning January 1, 2025 through ~~has the~~ termination or Expiration Date of this Agreement ~~meaning given to it in the Schedule.~~

“**Renewable Resource Sufficiency Period**” ~~means~~ the period through 2024 ~~meaning given to it in the Schedule.~~

“**Replacement Price**” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at the Mid-Columbia trading hub ~~which PGE, acting in a commercially reasonable manner, purchases for delivery at the Delivery Point~~ replacement energy for any Net Output that Seller fails to deliver as required under this Agreement.

~~When PGE elects not to make such a purchase, the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Availability Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices for a given period shall be calculated as follows for each applicable calendar month (or partial calendar month):~~

- For Lost Energy During On-Peak Hours: the hourly average ~~the greater of the on-peak~~ Daily Market Index Prices for the applicable calendar month (or partial calendar month).
- For Lost Energy During Off-Peak Hours: the hourly ~~zero (0) or the time weighted~~ average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

~~When the Replacement Market Index Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 10, the Replacement Price shall be the respective for On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices during the applicable period.~~

“**Required Facility Documents**” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as, including the Interconnection Agreement and; the Transmission Agreement, ~~and those set forth in Exhibit D.~~

~~“ROFR Exercise Notice” has the meaning given to it in Section 7.1.2.~~

~~“ROFR Period” has the meaning given to it in Section 7.1.2.~~

“Schedule” means PGE’s Schedule 201 filed with the Commission and in effect on the date that Seller delivers to PGE an executed copy of this Agreement, ~~the terms of which are hereby incorporated by reference.~~ For ease of reference and informational purposes only, a copy of the Schedule is attached hereto as **Exhibit F**; however, if there is any difference between **Exhibit F** and the Schedule, the terms of the Schedule shall apply and prevail.

“Scheduled Commercial Operation Date” has the meaning given to it in Section 2.67.

“Seller-Retained RECs” has the meaning given to it in Section 7.1.

“Senior Lien” means a prior lien ~~that which~~ has precedence as to the property under the lien over another lien or encumbrance.

“Specified Facility Nameplate Capacity Rating” means the Facility Nameplate Capacity Rating set forth in **Exhibit A**, as it may be amended from time to time in accordance with this Agreement.

“Start-Up Testing” means the ~~performance completion~~ of applicable ~~required factory and~~ start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in **Exhibit E** (as it may be updated by Seller) during the Test Period.

“Step-in Rights” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.

“Surplus Delivery” has the meaning given to it in Section 3.2. By definition, Surplus Delivery shall always be a positive number.

“Term” has the meaning given to it in Section 2.1.

“Test Energy” means electric energy generated by the Facility during the Test Period, ~~and all RECs and Capacity Rights associated with such electric energy.~~

“Test Period” means a period ~~of no more than sixty (60) calendar days~~, during which Start-Up Testing is to be conducted.

“Transferred RECs” has the meaning given to it in Section 7.2.1.

“Transmission Agreement” means an agreement (or agreements) between Seller and the Transmission Provider(s) that provide(s) for ~~the long term, firm, point to point~~ transmission and delivery of Firm Energy from the Facility to the Delivery Point, energy at no less than the Specified Facility Nameplate Capacity Rating. ~~The Transmission Agreement shall have from the Facility to the Delivery Point for a term of at least the lesser of (i) not less than five (5) years, with renewal rights, or (ii) until the Expiration Date of together with any and all other services (including Ancillary Services) required for transmission and delivery of energy to the Delivery Point, as scheduled in accordance with~~ this Agreement.

“**Transmission Provider(s)**” means \_\_\_\_\_, the transmission system operator(s) with whom Seller will enter or has entered into the Transmission Agreement(s) to provide for delivery of Firm Energy from the Facility to the Delivery Point in accordance with this Agreement.

“**WECC**” means the Western Electricity Coordinating Council or any successor thereto.

~~“**WECC Pre-Scheduling Day**” means the WECC Pre-Scheduling Day prior to the delivery day or day(s) as defined by the most recent WECC Pre-Schedule calendar. For example, Thursday is typically the WECC Pre-Scheduling Day for delivery days of Friday and Saturday.~~

“**WREGIS**” means the Western Renewable Energy Generation Information System.

## 1.2 Interpretation.

In this Agreement, references to Recitals, Sections, and Exhibits are references to the recitals, sections and exhibits of this Agreement. The article and section headings in this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms “includes” or “including” mean “includes but is not limited to” and “including but not limited to,” respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in this Agreement in accordance with such recognized meanings.

## ARTICLE 2: TERM; FACILITY; COMMERCIAL OPERATION

### 2.1 Term.

The term of this Agreement (“**Term**”) commences on the date this Agreement is signed by both Parties (“**Effective Date**”) and ends on the earlier of \_\_\_\_\_ ~~\_\_\_\_\_~~ *[Seller-selected date or fixed-interval period of time]*, *20\_\_ [date that is no more than 20 years from the Scheduled Commercial Operation Date] (“Expiration Date”)* or the date on which this Agreement is terminated *pursuant to the terms of the Agreement.*

### 2.2 Construction of the Facility.

*2.2.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE’s system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement.* Seller shall, at its sole cost, design and construct the Facility *and;* obtain all ~~necessary~~ transmission and interconnection rights, ~~necessary and make or cause to be made all necessary modifications to PGE’s or the Transmission Provider’s (or Transmission Providers’) systems~~ to enable the delivery of energy from the Facility to the Delivery Point, all in compliance with this Agreement, the Required Facility Documents, and Prudent Electrical Practices.

~~-~~Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement ~~may~~must be reviewed ~~and approved~~ by PGE, which ~~review approval~~ shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE’s information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely



responsible for the economic and technical feasibility, operational capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section 6.3-4.

~~2.3 — Seller's Responsibility for Costs.~~

~~Seller is responsible for all costs associated with the study or construction of necessary modifications and upgrades to the Facility or PGE's or the Transmission Provider's (or Transmission Providers') systems related to the delivery of energy from the Facility to the Delivery Point, or any increase in the Facility Nameplate Capacity Rating or the generating capability of the Facility. Without limiting the generality of the foregoing:~~

~~2.3.1 — If the Facility is subject to a Transmission Provider's Remedial Action Scheme and PGE has an obligation to the Transmission Provider for said Remedial Action Scheme, Seller shall make necessary arrangements prior to the Commercial Operation Date, including installing any required equipment and entering into any necessary agreements to enable PGE to include the Facility in the list of resources used to satisfy PGE's obligation under the Transmission Provider's Remedial Action Scheme.~~

~~2.3.2 — PGE will evaluate available delivery capability on PGE's transmission system between the Delivery Point and PGE's load that is required to enable PGE to accept delivery of the Facility's Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to PGE's designated sink point. If PGE determines that sufficient delivery capability exists on PGE's transmission system, PGE will arrange for, be responsible for, and make available transmission service on PGE's transmission system from the Delivery Point to the designated sink point. If PGE determines that insufficient delivery capability exists on PGE's transmission system, Seller will be responsible for (i) obtaining and paying for necessary transmission studies and paying for any transmission upgrades necessary to enable PGE to accept deliveries of Net Output from the Facility and to effectuate delivery from the Delivery Point to PGE's designated sink point, or (ii) paying for any necessary transmission service from Transmission Providers to effectuate delivery from the Delivery Point to PGE's designated sink point. If any upgrades to PGE's system are identified pursuant to part (i), PGE and Seller shall enter into a separate agreement to establish the terms under which PGE shall arrange for and Seller will pay for such upgrades; provided, however, that if the costs of such upgrades is reasonably projected to exceed One Hundred Thousand Dollars (\$100,000), Seller may terminate this Agreement by providing written notice to Buyer, unless, within thirty (30) days after Buyer receives such notice, Buyer agrees in its sole discretion to bear costs in excess of that amount. After all necessary upgrades have been completed in accordance with Prudent Electrical Practices, PGE will arrange for, be responsible for, and make available transmission service from the Delivery Point to the designated sink point.~~

2.4.2.3 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with **Exhibit E** (as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility),<sup>5</sup> and shall provide written notice to PGE when the Start-Up Testing has been successfully completed. Seller must provide no less than one (1) business day's ten (10) working days' written notice to PGE prior to the commencement of Start-Up Testing, and must provide ~~Seller shall use its best efforts to schedule and deliver Test Energy to its Transmission Provider, to a third party or to an organized market via its Transmission Provider's system. Seller shall be entitled to any and all compensation received from its Transmission Provider or any third party or organized market for such Test Energy. If it is necessary for Seller to schedule and deliver Test Energy to PGE~~ ten (10) business days'

~~written notice prior to commencing sales of Test Energy to PGE. In~~ order to complete Start-Up Testing, Seller may ~~schedule and deliver Test Energy to PGE~~ pursuant to the scheduling procedures set forth in Section 3.5, and PGE shall compensate the Seller for delivered Test Energy in accordance with Section 4.1.1.3.6, but shall not be entitled to compensation from PGE for Test Energy. ~~Seller shall pay any costs or additional expenses that are required for PGE to receive Test Energy, including procurement of any necessary capacity costs or reserves.~~ This Section 2.34 does not apply if the Facility is an Existing QF ~~unless the Existing QF elects to conduct Start-Up Testing.~~

#### 2.52.4 Commercial Operation.

“**Commercial Operation**” will be achieved when the Facility is fully constructed and ~~determined~~ by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have occurred:

~~2.5.12.4.1~~ If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with **Exhibit E**, and PGE has received Seller’s written certification of completion of Start-Up Testing.

~~2.5.22.4.2~~ PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that ~~the Facility is interconnected and operational~~ ~~interconnection has been completed~~ in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.

~~2.5.32.4.3~~ PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE’s reasonable satisfaction, which may include equipment specifications.

~~2.5.42.4.4~~ PGE has received a ~~letter~~ ~~certificate~~ addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement and Transmission Agreement(s),<sup>5</sup> and any other Required Facility Documents requested by PGE.

~~2.5.52.4.5~~ PGE has received the following documents with respect to the Facility: the As-built Supplement, ~~including but not limited to~~ an electrical single-line diagram, a 12x24 ~~estimated~~ net energy profile, a 8760 net energy production estimate, and (for solar QFs) an annual degradation factor.

~~2.5.62.4.6~~ PGE has received copies of all insurance certificates required under Section 12.12.

~~2.5.72.4.7~~ PGE has received any Credit Support required under Section 9.1.

~~2.5.82.4.8~~ Seller has provided evidence of the registration of the Facility as a generating unit in WREGIS and satisfaction of any other requirements for the recording of RECs in WREGIS.

~~2.5.9~~ ~~If any upgrades to PGE’s system between the Delivery Point and PGE’s load are required in order to enable PGE to accept delivery of the Facility’s Net Output at the Delivery Point and to effectuate~~



~~delivery from the Delivery Point to PGE's designated sink point, the Company and the Seller have entered into an agreement concerning such upgrades as required under Section 2.3.2.~~

2.62.5 Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section 2.45, Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, ~~including but not limited to information required in Exhibit A and Exhibit B.~~ PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, ~~provided that PGE shall not unreasonably withhold such certification.~~ The date of Seller's notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the "**Commercial Operation Date**" for all purposes under this Agreement.

2.72.6 Scheduled Commercial Operation Date.

~~By no later than \_\_\_\_\_ ("Scheduled Commercial Operation Date"), Seller shall have completed all requirements under Section 2.4 and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE's negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE's negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before Seller guarantees that Commercial Operation shall occur no later than \_\_\_\_\_, 20\_\_\_\_ ("Scheduled Commercial Operation Date"). If Commercial Operation does not occur by the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay for the period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date ("**Delay Damages**"). If Commercial Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section 10.32.~~

2.82.7 Status of the Facility.

~~2.8.12.7.1~~ Seller shall construct and operate the Facility so as to ensure its status as a Qualifying Facility and in a manner consistent with its FERC Qualifying Facility certification. At any time during the Term, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE's request, ~~(i) a written legal opinion from an attorney who is in good standing in the state of Oregon and is not employed by a Person having an economic interest in the Facility stating that the Facility is a Qualifying Facility, and (ii)~~ documentation acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility.

~~2.8.22.7.2~~ Seller shall not make any changes in its ownership, control or management that would cause the Facility to fail to satisfy the eligibility requirements specified in the Schedule for entering

into the form of Standard PPA and pricing reflected in this Agreement. Seller shall provide upon request by PGE, not more frequently than every 36 months, any documentation and information as may be reasonably required requested by PGE to establish Seller's continued compliance with the applicable eligibility requirements such definition. PGE shall take reasonable steps to maintain the confidentiality of any such documentation and information that Seller identifies as confidential, provided that PGE may provide all such information to the Commission upon the Commission's request.

### ARTICLE 3: DELIVERY AND SALE OF ENERGY; SCHEDULING

#### 3.1 Delivery and Sale of Energy.

Except as otherwise provided in this Agreement, commencing on the Commercial Operation Date and continuing until the end of the Term (the "**Delivery Period**"), Seller shall deliver and sell and PGE shall receive and purchase all of the Net Output delivered as Firm Energy at the Delivery Point. In reliance on Seller's representations and warranties in Section ~~8.18.1.10~~, Seller may also deliver and PGE shall receive and purchase Imbalance Energy delivered at the Delivery Point, subject to Section 3.2. ~~Notwithstanding the foregoing, Seller shall not deliver and PGE shall not be obligated to receive or purchase energy delivered at a rate, on an hourly basis, greater than the Net Available Capacity.~~ Title and risk of loss related to the Product shall transfer from Seller to PGE at the Delivery Point, except that title to Transferred RECs shall transfer to PGE when generated.

#### 3.2 Surplus Delivery.

For purposes of this Agreement, (i) "**On-Peak Energy Imbalance Accumulation**" means total Firm Energy aggregate energy delivered to the Delivery Point during On-Peak Hours during a Billing Period ~~less total aggregate Net Output delivered to the Delivery Point~~ during On-Peak Hours during such Billing Period; and (ii) "**Off-Peak Energy Imbalance Accumulation**" means total Firm Energy aggregate energy delivered to the Delivery Point during Off-Peak Hours during a Billing Period ~~less total aggregate Net Output delivered to the Delivery Point~~ during Off-Peak Hours during such Billing Period. Any positive On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation shall be deemed "**Surplus Delivery.**" PGE shall accept but ~~is not obligated to~~ pay for Surplus Delivery. Any negative On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation during a Billing Period implies that Seller has delivered less than the aggregate Net Output during the applicable hours in the Billing Period. For the avoidance of doubt, the Parties agree that Seller is not entitled to compensation for any portion of total Net Output that exceeds total is not delivered as Firm Energy delivered to the Delivery Point during the applicable Billing Period.

#### 3.3 Estimated Net Output.

Seller's good faith, commercially reasonable estimate of the Facility's ~~average~~ monthly and annual average and maximum Net Output during the Delivery Period, and Seller's basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in **Exhibit C, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section 6.3.** Seller acknowledges that PGE will use these estimates in its resource planning.

3.4 Minimum Availability Guarantee.

~~3.4.1~~—Seller hereby guarantees that the Facility will achieve Mechanical Availability Percentages that meet or exceed the following (“Minimum Availability Guarantee”):

- (i) Ninety percent (90%) beginning in the first Contract Year and extending through the Term of this Agreement if the Facility was operational and sold electricity to PGE or another buyer prior to the Effective Date; or
- (ii) Ninety percent (90%) beginning in Contract Year three and extending through the Term of this Agreement.

~~3.4.2~~—Annually, within 90 calendar days of the end of each Contract Year, Seller shall send to PGE a detailed written report demonstrating and providing evidence of the actual Mechanical Availability Percentage for the previous Contract Year.

~~3.4.3~~—As a remedy ~~damages~~ for Seller’s failure to satisfy the Minimum Availability Guarantee in any Contract Year, Seller shall owe PGE damages equal to the Lost Energy Value ~~for such Contract Year~~.

~~3.5~~—Forecasting and Scheduling:

~~3.5.1~~—~~During the Delivery Period, Seller shall provide PGE with a rolling hourly generation forecast for the next fourteen (14) days, updated hourly (each a “Generation Forecast”). Each Generation Forecast shall be performed by a third party forecasting agent and shall be provided in a commercially reasonable format specified by PGE.~~

~~3.5.2~~—~~Seller shall schedule, following the procedures set forth in Section 3.6, deliveries of the Product at the Delivery Point in the amount of expected Net Output (less transformation and transmission losses to the Delivery Point), consistent with the Generation Forecast. Seller shall make reasonable efforts to minimize the delivery of Imbalance Energy to PGE. Seller and PGE agree that the intent of this Section is for Seller to schedule and deliver energy resembling actual production from the Facility for each hour.~~

~~3.6~~3.5 Scheduling Procedures.

~~3.6.1~~—Seller shall provide preschedule~~schedule~~ energy in hourly blocks for delivery at the Delivery Point in accordance with the following procedures:

~~3.6.1.1~~ For each day during the Delivery Period, Seller shall, by 5:00 a.m. PPT of the customary WECC Pre Scheduling Day, communicate to PGE’s Pre-schedule Desk the expected hourly energy to be delivered at the Delivery Point for that day, consistent with the Generation Forecast.

~~3.6.1.2~~ Seller shall schedule the energy by submitting a NERC e-Tag (“e-Tags”) prior to 1:00 p.m. PPT of the applicable WECC Pre-Scheduling Day for all deliveries~~hours~~ of the applicable delivery day or days.

~~3.6.1.3~~ Seller shall schedule the energy hereunder, including identification of receiving with e-Tags according to prevailing WECC, NERC, or Transmission Provider Pre-scheduling provisions and generating control areas, by 9:00:00 PPT on the last business day prior to the protocol.

~~Seller shall schedule the Facility as the identified e-Tag source. Seller may not net or otherwise combine schedules from resources other than the Facility, except as necessary for Ancillary Services.~~

~~3.6.1.4 Seller shall not schedule energy using a Dynamic or Pseudo-Tie e-Tag as such terms are defined and used by NERC.~~

~~3.6.2 Seller may make adjustments to the energy scheduled date of delivery. All energy shall be scheduled according to the most current NERC and WECC scheduling rules and practices. The Parties' respective representatives shall maintain hourly as described above each hour in real-time schedule coordination; provided, however, that in the absence, If Seller elects to make such real-time adjustments, Seller shall submit and receive approval of such coordination, the hourly schedule established by the exchange of preschedules shall any e-Tag adjustment no later than seventy five (75) minutes prior to the flow hour. Seller shall be considered final. Seller responsible for any and all costs, charges, or fees associated with any changes Seller makes to the e-Tag after seventy five (75) minutes prior to the flow hour.~~

~~3.6.3 In the event that the regional market design, Balancing Authority, or other Reliability Entity causes PGE's scheduling practices to change after the Effective Date, PGE shall have the right but not the obligation to update the scheduling procedures described in this Section 3.6 by giving sixty (60) days' prior written notice to Seller of such update.~~

~~3.6.4 Seller shall be responsible for all costs or charges associated with the Product or its delivery to the extent such costs or charges are imposed on Seller's side of the Delivery Point.~~

~~3.6.5.1 Seller shall maintain records of hourly energy schedules for accounting and operating purposes. The final E-Tag shall be the controlling evidence of the Parties' schedule. All energy shall be prescheduled according to customary WECC scheduling practices. Seller shall make commercially reasonable efforts to schedule in any hour an amount equal to its expected Net Output for such hour. Seller shall maintain a minimum of two years' records of the Net Output and shall agree to allow PGE to have access to such records and to imbalance information kept by the Transmission Provider. The cost of delivering energy from the Facility to PGE shall be the sole responsibility of the Seller.(s).~~

### 3.7.3.6 Loss of Interconnection and Curtailment.

PGE shall not be liable to Seller and shall have no obligation to purchase the Product from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the extent that, due to the action of a Reliability Entity, ~~an event of Force Majeure Event~~, or PGE's construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility to the electric system is disconnected, suspended or interrupted, or (ii) generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller's control.

### ~~3.8 Carbon Emissions:~~

~~Seller is responsible for and shall pay for all future costs, if any, whether incurred by Seller or PGE, resulting from any carbon emissions generated by or associated with the Product delivered by Seller to the Delivery Point in accordance with this Agreement. Seller may provide PGE with carbon emissions offsets~~

~~that are reasonably satisfactory to PGE in lieu of a monetary settlement. Within fifteen (15) business days after PGE's request, Seller shall provide PGE with the carbon emissions data for the Product that is delivered during the Delivery Period.~~

#### ARTICLE 4: PRICE, BILLING AND PAYMENT

##### 4.1 Prices and Payment for Delivered Product.

4.1.1 ~~During the Delivery Period,~~ PGE shall pay Seller an amount for Product delivered during a Billing Period calculated as follows: ~~the Contract Price multiplied by the lesser of (i) Net Output during the Billing Period and Imbalance Energy (but not including Surplus Delivery or (ii) energy delivered at an hourly rate in excess of the Net Available Capacity) delivered as Firm Energy delivered to the Delivery Point during the Billing Period. PGE shall not pay for Surplus Delivery. An illustrative example is provided in Exhibit G.~~ In determining the amount due to Seller for the Product, the amount of Net Output generated in any hour shall be deemed to be zero or greater, ~~multiplied by the Contract Price.~~

4.1.2 ~~Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy multiplied by the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.~~

~~4.1.24.1.3~~ Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.

##### 4.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.

By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE ~~will in the ordinary course~~ shall deliver to Seller an invoice showing PGE's computation ~~(and supporting data) of the Lost Energy Value, if of any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE to PGE in respect thereof for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the the preceding calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in Exhibit G.~~

##### 4.3 Invoicing and Payment for Lost Energy Value Related to Minimum Availability Guarantee.

~~If Seller fails to satisfy the Minimum Availability Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following PGE's receipt of Seller's detailed written report for such Contract Year in accordance with Section 3.4.2, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar. No later than ten (10) days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future energy deliveries by the amount of such Delay Damages.~~

##### ~~4.3~~ Invoicing and Payment for Lost Energy Value.



~~If Seller fails to satisfy the Minimum Availability Guaranty during any Contract Year, on or before the thirtieth (30th) day following the end of such Contract Year, PGE shall deliver to Seller an invoice showing PGE's computation of any deficit in the guaranteed amount. Thereafter, the amount payable by PGE for future deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period of such reduction (not to exceed one year) so as to minimize the risk of Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.~~

#### 4.4 Form of Payment and Interest on Late Payments.

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.-

#### 4.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.-

### ARTICLE 5: METERING

#### 5.1 Metering.

Metering shall be performed at the location and in a manner consistent with this Agreement, as specified in **Exhibit B**. Seller shall provide to PGE ~~all information~~ in hourly increments for all regarding Net Output and any other energy purchased under this Agreement. ~~in hourly increments. Seller shall provide PGE with a real time ICCP and EIDE communications link to the Facility metered output.~~

#### 5.2 Meter Installation, Inspection and Correction.

Seller shall arrange ~~and pay~~ for the installation, testing, and maintenance of the metering equipment required by Section ~~5.15.4~~ in accordance with Prudent Electrical Practices. PGE shall have reasonable access to observe, at its own expense, all inspection, testing, repair and replacement of the metering equipment. Upon request, Seller shall provide obtain documentation regarding all inspection, testing, repair and replacement of the metering equipment.

If the Facility has a revenue grade meter in addition to the meter used to calculate deliveries and payments and the revenue grade meter is installed near the meter used to calculate deliveries and payments, Seller will send an annual report to PGE comparing the readings between the two meters. If the difference between the two meters is more than two percent (2.0%), PGE may request that the meters be recalibrated and that PGE receive the results of the tests. Also, PGE will be notified promptly of any other recalibration or calibration tests on the meter used to calculate deliveries and payments. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate

~~deliveries and payments, then PGE may request that the project meter~~Meters must be tested and recalibrated during the term of the Agreement and consistent with the terms of this Section. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter be tested and recalibrated 12 months after the Commercial Operation Date, at Seller's expense. If the test demonstrates a variance of more than two percent (2.0%) then PGE may request another test and recalibration twenty-four (24) months after the last test. If the test demonstrates a variance of ~~no less than two percent (2.0%), then PGE may not request a test and recalibration at the Seller's expense for thirty-frequently than every-six (36) months. PGE may arrange for testing and recalibration at its own expense, after reasonable notice and opportunity for Seller to have a representative on site.~~

~~6) months and Seller shall promptly notify PGE if any metering equipment is not functioning properly.~~ If any of inspections or tests reveal an error exceeding two percent (2.0%), either fast or slow, appropriate correction, based upon the inaccuracy found, shall be made with respect to previous readings for the period during which the Facility metering equipment rendered inaccurate measurements (such period not to exceed ~~twelve (12) six (6) months~~). If the period of inaccuracy cannot be ascertained, correction shall be made to measurements taken since the metering equipment was last tested, provided that such period shall not exceed three (3) months. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered. Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of the metering inaccuracy.

## ARTICLE 6: OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES

### 6.1 Seller's Duty to Operate and Maintain the Facility.

6.1.1 Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.

6.1.2 Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide ~~upon request~~ copies of the same to PGE upon request.

### 6.2 Outages.

6.2.1 On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with ~~an annual~~ schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the ~~Specified generating capacity of the~~ Facility Nameplate Capacity Rating for ~~twenty-four (24) two (2)~~ or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of Section ~~14.13. 14.13. Seller shall use commercially reasonable efforts to plan scheduled activities (i) to maximize the productive output of the Facility, and (ii) not to occur between July 1 and September 30 or between December 1 and February 28 of any calendar year.~~



~~6.2.2 Seller shall give notice to the interconnecting Transmission Provider of any forced or unplanned outages or reductions in generation capability of the Facility in accordance with such Transmission Provider's outage notice requirements. Seller shall also give PGE's Real Time Desk immediate telephonic notice (within twenty minutes) of any such events that will curtail or adversely affect scheduled or forecasted Product deliveries. Such notice must include a description of the cause of the outage, the resulting change in capacity, and an estimate of the duration of the outage. Seller shall provide PGE regular and frequent updates regarding any changes of status set forth in the initial notice, and shall notify PGE's Real Time Desk when the Facility is ready to return to service. Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable best efforts to avoid or mitigate outages during PGE's system emergencies. PGE may, after providing written notice to Seller, make commercially reasonable changes to the means by which Seller provides notice pursuant to this subsection 6.2.2 of this Agreement.~~

### 6.3 Facility Upgrades.

#### 6.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

~~6.3.1.6.3.2~~ At any time after the Commercial Operation Date upon at least six months<sup>2</sup> prior written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in **Exhibit C**, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in **Exhibit C** for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

6.3.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section 6.3.1 or Section 6.3.2 that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend **Exhibit A** and **Exhibit C** as appropriate to reflect the modifications.

~~6.3.2.6.3.3~~ –So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller will continue to receive the Contract Price for all delivered Net Output.

~~6.3.3.6.3.4~~ If Seller increases the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 3,000 kW (solar) or 10,000 kW (all other QFs), consistent with then-current Applicable Law, ~~provided that:~~

~~6.3.3.1.6.3.4.1~~ If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to more than 3,000 kW and no greater than 10,000 kW, then Seller may elect to enter either (a) a standard power purchase agreement with negotiated prices, or (b) a negotiated power purchase agreement with negotiated prices.

~~6.3.3.26.3.4.2~~ 6.3.3.26.3.4.2 If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

~~6.3.3.36.3.4.3~~ 6.3.3.36.3.4.3 If the Facility produces Net Output through any ~~other~~-resource types other than solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

## ARTICLE 7: ENVIRONMENTAL ATTRIBUTES

### 7.1 Seller-Retained RECs.

7.1.1 Seller shall retain ownership of all RECs (“Seller-Retained RECs”) and all other Environmental Attributes associated with Net Output of the Facility during the Test Period and during the Renewable Resource Sufficiency Period.  ~~(“Seller-Retained RECs”).~~ PGE shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Seller-Retained RECs belong to any Person other than Seller.

~~7.1.2—Seller shall give written notice (the “Notice of Proposed REC Transfer”) to PGE stating its bona fide intention to transfer Seller Retained RECs to a third party and specifying the material terms and conditions of such transfer, including the price to be paid to Seller for the Seller Retained RECs. The Notice of Proposed REC Transfer will constitute Seller’s offer to PGE to transfer the Seller Retained RECs on the terms therein specified and shall be irrevocable for a period of ten (10) business days (the “ROFR Period”). Upon receipt of the REC Transfer Notice, PGE shall have until the end of the ROFR Period to agree to purchase the Seller Retained RECs by delivering a written notice (a “ROFR Exercise Notice”) to Seller stating that it agrees to purchase the Seller Retained RECs on the terms specified in the Notice of Proposed REC Transfer. Any ROFR Exercise Notice so delivered shall be binding on PGE and irrevocable upon delivery. If PGE delivers a ROFR Exercise Notice to Seller in accordance with this Section, PGE and Seller shall thereafter negotiate in good faith and use their commercially reasonable efforts to enter into all necessary agreements and other arrangements to effectuate the sale of RECs to PGE as soon as practicable thereafter.~~

### 7.2 Transferred RECs.

7.2.1 Seller shall transfer to PGE and PGE shall acquire all RECs associated with Net Output from the start of the Renewable Resource Deficiency Period through the remainder of the Term (“Transferred RECs”). PGE’s payments for Product under this Agreement include full payment for all Transferred RECs. Seller shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Transferred RECs belong to any Person other than PGE. PGE shall be entitled to claim all rights associated with the Transferred RECs, including any value in the ownership, use or allocation of RECs created by legislation or regulation after the Effective Date.

7.2.2 Transferred RECs shall be deemed delivered and sold to PGE under this Agreement as they are produced, and title to Transferred RECs shall pass to PGE when generated. The Facility ~~output~~ meter at the point of interconnection shall serve as the record source for purposes of calculating, certifying, and auditing Transferred RECs. In the event Seller generates power and associated RECs are transferred but the power is not delivered to PGE by Seller due to a Force Majeure Event, curtailment, or other reason, PGE and Seller will work together in good faith to return such RECs to Seller.

7.2.3 Seller shall comply with all requirements necessary for all Transferred RECs to be issued, monitored, accounted for, and transferred by and through WREGIS, consistent with the provisions of OAR 330-160-0005 through OAR 330-160-0090. Without limiting the generality of the foregoing, Seller shall cause the Facility to implement all necessary generation information communications in WREGIS, and report generation information to WREGIS pursuant to a WREGIS-approved meter that is dedicated to the Facility and only the Facility. Seller shall cause delivery and transfer of the Transferred RECs to PGE's WREGIS account to be perfected in accordance with WREGIS rules. Seller shall hold the Transferred RECs in trust for PGE until such delivery and transfer is perfected. Each Party shall take such steps and further actions as may be required by WREGIS or Applicable Law in order to effect and confirm the sale and delivery of the Transferred RECs to PGE for all purposes. PGE will reasonably cooperate in Seller's efforts to meet such requirements, including, for example serving as the qualified reporting entity for the Facility if the Facility is located in PGE's Balancing Authority.

7.2.4 All RECs delivered to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.

## ARTICLE 8: REPRESENTATIONS AND WARRANTIES

### 8.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

8.1.1 Seller is a \_\_\_\_\_ duly organized and in good standing under the laws of the state of incorporation or formation.

8.1.2 The execution, delivery and performance of this Agreement are within Seller's powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

8.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

8.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

8.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

8.1.6 Either Seller satisfies the requirements set forth in Section 8.1.6.1 through 8.1.6.38.1.6.1 through 8.1.6.4 below (the "**Creditworthiness Requirements**"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section 9.1.

8.1.6.1 ~~Neither Seller nor any of its principal equity owners is not and/or~~ has not been Bankrupt within the past two (2) years, and there are no proceedings pending or being contemplated by ~~Sellerthem~~ or, to Seller's knowledge, threatened against ~~Sellerthem~~ that would result in ~~Sellerthem~~ being or becoming Bankrupt.

8.1.6.2 Seller is not in default under any of its material agreements and is current on all of its financial obligations, including construction-related financial obligations.

8.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

~~8.1.6.4 If the Facility has a Specified Facility Nameplate Capacity Rating greater than 3,000 kW, Seller has a senior, unsecured long term debt rating (or corporate rating if such debt rating is unavailable) of (i) "BBB " or greater from S&P, or (ii) "Baa3" or greater from Moody's, and if such ratings are split, the lower of the two ratings must be at least "BBB " or "Baa3" from S&P or Moody's, respectively, or other indicia of creditworthiness satisfactory to PGE in its reasonable judgment.~~

8.1.7 No later than the Commercial Operation Date, Seller ~~will possess~~possesses a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

8.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

8.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

~~8.1.10~~ In connection with Seller's delivery of Firm Energy as required under this Agreement:

~~8.1.10.18.1.9.1~~ - Seller's delivery of Imbalance Energy, if any, results from Seller's purchase of energy imbalance ancillary service that the Transmission Provider(s) require(s) Seller to procure, as a condition of providing transmission service, in order to correct a mismatch between energy scheduled by the Facility and the real-time production of the Facility.;

~~8.1.10.2 Such Transmission Provider(s) require(s) Seller to schedule deliveries of Net Output in one (1) megawatt increments; and~~

~~8.1.10.3 Seller is not attempting to sell PGE energy less than or in excess of its Net Output, as generated hourly.~~

~~8.1.118.1.10~~ Seller has the right to sell the Product to PGE free and clear of liens or encumbrances.

8.1.11 The Facility generates RECs that comply with the Oregon Renewable Portfolio Standard.

8.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

8.2.1 It is a corporation duly organized under the laws of Oregon.

8.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

8.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

8.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

8.2.5 It ~~is not and~~ has not ~~been Bankrupt~~ within the past two (2) years ~~been Bankrupt~~ and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

8.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

8.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article 8 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

## ARTICLE 9: CREDIT SUPPORT

9.1 Required Credit Support.

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall immediately notify PGE in writing and shall promptly (and in no less than ten (10) ~~business~~~~calendar~~ days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). In ~~in~~ each case, ~~the in an~~ amount of Credit Support required shall be calculated as follows: (aggregate number of On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the weighted average Contract Price for On-Peak Hours – the weighted average Contract Price for Off-Peak Hours) x (Net Available Capacity). The amount of Credit Support required shall be updated annually, on the



anniversary of the month Credit Support was first required to be provided. The updated amount of Credit Support shall be calculated for each subsequent 12-month period, consistent with the calculation described in this Section. (the “Credit Support”):

~~(i) — the net present value of the following amount: the forward power prices at Mid-Columbia for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term), as determined by PGE in good faith using information from a commercially reasonable independent source (e.g., indicative of the most relevant ICE forward price curve for the Mid-Columbia), **multiplied by** one hundred and ten percent (110%), **multiplied by** aggregate Estimated Monthly Average Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term); **less**~~

~~(ii) — the net present value of: the average of the fixed prices specified in the Schedule (or in the case of a solar facility with a Specified Facility Nameplate Capacity Rating over 3 MW, as set forth in the price matrix attached to **Exhibit G**) for both On-Peak Hours and Off-Peak Hours, **multiplied by** aggregate Estimated Monthly Average Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term).~~

~~To calculate net present value for purposes of this Section, the Parties shall use the Bloomberg “S23 Corp” (Bloomberg ID “YCSW0023”) interest rate swap cure as the discount rate.~~

~~Notwithstanding the foregoing, the amount of Credit Support shall in no event be less than the amount equal to the payments PGE would make for three (3) average months based on Seller’s average monthly volume over the term of this Agreement and utilizing the average fixed prices specified in the Schedule (or in the case of a solar facility with a Specified Facility Nameplate Capacity Rating over 3 MW, as set forth in the price matrix attached to **Exhibit G**).~~

If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.

Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its reasonable discretion, grant an exception to the requirements to provide default security if the Seller has negotiated financial arrangements with the Lender~~reconstruction loan lender~~ that mitigate Seller's financial risk to PGE.

## 9.2 Right to Draw on Credit Support.

At any time after the occurrence and during the continuation of an Event of Default, or upon an early termination of this Agreement by PGE pursuant to Section ~~10.340.2~~, PGE may draw on Seller’s Credit Support to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the Credit Support during the Term, PGE shall inform Seller within fifteen (15) calendar days, and Seller shall promptly, and in no event more than fifteen (15) calendar days following notice from PGE, restore the Credit Support to the amount required under Section 9.1. However, for avoidance of doubt, Seller shall have no obligation to replenish the Credit Support if PGE has terminated the Agreement.

## ARTICLE 10: DEFAULT, REMEDIES AND TERMINATION

### 10.1 Events of Default.

An “**Event of Default**” means, with respect to a Party, the occurrence of any of the following unless otherwise excused under this Agreement:

10.1.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;

10.1.2 any representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;

10.1.3 the failure of a Party to perform any material covenant or obligation set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party explaining the circumstances supporting defaulting Party notice of the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;

10.1.4 with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such failure is not cured within 30 calendar days of Seller’s receipt of written notice from PGE;

10.1.5 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement or Transmission Agreement(s) within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement or Transmission Agreement(s) at any time during the term of this Agreement;

10.1.6 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller’s receipt of written notice from PGE;

10.1.7 with respect to Seller, Seller fails, for any two or more consecutive Contract Years to satisfy the Minimum Availability Guarantee or Seller’s failure to provide any written report required by Section 3.4;

10.1.8 Seller’s failure to provide any written report required by Section 3.4.2 if such failure is not cured within 30 calendar days of Seller’s receipt of written notice from PGE;

~~10.1.8~~ 10.1.9 with respect to Seller, Seller fails to establish the Commercial Operation Date ~~does not occur~~ on or before the ~~first anniversary of the~~ Scheduled Commercial Operation Date. Seller shall have



one (1) year to cure default under this Section 10.1.9, during which time Seller shall pay PGE Delay Damages pursuant to the terms of Section 2.6 and Section 4.2.

#### 10.2 Lender's Right to Cure a Seller Event of Default.

Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under Section 14.13 of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement.

#### 10.210.3 Termination for Default.

If an Event of Default has occurred and is continuing, the non-defaulting Party may immediately terminate this Agreement at its sole discretion, and without the non-defaulting Party incurring any liability to the defaulting Party, by delivering written notice to the defaulting Party. In addition, the non-defaulting Party may pursue any and all other legal or equitable remedies available to it, including recovery of damages as set forth below. ~~For avoidance of doubt, PGE's resource sufficiency or deficiency position has no bearing on PGE's right to terminate this Agreement under this Section.~~

#### 10.310.4 Damages.

If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value, ~~with respect to the lesser of (i) twenty four (24) months following the date of termination or (ii) the period from the date of termination until the expiration date of this Agreement.~~ Amounts owed by Seller pursuant to this Section shall be due within fifteen (15) five (5) business days after any invoice from PGE for the same. Damages owing under this Section 10.4 shall be cumulative and in addition to damages owing pursuant to Sections 2.6, 4.2, 4.3 and 10.1.9. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.

#### 10.410.5 Payment of Outstanding Obligations.

If this Agreement is terminated pursuant to Section ~~10.310.2~~, then within thirty (30) calendar days of termination, PGE shall make all payments due and owing to Seller as of the time of receipt of notice of termination; provided that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section 10.43 or otherwise. PGE shall not be required to pay Seller for Product delivered by Seller after the effective date of any termination notice.

#### 10.510.6 Post-Termination PURPA Status.

— In the event ~~(ix)~~ PGE terminates this Agreement pursuant to this Article 10 or Seller terminates this Agreement without cause, and ~~(iiy)~~ Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, wishes to sell Net Output to PGE from the Facility following such termination, then PGE may, (but will not be obliged to) require that Seller, its Affiliate, or its successor do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to the terms of this Agreement, then Seller and PGE shall promptly execute a written document ratifying the terms of this Agreement. PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.

## ARTICLE 11: INDEMNIFICATION AND LIABILITY

### 11.1 Seller's Indemnity.

Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, including the delivery of energy to and at the Delivery Point; (ii) Seller's development, construction, ownership, operation, maintenance, or decommissioning of the Facility; (iii) the violation of any law, rule, order or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.

### 11.2 PGE's Indemnity.

PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) PGE's receipt of energy under this Agreement after its delivery at the Delivery Point; (ii) the violation of any law, rule, order or regulation by PGE or any of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure to perform any of PGE's obligations under this Agreement; (iv) PGE's breach of any representation or warranty set forth in this Agreement; or (v) PGE's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by Seller's breach of this Agreement or by the negligence or willful misconduct of Seller, its directors, officers, employees, agents or representatives.

### 11.3 No Dedication.

Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent Person.

### 11.4 Disclaimer of Consequential Damages.

**NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.**

## ARTICLE 12: INSURANCE

### 12.1 Certificates of Insurance.

Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance

policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.

## 12.2 Required Insurance.

Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than “B+” by the A.M. Best Company the insurance coverage specified below:

12.2.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, ~~which limits may be required to be increased or decreased by PGE as PGE determines in its reasonable judgement, economic conditions or claims experience may warrant,~~ to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.

12.2.2 All Risk Property Insurance providing coverage in an amount at least equal to the full replacement value of the Facility against “all risks” of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk Policy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar Facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers’ rights of subrogation against PGE regarding Facility property losses.

## 12.3 Required Provisions.

12.3.1 The Comprehensive General Liability Policy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

12.3.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days’ prior written notice to PGE.

12.3.3 Insurance coverage provided on a “claims-made” basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

## ARTICLE 13: FORCE MAJEURE

### 13.1 Definition of “Force Majeure.”

As used in this Agreement, “**Force Majeure**” or “~~event of Force Majeure~~ **Event**” means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party’s from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility’s equipment, or ~~(viii) smoke, haze, ash or other obstruction of sunlight~~ (except to the extent such obstruction is caused by fires or volcanic eruptions).

### 13.2 Effect of Force Majeure.

If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: (i) the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section ~~14.13~~14.13 of this Agreement describing the particulars of the occurrence; (ii) the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the non-performing Party uses commercially reasonable~~its best~~ efforts to remedy its inability to perform its obligations under this Agreement.

## ARTICLE 14: GENERAL PROVISIONS

### 14.1 Relationship of the Parties.

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such Party shall be jointly and severally liable for Seller’s obligations under this Agreement.

### 14.2 No Third Party Beneficiaries.

This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

#### 14.3 Governing Law.

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~which may direct the application of the laws of another jurisdiction.

~~This Agreement is subject to the jurisdiction of those governmental agencies and courts having control over either party or this Agreement. The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.~~

#### ~~14.4~~ Dispute Resolution.

Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement is subject to the jurisdiction of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, any complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute. ~~or governmental agency with jurisdiction over the dispute; provided, however, that any dispute within the jurisdiction of the Commission shall first be brought before the Commission, and each Party hereby irrevocably waives, to the fullest extent permitted by Applicable Law, any objection it may now or hereafter have to the initial jurisdiction of the Commission with respect to any such dispute.~~

The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

#### ~~14.5~~14.4 Severability.

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void as being contrary to any Applicable Law or public policy, all other terms of this Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the intent of the Parties to this Agreement.

#### ~~14.6~~14.5 Effect of PURPA Repeal.

The repeal of PURPA shall not result in the early termination of this Agreement unless such termination is mandated by state or federal law.

#### ~~14.7~~14.6 Waiver.

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

14.814.7 Survival.

Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.

14.914.8 Successors and Assigns.

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. Neither party may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that either party~~PGE~~ may assign its rights or delegate its obligations, in whole or in part, without such consent and upon thirty (30) calendar days' prior written notice to the other party~~Seller~~, to an entity that acquires all or substantially all of the business or assets of the assigning party~~PGE~~ to which this Agreement pertains, whether by merger, reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective.

14.9 Financing Documents.

Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and expense associated with PGE's review and activities reasonably required under this Section 14.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE's sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.

14.10 Entire Agreement; Amendments; Order of Precedence.

This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding the contents of the Agreement, including PGE's purchase of energy from the Facility. No amendment or modification of this Agreement shall be effective



unless it is in writing and signed by both parties. If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail.

14.11 Seller Release.

By executing this Agreement, Seller releases PGE from any ~~third party~~ claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

14.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

14.13 Notices.

All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.:

<u>Notices</u>	<u>PGE</u>	<u>Seller</u>
<u>Invoices</u>	<del>Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204</del>	
<u>Scheduling</u>	<del>By telephone: Merchant Real Time Desk (503) 464 8851</del>	
<u>Planned Outages</u>	<del>Merchant Outage Coordinator Attn: Power Operations 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 (503) 464 7013</del>	
<u>Unplanned Outages</u>	<del>Merchant Real Time Desk (503) 464 8851</del>	
<u>Payments</u>	<del>Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 Energyinvoicing@pgn.com</del>	
<u>Wire Transfer</u>	<del>Bank Name: US National Bank of Oregon Routing Number: 123000220 Account Number: 153600043512</del>	



Standard Renewable Off-System Variable Power Purchase Agreement  
Form Effective \_\_\_\_\_

<del>Credit Support</del>	<del>Portland General Electric Attn: Credit Manager 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204</del>	
<del>All Other Notices</del>	<del>Portland General Electric C/O Attn: QF Contract Management 3WTC-0306 121 SW Salmon St. 3WTC0306 Portland, OR Oregon 97204</del>	
<del>Copy in the case of Event of Default or Termination</del>	<del>Portland General Electric 121 SW Salmon St. 1WTC17 Portland, Oregon 97204 Attn: General Counsel</del>	

The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section 14.13.

*Signature Page Follows.*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

(Name Seller)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**FACILITY DESCRIPTION**

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

~~Seller's Facility consists of generators fueled by \_\_\_\_\_. Specifically, each type generator at the Facility is described as:~~

~~**A. Generator Manufacturer's Nameplate Data:**~~

~~Make:~~

~~Model:~~

~~Rated Output (kW):~~

~~Number of Generators with Similar Attributes:~~

~~Facility Nameplate Capacity Rating: \_\_\_\_\_ kW~~

~~Net Available Capacity: \_\_\_\_\_ kW~~

~~Interconnection Rating: \_\_\_\_\_ kW~~

~~Identify and describe any differences between the Facility Nameplate Capacity Rating and the Net Available Capacity: \_\_\_\_\_~~

~~Station service requirements, and other loads served by the Facility, if any, are described as follows:~~

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

~~**B. Specified Facility Nameplate Capacity Rating \_\_\_\_\_ (kW) (calculated as the sum of the Nameplate Capacity Ratings for all Generators).**~~

~~**C: Location of the Facility:** The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_, with GPS coordinates of \_\_\_\_\_~~

The location is more particularly described as follows:

[legal description of parcel]

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND TRANSMISSION ATTRIBUTES**

[Seller to provide diagram and description]

Description to include the following:

~~Point(s)~~

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section 6.3.2).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW metering, including

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating type of meter(s) and the Net Available Capacity:

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Interconnection Rating: \_\_\_\_\_ kW (owner of the Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

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---

1. ~~\_\_\_\_\_ meter(s)~~

2.1. Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

As-built Average Annual Degradation Percentage (applicable only to QFs with solar Generation Units).

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES**

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

~~3.2.~~ Point of Delivery: \_\_\_\_\_

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Entity with whom the Facility is or will be interconnected: \_\_\_\_\_

4.3. Transmission Provider(s): \_\_\_\_\_

\_\_\_\_\_ )  
**The following information shall be provided in the As-built Supplement prior to Commercial Operation:**

5. \_\_\_\_\_

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):

\_\_\_\_\_  
\_\_\_\_\_

Specification of Point of Interconnection:

\_\_\_\_\_

**EXHIBIT C**

**SELLER’S NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of ~~Estimated~~expected Monthly Average Net Output and Estimated Monthly~~and~~ Maximum Net Output during the Delivery Period, and the resulting Estimated Annual ~~Estimated~~-Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output (as measured at the Facility meter at the Point of Interconnection)**

Month	Estimated <u>Monthly</u> Average Net Output (kWh)	<u>Percentage of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%)</u>	<u>Estimated Monthly</u> Maximum Net Output (kWh)					
			<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
January								
February								
March								
April								
May								
June								
July								
August								
September								



October						
November						
December						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated Annual Average ~~Annual~~ Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Average Net Output)

Estimated Annual Maximum ~~Annual~~ Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Maximum Net Output)

**EXHIBIT D**

**COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM**

**(Power Purchase REQUIRED FACILITY DOCUMENTS**

~~[List all agreements, permits and authorizations required for the Facility]~~

~~Interconnection Agreement – \_\_\_\_\_ )~~

~~This Collateral Assignment and Consent Agreement (the “*Agreement*”) is made and entered into as of \_\_\_\_\_, 2019, by and among PORTLAND GENERAL ELECTRIC COMPANY (“*PGE*” or “*Buyer*”), [INSERT LENDER], a \_\_\_\_\_ company (the “*Lender*”), and [INSERT SELLER], a \_\_\_\_\_ company (the “*Borrower*” or “*Seller*”) (the “*Parties*” or each a “*Party*”).~~

**RECITALS**

~~A. \_\_\_\_\_ Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the “*Loan Agreement*”), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.~~

~~B. \_\_\_\_\_ Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the “*PPA*” or the “*Assigned Agreement*”), a copy of which is attached as *Exhibit A*, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power from which Seller shall sell and PGE shall purchase Net Output (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).~~

~~C. \_\_\_\_\_ As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the “*Security Agreement*”), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other “Collateral” defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the “*Secured Obligations*”). The Loan Agreement and the Security Agreement are referred to herein as the “*Security Documents*.”~~

**AGREEMENTS**

~~**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:~~

~~1. \_\_\_\_\_ Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower’s right, title and interest in and to the Assigned Agreement.~~

~~2. \_\_\_\_\_ Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender~~

shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller's rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_ If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

\_\_\_\_\_ If to Lender:

\_\_\_\_\_ With a copy to:

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

~~Transmission Agreement~~

~~FERC Qualifying Facility Self-Certification~~

~~As-Built Operating One-Line Diagram~~

~~As-Built Operating 12x24 Generation Profile~~

~~As-Built Average Annual Degradation Percentage (only applicable for Solar QFs)~~

## EXHIBIT E

### START-UP TESTING

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below.- This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing only.]

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

1. Pressure tests of all steam system equipment;
2. Calibration of all pressure, level, flow, temperature and monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Insulation resistance and point-to-point continuity tests;
6. Bench tests of all protective devices;
7. Tests required by manufacturer of equipment; and
8. Complete pre-parallel checks with PGE.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

1. Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
2. Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Stator windings dielectric test;
7. Armature and field windings resistance tests;
8. Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
9. Heat runs;
10. Tests required by manufacturer of equipment;
11. Excitation and voltage regulation operation tests;
12. Open circuit and short circuit;
13. Saturation tests;
14. Governor system steady state stability test;
15. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
16. Auto stop/start sequence;
17. Level control system tests; and
18. Completion of all state and federal environmental testing requirements.





**EXHIBIT F**  
**SCHEDULE 201**

[Attach Schedule 201]

**EXHIBIT G**

**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**

**EXHIBIT H**

[Attach negotiated prices for Option B – Solar Standard Terms and Negotiated Price Agreement]

**STANDARD RENEWABLE ON-SYSTEM NON-VARIABLE  
POWER PURCHASE AGREEMENT  
BETWEEN  
[COUNTERPARTY NAME]  
AND  
PORTLAND GENERAL ELECTRIC COMPANY**

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Exhibits

Exhibit A	Description of Facility
Exhibit B	Seller's Interconnection Facilities and <del>Delivery</del> <u>Transmission</u> Attributes
Exhibit C	Seller's Net Output Estimates
Exhibit D <del>Documents</del>	<del>Collateral Assignment and Consent Agreement Form</del> <u>Required Facility</u>
Exhibit E	Start-Up Testing
Exhibit F	Schedule 201
<u>Exhibit G</u>	<u>Illustrative Examples of Payment and Lost Energy Value Calculations</u>

**STANDARD RENEWABLE ON-SYSTEM NON-VARIABLE  
POWER PURCHASE AGREEMENT**

This STANDARD RENEWABLE ON-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT (“**Agreement**”) is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] (“**Seller**”) and Portland General Electric Company, an Oregon corporation (“**PGE**”) (hereinafter each a “**Party**” and collectively, “**Parties**”).

**RECITALS**

A. [New QF] ~~Seller is a New QF and~~ intends to construct, own, operate and maintain a ~~\_\_\_\_\_~~ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B** (“**Facility**”).

~~A. [Existing QF] Seller New QF is an Existing QF and owns and intends to operate and maintain a \_\_\_\_\_~~ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B** (“**Facility**”).

~~A. [Existing QF] Seller owns and intends to operate and maintain an Existing QF \_\_\_\_\_~~ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B**.

B. Seller intends to operate the Facility as a “Qualifying Facility,” as that term is defined in the ~~FERC~~ Federal Energy Regulatory Commission regulations codified at 18 CFR Part 292.

C. Seller wishes to sell and PGE is willing to purchase the Net Output from the Facility, subject to and in accordance with the terms and conditions of this Agreement, and Seller wishes to provide energy and capacity pursuant to this Agreement.

**AGREEMENT**

NOW, THEREFORE, the Parties agree as follows:

**ARTICLE 1: DEFINITIONS AND CONTRACT INTERPRETATION**

1.1 Defined Terms.

For all purposes of this Agreement, the following terms shall have the following meanings:

“Adjusted Delivered Net Output” means, for any given period, Net Output delivered as Firm Energy to the Delivery Point during the period *plus* Net Output that would have been delivered as Firm Energy to the Delivery Point during any period in which Seller was excused from its delivery obligations due to a Force Majeure Event, based on the Estimated Monthly Average Net Output set forth in **Exhibit C** (pro-rated for partial months as applicable).

“Affiliate” means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller, ~~or that shares~~



~~management or that acts jointly or in concert with or exercises influence over the policies or actions of Seller.~~ For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

“**Agreement**” means this Standard Renewable On-System Non-Variable Power Purchase Agreement and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

“**Alternative Minimum Net Output**” has the meaning set forth in **Exhibit C**.

“**Ancillary Services**” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services.” ~~” including energy imbalance services, generation imbalance services, regulation and frequency response services, reactive supply services, voltage control services, inadvertent energy flow services, control area services, system integration services, operating spinning reserve services, and operating supplemental reserve services.~~

~~“**API**” means Application Program Interface.~~

“**Applicable Law**” means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

“**As-built Supplement**” means a supplement to **Exhibit A** and **Exhibit B** provided by Seller in accordance with Section 2.2 following completion of construction of the Facility, or modifications to the Facility, which describes the Facility as actually built.

“**Balancing Authority**” means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to ~~in which~~ the Facility ~~is located~~.

“**Bankrupt**” means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, or (iii) otherwise becomes bankrupt or insolvent (however evidenced), ~~(iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they become due.~~

“**Billing Period**” means one calendar month.

“**Business Day**” means any day other than Saturday, Sunday or the following holidays: New Year’s Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.

~~“**Billing Period**” means a period during the Delivery Period between PGE’s readings of its power purchase billing meter at the Facility in the normal course of PGE’s business. Such periods may vary and may not coincide with calendar month; however, PGE shall use best efforts to read the power purchase billing meter in 12 equally spaced periods per year.~~

~~“CAISO EIM” means the California Independent System Operator Energy Imbalance Market or any successor thereto.~~

~~“Capacity Attributes” means any current or future attribute, as may be currently defined or otherwise defined in the future, including but not limited to a characteristic, certificate, tag, credit, ancillary service or attribute thereof, or accounting construct, associated with the electric generation capability and capacity of the Facility or the Facility’s capability and ability to produce or curtail energy, including any attribute counted towards any current or future resource adequacy or reserve requirements. Notwithstanding any other provision of this Agreement, “Capacity Attributes” do not include: (i) tax credits, deductions, or tax benefits associated with the Facility, (ii) any state, federal, local, or private cash payments or grants relating in any way to the Facility or the Net Output, or (iii) Environmental Attributes.~~

“Cash Escrow” means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller’s placement of cash in the custody of the escrow agent for delivery to PGE after the fulfillment of any of the conditions specified in Section 9.2. Amounts in the Cash Escrow shall earn interest at the rate applicable to money market deposits at escrow agent.

“Claims” means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.

“Commercial Operation” has the meaning given to it in Section 2.45.

“Commercial Operation Date” has the meaning given to it in Section 2.56.

“Commission” means the Public Utility Commission of Oregon.

“Contract Price” means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under the Renewable Fixed Price Option for \_\_\_\_\_ *[specify applicable Renewable Fixed Price Option based on resource type, in accordance with Schedule]*, as published in the Schedule and attached as **Exhibit F**, and thereafter, for the remainder of the Term, the Daily Market Index Price in effect during the interval when the energy is generated.

“Contract Year” means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time (“PPT”) on January 1 and ending at 24:00 hours PPT on December 31; *provided, however*, that the first Contract Year shall commence on the Commercial Operation Date and end on December 31<sup>st</sup> of the calendar year in which the Commercial Operation Date occurs, and the last Contract Year shall end on the last day of the Term.

“Credit Support” has the meaning given to it in Section 9.1.

“Creditworthiness Requirements” has the meaning given to it in Section 8.1.6.

~~“Daily Market Index Price” means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak~~

Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>. In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Point of Interconnection.

“**Delay Damages**” has the meaning given to it in Section 2.67.

“**Delivery Period**” has the meaning given to it in Section 3.1.

~~“**Delivery Point**” means the high side of the generation step up transformer(s) located at the point of interconnection between the Facility and PGE's distribution or transmission system, where the Parties have agreed that Seller will deliver energy to PGE from the Facility, as specified in Exhibit B and the Interconnection Agreement.~~

“**Effective Date**” has the meaning given to it in Section 2.1.

“**Environmental Attributes**” ~~shall mean~~means any and all claims, credits, benefits, emissions reductions, offsets, and allowances, ~~howsoever entitled~~however named, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water. Environmental Attributes include but are not limited to: or otherwise arising as a result of the generation of electricity from the Facility, regardless of whether or not (i) such environmental attributes have been verified or certified, (ii) such environmental attributes are creditable under any applicable legislative or regulatory program, or (iii) such environmental attributes are recognized as of the Effective Date or at any time during the Term. ~~Environmental Attributes include:~~ (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any credit, allowance or instrument issued or issuable pursuant to a state implementation plan under the Clean Power Plan promulgated by the Environmental Protection Agency under the Clean Air Act; (3) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), and other greenhouse gasses (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, ~~or otherwise by law,~~ to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; ~~and (4) the reporting rights to these avoided emissions, such as the carbon content of the energy generated by the Facility and REC Reporting Rights.~~ Environmental Attributes do not include (i) production tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, or (ii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits.

“**Estimated Annual Average Net Output**” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“**Estimated Annual Maximum Net Output**” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“**Estimated Monthly Average Net Output**” means the relevant amounts specified in ~~the table in~~ Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“**Estimated Monthly Maximum Net Output**” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“**Existing QF**” means a QF that (1) is or has been operational before the Effective Date of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party.

“**Expiration Date Facility**” has the meaning given to it in Section 2.1.

“**Facility**” is the entire facility as specified in Exhibit A and Exhibit B Recitals.

“**Facility Nameplate Capacity Rating**” means the sum of the Nameplate Capacity Ratings for all Generation Units ~~Generators~~ comprising the Facility.

“**FERC**” means the Federal Energy Regulatory Commission or any successor government agency.

“**Force Majeure**” or “**Force Majeure Event**” ~~“Generation Forecast”~~ has the meaning given to it in Section 13.1.3.4.

~~“**Generation Unit**” means each separate electrical Generator of the Facility that contributes to the Specified Facility Nameplate Capacity Rating included in Exhibit A.~~

—“**Generator**” means the electrical component within the Facility measured in kW that converts mechanical energy ~~radiation~~ into electrical energy.

“**Generation Unit**” means a complete electrical generation system within the Facility that is able to generate and deliver energy to the Point of Interconnection independent of other Generation Units within the same Facility.

“**Governmental Authority**” means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

“**Interconnection Agreement**” means an agreement between PGE and Seller governing the interconnection of the Facility with PGE’s electric system, ~~having a term ending no earlier than the expiration date of this Agreement.~~

~~“**Interconnection Rating**” means the Facility capacity rating specified in the Interconnection Agreement, or, if no Interconnection Agreement exists, in the application seeking interconnection.~~

“**kW**” and “**kWh**” mean kilowatt and kilowatt hour, respectively.

“**Lender**” means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.

“**Letter of Credit**” means an irrevocable standby letter of credit from an institution selected by the Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

“**Licensed Professional Engineer**” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in 2.4.2, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.

“**Lost Energy**” means (in kWh): ~~either~~

- A. In connection with a Facility after the Commercial Operation Date, if Seller fails to meet the Minimum Delivery Guarantee, then with respect to a Contract Year given period, an amount equal to the Minimum Net Output ~~delivered to the Delivery Point less the~~ Adjusted Delivered Net Output ~~for the period~~; or
- B. In connection with a Facility that does not establish the Commercial Operation Date on or before the Commercial Operation Date, if the Seller fails to meet the Scheduled Commercial Operation Date, the ~~sum of the~~ Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see Exhibit C) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual Commercial Operation Date or contract termination pursuant to Section 10. The Estimated Monthly Average Net Output ~~shall~~may be pro-rated for any partial months; or
- C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 10 of this Agreement because of Seller’s ~~for~~ default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month from the date of termination through the end of the T term. The Estimated Monthly Average Net Output ~~shall~~may be pro-rated for any partial months.

“**Lost Energy Value**” means:

- A. In connection, with Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly ~~respect~~ to each calendar month in the Contract Year and then allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in Exhibit C (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the given period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours ~~an amount calculated as follows:—~~ Lost Energy for each ~~the~~ applicable calendar month (or partial calendar month) in the Contract Year ~~period~~

~~multiplied by (the (applicable greater of zero (0) or the Replacement Price for On-Peak Hours the period less the time weighted average of the Contract Price for On-Peak Hours for the same period); and~~

- ~~The Off-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year multiplied by the (applicable Replacement Price for Off-Peak Hours less the Contract Price for Off-Peak Hours for the same period).~~

~~If the above calculation of the Lost Energy Value for the Contract Year results in a negative value, the Lost Energy Value for the Contract Year shall be deemed zero. See the example calculation in Exhibit G.~~

~~In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during which Seller has failed to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below) for the period, plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.~~

~~The monthly calculation of Lost Energy Value equals the sum of the following:~~

- ~~The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) multiplied by the (applicable Replacement Price for On-Peak Hours less the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) shall not exceed the Contract Price for On-Peak Hours for the same period; and~~
- ~~The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) multiplied by the (applicable Replacement Price for Off-Peak Hours less the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.~~

~~If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in Exhibit G.~~

- ~~B. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:~~

~~The monthly calculation of Lost Energy Value equals the sum of the following:~~



- The On-Peak Lost Energy for the applicable calendar month or partial calendar month multiplied by (the Replacement Price for On-Peak Hours for the period less the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month multiplied by (the Replacement Price for Off-Peak Hours for the period less the Contract Price for Off-Peak Hours for the period); and
- Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in Exhibit G.

~~“Market Index Price” means the applicable Powerdex hourly Mid-Columbia Index price for firm energy at the time the energy is delivered. In the event Powerdex no longer publishes this index or PGE elects to use nodal pricing, PGE will select an alternative successor index or other published pricing (or independent system operator or regional transmission organization settlement pricing) representative of the Delivery Point.~~

~~“Minimum Delivery Guarantee” has the meaning Net Output” means, for a given to it in Section 3.3.~~

~~“Minimum Net Output” means, for a Contract Year period, seventy-five percent (75%) of the Estimated Annual Average expected Net Output from the Facility for the period, based on the expected Net Output of the Facility for that period as set forth in Exhibit C (pro-rated for partial months as required for partial Contract Years and partial months, as applicable), unless Seller selects an Alternative Minimum Net Output consistent with the terms of Exhibit C of this Agreement (pro-rated for any period less than 12 calendar months), in which case the Minimum Net Output equals the selected Alternative Minimum Net Output, applicable).~~

“Nameplate Capacity Rating” means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.

“NERC” means the North American Electric Reliability Corporation.

“Net Available Capacity” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Ppoint of Iinterconnection continuously for at least sixty (60) minutes,; which is equivalent to the lesser of: (1) the Specified Facility Nameplate Capacity Rating, or (2) the Intereconnection Rating, in either case less station service (parasitic power and electrical losses).



“**Net Output**” means all energy, expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the ~~P~~point of Interconnection.

“**New QF**” means any QF that is not an Existing QF.

~~“**Notice of Proposed REC Transfer**” has the meaning given to it in Section 7.1.2.~~

~~“**Off-Peak Hours**” means all hours other than has the meaning provided in the Schedule.~~

~~“**On-Peak Hours**” has the meaning provided in the Schedule.~~

~~“**On-Peak Hours**” means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.~~

“**Oregon Renewable Portfolio Standard**” means the renewable portfolio standard contemplated by ORS 469A.005 to 469A.200, and the implementing regulations, in each case as in effect on the Effective Date of this Agreement~~amended from time to time.~~

“**Person**” means any individual, corporation, ~~a~~ limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.

“**Planned Maintenance**” means outages scheduled 90 calendar days in advance, with ~~PGE’s~~ prior written notice to PGE~~consent, which shall not be unreasonably withheld.~~

~~“**Point of Interconnection**” means the point of interconnection between the Facility and PGE’s system, as specified in Exhibit B.~~

“**Prime Rate**” means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

“**Product**” means, each and together, as a single bundled product, Net Output, ~~together with all associated~~ capacity~~Capacity Attributes~~ and Transferred RECs.

“**Prudent Electrical Practices**” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the WECC that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all Applicable Law. Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

“PURPA” means the Public Utility Regulatory Policies Act of 1978.

“Qualifying Facility” has the meaning set forth in the Recitals.

“REC” means Environmental Attributes and REC Reporting Rights, however commercially transferred or traded under any or other product names, such as “green tags,” “Green-e Certified,” or otherwise. RECs are accumulated on a MWh basis and one REC represents the Environmental Attributes and REC Reporting Rights made available by the generation of one MWh of energy by the Facility, as represented by the actual Net Output on an hourly basis. RECs do not include: (i) Environmental Attributes that are greenhouse gas offsets from methane capture not associated with the generation of electricity and not needed to ensure that there are zero net emissions associated with the generation of electricity; or (ii) thermal renewable energy certificates as defined in ORS 469A.132 and the implementing regulations. All RECs transferred~~lesser of the final e-Tag or the actual Net Output on an hourly basis. All RECs delivered~~ to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.

“REC Reporting Rights” are the rights of a Person to report the ownership of accumulated RECs in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at such Person’s discretion, and include without limitation those REC Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present federal, state, or local law, regulation or bill, and international or foreign emissions trading program.

“Reliability Entity” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

“Renewable Resource Deficiency Period” ~~means~~ the period beginning January 1, 2025 through meaning given to it in the termination or Expiration Date of this Agreement~~Schedule.~~

“Renewable Resource Sufficiency Period” ~~means~~ the period through 2024. meaning given to it in the Schedule.

“Replacement Price” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at which PGE, acting in a commercially reasonable manner, purchases for delivery at the Mid-Columbia trading hub Delivery Point replacement energy for any Net Output that Seller fails to deliver as required under this Agreement.

~~When If PGE elects not to make such a purchase,~~ the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Delivery Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices for a given period shall be calculated as follows for each applicable calendar month (or partial calendar month):

- For Lost Energy During On-Peak Hours: the hourly the greater of zero (0) or the time-weighted average of the on-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

- For Lost Energy During Off-Peak Hours: the hourly average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

When the Replacement Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 10, the Replacement Price shall be the respective On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices for On-Peak Hours and Off-Peak Hours during the applicable period.

“**Required Facility Documents**” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as, including the Interconnection Agreement and those set forth in Exhibit D.

~~“**ROFR Exercise Notice**” has the meaning given to it in Section 7.1.2.~~

~~“**ROFR Period**” has the meaning given to it in Section 7.1.2.~~

“**Schedule**” means PGE’s Schedule 201 filed with the Commission and in effect on the date that Seller delivers to PGE an executed copy of this Agreement, ~~the terms of which are hereby incorporated by reference.~~ For ease of reference and informational purposes only, a copy of the Schedule is attached hereto as **Exhibit F**; however, if there is any difference between **Exhibit F** and the Schedule, the terms of the Schedule shall apply and prevail.

“**Scheduled Commercial Operation Date**” has the meaning given to it in Section 2.67.

“**Seller-Retained RECs**” has the meaning given to it in Section 7.1.

“**Senior Lien**” means a prior lien ~~that which~~ has precedence as to the property under the lien over another lien or encumbrance.

“**Specified Facility Nameplate Capacity Rating**” means the Facility Nameplate Capacity Rating set forth in **Exhibit A**, as it may be amended from time to time in accordance with this Agreement.

“**Start-Up Testing**” means the ~~performance completion~~ of applicable ~~required factory and~~ start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in **Exhibit E** (as it may be updated by Seller) during the Test Period.

“**Step-in Rights**” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.

“**Term**” has the meaning given to it in Section 2.1.

“**Test Energy**” means electric energy generated by the Facility during the Test Period, ~~and all RECs and Capacity Rights associated with such electric energy.~~

“**Test Period**” means a period ~~of no more than sixty (60) calendar days~~, during which Start-Up Testing is to be conducted.

“**Transferred RECs**” has the meaning given to it in Section 7.2.1.

“WECC” means the Western Electricity Coordinating Council or any successor thereto.

~~“WECC Pre-Scheduling Day” means the WECC Pre-Scheduling Day prior to the delivery day or day(s) as defined by the most recent WECC Pre-Schedule calendar. For example, Thursday is typically the WECC Pre-Scheduling Day for delivery days of Friday and Saturday.~~

“WREGIS” means the Western Renewable Energy Generation Information System.

## 1.2 Interpretation.

In this Agreement, references to Recitals, Sections, and Exhibits are references to the recitals, sections and exhibits of this Agreement. The article and section headings in this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms “includes” or “including” mean “includes but is not limited to” and “including but not limited to,” respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in this Agreement in accordance with such recognized meanings.

## ARTICLE 2: TERM; FACILITY; COMMERCIAL OPERATION

### 2.1 Term.

The term of this Agreement (“Term”) commences on the date this Agreement is signed by both Parties (“Effective Date”) and ends on the earlier of \_\_\_\_\_ *[Seller-selected date or fixed-interval period of time]*, 20\_\_ *[date that is no more than 20 years from the Scheduled Commercial Operation Date]* (“Expiration Date”) or the date on which this Agreement is terminated *pursuant to the terms of the Agreement.*

### 2.2 Construction of the Facility.

~~2.2.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE’s system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement.~~ Seller shall, at its sole cost, design and construct the Facility ~~and~~, obtain all ~~necessary~~-interconnection rights, ~~and make or cause to be made all~~-necessary ~~modifications to PGE’s system~~ to enable the delivery of energy from the Facility to the ~~Delivery~~-Point of Interconnection, all in compliance with this Agreement, the Required Facility Documents, and Prudent Electrical Practices.

~~-~~Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement ~~may~~must be reviewed ~~and approved~~-by PGE, which ~~review~~approval shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE’s information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section 6.3-~~1~~.

### ~~2.3~~ Seller’s Responsibility for Costs.

~~Seller is responsible for all costs associated with the study or construction of necessary modifications and upgrades to the Facility or PGE's system related to the delivery of energy from the Facility to the Delivery Point, or any increase in the Facility Nameplate Capacity Rating or the generating capability of the Facility. Without limiting the generality of the foregoing, PGE will evaluate available delivery capability on PGE's transmission system between the Delivery Point and PGE's load that is required to enable PGE to accept delivery of the Facility's Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to PGE's designated sink point. If PGE determines that sufficient delivery capability exists on PGE's transmission system, PGE will arrange for, be responsible for, and make available transmission service on PGE's transmission system from the Delivery Point to the designated sink point. If PGE determines that insufficient delivery capability exists on PGE's transmission system, Seller will be responsible for (i) obtaining and paying for necessary transmission studies and paying for any transmission upgrades necessary to enable PGE to accept deliveries of Net Output from the Facility and to effectuate delivery from the Delivery Point to PGE's designated sink point, or (ii) paying for any necessary transmission service from Transmission Providers to effectuate delivery from the Delivery Point to PGE's designated sink point. If any upgrades to PGE's system are identified pursuant to part (i), PGE and Seller shall enter into a separate agreement to establish the terms under which PGE shall arrange for and Seller will pay for such upgrades; provided, however, that if the costs of such upgrades is reasonably projected to exceed One Hundred Thousand Dollars (\$100,000), Seller may terminate this Agreement by providing written notice to Buyer, unless, within thirty (30) days after Buyer receives such notice, Buyer agrees in its sole discretion to bear costs in excess of that amount. After all necessary upgrades have been completed in accordance with Prudent Electrical Practices, PGE will arrange for, be responsible for, and make available transmission service from the Delivery Point to the designated sink point.~~

#### 2.42.3 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with **Exhibit E** ~~(as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility),~~<sup>5</sup> and shall provide written notice to PGE when the Start-Up Testing has been successfully completed. Seller must provide no less than one (1) business~~ten (10) working~~ days' written notice to PGE prior to the commencement of Start-Up Testing. ~~If it is necessary for Seller to schedule and must provide PGE ten (10) business day's written notice prior to commencing sales of delivered Test Energy to PGE. PGE in order to complete Start-Up Testing, Seller may do so pursuant to the scheduling procedures set forth in Section 3.4, but shall compensate the Seller for delivered~~~~not be entitled to compensation from PGE for Test Energy in accordance with Section 4.1.1.~~ Seller shall pay any costs or additional expenses that are required for PGE to receive Test Energy, including procurement of any necessary capacity costs or reserves. This Section 2.34 does not apply if the Facility is an Existing QF unless the Existing QF elects to conduct Start-Up Testing.

#### 2.52.4 Commercial Operation.

"**Commercial Operation**" will be achieved when the Facility is fully constructed and determined by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have occurred:

~~2.5.12.4.1~~ 2.4.1 If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with **Exhibit E**, and PGE has received Seller's written certification of completion of Start-Up Testing.

~~2.5.2.4.2~~ PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that ~~the Facility is interconnected and operational~~~~interconnection has been completed~~ in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.

~~2.5.3.4.3~~ PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE's reasonable satisfaction, which may include equipment specifications.

~~2.5.4.4.4~~ PGE has received a ~~letter~~~~certificate~~ addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement, and any other Required Facility Documents requested by PGE.

~~2.5.5.4.5~~ PGE has received the following documents with respect to the Facility: the As-built Supplement, ~~including but not limited to~~ an electrical single-line diagram, a 12x24 ~~estimated~~ net energy profile, and a 8760 net energy production estimate.

~~2.5.6.4.6~~ PGE has received copies of all insurance certificates required under Section 12.12.

~~2.5.7.4.7~~ PGE has received any Credit Support required under Section 9.1.

~~2.5.8.4.8~~ Seller has provided evidence of the registration of the Facility as a generating unit in WREGIS and satisfaction of any other requirements for the recording of RECs in WREGIS.

~~2.5.9—If any upgrades to PGE's system between the Delivery Point and PGE's load are required in order to enable PGE to accept delivery of the Facility's Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to PGE's designated sink point, the Company and the Seller have entered into an agreement concerning such upgrades as required under Section 2.3.~~

#### 2.6.2.5 Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section 2.45, Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, ~~including but not limited to information required in Exhibit A and Exhibit B.~~ PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, ~~provided that PGE shall not unreasonably withhold such certification.~~ The date of Seller's notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the "**Commercial Operation Date**" for all purposes under this Agreement.

#### 2.7.2.6 Scheduled Commercial Operation Date.



By no later than \_\_\_\_\_ (“~~Scheduled Commercial Operation Date~~”), Seller shall have completed all requirements under Section 2.4 and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE’s negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE’s negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before Seller guarantees that Commercial Operation shall occur no later than \_\_\_\_\_, 20\_\_\_\_ (“~~Scheduled Commercial Operation Date~~”). If Commercial Operation does not occur by the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay for the period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date (“**Delay Damages**”). If Commercial Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section 10.32.

#### 2.8.2.7 Status of the Facility.

2.8.12.7.1 Seller shall construct and operate the Facility so as to ensure its status as a Qualifying Facility and in a manner consistent with its FERC Qualifying Facility certification. At any time during the Term, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE’s request, ~~(i) a written legal opinion from an attorney who is in good standing in the state of Oregon and is not employed by a Person having an economic interest in the Facility stating that the Facility is a Qualifying Facility, and (ii)~~ documentation acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility.

2.8.22.7.2 Seller shall not make any changes in its ownership, control or management that would cause the Facility to fail to satisfy the eligibility requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement. Seller shall provide upon request by PGE, not more frequently than every 36 months, any documentation and information as may be reasonably requested by PGE to establish Seller’s continued compliance with the applicable eligibility requirements such definition. PGE shall take reasonable steps to maintain the confidentiality of any such documentation and information that Seller identifies as confidential, provided that PGE may provide all such information to the Commission upon the Commission’s request.

### **ARTICLE 3: DELIVERY AND SALE OF ENERGY; SCHEDULING**

#### 3.1 Delivery and Sale of Energy.

Except as otherwise provided in this Agreement, commencing on the Commercial Operation Date and continuing until the end of the Term (the “**Delivery Period**”), Seller shall deliver and sell and PGE shall receive and purchase all of the Net Output delivered at the ~~Delivery Point of Interconnection.~~ Notwithstanding the foregoing, Seller shall not deliver and PGE shall not be obligated to receive or purchase energy delivered at a rate, on an hourly basis, greater than the Net Available Capacity. Title and risk of loss related to the Product shall transfer from Seller to PGE at the ~~Delivery Point of Interconnection,~~ except that title to Transferred RECs shall transfer to PGE when generated.

#### 3.2 Estimated Net Output.



Seller's good faith, commercially reasonable estimate of the Facility's ~~average~~ monthly and annual ~~average and~~ maximum Net Output during the Delivery Period, and Seller's basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in **Exhibit C, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section 6.3.** Seller acknowledges that PGE will use these estimates in its resource planning and for purposes of determining the Minimum Delivery Guarantee, ~~described in Section 3.3.~~

### 3.3 Minimum Delivery Guarantee.

Seller ~~hereby~~ guarantees that it will deliver to PGE from the Facility, for , during each Contract Year, ~~the Adjusted Delivered~~ Net Output equal to or greater than ~~shall be no less than~~ the Minimum Net Output, pro-rated for any partial years. This guarantee is referred to in this Agreement as ~~(the~~ **“Minimum Delivery Guarantee.”** ~~)~~. ~~As damages for Seller's failure to satisfy the Minimum Delivery Guarantee in any Contract Year, Seller shall owe PGE the Lost Energy Value for such Contract Year.~~

### 3.4 Forecasting and Scheduling

~~[[This section is being revised to account for forecasting and scheduling requirements associated with participation in the California Independent System Operator Energy Imbalance Market. The revised provision will be provided in advance of a workshop that will include this topic]]~~

### 3.5 3.4 Loss of Interconnection and Curtailment.

PGE shall not be liable to Seller and shall have no obligation to purchase the Product from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the extent that, due to the action of a Reliability Entity, ~~an event of~~ Force Majeure Event, or PGE's construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility to the electric system is disconnected, suspended or interrupted, or (ii) generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller's control.

### 3.6 Carbon Emissions.

~~Seller is responsible for and shall pay for all future costs, if any, whether incurred by Seller or PGE, resulting from any carbon emissions generated by or associated with the Product delivered by Seller to the Delivery Point in accordance with this Agreement. Seller may provide PGE with carbon emissions offsets that are reasonably satisfactory to PGE in lieu of a monetary settlement. Within fifteen (15) business days after PGE's request, Seller shall provide PGE with the carbon emissions data for the Product that is delivered during the Delivery Period.~~

## ARTICLE 4: PRICE, BILLING AND PAYMENT

### 4.1 Prices and Payment for Delivered Product.

4.1.1 During the Delivery Period, PGE shall pay Seller an amount for Product delivered during a Billing Period calculated as follows: the Contract Price multiplied by Net Output ~~(but not including energy~~

~~delivered at an hourly rate in excess of the Net Available Capacity) delivered to the Delivery Point during the Billing Period. An illustrative example is provided in Exhibit G., multiplied by the Contract Price.~~

~~4.1.2 Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy multiplied by the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.~~

~~4.1.24.1.3 Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.~~

#### ~~4.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.~~

~~By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE will in the ordinary course shall deliver to Seller an invoice showing PGE's computation (and supporting data) of the Lost Energy Value, if of any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE to PGE in respect thereof for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the the preceding calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in Exhibit G.~~

#### ~~4.3 Invoicing and Payment for Lost Energy Value Related to Minimum Delivery Guarantee.~~

~~If Seller fails to satisfy the Minimum Delivery Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following the end of the Contract Year, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar. No later than ten (10) days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future energy deliveries by the amount of such Delay Damages.~~

#### ~~4.3 Invoicing and Payment for Lost Energy Value.~~

~~If Seller fails to satisfy the Minimum Delivery Guaranty during any Contract Year, on or before the thirtieth (30th) day following the end of such Contract Year, PGE shall deliver to Seller an invoice showing PGE's computation of any deficit in the guaranteed amount. Thereafter, the amount payable by PGE for future deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period of such reduction (not to exceed one year) so as to minimize the risk of Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.~~

#### ~~4.4 Form of Payment and Interest on Late Payments.~~

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.-

#### 4.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.

### ARTICLE 5: METERING

#### 5.1 Metering Equipment and Location.

5.1.1 PGE shall design, furnish, install, own, inspect, test, maintain and replace all metering equipment at Seller's cost and as required pursuant to the Interconnection Agreement.

~~Metering shall be performed at the location and in a manner consistent with this Agreement and, as specified in the Interconnection Agreement. All **Exhibit B**. Seller shall provide to PGE all information regarding Net Output purchased hereunder shall be adjusted to account for electrical losses, if and any, between the point of metering and the Point of Interconnection, so that the purchased amount reflects the net amount of power flowing into PGE's system at the Point of Interconnection other energy purchased under this Agreement in hourly increments. Seller shall provide PGE with a real time ICCP and EIDE communications link to the Facility metered output.~~

#### 5.2 Meter Installation, Inspection and Correction.

~~Buyer, at Seller's cost, shall arrange, design, furnish, install, own, inspect, test, and maintain metering equipment for the Facility in accordance with Prudent Electrical Practices. PGE shall periodically inspect, test, repair and/or replace the metering equipment as provided in the Interconnection Agreement, at Seller's cost, and provide such results to Seller upon Seller's request. If any of the inspections or tests discloses/reveal an error exceeding two (2%) percent of the actual energy delivery, (2.0%), either fast or slow, appropriate correction, based upon the inaccuracy found, shall be made of with respect to previous readings for the actual period during which the Facility metering equipment rendered inaccurate measurements if that (such period can be ascertained, not to exceed six (6) months). If the actual period of inaccuracy cannot be ascertained, the proper correction shall be made to the measurements taken during the time since the metering equipment was in service since last tested, but not exceeding provided that such period shall not exceed three (3) months, in the amount the metering equipment shall have been shown to be in error by such test.- Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered.- Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of such the metering inaccuracy of metering equipment.-~~

#### 5.3 Metering Costs.

To the extent not otherwise provided in the Interconnection Agreement, all of PGE's costs relating to all metering equipment installed to accommodate Seller's Facility shall be borne by Seller.

## ARTICLE 6: OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES

### 6.1 Seller's Duty to Operate and Maintain the Facility.

6.1.1 Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.

6.1.2 Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide ~~upon request~~ copies of the same to PGE upon request.

### 6.2 Outages.

6.2.1 On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with ~~an annual~~ schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the ~~Specified generating capacity of the~~ Facility Nameplate Capacity Rating for ~~twenty-four (24) two (2)~~ or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of Section ~~14.13. 14.13. Seller shall use commercially reasonable efforts to plan scheduled activities (i) to maximize the productive output of the Facility, and (ii) not to occur between July 1 and September 30 or between December 1 and February 28 of any calendar year.~~

6.2.2 ~~Seller shall give PGE immediate telephonic notice (within twenty minutes) of any such events that will curtail or adversely affect scheduled or forecasted Product deliveries. Such notice must include a description of the cause of the outage, the resulting change in capacity, and an estimate of the duration of the outage. Seller shall provide PGE regular and frequent updates regarding any changes of status set forth in the initial notice, and shall notify PGE's Real Time Desk when the Facility is ready to return to service. Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable best efforts to avoid or mitigate outages during PGE's system emergencies. PGE may, after providing written notice to Seller, make commercially reasonable changes to the means by which Seller provides notice pursuant to this subsection 6.2.2 of this Agreement.~~

### 6.3 Facility Upgrades.

6.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

~~6.3.1.3.2~~ 6.3.2 At any time after the Commercial Operation Date upon at least six months<sup>2</sup> prior written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in **Exhibit C**, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective

equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in **Exhibit C** for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

6.3.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section 6.3.1 or Section 6.3.2 that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend **Exhibit A** and **Exhibit C** as appropriate to reflect the modifications.

6.3.26.3.3 -So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 10,000 kW, then Seller will continue to receive the Contract Price for all delivered Net Output.

6.3.36.3.4 If Seller increases the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 10,000 kW, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 10,000 kW, consistent with then-current Applicable Law, provided that the new power purchase agreement must be a negotiated agreement under Schedule 202.

## ARTICLE 7: ENVIRONMENTAL ATTRIBUTES

### 7.1 Seller-Retained RECs.

7.1.1 Seller shall retain ownership of all RECs (“Seller-Retained RECs”) and all other Environmental Attributes associated with Net Output of the Facility during the Test Period and during the Renewable Resource Sufficiency Period. (~~“Seller-Retained RECs”~~). PGE shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Seller-Retained RECs belong to any Person other than Seller.

~~7.1.2 Seller shall give written notice (the “Notice of Proposed REC Transfer”) to PGE stating its bona fide intention to transfer Seller Retained RECs to a third party and specifying the material terms and conditions of such transfer, including the price to be paid to Seller for the Seller Retained RECs. The Notice of Proposed REC Transfer will constitute Seller’s offer to PGE to transfer the Seller Retained RECs on the terms therein specified and shall be irrevocable for a period of ten (10) business days (the “ROFR Period”). Upon receipt of the REC Transfer Notice, PGE shall have until the end of the ROFR Period to agree to purchase the Seller Retained RECs by delivering a written notice (a “ROFR Exercise Notice”) to Seller stating that it agrees to purchase the Seller Retained RECs on the terms specified in the Notice of Proposed REC Transfer. Any ROFR Exercise Notice so delivered shall be binding on PGE and irrevocable upon delivery. If PGE delivers a ROFR Exercise Notice to Seller in accordance with this Section, PGE and Seller shall thereafter negotiate in good faith and use their commercially reasonable efforts to enter into all necessary agreements and other arrangements to effectuate the sale of RECs to PGE as soon as practicable thereafter.~~

### 7.2 Transferred RECs.

7.2.1 Seller shall transfer to PGE and PGE shall acquire all RECs associated with Net Output from the start of the Renewable Resource Deficiency Period through the remainder of the Term (“Transferred RECs”). PGE’s payments for Product under this Agreement include full payment for all



Transferred RECs. Seller shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Transferred RECs belong to any Person other than PGE. PGE shall be entitled to claim all rights associated with the Transferred RECs, including any value in the ownership, use or allocation of RECs created by legislation or regulation after the Effective Date.

7.2.2 Transferred RECs shall be deemed delivered and sold to PGE under this Agreement as they are produced, and title to Transferred RECs shall pass to PGE when generated. The Facility ~~output~~ meter at the point of interconnection shall serve as the record source for purposes of calculating, certifying, and auditing Transferred RECs. In the event Seller generates power and associated RECs are transferred but the power is not delivered to PGE by Seller due to a Force Majeure Event, curtailment, or other reason, PGE and Seller will work together in good faith to return such RECs to Seller.

7.2.3 Seller shall comply with all requirements necessary for all Transferred RECs to be issued, monitored, accounted for, and transferred by and through WREGIS, consistent with the provisions of OAR 330-160-0005 through OAR 330-160-0090. Without limiting the generality of the foregoing, Seller shall cause the Facility to implement all necessary generation information communications in WREGIS, and report generation information to WREGIS pursuant to a WREGIS-approved meter that is dedicated to the Facility and only the Facility. Seller shall cause delivery and transfer of the Transferred RECs to PGE's WREGIS account to be perfected in accordance with WREGIS rules. Seller shall hold the Transferred RECs in trust for PGE until such delivery and transfer is perfected. Each Party shall take such steps and further actions as may be required by WREGIS or Applicable Law in order to effect and confirm the sale and delivery of the Transferred RECs to PGE for all purposes. PGE will reasonably cooperate in Seller's efforts to meet such requirements, including, for example serving as the qualified reporting entity for the Facility if the Facility is located in PGE's Balancing Authority.

7.2.4 All RECs delivered to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.

## ARTICLE 8: REPRESENTATIONS AND WARRANTIES

### 8.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

8.1.1 Seller is a \_\_\_\_\_ duly organized and in good standing under the laws of the state of incorporation or formation.

8.1.2 The execution, delivery and performance of this Agreement are within Seller's powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

8.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

8.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

8.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

8.1.6 Either Seller satisfies the requirements set forth in Section ~~8.1.6.1 through 8.1.6.3~~~~8.1.6.1 through 8.1.6.4~~ below (the “**Creditworthiness Requirements**”), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section 9.1.

8.1.6.1 ~~Neither Seller nor any of its principal equity owners is not under~~ has not been Bankrupt within the past two (2) years, and there are no proceedings pending or being contemplated by ~~Seller~~~~them~~ or, to Seller’s knowledge, threatened against ~~Seller~~~~them~~ that would result in ~~Seller~~~~them~~ being or becoming Bankrupt.

8.1.6.2 Seller is not in default under any of its material agreements and is current on all of its financial obligations, including construction-related financial obligations.

8.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers’, mechanics’, suppliers’ or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

~~8.1.6.4 If the Facility has a Specified Facility Nameplate Capacity Rating greater than 3,000 kW, Seller has a senior, unsecured long term debt rating (or corporate rating if such debt rating is unavailable) of (i) “BBB ” or greater from S&P, or (ii) “Baa3” or greater from Moody’s, and if such ratings are split, the lower of the two ratings must be at least “BBB ” or “Baa3” from S&P or Moody’s, respectively, or other indicia of creditworthiness satisfactory to PGE in its reasonable judgment.~~

8.1.7 No later than the Commercial Operation Date, Seller ~~will possess~~~~possesses~~ a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

8.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

8.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

8.1.10 Seller has the right to sell the Product to PGE free and clear of liens ~~or~~of encumbrances.

8.1.11 The Facility generates RECs that comply with the Oregon Renewable Portfolio Standard.

8.2 Representations and Warranties of PGE.



On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

8.2.1 It is a corporation duly organized under the laws of Oregon.

8.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

8.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

8.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

8.2.5 It ~~is not and~~ has not ~~been Bankrupt~~ within the past two (2) years ~~been Bankrupt~~ and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

8.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

### 8.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article 8 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

## ARTICLE 9: CREDIT SUPPORT

### 9.1 Required Credit Support.

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall immediately notify PGE in writing and shall promptly (and in no less than ten (10) ~~business~~~~calendar~~ days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). In ~~in~~ ~~each case,~~ the in an amount of Credit Support required shall be calculated as follows: (aggregate number of On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the weighted average Contract Price for On-Peak Hours – the weighted average Contract Price for Off-Peak Hours) x (Net Available Capacity). The amount of Credit Support required shall be updated annually, on the anniversary of the month Credit Support was first required to be provided. The updated amount of Credit

Support shall be calculated for each subsequent 12-month period, consistent with the calculation described in this Section. (the “Credit Support”):

(i) ~~the net present value of the following amount: the forward power prices at Mid-Columbia for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term), as determined by PGE in good faith using information from a commercially reasonable independent source (e.g., indicative of the most relevant ICE forward price curve for the Mid-Columbia), multiplied by one hundred and ten percent (110%), multiplied by aggregate Minimum Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term); less~~

(ii) ~~the net present value of: the average of the fixed prices specified in the Schedule for both On-Peak Hours and Off-Peak Hours, multiplied by aggregate Minimum Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term).~~

~~To calculate net present value for purposes of this Section, the Parties shall use the Bloomberg “S23 Corp” (Bloomberg ID “YCSW0023”) interest rate swap cure as the discount rate.~~

~~Notwithstanding the foregoing, the amount of Credit Support shall in no event be less than the amount equal to the payments PGE would make for three (3) average months based on Seller’s average monthly volume over the term of this Agreement and utilizing the average fixed prices specified in the Schedule.~~

If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.

Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its reasonable discretion, grant an exception to the requirements to provide default security if the Seller has negotiated financial arrangements with the Lenderconstruction loan lender that mitigate Seller's financial risk to PGE.

## 9.2 Right to Draw on Credit Support.

At any time after the occurrence and during the continuation of an Event of Default, or upon an early termination of this Agreement by PGE pursuant to Section 10.340-2, PGE may draw on Seller’s Credit Support to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the Credit Support during the Term, PGE shall inform Seller within fifteen (15) business days, and Seller shall promptly, and in no ~~event~~ more than fifteen (15) business days following notice from PGE, restore the Credit Support to the amount required under Section 9.1. However, for avoidance of doubt, Seller shall have no obligation to replenish the Credit Support if PGE has terminated the Agreement.

## ARTICLE 10: DEFAULT, REMEDIES AND TERMINATION

### 10.1 Events of Default.

An “**Event of Default**” means, with respect to a Party, the occurrence of any of the following unless otherwise excused under this Agreement:

10.1.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;

10.1.2 any representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;

10.1.3 the failure of a Party to perform any material covenant or obligation set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party explaining gives the circumstances supporting defaulting Party notice of the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;

10.1.4 with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such failure is not cured within 30 calendar days of Seller’s receipt of written notice from PGE;

10.1.5 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement at any time during the term of this Agreement;

10.1.6 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller’s receipt of written notice from PGE;

10.1.7 with respect to Seller, Seller fails, for any two or more consecutive Contract Years to satisfy the Minimum Delivery Guarantee;

10.1.8 with respect to Seller, Seller fails to establish the Commercial Operation Date does not occur on or before the first anniversary of the Scheduled Commercial Operation Date. Seller shall have one (1) year to cure default under this Section 10.1.8, during which time Seller shall pay PGE Delay Damages pursuant to the terms of Section 2.6 and Section 4.2.

## 10.2 Lender’s Right to Cure a Seller Event of Default.

Seller may provide PGE with written notice identifying Seller’s Lender, including contact information, and add the Lender as a representative to receive notices under Section 14.13 of this Agreement. PGE agrees to accept a cure of a Seller’s Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement.

~~10.2~~10.3 Termination for Default.

If an Event of Default has occurred and is continuing, the non-defaulting Party may immediately terminate this Agreement at its sole discretion, ~~and without the non-defaulting Party incurring any liability to the defaulting Party,~~ by delivering written notice to the defaulting Party. In addition, the non-defaulting Party may pursue any and all other legal or equitable remedies available to it, including recovery of damages as set forth below. ~~For avoidance of doubt, PGE's resource sufficiency or deficiency position has no bearing on PGE's right to terminate this Agreement under this Section.~~

~~10.3~~10.4 Damages.

If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value, ~~with respect to the lesser of (i) twenty four (24) months following the date of termination or (ii) the period from the date of termination until the expiration date of this Agreement.~~ Amounts owed by Seller pursuant to this Section shall be due within ~~fifteen (15)~~ fifteen (15) business days after any invoice from PGE for the same. ~~Damages owing under this Section 10.4 shall be cumulative and in addition to damages owing pursuant to Sections 2.6, 4.2, 4.3 and 10.1.8. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.~~

~~10.4~~10.5 Payment of Outstanding Obligations.

If this Agreement is terminated pursuant to Section ~~10.3~~10.2, then within thirty (30) calendar days of termination, PGE shall make all payments due and owing to Seller as of the time of receipt of notice of termination; provided that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section ~~10.4~~10.3 or otherwise. PGE shall not be required to pay Seller for Product delivered by Seller after the effective date of any termination notice.

~~10.5~~10.6 Post-Termination PURPA Status.

In the event ~~(ix)~~ PGE terminates this Agreement pursuant to this Article 10 or Seller terminates this Agreement without cause, and ~~(iiy)~~ Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, wishes to sell Net Output to PGE from the Facility following such termination, then PGE may, (but will not be obliged to) require that Seller, its Affiliate, or its successor do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to the terms of this Agreement, then Seller and PGE shall promptly execute a written document ratifying the terms of this Agreement. ~~PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.~~

## ARTICLE 11: INDEMNIFICATION AND LIABILITY

### 11.1 Seller's Indemnity.

Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, including the delivery of energy to and at the Delivery Point of Interconnection; (ii) Seller's development, construction, ownership, operation, maintenance, or decommissioning of the Facility; (iii) the violation of any law, rule, order or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this

Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.

#### 11.2 PGE's Indemnity.

PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) PGE's receipt of energy under this Agreement after its delivery at the Delivery Point of Interconnection; (ii) the violation of any law, rule, order or regulation by PGE or any of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure to perform any of PGE's obligations under this Agreement; (iv) PGE's breach of any representation or warranty set forth in this Agreement; or (v) PGE's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by Seller's breach of this Agreement or by the negligence or willful misconduct of Seller, its directors, officers, employees, agents or representatives.

#### 11.3 No Dedication.

Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent Person.

#### 11.4 Disclaimer of Consequential Damages.

**NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.**

### ARTICLE 12: INSURANCE

#### 12.1 Certificates of Insurance.

Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.

#### 12.2 Required Insurance.

Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than “B+” by the A.M. Best Company the insurance coverage specified below:

12.2.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, ~~which limits may be required to be increased or decreased by PGE as PGE determines in its reasonable judgement, economic conditions or claims experience may warrant,~~ to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.

12.2.2 All Risk Property ~~I~~nsurance providing coverage in an amount at least equal to the full replacement value of the Facility against “all risks” of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk ~~P~~olicy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the ~~F~~facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers’ rights of subrogation against PGE regarding Facility property losses.

### 12.3 Required Provisions.

12.3.1 The Comprehensive General Liability ~~P~~olicy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

12.3.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days’ prior written notice to PGE.

12.3.3 Insurance coverage provided on a “claims-made” basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

## ARTICLE 13: FORCE MAJEURE

### 13.1 Definition of “Force Majeure.”

As used in this Agreement, “**Force Majeure**” or “~~event of Force Majeure~~ **Event**” means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party’s from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include



the following: acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility's equipment, or ~~(viii) smoke, haze, ash or other obstruction of sunlight (except to the extent such obstruction is caused by fires or volcanic eruptions).~~

### 13.2 Effect of Force Majeure.

If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: (i) the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section ~~14.13~~~~14.13~~ of this Agreement describing the particulars of the occurrence; (ii) the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the non-performing Party uses commercially reasonable~~its best~~ efforts to remedy its inability to perform its obligations under this Agreement.

## ARTICLE 14: GENERAL PROVISIONS

### 14.1 Relationship of the Parties.

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such Party shall be jointly and severally liable for Seller's obligations under this Agreement.

### 14.2 No Third Party Beneficiaries.

This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

### 14.3 Governing Law.

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~~~which~~ may direct the application of the laws of another jurisdiction.

~~This Agreement is subject to the jurisdiction of those governmental agencies and courts having control over either party or this Agreement. The public utility's compliance with the terms of this contract~~



~~is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.~~

~~14.4~~ Dispute Resolution.

Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement is subject to the jurisdiction of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, any complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute. ~~or governmental agency with jurisdiction over the dispute; provided, however, that any dispute within the jurisdiction of the Commission shall first be brought before the Commission, and each Party hereby irrevocably waives, to the fullest extent permitted by Applicable Law, any objection it may now or hereafter have to the initial jurisdiction of the Commission with respect to any such dispute.~~

The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

~~14.5~~ 14.4 Severability.

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void as being contrary to any Applicable Law or public policy, all other terms of this Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the intent of the Parties to this Agreement.

~~14.6~~ 14.5 Effect of PURPA Repeal.

The repeal of PURPA shall not result in the early termination of this Agreement unless such termination is mandated by state or federal law.

~~14.7~~ 14.6 Waiver.

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

~~14.8~~ 14.7 Survival.

Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.

~~14.9~~ 14.8 Successors and Assigns.

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. Neither party may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that ~~either party~~PGE may assign its rights or delegate its obligations, in whole or in part, without such consent and upon thirty (30) calendar days' prior written notice to the other partySeller, to an entity that acquires all or substantially all of the business or assets of the assigning partyPGE to which this Agreement pertains, whether by merger, reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective.

#### 14.9 Financing Documents.

Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and expense associated with PGE's review and activities reasonably required under this Section 14.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE's sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.

#### 14.10 Entire Agreement; Amendments; Order of Precedence.

This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding the contents of the Agreement, including PGE's purchase of energy from the Facility. No amendment or modification of this Agreement shall be effective unless it is in writing and signed by both parties. If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail.

#### 14.11 Seller Release.

By executing this Agreement, Seller releases PGE from any ~~third party~~ claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

#### 14.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

14.13 Notices.

All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.:

<u>Notices</u>	<u>PGE</u>	<u>Seller</u>
<u>Invoices</u>	<del>Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204</del>	
<u>Scheduling</u>	<del>By telephone: Merchant Real Time Desk (503) 464 8851</del>	
<u>Planned Outages</u>	<del>Balancing Authority Operator (503) 464 8650 Merchant Outage Coordinator Attn: Power Operations 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 (503) 464 7013</del>	
<u>Unplanned Outages</u>	<del>Merchant Real Time Desk (503) 464 8851</del>	
<u>Payments</u>	<del>Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 Energyinvoicing@pgn.com</del>	
<u>Wire Transfer</u>	<del>Bank Name: US National Bank of Oregon Routing Number: 123000220 Account Number: 153600043512</del>	
<u>Credit Support</u>	<del>Portland General Electric Attn: Credit Manager 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204</del>	
<u>All Other Notices</u>	<del>Portland General Electric <u>C/O</u>Attn: QF Contract Management <u>3WTC-0306</u> 121 SW Salmon St. <u>3WTC0306</u> Portland, <u>OR</u>Oregon 97204</del>	

<del>Copy in the case of, Event of Default or Termination</del>	<del>Portland General Electric 121 SW Salmon St. 1WTC17 Portland, Oregon 97204 Attn: General Counsel</del>	
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The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section 14.13.

*Signature Page Follows.*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(Name Seller)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**FACILITY DESCRIPTION**

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

Seller's Facility consists of generators fueled by \_\_\_\_\_. ~~Specifically, each type generator at the Facility is described as:~~

~~**A. Generator Manufacturer's Nameplate Data:**~~

~~Make:~~

~~Model:~~

~~Rated Output (kW):~~

~~Number of Generators with Similar Attributes:~~

~~Facility Nameplate Capacity Rating: \_\_\_\_\_ kW~~

~~Net Available Capacity: \_\_\_\_\_ kW~~

~~Interconnection Rating: \_\_\_\_\_ kW~~

~~Identify and describe any differences between the Facility Nameplate Capacity Rating and the Net Available Capacity: \_\_\_\_\_~~

~~Station service requirements, and other loads served by the Facility, if any, are described as follows:~~

\_\_\_\_\_  
\_\_\_\_\_

~~**B. Specified Facility Nameplate Capacity Rating: \_\_\_\_\_ (kW) (calculated as the sum of the Nameplate Capacity Ratings for all Generators.**~~

~~**C. Location of the Facility:** The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_, with GPS coordinates of \_\_\_\_\_~~

The location is more particularly described as follows:

[legal description of parcel]

|



**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND TRANSMISSION ATTRIBUTES**

[Seller to provide diagram and description]

Description to include the following:

~~Point(s)~~

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section 6.3.2).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW metering, including

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating type of meter(s) and the Net Available Capacity:

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Interconnection Rating: \_\_\_\_\_ kW (owner of the Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

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1. \_\_\_\_\_ meter(s)

2.1. \_\_\_\_\_ Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES**

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

Point of Interconnection (name of distribution feeder or transmission line):

\_\_\_\_\_

3. ~~\_\_\_\_\_~~ **The following information shall be provided in the As-built Supplement prior to Commercial Operation:** ~~Point of Delivery~~

4. ~~\_\_\_\_\_~~ ~~Transmission Provider(s)~~

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):

\_\_\_\_\_  
\_\_\_\_\_

~~5.2.~~ Specification of Point of Interconnection:

\_\_\_\_\_

**EXHIBIT C**

**SELLER’S NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of ~~Estimated~~~~expected~~ Monthly Average Net Output and Estimated Monthly~~and~~ Maximum Net Output during the Delivery Period, and the resulting Estimated Annual ~~Estimated~~-Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output, ~~Minimum Net Output~~ and Estimated Monthly Maximum Net Output (as measured at the Facility meter at the Point of Interconnection)**

Month	Estimated <u>Monthly</u> Average Net Output (kWh)		<del>Percentage</del> <u>Minimum Net Output (75% of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%))</u> (kWh)		Estimated <u>Monthly</u> Maximum Net Output (kWh)	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
January						
February						
March						
April						
May						
June						
July						
August						
September						
October						
November						
December						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated Annual Average ~~Annual~~ Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Average Net Output)

Estimated Annual Maximum ~~Annual~~ Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Maximum Net Output)

**C.3. Alternative Minimum Net Output**

Seller may at its option designate an alternative to the Minimum Net Output value of seventy-five (75%) percent of the Estimated Annual Average Net Output set forth above in this Exhibit. If designated, such alternative shall be known as the “Alternative Minimum Net Output.” Such Alternative Minimum Net Output, if provided, shall exceed zero, and shall be established in accordance with Prudent Electrical Practices, and documentation supporting such a determination shall be provided to PGE upon execution of the Agreement. Such documentation shall be commercially reasonable, and may include, but is not limited to, documents used in financing the project, and data on output of similar projects operated by Seller, PGE or others.

Annual Alternative Minimum Net Output: \_\_\_\_\_ kWh

<u>Month</u>	<u>Alternative Minimum Net Output (if specified) (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>		
<u>February</u>		
<u>March</u>		
<u>April</u>		
<u>May</u>		
<u>June</u>		
<u>July</u>		
<u>August</u>		
<u>September</u>		
<u>October</u>		
<u>November</u>		
<u>December</u>		

**EXHIBIT D**

**REQUIRED FACILITY DOCUMENTS**

[List all agreements, permits and authorizations required for the Facility]

~~Interconnection Agreement~~ **COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM**

**(Power Purchase Agreement – \_\_\_\_\_)**

This Collateral Assignment and Consent Agreement (the “*Agreement*”) is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY (“PGE” or “Buyer”)**, [INSERT LENDER], a \_\_\_\_\_ company (the “*Lender*”), and [INSERT SELLER], a \_\_\_\_\_ company (the “*Borrower*” or “*Seller*”) (the “*Parties*” or each a “*Party*”).

**RECITALS**

A. Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the “*Loan Agreement*”), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.

B. Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the “*PPA*” or the “*Assigned Agreement*”), a copy of which is attached as *Exhibit A*, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power” from which Seller shall sell and PGE shall purchase Net Output (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).

C. As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the “*Security Agreement*”), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other “Collateral” defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the “*Secured Obligations*”). The Loan Agreement and the Security Agreement are referred to herein as the “*Security Documents*.”

**AGREEMENTS**

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower’s right, title and interest in and to the Assigned Agreement.

2. Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender

shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller's rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further



assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_ If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

\_\_\_\_\_ If to Lender:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof,

or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

~~FERC Qualifying Facility Self Certification  
As-Built Operating One Line Diagram~~

~~As Built Operating 12x24 Generation Profile~~

## EXHIBIT E

### START-UP TESTING

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing only.]

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

1. Pressure tests of all steam system equipment;
2. Calibration of all pressure, level, flow, temperature and monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Insulation resistance and point-to-point continuity tests;
6. Bench tests of all protective devices;
7. Tests required by manufacturer of equipment; and
8. Complete pre-parallel checks with PGE.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

1. Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
2. Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Stator windings dielectric test;
7. Armature and field windings resistance tests;
8. Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
9. Heat runs;
10. Tests required by manufacturer of equipment;
11. Excitation and voltage regulation operation tests;
12. Open circuit and short circuit;
13. Saturation tests;
14. Governor system steady state stability test;
15. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
16. Auto stop/start sequence;
17. Level control system tests; and
18. Completion of all state and federal environmental testing requirements.

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**EXHIBIT F**  
**SCHEDULE 201**

[Attach Schedule 201]

**EXHIBIT G**

**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**



**STANDARD RENEWABLE ON-SYSTEM VARIABLE  
POWER PURCHASE AGREEMENT  
BETWEEN  
[COUNTERPARTY NAME]  
AND  
PORTLAND GENERAL ELECTRIC COMPANY**

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Exhibits

Exhibit A Description of Facility  
Exhibit B Seller’s Interconnection Facilities and ~~Delivery~~Transmission Attributes  
Exhibit C Seller’s Net Output Estimates  
Exhibit D Collateral Assignment and Consent Agreement Form~~Required Facility~~  
~~Documents~~  
Exhibit E Start-Up Testing  
Exhibit F Schedule 201  
Exhibit G Illustrative Examples of Payment and Lost Energy Value Calculations  
~~Exhibit H~~Exhibit G Negotiated Prices for Option B, Solar Standard Terms and Negotiated Price Agreement (if applicable)

**STANDARD RENEWABLE ON-SYSTEM VARIABLE  
POWER PURCHASE AGREEMENT**

This STANDARD RENEWABLE ON-SYSTEM VARIABLE POWER PURCHASE AGREEMENT (“**Agreement**”) is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] (“**Seller**”) and Portland General Electric Company, an Oregon corporation (“**PGE**”) (hereinafter each a “**Party**” and collectively, “**Parties**”).

Option A: Standard Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating no greater than 3 MW and other qualifying facilities with Facility Nameplate Capacity Rating no greater than 10 MW]; or

Option B: Solar Standard Terms and Negotiated Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating above 3 MW but no greater than 10 MW; if this option is selected, there will be an **Exhibit HG** containing the negotiated prices agreed to by the Parties].

**RECITALS**

A. [New QF] ~~Seller is a New QF and~~ intends to construct, own, operate and maintain a New QF \_\_\_\_\_ *[identify resource type]* facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B** (“**Facility**”).

A. [Existing QF] ~~Seller is an Existing QF and~~ owns and intends to operate and maintain an Existing QF \_\_\_\_\_ *[identify resource type]* facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B** (“**Facility**”).

B. Seller intends to operate the Facility as a “Qualifying Facility,” as that term is defined in the FERC Federal Energy Regulatory Commission regulations codified at 18 CFR Part 292.

C. Seller wishes to sell and PGE is willing to purchase the Net Output from the Facility, subject to and in accordance with the terms and conditions of this Agreement, and Seller wishes to provide energy and capacity pursuant to this Agreement.

**AGREEMENT**

NOW, THEREFORE, the Parties agree as follows:

**ARTICLE 1: DEFINITIONS AND CONTRACT INTERPRETATION**

1.1 Defined Terms.

For all purposes of this Agreement, the following terms shall have the following meanings:

-“**Affiliate**” means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller, ~~or that shares management or that acts jointly or in concert with or exercises influence over the policies or actions of~~

**Seller.** For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

“**Agreement**” means this Standard Renewable On-System Variable Power Purchase Agreement (Option A or Option B) and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

“**Ancillary Services**” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services.” ~~” including energy imbalance services, generation imbalance services, regulation and frequency response services, reactive supply services, voltage control services, inadvertent energy flow services, control area services, system integration services, operating spinning reserve services, and operating supplemental reserve services.~~

~~“**API**” means Application Program Interface.~~

“**Applicable Law**” means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

“**As-built Supplement**” means a supplement to **Exhibit A** and **Exhibit B** provided by Seller in accordance with Section 2.2 following completion of construction of the Facility, or modifications to the Facility, which describes the Facility as actually built.

“**Balancing Authority**” means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to in which the Facility ~~is located.~~

“**Bankrupt**” means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, ~~or (iii)(iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they become due.~~

“**Base Hours**” means the total number of hours in each Contract Year (8,760 or 8,784 for leap years), ~~provided, however, that Base Hours for the first Contract Year shall be the number of hours commencing on the first hour of the day after the Commercial Operation Date and ending on the last hour of December 31<sup>st</sup> of the calendar year in which the Commercial Operation Date occurs, and that Base Hours for the last Contract Year shall be the number of hours commencing on January 1 of the calendar year in which the Term ends and ending the last hour of the last day of the Term.~~

“**Billing Period**” means one calendar month.

“**Business Day**” means any day other than Saturday, Sunday or the following holidays: New Year’s Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.

~~“Billing Period” means a period during the Delivery Period between PGE’s readings of its power purchase billing meter at the Facility in the normal course of PGE’s business. Such periods may vary and may not coincide with calendar month; however, PGE shall use best efforts to read the power purchase billing meter in 12 equally spaced periods per year.~~

~~“CAISO EIM” means the California Independent System Operator Energy Imbalance Market or any successor thereto.~~

~~“Capacity Attributes” means any current or future attribute, as may be currently defined or otherwise defined in the future, including but not limited to a characteristic, certificate, tag, credit, ancillary service or attribute thereof, or accounting construct, associated with the electric generation capability and capacity of the Facility or the Facility’s capability and ability to produce or curtail energy, including any attribute counted towards any current or future resource adequacy or reserve requirements. Notwithstanding any other provision of this Agreement, “Capacity Attributes” do not include: (i) tax credits, deductions, or tax benefits associated with the Facility, (ii) any state, federal, local, or private cash payments or grants relating in any way to the Facility or the Net Output, or (iii) Environmental Attributes.~~

“Cash Escrow” means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller’s placement of cash in the custody of the escrow agent for delivery to PGE after the fulfillment of any of the conditions specified in Section 9.2. Amounts in the Cash Escrow shall earn interest at the rate applicable to money market deposits at escrow agent.

“Claims” means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.

“Commercial Operation” has the meaning given to it in Section 2.45.

“Commercial Operation Date” has the meaning given to it in Section 2.56.

“Commission” means the Public Utility Commission of Oregon.

“Contract Price” means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under the Renewable Fixed Price Option for \_\_\_\_\_ *[specify applicable Renewable Fixed Price Option based on resource type, in accordance with Schedule]*, as published in the Schedule and attached as **Exhibit F** (or in the case of QFs electing Option B, the Solar Standard Terms and Negotiated Price Agreement, as set forth in the price matrix attached as **Exhibit HG**, which reflects the negotiated price, including on-peak and off-peak prices), and thereafter, for the remainder of the Term, the Daily Market Index Price in effect during the interval when the energy is generated.

“Contract Year” means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time (“PPT”) on January 1 and ending at 24:00 hours PPT on December 31; *provided, however*, that the first Contract Year shall commence on the Commercial Operation Date and end on December 31<sup>st</sup>

of the calendar year in which the Commercial Operation Date occurs, and the last Contract Year shall end on the last day of the Term.

“**Credit Support**” has the meaning given to it in Section 9.1.

“**Creditworthiness Requirements**” has the meaning given to it in Section 8.1.6.

“**Daily Market Index Price**” means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>. In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Point of Interconnection.

“**Delay Damages**” has the meaning given to it in Section 2.67.

“**Delivery Period**” has the meaning given to it in Section 3.1.

~~“**Delivery Point**” means the high side of the generation step up transformer(s) located at the point of interconnection between the Facility and PGE's distribution or transmission system, where the Parties have agreed that Seller will deliver energy to PGE from the Facility, as specified in Exhibit B and the Interconnection Agreement.~~

“**Effective Date**” has the meaning given to it in Section 2.1.

“**Environmental Attributes**” ~~shall mean~~means any and all claims, credits, benefits, emissions reductions, offsets, and allowances, ~~howsoever entitled~~however named, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water. Environmental Attributes include but are not limited to: or otherwise arising as a result of the generation of electricity from the Facility, regardless of whether or not (i) such environmental attributes have been verified or certified, (ii) such environmental attributes are creditable under any applicable legislative or regulatory program, or (iii) such environmental attributes are recognized as of the Effective Date or at any time during the Term. ~~Environmental Attributes include:~~ (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; ~~and (2) any credit, allowance or instrument issued or issuable pursuant to a state implementation plan under the Clean Power Plan promulgated by the Environmental Protection Agency under the Clean Air Act; (3) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gasses (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (4) the reporting rights to these avoided emissions, such as the carbon content of the energy generated by the Facility and REC Reporting Rights.~~ Environmental Attributes do not include (i) production tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, or (ii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits.

“**Estimated Annual Average Net Output**” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.



“Estimated Annual Maximum Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Average Net Output” means the relevant amounts specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Maximum Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Existing QF” means a QF that (1) is or has been operational before the Effective Date of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party.

“Expiration Date Facility” has the meaning given to it in Section 2.1.

“Facility” is the entire facility as specified in Exhibit A and Exhibit B recitals.

“Facility Nameplate Capacity Rating” means the sum of the Nameplate Capacity Ratings for all Generation Units ~~Generators~~ comprising the Facility.

“FERC” means the Federal Energy Regulatory Commission or any successor government agency.

“Force Majeure” or “Force Majeure Event” ~~“Generation Forecast”~~ has the meaning given to it in Section 13.1.3-4.

~~“Generation Unit” means each separate electrical Generator of the Facility that contributes to the Specified Facility Nameplate Capacity Rating included in Exhibit A.~~

“Generator” means the electrical component within the Facility measured in kW that converts mechanical energy or solar radiation into electrical energy.

“Generation Unit” means a complete electrical generation system within the Facility that is able to generate and deliver energy to the Point of Interconnection independent of other Generation Units within the same Facility. For example, for a solar facility, a Generation Unit is an inverter and the panels associated with such inverter.

“Governmental Authority” means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

“Interconnection Agreement” means an agreement between PGE and Seller governing the interconnection of the Facility with PGE’s electric system, ~~having a term ending no earlier than the expiration date of this Agreement.~~

~~“Interconnection Rating” means the Facility capacity rating specified in the Interconnection Agreement, or, if no Interconnection Agreement exists, in the application seeking interconnection.~~

“kW” and “kWh” mean kilowatt and kilowatt hour, respectively.



“Lender” means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.

“Letter of Credit” means an irrevocable standby letter of credit from an institution selected by the Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

“Licensed Professional Engineer” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in 2.4.2, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.

“Lost Energy” means (in kWh):- either

- A. In connection with a Facility after the Commercial Operation Date, if the Mechanical Availability Percentage falls below the Minimum Availability Guarantee for a Contract Year, ((the Minimum Availability Guarantee as determined pursuant to Section 3.33-4 / the actual Mechanical Availability Percentage for the applicable Contract Year) X actual Net Output for the applicable Contract Year)) - actual Net Output for the applicable Contract Year; or
- B. In connection with a Facility that does not establish before the Commercial Operation Date on or before, if the Seller fails to meet the Scheduled Commercial Operation Date, the sum of the Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see Exhibit C) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual Commercial Operation Date or contract termination pursuant to Section 10.- The Estimated Monthly Average Net Output shall may be pro-rated for any partial months; or
- C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 10 of this Agreement because of Seller’s for default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month from the date of termination through the end of the T term. The Estimated Monthly Average Net Output shall may be pro-rated for any partial months.

“Lost Energy Value” means:

- A. In connection, with Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly respect to each calendar month in the Contract Year and then

allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in Exhibit C (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year *plus* any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the given period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours ~~an amount calculated as follows:—~~ Lost Energy for ~~each~~ the applicable calendar month (or partial calendar month) in the Contract Year ~~period~~ *multiplied by* ~~(the (applicable greater of zero (0) or the~~ Replacement Price for On-Peak Hours ~~the period less the time-weighted average of the~~ Contract Price for On-Peak Hours for the same period); and
- The Off-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period).

If the above calculation of the Lost Energy Value for the Contract Year results in a negative value, the Lost Energy Value for the Contract Year shall be deemed zero. See the example calculation in Exhibit G.

In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during which Seller has failed to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below) ~~for the period~~, *plus* any commercially reasonable ~~third-party~~ costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) shall not exceed the Contract Price for On-Peak Hours for the same period; and
- The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.

If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in Exhibit G.

B. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for On-Peak Hours for the period *less* the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for Off-Peak Hours for the period *less* the Contract Price for Off-Peak Hours for the period); and
- Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in Exhibit G.

~~“Market Index Price” means the applicable Powerdex hourly Mid-Columbia Index price for firm energy at the time the energy is delivered. In the event Powerdex no longer publishes this index or PGE elects to use nodal pricing, PGE will select an alternative successor index or other published pricing (or independent system operator or regional transmission organization settlement pricing) representative of the Delivery Point.~~

“Mechanical Availability Percentage” or “MAP” means that percentage for any Contract Year for the Facility calculated in accordance with the following formula:

$$\text{MAP} = 100 \times (\text{Operational Hours}) / (\text{Base Hours} \times \text{Number of Units})$$

-“Minimum Availability Guarantee” has the meaning given to it in Section ~~3.3.3.3~~.

“Nameplate Capacity Rating” means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.

“NERC” means the North American Electric Reliability Corporation.

“**Net Available Capacity**” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Point of Interconnection continuously for at least sixty (60) minutes; ~~which is equivalent to the lesser of: (1) the Specified Facility Nameplate Capacity Rating, or (2) the Interconnection Rating, in either case less station service (parasitic power and electrical losses).~~

“**Net Output**” means all energy, expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the Point of Interconnection.

“**New QF**” means any QF that is not an Existing QF.

~~“**Notice of Proposed REC Transfer**” has the meaning given to it in Section 7.1.2.~~

“**Number of Units**” means the number of Generation Units in the Facility, as specified in **Exhibit A**.

“**Off-Peak Hours**” means all hours other than ~~has the meaning provided in the Schedule.~~

~~“**On-Peak Hours**” has the meaning provided in the Schedule.~~

“**On-Peak Hours**” means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.

“**Operational Hours**” for the Facility means the total across all Generation Units of the number of hours each of the Facility’s Generation Units is capable of producing power at its Nameplate Capacity Rating regardless of actual weather, season and time of day or night, without any mechanical operating constraint or restriction, and potentially capable of delivering such power to the Delivery Point of Interconnection in a Contract Year. For each Contract Year, each Generation Unit is eligible to include no more than 200 hours as Operational Hours when the Generation Unit is not operational because of Planned Maintenance or an event of Force Majeure. For example, if the Facility consists of two separate Generation Units ~~solar arrays~~ of 1.5 MW each and Generation Unit Array 1 is operational for 8,460 hours and is not operational for 300 hours due to Planned Maintenance or an event of Force Majeure; and Generation Unit Array 2 is operational for 8,560 hours and is not operational for 200 hours due to Planned Maintenance or an event of Force Majeure, then the Operational Hours for the Facility for the Contract Year would be calculated as follows: Generation Unit Array 1 Operational Hours = 8,460 + 200 = 8,660. Generation Unit Array 2 Operational Hours = 8,560 + 200 = 8,760. Operational Hours of the Facility = 8,760 + 8,660 = 17,420.

“**Oregon Renewable Portfolio Standard**” means the renewable portfolio standard contemplated by ORS 469A.005 to 469A.200, and the implementing regulations, in each case as in effect on the Effective Date of this Agreement ~~amended from time to time~~.

“**Person**” means any individual, corporation, ~~a~~ limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.

“**Planned Maintenance**” means outages scheduled 90 calendar days in advance, with PGE’s prior written notice to PGE, provided however that maintenance during Off-Peak Hours (except Sundays

~~between 6:00 a.m. and 10:00 p.m. PPT) on a Facility comprised of only solar Generator consent, which shall not be considered Planned Maintenance, unreasonably withheld.~~

“Point of Interconnection” means the point of interconnection between the Facility and PGE’s system, as specified in Exhibit B.

“Prime Rate” means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

“Product” means, each and together, as a single bundled product, Net Output; together with all associated ~~capacity~~ Capacity Attributes and Transferred RECs.

“Prudent Electrical Practices” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the WECC that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all Applicable Law. Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

“PURPA” means the Public Utility Regulatory Policies Act of 1978.

“Qualifying Facility” has the meaning set forth in the Recitals.

“REC” means Environmental Attributes and REC Reporting Rights, however commercially transferred or traded under any or other product names, such as “green tags,” “Green-e Certified,” or otherwise. RECs are accumulated on a MWh basis and one REC represents the Environmental Attributes and REC Reporting Rights made available by the generation of one MWh of energy by the Facility, as represented by the actual Net Output on an hourly basis. RECs do not include: (i) Environmental Attributes that are greenhouse gas offsets from methane capture not associated with the generation of electricity and not needed to ensure that there are zero net emissions associated with the generation of electricity; or (ii) thermal renewable energy certificates as defined in ORS 469A.132 and the implementing regulations. All RECs transferred ~~lesser of the final e-Tag or the actual Net Output on an hourly basis. All RECs delivered~~ to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.

“REC Reporting Rights” are the rights of a Person to report the ownership of accumulated RECs in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at such Person’s discretion, and include without limitation those REC Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present federal, state, or local law, regulation or bill, and international or foreign emissions trading program.

“**Reliability Entity**” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

“**Renewable Resource Deficiency Period**” ~~means the period beginning January 1, 2025 through meaning given to it in the~~ termination or Expiration Date of this Agreement Schedule.

“**Renewable Resource Sufficiency Period**” ~~means the period through 2024 meaning given to it in the~~ Schedule.

“**Replacement Price**” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at which PGE, acting in a commercially reasonable manner, purchases for delivery at the Mid-Columbia trading hub Delivery Point replacement energy for any Net Output that Seller fails to deliver as required under this Agreement.

~~When PGE elects not to make such a purchase,~~ the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Availability Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices for a given period shall be calculated as follows for each applicable calendar month (or partial calendar month):

- For Lost Energy During On-Peak Hours: the hourly the greater of zero (0) or the time-weighted average of the on-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).
- For Lost Energy During Off-Peak Hours: the hourly average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

When the Replacement Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 10, the Replacement Price shall be the respective On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices for On-Peak Hours and Off-Peak Hours during the applicable period.

“**Required Facility Documents**” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as, including the Interconnection Agreement and those set forth in Exhibit D.

~~“ROFR Exercise Notice” has the meaning given to it in Section 7.1.2.~~

~~“ROFR Period” has the meaning given to it in Section 7.1.2.~~

“**Schedule**” means PGE’s Schedule 201 filed with the Commission and in effect on the date that Seller delivers to PGE an executed copy of this Agreement, ~~the terms of which are hereby incorporated by reference.~~ For ease of reference and informational purposes only, a copy of the Schedule is attached hereto as **Exhibit F**; however, if there is any difference between **Exhibit F** and the Schedule, the terms of the Schedule shall apply and prevail.



“**Scheduled Commercial Operation Date**” has the meaning given to it in Section 2.67.

“**Seller-Retained RECs**” has the meaning given to it in Section 7.1.

“**Senior Lien**” means a prior lien ~~that~~which has precedence as to the property under the lien over another lien or encumbrance.

“**Specified Facility Nameplate Capacity Rating**” means the Facility Nameplate Capacity Rating set forth in **Exhibit A**, as it may be amended from time to time in accordance with this Agreement.

“**Start-Up Testing**” means the ~~performance completion~~ of applicable ~~required factory and~~ start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in **Exhibit E** (as it may be updated by Seller) during the Test Period.

“**Step-in Rights**” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.

“**Term**” has the meaning given to it in Section 2.1.

“**Test Energy**” means electric energy generated by the Facility during the Test Period, ~~and all RECs and Capacity Rights associated with such electric energy.~~

“**Test Period**” means a period ~~of no more than sixty (60) calendar days~~, during which Start-Up Testing is to be conducted.

“**Transferred RECs**” has the meaning given to it in Section 7.2.1.

“**WECC**” means the Western Electricity Coordinating Council or any successor thereto.

~~“**WECC Pre-Scheduling Day**” means the WECC Pre-Scheduling Day prior to the delivery day or day(s) as defined by the most recent WECC Pre-Schedule calendar. For example, Thursday is typically the WECC Pre-Scheduling Day for delivery days of Friday and Saturday.~~

“**WREGIS**” means the Western Renewable Energy Generation Information System.

## 1.2 Interpretation.

In this Agreement, references to Recitals, Sections, and Exhibits are references to the recitals, sections and exhibits of this Agreement. The article and section headings in this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms “includes” or “including” mean “includes but is not limited to” and “including but not limited to,” respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in this Agreement in accordance with such recognized meanings.

## ARTICLE 2: **TERM; FACILITY; COMMERCIAL OPERATION**

### 2.1 Term.



The term of this Agreement (“Term”) commences on the date this Agreement is signed by both Parties (“Effective Date”) and ends on the earlier of \_\_\_\_\_ /Seller-selected date or fixed-interval period of time \_\_\_\_\_, 20\_\_ [date that is no more than 20 years from the Scheduled Commercial Operation Date] (“Expiration Date”) or the date on which this Agreement is terminated pursuant to the terms of the Agreement.

## 2.2 Construction of the Facility.

2.2.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE’s system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement. Seller shall, at its sole cost, design and construct the Facility and; obtain all ~~necessary~~ interconnection rights, ~~and make or cause to be made all necessary modifications to PGE’s system~~ to enable the delivery of energy from the Facility to the Delivery Point of Interconnection, all in compliance with this Agreement, the Required Facility Documents, and Prudent Electrical Practices.

~~Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement may must be reviewed ~~and approved~~ by PGE, which ~~review~~ approval shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE’s information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section 6.3-4.~~

## ~~2.3 Seller’s Responsibility for Costs:~~

~~Seller is responsible for all costs associated with the study or construction of necessary modifications and upgrades to the Facility or PGE’s system related to the delivery of energy from the Facility to the Delivery Point, or any increase in the Facility Nameplate Capacity Rating or the generating capability of the Facility. Without limiting the generality of the foregoing: PGE will evaluate available delivery capability on PGE’s transmission system between the Delivery Point and PGE’s load that is required to enable PGE to accept delivery of the Facility’s Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to PGE’s designated sink point. If PGE determines that sufficient delivery capability exists on PGE’s transmission system, PGE will arrange for, be responsible for, and make available transmission service on PGE’s transmission system from the Delivery Point to the designated sink point. If PGE determines that insufficient delivery capability exists on PGE’s transmission system, Seller will be responsible for (i) obtaining and paying for necessary transmission studies and paying for any transmission upgrades necessary to enable PGE to accept deliveries of Net Output from the Facility and to effectuate delivery from the Delivery Point to PGE’s designated sink point, or (ii) paying for any necessary transmission service from Transmission Providers to effectuate delivery from the Delivery Point to PGE’s designated sink point. If any upgrades to PGE’s system are identified pursuant to part (i), PGE and Seller shall enter into a separate agreement to establish the terms under which PGE shall arrange for and Seller will pay for such upgrades; provided, however, that if the costs of such upgrades is reasonably projected to exceed One Hundred Thousand Dollars (\$100,000), Seller may terminate this Agreement by providing written notice to Buyer, unless, within thirty (30) days after Buyer receives such notice, Buyer agrees in its sole discretion to bear costs in excess of that amount. After all necessary upgrades have been completed in~~

~~accordance with Prudent Electrical Practices, PGE will arrange for, be responsible for, and make available transmission service from the Delivery Point to the designated sink point.~~

### 2.42.3 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with **Exhibit E** ~~(as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility).~~, and shall provide written notice to PGE when the Start-Up Testing has been successfully completed. Seller must provide no less than ~~one (1) business~~~~ten (10) working~~ days' written notice to PGE prior to the commencement of Start-Up Testing. ~~If it is necessary for Seller to schedule and must provide PGE ten (10) business day's written notice prior to commencing sales of deliver Test Energy to PGE. PGE in order to complete Start Up Testing, Seller may do so pursuant to the scheduling procedures set forth in Section 3.4, but shall compensate the Seller for delivered not be entitled to compensation from PGE for Test Energy in accordance with Section 4.1.1. Seller shall pay any costs or additional expenses that are required for PGE to receive Test Energy, including procurement of any necessary capacity costs or reserves.~~ This Section 2.34 does not apply if the Facility is an Existing QF ~~unless the Existing QF elects to conduct Start-Up Testing.~~

### 2.52.4 Commercial Operation.

"**Commercial Operation**" will be achieved when the Facility is fully constructed and ~~determined~~ by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have occurred:

~~2.5.2.4.1~~ 2.4.1 If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with **Exhibit E**, and PGE has received Seller's written certification of completion of Start-Up Testing.

~~2.5.2.4.2~~ 2.4.2 PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that ~~the Facility is interconnected and operational~~~~interconnection has been completed~~ in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.

~~2.5.3.2.4.3~~ 2.4.3 PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE's reasonable satisfaction, which may include equipment specifications.

~~2.5.4.2.4.4~~ 2.4.4 PGE has received a ~~letter~~~~certificate~~ addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement, and any other Required Facility Documents requested by PGE.

~~2.5.5.2.4.5~~ 2.4.5 PGE has received the following documents with respect to the Facility: the As-built Supplement, ~~including but not limited to~~ an electrical single-line diagram, a 12x24 ~~estimated~~ net energy profile, a 8760 net energy production estimate, and (for solar QFs) an annual degradation factor.

~~2.5.6~~2.4.6 PGE has received copies of all insurance certificates required under Section 12.~~12~~.

~~2.5.7~~2.4.7 PGE has received any Credit Support required under Section 9.1.

~~2.5.8~~2.4.8 Seller has provided evidence of the registration of the Facility as a generating unit in WREGIS and satisfaction of any other requirements for the recording of RECs in WREGIS.

~~2.5.9~~—If any upgrades to PGE’s system between the Delivery Point and PGE’s load are required in order to enable PGE to accept delivery of the Facility’s Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to PGE’s designated sink point, the Company and the Seller have entered into an agreement concerning such upgrades as required under Section 2.3.

#### 2.6~~2.5~~ Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section 2.~~4~~5, Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, ~~including but not limited to information required in Exhibit A and Exhibit B.~~ PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, ~~provided that PGE shall not unreasonably withhold such certification.~~ The date of Seller’s notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the “**Commercial Operation Date**” for all purposes under this Agreement.

#### 2.7~~2.6~~ Scheduled Commercial Operation Date.

By no later than \_\_\_\_\_ (“**Scheduled Commercial Operation Date**”), Seller shall ~~have completed all requirements under Section 2.4 and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE’s negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE’s negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before Seller guarantees that Commercial Operation shall occur no later than \_\_\_\_\_, 20\_\_ (“**Scheduled Commercial Operation Date**”). If Commercial Operation does not occur by the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay for the period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date (“**Delay Damages**”). If Commercial Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section 10.~~32.

#### 2.8~~2.7~~ Status of the Facility.

~~2.8.1~~2.7.1 Seller shall construct and operate the Facility so as to ensure its status as a Qualifying Facility and in a manner consistent with its FERC Qualifying Facility certification. At any time

during the Term, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE's request, ~~(i) a written legal opinion from an attorney who is in good standing in the state of Oregon and is not employed by a Person having an economic interest in the Facility stating that the Facility is a Qualifying Facility, and (ii)~~ documentation acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility.

~~2.8.22.7.2~~ Seller shall not make any changes in its ownership, control or management that would cause the Facility to fail to satisfy the eligibility requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement. Seller shall provide upon request by PGE, not more frequently than every 36 months, any documentation and information as may be reasonably requested by PGE to establish Seller's continued compliance with the applicable eligibility requirements such definition. PGE shall take reasonable steps to maintain the confidentiality of any such documentation and information that Seller identifies as confidential, provided that PGE may provide all such information to the Commission upon the Commission's request.

### ARTICLE 3: DELIVERY AND SALE OF ENERGY; SCHEDULING

#### 3.1 Delivery and Sale of Energy.

Except as otherwise provided in this Agreement, commencing on the Commercial Operation Date and continuing until the end of the Term (the "**Delivery Period**"), Seller shall deliver and sell and PGE shall receive and purchase all of the Net Output delivered at the ~~Delivery Point~~ of Interconnection. ~~Notwithstanding the foregoing, Seller shall not deliver and PGE shall not be obligated to receive or purchase energy delivered at a rate, on an hourly basis, greater than the Net Available Capacity.~~ Title and risk of loss related to the Product shall transfer from Seller to PGE at the ~~Delivery Point~~ of Interconnection, except that title to Transferred RECs shall transfer to PGE when generated.

#### 3.2 Estimated Net Output.

Seller's good faith, commercially reasonable estimate of the Facility's ~~average~~ monthly and annual average and maximum Net Output during the Delivery Period, and Seller's basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in **Exhibit C, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section 6.3.** Seller acknowledges that PGE will use these estimates in its resource planning.

#### 3.3 Minimum Availability Guarantee.

~~3.3.1~~—Seller hereby guarantees that the Facility will achieve Mechanical Availability Percentages that meet or exceed the following ("Minimum Availability Guarantee"):

- (i) Ninety percent (90%) beginning in the first Contract Year and extending through the Term of this Agreement if the Facility was operational and sold electricity to PGE or another buyer prior to the Effective Date is an Existing QF; or
- (ii) Ninety percent (90%) beginning in Contract Year three and extending through the Term of this Agreement ~~if the Facility is a New QF~~.

~~3.3.2.~~—Annually, within 90 calendar days of the end of each Contract Year, Seller shall send to PGE a detailed written report demonstrating and providing evidence of the actual Mechanical Availability Percentage for the previous Contract Year.

~~3.3.3.~~—As a remedy ~~damages~~ for Seller's failure to satisfy the Minimum Availability Guarantee in any Contract Year, Seller shall owe PGE damages equal to the Lost Energy Value. ~~for such Contract Year.~~

### ~~3.4~~ — Forecasting and Scheduling

~~[[This section is being revised to account for forecasting and scheduling requirements associated with participation in the California Independent System Operator Energy Imbalance Market. The revised provision will be provided in advance of a workshop that will include this topic]]~~

### ~~3.5.3.4~~ Loss of Interconnection and Curtailment.

PGE shall not be liable to Seller and shall have no obligation to purchase the Product from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the extent that, due to the action of a Reliability Entity, ~~an event of Force Majeure~~ Event, or PGE's construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility to the electric system is disconnected, suspended or interrupted, or (ii) generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller's control.

### ~~3.6~~ — Carbon Emissions:

~~Seller is responsible for and shall pay for all future costs, if any, whether incurred by Seller or PGE, resulting from any carbon emissions generated by or associated with the Product delivered by Seller to the Delivery Point in accordance with this Agreement. Seller may provide PGE with carbon emissions offsets that are reasonably satisfactory to PGE in lieu of a monetary settlement. Within fifteen (15) business days after PGE's request, Seller shall provide PGE with the carbon emissions data for the Product that is delivered during the Delivery Period.~~

## ARTICLE 4: **PRICE, BILLING AND PAYMENT**

### 4.1 Prices and Payment for Delivered Product.

4.1.1 During the Delivery Period, PGE shall pay Seller an amount for Product delivered during a Billing Period calculated as follows: the Contract Price multiplied by Net Output ~~(but not including energy delivered at an hourly rate in excess of the Net Available Capacity) delivered to the Delivery Point during the Billing Period.~~ An illustrative example is provided in Exhibit G.  ~~multiplied by the Contract Price.~~

4.1.2 Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy multiplied by the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.



4.1.24.1.3 Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.

4.2 Invoicing and Payment for ~~Lost Energy Value Related to~~ Delay Damages.

By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE will in the ordinary course~~shall~~ deliver to Seller an invoice showing PGE's computation (and supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE to PGE in respect thereof for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the preceding calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in Exhibit G.

4.3 Invoicing and Payment for Lost Energy Value Related to Minimum Availability Guarantee.

If Seller fails to satisfy the Minimum Availability Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following PGE's receipt of Seller's detailed written report for such Contract Year in accordance with Section 3.3.2, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar-~~No later than ten (10)~~ days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future ~~energy deliveries by the amount of such Delay Damages.~~

~~4.3~~ Invoicing and Payment for Lost Energy Value.

~~If Seller fails to satisfy the Minimum Availability Guaranty during any Contract Year, on or before the thirtieth (30th) day following the end of such Contract Year, PGE shall deliver to Seller an invoice showing PGE's computation of any deficit in the guaranteed amount. Thereafter, the amount payable by PGE for future~~ deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period of such reduction (not to exceed one year) so as to minimize the risk of Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.

4.4 Form of Payment and Interest on Late Payments.

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.-

4.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.

ARTICLE 5: **METERING**

5.1 Metering Equipment and Location.

5.1.1 PGE shall design, furnish, install, own, inspect, test, maintain and replace all metering equipment at Seller's cost and as required pursuant to the Interconnection Agreement.

~~Metering shall be performed at the location and in a manner consistent with this Agreement and, as specified in the Exhibit B. Seller shall provide to PGE all information regarding Interconnection Agreement. All Net Output purchased hereunder shall be adjusted to account for electrical losses, if and any, between the point of metering and the Point of Interconnection, so that the purchased amount reflects the net amount of power flowing into PGE's system at the Point of Interconnection other energy purchased under this Agreement in hourly increments. Seller shall provide PGE with a real-time ICCP and EIDE communications link to the Facility metered output.~~

5.2 Meter Installation, Inspection and Correction.

~~Buyer, at Seller's cost, shall arrange, design, furnish, install, own, inspect, test, and maintain metering equipment for the Facility in accordance with Prudent Electrical Practices. PGE shall periodically inspect, test, repair and/or replace the metering equipment as provided in the Interconnection Agreement. at Seller's cost, and provide such results to Seller upon Seller's request. If any of the inspections or tests discloses/reveal an error exceeding two (2%) percent of the actual energy delivery, (2.0%), either fast or slow, appropriate correction, based upon the inaccuracy found, shall be made of with respect to previous readings for the actual period during which the Facility metering equipment rendered inaccurate measurements if that (such period can be ascertained, not to exceed six (6) months). If the actual period of inaccuracy cannot be ascertained, the proper correction shall be made to the measurements taken during the time since the metering equipment was in service since last tested, but not exceeding provided that such period shall not exceed three (3) months, in the amount the metering equipment shall have been shown to be in error by such test.- Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered.- Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of such the metering inaccuracy of metering equipment.-~~

5.3 Metering Costs.

To the extent not otherwise provided in the Interconnection Agreement, all of PGE's costs relating to all metering equipment installed to accommodate Seller's Facility shall be borne by Seller.

ARTICLE 6: **OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES**

6.1 Seller's Duty to Operate and Maintain the Facility.

6.1.1 Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and



Prudent Electrical Practices. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.

6.1.2 Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide ~~upon request~~ copies of the same to PGE upon request.

## 6.2 Outages.

6.2.1 On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with ~~an annual~~ schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the ~~Specified generating capacity of the Facility~~ Nameplate Capacity Rating for ~~twenty-four (24) two (2)~~ or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of Section ~~14.13.~~ ~~14.13. Seller shall use commercially reasonable efforts to plan scheduled activities (i) to maximize the productive output of the Facility, and (ii) not to occur between July 1 and September 30 or between December 1 and February 28 of any calendar year.~~

6.2.2 ~~Seller shall give PGE immediate telephonic notice (within twenty minutes) of any such events that will curtail or adversely affect scheduled or forecasted Product deliveries. Such notice must include a description of the cause of the outage, the resulting change in capacity, and an estimate of the duration of the outage. Seller shall provide PGE regular and frequent updates regarding any changes of status set forth in the initial notice, and shall notify PGE's Real Time Desk when the Facility is ready to return to service. Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable best efforts to avoid or mitigate outages during PGE's system emergencies. PGE may, after providing written notice to Seller, make commercially reasonable changes to the means by which Seller provides notice pursuant to this subsection 6.2.2 of this Agreement.~~

## 6.3 Facility Upgrades.

6.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

~~6.3.1.2~~ 6.3.2 At any time after the Commercial Operation Date upon at least six months<sup>2</sup> prior written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in **Exhibit C**, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in **Exhibit C** for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

6.3.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section 6.3.1 or Section 6.3.2 that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend **Exhibit A** and **Exhibit C** as appropriate to reflect the modifications.

~~6.3.26.3.3~~ -So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller will continue to receive the Contract Price for all delivered Net Output.

~~6.3.36.3.4~~ If Seller increases the Facility Nameplate Capacity Rating pursuant to Section 6.3.1 or Section 6.3.2 to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 3,000 kW (solar) or 10,000 kW (all other QFs), consistent with then-current Applicable Law, ~~provided that:~~

~~6.3.3.16.3.4.1~~ If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to more than 3,000 kW and no greater than 10,000 kW, then Seller may elect to enter either (a) a standard power purchase agreement with negotiated prices, or (b) a negotiated power purchase agreement with negotiated prices.

~~6.3.3.26.3.4.2~~ If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

~~6.3.3.36.3.4.3~~ If the Facility produces Net Output through any ~~other~~-resource types other than solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

## ARTICLE 7: ENVIRONMENTAL ATTRIBUTES

### 7.1 Seller-Retained RECs.

7.1.1 Seller shall retain ownership of all RECs (**Seller-Retained RECs**) and all other Environmental Attributes associated with Net Output of the Facility during the Test Period and during the Renewable Resource Sufficiency Period. ~~(**Seller-Retained RECs**)~~. PGE shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Seller-Retained RECs belong to any Person other than Seller.

~~7.1.2—Seller shall give written notice (the **“Notice of Proposed REC Transfer”**) to PGE stating its bona fide intention to transfer Seller Retained RECs to a third party and specifying the material terms and conditions of such transfer, including the price to be paid to Seller for the Seller Retained RECs. The Notice of Proposed REC Transfer will constitute Seller’s offer to PGE to transfer the Seller Retained RECs on the terms therein specified and shall be irrevocable for a period of ten (10) business days (the **“ROFR Period”**). Upon receipt of the REC Transfer Notice, PGE shall have until the end of the ROFR Period to agree to purchase the Seller Retained RECs by delivering a written notice (a **“ROFR Exercise Notice”**) to Seller stating that it agrees to purchase the Seller Retained RECs on the terms specified in the Notice of Proposed REC Transfer. Any ROFR Exercise Notice so delivered shall be binding on PGE and irrevocable~~

~~upon delivery. If PGE delivers a ROFR Exercise Notice to Seller in accordance with this Section, PGE and Seller shall thereafter negotiate in good faith and use their commercially reasonable efforts to enter into all necessary agreements and other arrangements to effectuate the sale of RECs to PGE as soon as practicable thereafter.~~

## 7.2 Transferred RECs.

7.2.1 Seller shall transfer to PGE and PGE shall acquire all RECs associated with Net Output from the start of the Renewable Resource Deficiency Period through the remainder of the Term (“**Transferred RECs**”). PGE’s payments for Product under this Agreement include full payment for all Transferred RECs. Seller shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Transferred RECs belong to any Person other than PGE. PGE shall be entitled to claim all rights associated with the Transferred RECs, including any value in the ownership, use or allocation of RECs created by legislation or regulation after the Effective Date.

7.2.2 Transferred RECs shall be deemed delivered and sold to PGE under this Agreement as they are produced, and title to Transferred RECs shall pass to PGE when generated. The Facility ~~output~~ meter at the point of interconnection shall serve as the record source for purposes of calculating, certifying, and auditing Transferred RECs. In the event Seller generates power and associated RECs are transferred but the power is not delivered to PGE by Seller due to a Force Majeure Event, curtailment, or other reason, PGE and Seller will work together in good faith to return such RECs to Seller.

7.2.3 Seller shall comply with all requirements necessary for all Transferred RECs to be issued, monitored, accounted for, and transferred by and through WREGIS, consistent with the provisions of OAR 330-160-0005 through OAR 330-160-0090. Without limiting the generality of the foregoing, Seller shall cause the Facility to implement all necessary generation information communications in WREGIS, and report generation information to WREGIS pursuant to a WREGIS-approved meter that is dedicated to the Facility and only the Facility. Seller shall cause delivery and transfer of the Transferred RECs to PGE’s WREGIS account to be perfected in accordance with WREGIS rules. Seller shall hold the Transferred RECs in trust for PGE until such delivery and transfer is perfected. Each Party shall take such steps and further actions as may be required by WREGIS or Applicable Law in order to effect and confirm the sale and delivery of the Transferred RECs to PGE for all purposes. PGE will reasonably cooperate in Seller’s efforts to meet such requirements, including, for example serving as the qualified reporting entity for the Facility if the Facility is located in PGE’s Balancing Authority.

7.2.4 All RECs delivered to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.

## ARTICLE 8: REPRESENTATIONS AND WARRANTIES

### 8.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

8.1.1 Seller is a \_\_\_\_\_ duly organized and in good standing under the laws of the state of incorporation or formation.

8.1.2 The execution, delivery and performance of this Agreement are within Seller’s powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its

governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

8.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

8.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

8.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

8.1.6 Either Seller satisfies the requirements set forth in Section ~~8.1.6.1 through 8.1.6.3~~~~8.1.6.1 through 8.1.6.4~~ below (the "**Creditworthiness Requirements**"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section 9.1.

8.1.6.1 ~~Neither Seller nor any of its principal equity owners is not under~~ has not been Bankrupt within the past two (2) years, and there are no proceedings pending or being contemplated by ~~Seller~~~~them~~ or, to Seller's knowledge, threatened against ~~Seller~~~~them~~ that would result in ~~Seller~~~~them~~ being or becoming Bankrupt.

8.1.6.2 Seller is not in default under any of its material agreements and is current on all of its financial obligations, including construction-related financial obligations.

8.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

~~8.1.6.4 If the Facility has a Specified Facility Nameplate Capacity Rating greater than 3,000 kW, Seller has a senior, unsecured long term debt rating (or corporate rating if such debt rating is unavailable) of (i) "BBB" or greater from S&P, or (ii) "Baa3" or greater from Moody's, and if such ratings are split, the lower of the two ratings must be at least "BBB" or "Baa3" from S&P or Moody's, respectively, or other indicia of creditworthiness satisfactory to PGE in its reasonable judgment.~~

8.1.7 No later than the Commercial Operation Date, Seller ~~will possess~~~~possesses~~ a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

8.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

8.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

8.1.10 Seller has the right to sell the Product to PGE free and clear of liens ~~or~~ encumbrances.

8.1.11 The Facility generates RECs that comply with the Oregon Renewable Portfolio Standard.

8.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

8.2.1 It is a corporation duly organized under the laws of Oregon.

8.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

8.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

8.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

8.2.5 It ~~is not and~~ has not ~~been Bankrupt~~ within the past two (2) years ~~been Bankrupt~~ and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

8.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

8.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article 8 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

ARTICLE 9: **CREDIT SUPPORT**

9.1 Required Credit Support.

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall immediately notify PGE in writing and shall promptly (and in no less than ten (10)



~~business calendar~~ days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). In each case, the amount of Credit Support required shall be calculated as follows: (aggregate number of On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the weighted average Contract Price for On-Peak Hours – the weighted average Contract Price for Off-Peak Hours) x (Net Available Capacity). The amount of Credit Support required shall be updated annually, on the anniversary of the month Credit Support was first required to be provided. The updated amount of Credit Support shall be calculated for each subsequent 12-month period, consistent with the calculation described in this Section. (the "Credit Support"):

~~(i) — the net present value of the following amount: the forward power prices at Mid-Columbia for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term), as determined by PGE in good faith using information from a commercially reasonable independent source (e.g., indicative of the most relevant ICE forward price curve for the Mid-Columbia), multiplied by one hundred and ten percent (110%), multiplied by aggregate Estimated Monthly Average Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term); less~~

~~(ii) — the net present value of: the average of the fixed prices specified in the Schedule (or in the case of a solar facility with a Specified Facility Nameplate Capacity Rating over 3 MW, as set forth in the price matrix attached to Exhibit G) for both On-Peak Hours and Off-Peak Hours, multiplied by aggregate Estimated Monthly Average Net Output for the next 60 calendar months (or, if the remaining Term is less than 60 calendar months, then for the remainder of the Term).~~

~~To calculate net present value for purposes of this Section, the Parties shall use the Bloomberg "S23 Corp" (Bloomberg ID "YCSW0023") interest rate swap cure as the discount rate.~~

~~Notwithstanding the foregoing, the amount of Credit Support shall in no event be less than the amount equal to the payments PGE would make for three (3) average months based on Seller's average monthly volume over the term of this Agreement and utilizing the average fixed prices specified in the Schedule (or in the case of a solar facility with a Specified Facility Nameplate Capacity Rating over 3 MW, as set forth in the price matrix attached to Exhibit G).~~

If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.

Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its reasonable discretion, grant an exception to the requirements to provide default security if the Seller has negotiated financial arrangements with the Lender ~~reconstruction loan lender~~ that mitigate Seller's financial risk to PGE.

## 9.2 Right to Draw on Credit Support.

At any time after the occurrence and during the continuation of an Event of Default, or upon an early termination of this Agreement by PGE pursuant to Section ~~10.340-2~~, PGE may draw on Seller's Credit Support to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the Credit Support during the Term, PGE shall inform Seller within fifteen (15) business days, and Seller shall promptly, and in no event more than fifteen (15) business days following notice from PGE, restore the Credit Support to the amount required under Section 9.1. However, for avoidance of doubt, Seller shall have no obligation to replenish the Credit Support if PGE has terminated the Agreement.

## ARTICLE 10: DEFAULT, REMEDIES AND TERMINATION

### 10.1 Events of Default.

An "**Event of Default**" means, with respect to a Party, the occurrence of any of the following unless otherwise excused under this Agreement:

10.1.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;

10.1.2 any representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;

10.1.3 the failure of a Party to perform any material covenant or obligation set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party ~~explaining~~ gives the circumstances supporting defaulting Party notice of the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;

10.1.4 with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

10.1.5 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement at any time during the term of this Agreement;;

10.1.6 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE; ;

10.1.7 with respect to Seller, Seller fails, for any two or more consecutive Contract Years to satisfy the Minimum Availability Guarantee ~~or Seller's failure to provide any written report required by Section 3.3~~;



10.1.8 Seller's failure to provide any written report required by Section 3.3.2 if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

~~10.1.8~~10.1.9 with respect to Seller, Seller fails to establish the Commercial Operation Date~~does not occur~~ on or before the ~~first anniversary of the~~ Scheduled Commercial Operation Date. Seller shall have one (1) year to cure default under this Section 10.1.9, during which time Seller shall pay PGE Delay Damages pursuant to the terms of Section 2.6 and Section 4.2.

10.2 Lender's Right to Cure a Seller Event of Default.

Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under Section 14.13 of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement.

~~10.2~~10.3 Termination for Default.

If an Event of Default has occurred and is continuing, the non-defaulting Party may immediately terminate this Agreement at its sole discretion, and without the non-defaulting Party incurring any liability to the defaulting Party, by delivering written notice to the defaulting Party. In addition, the non-defaulting Party may pursue any and all other legal or equitable remedies available to it, including recovery of damages as set forth below. ~~For avoidance of doubt, PGE's resource sufficiency or deficiency position has no bearing on PGE's right to terminate this Agreement under this Section.~~

~~10.3~~10.4 Damages.

If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value, ~~with respect to the lesser of (i) twenty four (24) months following the date of termination or (ii) the period from the date of termination until the expiration date of this Agreement.~~ Amounts owed by Seller pursuant to this Section shall be due within fifteen (15)~~five (5)~~ business days after any invoice from PGE for the same. Damages owing under this Section 10.4 shall be cumulative and in addition to damages owing pursuant to Sections 2.6, 4.2, 4.3 and 10.1.9. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.

~~10.4~~10.5 Payment of Outstanding Obligations.

If this Agreement is terminated pursuant to Section ~~10.3~~10.2, then within thirty (30) calendar days of termination, PGE shall make all payments due and owing to Seller as of the time of receipt of notice of termination; provided that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section ~~10.4~~10.3 or otherwise. PGE shall not be required to pay Seller for Product delivered by Seller after the effective date of any termination notice.

~~10.5~~10.6 Post-Termination PURPA Status.

In the event ~~(ix)~~ PGE terminates this Agreement pursuant to this Article 10 or Seller terminates this Agreement without cause, and ~~(ii)~~ Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, wishes to sell Net Output to PGE from the Facility following such termination, then PGE may, ~~(but will not be obliged to)~~ require that Seller, its Affiliate, or its successor do

so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to the terms of this Agreement, then Seller and PGE shall promptly execute a written document ratifying the terms of this Agreement. PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.

## ARTICLE 11: INDEMNIFICATION AND LIABILITY

### 11.1 Seller's Indemnity.

Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, including the delivery of energy to and at the Delivery-Point of Interconnection; (ii) Seller's development, construction, ownership, operation, maintenance, or decommissioning of the Facility; (iii) the violation of any law, rule, order or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.

### 11.2 PGE's Indemnity.

PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) PGE's receipt of energy under this Agreement after its delivery at the Delivery-Point of Interconnection; (ii) the violation of any law, rule, order or regulation by PGE or any of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure to perform any of PGE's obligations under this Agreement; (iv) PGE's breach of any representation or warranty set forth in this Agreement; or (v) PGE's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is caused by Seller's breach of this Agreement or by the negligence or willful misconduct of Seller, its directors, officers, employees, agents or representatives.

### 11.3 No Dedication.

Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent Person.

### 11.4 Disclaimer of Consequential Damages.

**NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.**

## ARTICLE 12: INSURANCE

### 12.1 Certificates of Insurance.

Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.

### 12.2 Required Insurance.

Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than “B+” by the A.M. Best Company the insurance coverage specified below:

12.2.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, ~~which limits may be required to be increased or decreased by PGE as PGE determines in its reasonable judgement, economic conditions or claims experience may warrant,~~ to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.

12.2.2 All Risk Property ~~I~~nsurance providing coverage in an amount at least equal to the full replacement value of the Facility against “all risks” of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk ~~P~~olicy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the ~~F~~acility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers’ rights of subrogation against PGE regarding Facility property losses.

### 12.3 Required Provisions.

12.3.1 The Comprehensive General Liability ~~P~~olicy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

12.3.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and

provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days' prior written notice to PGE.

12.3.3 Insurance coverage provided on a "claims-made" basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

## ARTICLE 13: FORCE MAJEURE

### 13.1 Definition of "Force Majeure."

As used in this Agreement, "**Force Majeure**" or "~~event of Force Majeure~~ **Event**" means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party's from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility's equipment, or ~~(viii) smoke, haze, ash or other obstruction of sunlight~~ (except to the extent such obstruction is caused by fires or volcanic eruptions).

### 13.2 Effect of Force Majeure.

If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: (i) the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section ~~14.13~~14.13 of this Agreement describing the particulars of the occurrence; (ii) the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the non-performing Party uses commercially reasonable~~its best~~ efforts to remedy its inability to perform its obligations under this Agreement.

## ARTICLE 14: GENERAL PROVISIONS

### 14.1 Relationship of the Parties.

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the

Parties. If Seller includes two or more parties, each such Party shall be jointly and severally liable for Seller's obligations under this Agreement.

14.2 No Third Party Beneficiaries.

This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

14.3 Governing Law.

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~which may direct the application of the laws of another jurisdiction.

~~This Agreement is subject to the jurisdiction of those governmental agencies and courts having control over either party or this Agreement. The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.~~

~~14.4~~ Dispute Resolution.

Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement is subject to the jurisdiction of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, any complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute. ~~or governmental agency with jurisdiction over the dispute; provided, however, that any dispute within the jurisdiction of the Commission shall first be brought before the Commission, and each Party hereby irrevocably waives, to the fullest extent permitted by Applicable Law, any objection it may now or hereafter have to the initial jurisdiction of the Commission with respect to any such dispute.~~

The public utility's compliance with the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

~~14.5~~14.4 Severability.

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void as being contrary to any Applicable Law or public policy, all other terms of this Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the intent of the Parties to this Agreement.

~~14.6~~14.5 Effect of PURPA Repeal.

The repeal of PURPA shall not result in the early termination of this Agreement unless such termination is mandated by state or federal law.

~~14.7~~14.6 Waiver.

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

~~14.8~~14.7 Survival.

Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.

~~14.9~~14.8 Successors and Assigns.

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. Neither party may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that ~~either party~~PGE may assign its rights or delegate its obligations, in whole or in part, without such consent and upon thirty (30) calendar days' prior written notice to ~~the other party~~Seller, to an entity that acquires all or substantially all of the business or assets of ~~the assigning party~~PGE to which this Agreement pertains, whether by merger, reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective.

14.9 Financing Documents.

Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and expense associated with PGE's review and activities reasonably required under this Section 14.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE's sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.

14.10 Entire Agreement; Amendments; Order of Precedence.



This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding the contents of the Agreement, including PGE's purchase of energy from the Facility. No amendment or modification of this Agreement shall be effective unless it is in writing and signed by both parties. If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail.

14.11 Seller Release.

By executing this Agreement, Seller releases PGE from any ~~third party~~ claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

14.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

14.13 Notices.

All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.:

<u>Notices</u>	<u>PGE</u>	<u>Seller</u>
<u>Invoices</u>	<u>Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204</u>	
<u>Scheduling</u>	<u>By telephone: Merchant Real Time Desk (503) 464-8851</u>	
<u>Planned Outages</u>	<u>Balancing Authority Operator (503) 464-8650 Merchant Outage Coordinator Attn: Power Operations 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 (503) 464-7013</u>	
<u>Unplanned Outages</u>	<u>Merchant Real Time Desk (503) 464-8851</u>	
<u>Payments</u>	<u>Portland General Electric Attn: Energy Invoicing 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204 Energyinvoicing@pgn.com</u>	



Standard Renewable On-System Variable Power Purchase Agreement  
Form Effective \_\_\_\_\_

<del>Wire Transfer</del>	<del>Bank Name: US National Bank of Oregon Routing Number: 123000220 Account Number: 153600043512</del>	
<del>Credit Support</del>	<del>Portland General Electric Attn: Credit Manager 121 SW Salmon St. 3WTC0306 Portland, Oregon 97204</del>	
<del>All Other Notices</del>	<del>Portland General Electric C/O Attn: QF Contract Management 3WTC-0306 121 SW Salmon St. 3WTC0306 Portland, <u>OR</u> Oregon 97204</del>	
<del>Copy in the case of, Event of Default or Termination</del>	<del>Portland General Electric 121 SW Salmon St. 1WTC17 Portland, Oregon 97204 Attn: General Counsel</del>	

The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section 14.13.

*Signature Page Follows.*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(Name Seller)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**

**FACILITY DESCRIPTION**

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

Seller's Facility consists of generators fueled by \_\_\_\_\_.

~~Location of~~ Specifically, each type generator at the Facility: The Facility is to be constructed in  
County, \_\_\_\_\_, with GPS coordinates of \_\_\_\_\_ described as:

The location is more particularly described as follows:

[legal description of parcel]

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

~~Specified~~ **A. Generator Manufacturer's Nameplate Data:**

~~Make:~~

~~Model:~~

~~Rated Output (kW):~~

~~Number of Generators with Similar Attributes:~~

Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section 6.3.2).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ ; \_\_\_\_\_  
kW

Net Available Capacity: \_\_\_\_\_ kW

~~Interconnection Rating: \_\_\_\_\_ kW~~

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating and the Net Available Capacity:

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Interconnection Rating: \_\_\_\_\_ kW (the Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

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**~~B. Specified Facility Nameplate Capacity Rating~~** \_\_\_\_\_ (kW) (calculated as the sum of the Nameplate Capacity Ratings for all Generators).

**~~C. Location of the Facility:~~** The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_, with GPS coordinates of \_\_\_\_\_.

~~The location is more particularly described as follows:~~

~~[legal description of parcel]~~

**~~EXHIBIT B~~**

**~~SELLER'S INTERCONNECTION FACILITIES AND TRANSMISSION ATTRIBUTES~~**

~~[Seller to provide diagram and description]~~

~~Description to include the following:~~

- ~~1. Point(s) of metering, including the type of meter(s) and the owner of the meter(s)~~
- 2.1. Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

As-built Average Annual Degradation Percentage (applicable only to QFs with solar Generation Units).

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES**

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

Point of Interconnection (name of distribution feeder or transmission line):

\_\_\_\_\_

3. ~~\_\_\_\_\_~~ **The following information shall be provided in the As-built Supplement prior to Commercial Operation:** ~~Point of Delivery~~

4. ~~\_\_\_\_\_~~ ~~Transmission Provider(s)~~

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):

\_\_\_\_\_  
\_\_\_\_\_

~~5.2.~~ Specification of Point of Interconnection:

\_\_\_\_\_

**EXHIBIT C**

**SELLER’S NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of ~~Estimated~~expected Monthly Average Net Output and Estimated Monthly~~and~~ Maximum Net Output during the Delivery Period, and the resulting Estimated Annual ~~Estimated~~-Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output (as measured at the Facility meter at the Point of Interconnection)**

Month	Estimated <u>Monthly</u> Average Net Output (kWh)		<u>Percentage of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%)</u>		<u>Estimated Monthly</u> Maximum Net Output (kWh)	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
January						
February						
March						
April						
May						
June						
July						
August						
September						
October						
November						
December						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated Annual Average ~~Annual~~-Net Output: \_\_\_\_\_ kWh



(sum of Estimated Monthly Average Net Output)

Estimated Annual Maximum ~~Annual~~-Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Maximum Net Output)

**EXHIBIT D**

**REQUIRED FACILITY DOCUMENTS**

[List all agreements, permits and authorizations required for the Facility]

~~Interconnection Agreement~~ **COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM**

**(Power Purchase Agreement – \_\_\_\_\_)**

This Collateral Assignment and Consent Agreement (the "**Agreement**") is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY ("PGE"** or "**Buyer**"), [INSERT LENDER], a \_\_\_\_\_ company (the "**Lender**"), and [INSERT SELLER], a \_\_\_\_\_ company (the "**Borrower**" or "**Seller**") (the "**Parties**" or each a "**Party**").

**RECITALS**

A. Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the "**Loan Agreement**"), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.

B. Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the "**PPA**" or the "**Assigned Agreement**"), a copy of which is attached as **Exhibit A**, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power" from which Seller shall sell and PGE shall purchase Net Output (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).

C. As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the "**Security Agreement**"), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other "Collateral" defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the "**Secured Obligations**"). The Loan Agreement and the Security Agreement are referred to herein as the "**Security Documents**."

**AGREEMENTS**

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower's right, title and interest in and to the Assigned Agreement.

2. Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender

shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller's rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further

assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_ If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

\_\_\_\_\_ If to Lender:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof,

or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

~~FERC Qualifying Facility Self Certification  
As-Built Operating One Line Diagram~~

~~As Built Operating 12x24 Generation Profile~~

~~As Built Average Annual Degradation Percentage (only applicable for Solar QFs)~~

## EXHIBIT E

### START-UP TESTING

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing only.]

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

1. Pressure tests of all steam system equipment;
2. Calibration of all pressure, level, flow, temperature and monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Insulation resistance and point-to-point continuity tests;
6. Bench tests of all protective devices;
7. Tests required by manufacturer of equipment; and
8. Complete pre-parallel checks with PGE.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

1. Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
2. Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Stator windings dielectric test;
7. Armature and field windings resistance tests;
8. Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
9. Heat runs;
10. Tests required by manufacturer of equipment;
11. Excitation and voltage regulation operation tests;
12. Open circuit and short circuit;
13. Saturation tests;
14. Governor system steady state stability test;
15. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
16. Auto stop/start sequence;
17. Level control system tests; and
- ~~18.~~ Completion of all state and federal environmental testing requirements.



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**EXHIBIT F**  
**SCHEDULE 201**

[Attach Schedule 201]

**EXHIBIT G**

**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**

**EXHIBIT H**

[Attach negotiated prices for Option B – Solar Standard Terms and Negotiated Price Agreement]

**EXHIBIT H – NEGOTIATED PRICES FOR OPTION B, SOLAR STANDARD TERMS AND NEGOTIATED PRICE AGREEMENT (IF APPLICABLE)**

**~~G – SCHEDULE 201~~**

PAGE 1

**SCHEDULE 201  
QUALIFYING FACILITY 10 MW or LESS  
AVOIDED COST POWER PURCHASE INFORMATION**

**I. PURPOSE**

To provide information about power purchase prices, standard contract options, and the process for obtaining a standard contract for power delivered to Portland General Electric (PGE or the Company) by a Qualifying Facility (QF) with a Facility Nameplate Capacity Ratingnameplate capacity of 10,000 kW (10 MW) or less.

**II. APPLICABLE**

To developers and owners of QFQualifying Facilities making sales, or proposing to make sales, of electricity to Portland General Electric Company (PGE or the Company) in the State of Oregon (Sellers).

**III. COMMUNICATIONS**

Sellers may call PGE's Qualifying Facility Administrator at (503) 464-7523 or email at Qualifying.Facility@pgn.com to obtain more information about being a Seller. \_

**IV. DEFINITIONS**

~~Capitalized terms not defined here have the meanings given to them in Rule B of PGE's Tariff. To the extent the definitions below are inconsistent with the definitions provided in Rule B of the Tariff, the definitions below will apply.~~

1. **Affiliated Person:** Any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller or that shares management or that acts jointly or in concert with or exercises influence over the policies or actions of Seller. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.
2. **Ancillary Services:** Any of the services identified by a Transmission Provider in its transmission tariff as "ancillary services," ~~including energy imbalance services, generation imbalance services, regulation and frequency response services, reactive supply services, voltage control services, inadvertent energy flow services, control area services, system integration services, operating spinning reserve services, and operating supplemental reserve services.~~
3. **Balancing Authority (BA):** An entity responsible for maintaining the load-interchange-generation balance within the Balancing Authority Area applicable to ~~in which~~ the FacilityQF is located.
4. **Balancing Authority Area:** The collection of generation, transmission, and loads within the metered boundaries of the BA. The BA maintains load-resource balance within this area.

- ~~5. **Bankrupt:** With respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they become due.~~
- ~~6. **Billing Period:** A calendar month, or such other period (not to exceed three months) as PGE may establish in accordance with the Standard PPA.~~
- ~~7.5. **Business Day:** Any day other than Saturday, Sunday or the following holidays: New Year's Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.~~
- ~~8. **Capacity Attributes:** Any current or future attribute, as may be currently defined or otherwise defined in the future, including but not limited to a characteristic, certificate, tag, credit, Ancillary Service or attribute thereof, or accounting construct, associated with the electric generation capability and capacity of the QF or the QF's capability and ability to produce or curtail energy, including any attribute counted towards any current or future resource adequacy or reserve requirements. Capacity Attributes do not include: (i) tax credits, deductions, or tax benefits associated with the QF, (ii) any state, federal, local, or private cash payments or grants relating in any way to the QF or the Net Output, or (iii) Environmental Attributes.~~
- ~~9.6. **Commercial Operation Date:** The date when the Facility QF is fully constructed and deemed by the Company in its reasonable judgment to be operational and reliable in accordance with the terms of the , and all other requirements pertaining to the achievement of the Commercial Operation Date described in the applicable Standard PPA have been satisfied.~~
- ~~10.7. **Community-Based QF:** A QF that satisfies the following requirements:~~
- ~~a. There isThe QF has a recognized and established organization located within the county of the Facility QF or within 50 miles of the Facility QF that (i) has a genuine role in helping the Facility QF be developed and (ii) has some not insignificant continuing role with or interest in the Facility QF after it is completed and placed in service. (Such an organization hereinafter referred to as a "sponsoring organization.")~~
  - ~~b. After excluding the passive investor(s) whose ownership interests are primarily related to green tag values and tax benefits as the primary ownership benefit, 80 percent or more of the equity (ownership) interests in the entity that owns the Facility QF are held by the following Persons: (i) the sponsoring organization or its controlled affiliates; (ii) members of the~~

sponsoring organization (if it is a membership organization) or owners of the sponsoring organization (if it is privately owned); (iii) Persons who live in the county in which the Facility is located or who live in a county adjoining the county in which the Facility is located; or (iv) units of local government, charities, or other established nonprofit organizations active either in the county in which the Facility is located or active in a county adjoining the county in which the Facility is located.

- 8. Daily Market Index Price:** The Day Ahead Intercontinental Exchange (ICE) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On Peak Power and Average Off Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>. In the event ICE no longer publishes this index, PGE and the Seller will select an alternative successor index representative of the delivery point.
- ~~**11. Delivery Point:** For Off-System QFs, the Delivery Point is the point of delivery on the Company side of the interface with the applicable Balancing Authority, where the Company and the Seller have agreed that Seller will deliver energy to the Company from the QF. For On-System QFs, the Delivery Point is the high side of the generation step-up transformer(s) located at the point of interconnection between the QF and the Company's distribution or transmission system, where the Company and the Seller have agreed for the Seller to deliver energy to the Company.~~
- 12.9. Eligibility Requirements:** The requirements that a developer or owner of a QF must demonstrate the Facility will satisfy to be eligible to enter into a Standard PPA, which are set forth in Section V.1 below.
- 13.10. Environmental Attributes:** Any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled however named, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water. Environmental Attributes include but are not limited to: or otherwise arising as a result of the generation of electricity from the QF, regardless of whether or not (i) such environmental attributes have been verified or certified, (ii) such environmental attributes are creditable under any applicable legislative or regulatory program, or (iii) such environmental attributes are recognized as of the effective date of the Standard PPA or at any time during the Term. Environmental Attributes include: (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any credit, allowance or instrument issued or issuable pursuant to a state implementation plan under the Clean Power Plan promulgated by the Environmental Protection Agency under the Clean Air Act; (3) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), and other greenhouse gasses (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (4) the reporting rights to these avoided emissions, such as the carbon content of the energy generated by the QF and REC Reporting Rights. Environmental Attributes do not include: (i) production tax credits associated with the construction or operation of the Facility and other financial



incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation; (ii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits.

- ~~11.~~ **Facility:** For purposes of this Schedule, an existing or proposed facility for generation of electricity from which the Seller proposes to sell electricity to the Company under this Schedule.
- ~~14.~~ **Existing QF:** Means a QF that (1) is or has been operational before the effective date of the Standard PPA to which it is a party, or (2) has ever sold energy or capacity to PGE or a third party before the effective date of the Standard PPA to which it is a party.
- ~~15.~~~~12.~~ **Facility Nameplate Capacity Rating:** ~~The~~ Means the sum of the Nameplate Capacity Ratings for all Generation Units ~~Generators~~ comprising the Facility.
- ~~16.~~~~13.~~ **Family-Owned QF:** A QF that satisfies the following requirement: After excluding the ownership interest of the passive investor whose ownership interests are primarily related to green tag values and tax benefits as the primary ownership benefit, either (i) five or fewer natural persons own 50 percent or more of the equity of the entity that owns the Facility, or (ii) fifteen or fewer natural persons ~~individuals~~ own 90 percent or more of the entity that owns the Facility. For purposes of this definition, the following principles apply:
- a. A "look through" rule applies to closely held entities that hold the project entity, so that equity held by LLCs, trusts, estates, corporations, partnerships or other similar entities is considered held by the equity owners of the look through entity.
  - b. In determining whether the thresholds in (i) or (ii) above have been met, spouses and children of an equity owner of the Facility ~~owner~~ who also have an equity interest are aggregated and counted as a single individual.
- ~~17.~~~~14.~~ **Firm Energy:** Energy scheduled and delivered on a firm basis to the delivery point ~~hourly~~ by an Off-System Facility ~~QF to the Delivery Point on an uninterruptible basis~~ via firm transmission rights ~~in accordance with the Transmission Agreement(s) and the Standard PPA.~~
- ~~18.~~ **Generation Unit:** Means a complete Generator: ~~The~~ electrical generation system ~~component~~ within the Facility measured in kW that is able to generate and deliver ~~converts mechanical energy or solar radiation into electrical energy.~~
- ~~19.~~~~15.~~ **Imbalance Energy:** ~~That portion of Firm Energy, measured in kWh, scheduled and delivered to the Delivery Point of Interconnection independent that was not generated by the QF but is delivered to PGE as a result of Ancillary Services provided by a Balancing Authority, Transmission Provider, or other~~ Generation Units within the same Facility. For example, for a solar facility, a Generation Unit is an inverter and the panels associated with such inverter ~~Reliability Entity.~~

- ~~20.~~ **Initial Information Request (IIR):** Form available in electronic format on: ~~A form that the Company's website (<https://www.portlandgeneral.com/business/power-choices-pricing/renewable-power/install-solar-wind-more/sell-power-Company-provides-to-pge>).~~ Sellers, which requests written information necessary for the Company to understand the QF project and prepare a draft Standard PPA. The Company may from time to time update or revise the IIR. Seller may provide information in addition to the modify its Initial Information Request as deemed advisable by the Company to obtain information specifically requested in the IIR. necessary for the Company to understand the QF project and prepare a draft Standard PPA.
- ~~21-16.~~ **Market Index Price:** The IIR (and subsequent information provided about Facility during contracting process) applicable Powerdex hourly Mid-Columbia Index price for firm energy, at the time the energy is not binding upon the Seller delivered. In the event Powerdex no longer publishes this index or PGE except to the extent such information is memorialized in ~~elects to use nodal pricing,~~ PGE will select an executed PPA. ~~alternative successor index or other published pricing representative of the Delivery Point.~~
- ~~22-17.~~ **Nameplate Capacity Rating:** The full-load electrical quantities assigned by the designer to a generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.
- ~~23-18.~~ **Net Output:** All energy, expressed in kWhs, produced by the Facility QF, less station service and other onsite uses, as measured at the Point of Interconnection.
- ~~24.~~ **New QF:** ~~Any QF that is not an Existing QF.~~
- ~~25-19.~~ **Off-System QF:** A QF whose proposed or existing Facility ~~that~~ is not directly interconnected to PGE's transmission or distribution system.
- ~~26-20.~~ **On-System QF:** A QF whose proposed or existing Facility ~~that~~ is directly interconnected to PGE's transmission or distribution system.
- ~~27-21.~~ **Oregon Renewable Portfolio Standard:** The renewable portfolio standard contemplated by ORS 469A.005 to ~~ORS~~ 469A.200, and the implementing regulations, in each case as in effect on the effective date of the executed Standard PPA ~~amended from time to time.~~
- ~~28-22.~~ **Oregon RPS-Qualified RECs:** RECs that can be used by PGE to comply with the requirements of the Oregon Renewable Portfolio Standard as set forth in ORS 469A.005 to 469A.200 and the implementing regulations.
- ~~29-23.~~ **Person(s):** Any individual, corporation, limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.
- ~~24.~~ **Point of Interconnection:** The point of interconnection between the Facility and

the interconnecting Transmission Provider or distribution system owner.

- ~~30. **Product:** Each and together, as a single bundled product, Net Output and Imbalance Energy, together with all associated Capacity Attributes and RECs transferred to the Company under the Standard PPA.~~
- ~~31-25. **Qualifying Facility (QF):** A qualifying cogeneration facility or a qualifying small power production facility or facilities within the meaning of sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 796 and 824a-3, and the Federal Energy Regulatory Commission regulations codified at 18 CFR Part 292.~~
- ~~32-26. **REC:** All Environmental Attributes and REC Reporting Rights, however commercially transferred or traded under any or other product names, such as "green tags," "Green-e Certified," or otherwise. RECs are accumulated on a MWh basis and one REC represents the Environmental Attributes and REC Reporting Rights made available by the generation of one MWh of energy by a QF, as represented by the actual Net Output on an hourly basis. RECs do not include: (i) Environmental Attributes that are greenhouse gas offsets from methane capture not associated with the generation of electricity and not needed to ensure that there are zero net emissions associated with the generation of electricity; or (ii) thermal renewable energy certificates as defined in ORS 469A.132 and the implementing regulations. All RECs transferred lessor of the final e-Tag or the actual Net Output on an hourly basis. All RECs delivered to PGE must comply with the Oregon Renewable Portfolio Standard.~~
- ~~33-27. **REC Reporting Rights:** The right of a Person to report the ownership of accumulated RECs in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at such Person's discretion, including without limitation those REC Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present federal, state, or local law, regulation or bill, and international or foreign emissions trading program.~~
- ~~34-28. **Reliability Entity:** A Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the QF or delivery of the Net OutputProduct, including the North American Electric Reliability Corporation and the Western Electricity Coordinating Council or any successor thereto.~~
- ~~35-29. **Renewable Standard PPA:** A Standard PPA that provides for the transfer of Oregon RPS-Qualified RECs to PGE during the Renewable Resource Deficiency Period.~~
- ~~36-30. **Renewable Resource Deficiency Period:** The period beginning in 2025.~~
- ~~37-31. **Renewable Resource Sufficiency Period:** The period from the current year through 2024.~~

- 38-32. Same Site:** Generating facilities are considered to be located at the same site as the QF for which qualification for a Standard PPA is sought if they are located within a five-mile radius of any generating facilities or equipment providing fuel or motive force associated with the QF for which qualification for the Standard PPA is sought.
- 39-33. Scheduled Commercial Operation Date:** The date ~~specified~~memorialized in the Standard PPA by the Seller by which Seller ~~represents~~ that commercial operation of the Ffacility will be achieved.
- a. Sellers developing a ~~New~~ QF may ~~specify~~select a Scheduled Commercial Operation Date anytime up to within three years from the date the Standard PPA is executed, or anytime later than three years after the date the Standard PPA is executed if the Seller establishes to the Company that a later Scheduled Commercial Operation Date is reasonable and necessary and the Company agrees, provided that the Company will not unreasonably withhold its consent. Seller may elect to describe the Scheduled Commercial Operation Date in the Standard PPA as a precise date or as an interval of time after the effective date of the PPA, e.g., "three years after the Effective Date."
  - b. ~~Sellers with an Existing QF seeking a new Standard PPA from PGE may select a Scheduled Commercial Operation Date anytime within one year from the date the Standard PPA is executed, or anytime later than one year after the date the Standard PPA is executed if the Seller establishes to the Company that a later Scheduled Commercial Operation Date is reasonable and necessary and the Company agrees.~~
- 40-34. Seller:** The entity selling or proposing to sell the Net Output of the FacilityQF to PGE pursuant to the terms and conditions of a Standard PPA.
- 41-35. Solar QF:** A QF ~~whose Facility will generate~~that generates energy using the sun as its motive force.
- 42-36. Standard Power Purchase Agreement (Standard PPA):** A standard pro forma Power Purchase Agreement approved by the Commission for the Company to execute with Sellers who propose to sell to the Company from a FacilityQFs meeting the Eligibility Requirements.
- 43-37. Transmission Agreement(s):** Agreement(s) between the Seller and the Transmission Provider(s) that provide(s) for ~~the long-term, firm, point-to-point~~ transmission and delivery of Firm Energy from the Facility to the Delivery Pointenergy, at no less than the Facility Nameplate Capacity Rating. The Transmission Agreement must have, from the QF to the Delivery Point for a term of at least the lesser of (i) not less than five (5) years, with renewal rights, or (ii) until the Expiration Date of the Standard PPA together with any and all other services (including Ancillary Services) required for transmission and delivery of energy to the Delivery Point, as scheduled in accordance with this Agreement.
- 44-38. Transmission Provider:** The transmission system operator(s) with whom the Seller will enter or has entered into the Transmission Agreement(s) to provide for

delivery of Firm Energy from the Facility to the delivery point.

~~45-39.~~ **Wind QF:** A QF whose Facility will generate that generates energy using wind as its motive force.

## V. ELIGIBILITY REQUIREMENTS

1. A Seller is eligible to enter into a Standard PPA if it proposes to sell from a Facility that will meet ~~the QF meets~~ the following eligibility requirements:
  - a. The Facility Nameplate Capacity Rating ~~of the QF~~, together with that of any other electric generating facility using the same motive force, owned or controlled by the same Person(s) or Affiliated Person(s), and located at the Same Site, does not exceed 10 MW. For purposes of applying this requirement, the following principles apply:
    - Two Facilities will not be held to be owned or controlled by the Same Person(s) or Affiliated Person(s) solely because they are developed by a single entity.
    - Two Community-Based QFs or Family-Owned QFs will not be held to be owned or controlled by the same Person(s) or Affiliated Person(s) if such common Person or Persons is a “passive investor” whose ownership interest in the Facility is primarily related to utilizing production tax credits, green tag values and MACRS depreciation as the primary ownership benefit and the Facilities at issue each meet the criteria for independent Family-Owned QFs or Community-Based QF projects. A unit of Oregon local government may also be a “passive investor” in a Community-Based QF project if the local governmental unit demonstrates that it will not have an equity ownership interest in or exercise any control over the management of the Facility and that its only interest is a share of the cash flow from the Facility, which share will not exceed twenty percent (20%). The twenty percent (20%) cash flow share limit may only be exceeded for good cause shown and only with the prior approval of the Commission.
  - ~~b.~~ The QF will satisfy the credit and insurance requirements set forth in the Standard PPA.
2. A developer or owner of an existing or proposed Facility that will not meet the Eligibility Requirements in Section V.1 is not eligible to enter into a Standard PPA but may seek a negotiated power purchase agreement pursuant to the terms of Schedule 202.
3. Solar QFs proposing sales from a Facility that will ~~QF projects that~~ meet the Eligibility Requirements in Section V.1 and that have Facility Nameplate Capacity Ratings (as calculated in Section V.1.a) that exceed 3 MW but do not exceed 10 MW are eligible for a Standard PPA containing prices negotiated under Schedule 202 and are ineligible for the standard pricing options described in Sections XI and XV below. All existing or proposed Facilities ~~All QF projects~~ with Facility Nameplate Capacity Ratings (as calculated in Section V.1) that exceed 10 MW are ineligible



for a Standard PPA and the standard pricing options described in Section XI and Section XV below.

4. QFs otherwise meeting the ownership requirements set forth in Section V.1 of this Schedule and eligible for a Standard PPA will not be disqualified by utilizing an interconnection or other infrastructure not providing motive force or fuel that is shared with other QFs eligible for the Standard PPA, so long as the use of the shared interconnection complies with the interconnecting utility’s safety and reliability standards, interconnection contract requirements and Prudent Electrical Practices as that term is defined in the interconnecting utility’s approved standard contract.

**VI. STANDARD PPA OPTIONS**

PGE offers eight Standard PPAs. The following chart shows the available Standard PPAs and the criteria for determining which Standard PPA applies. The term of each PPA will be specified in the PPA and will expire or terminate no more than twenty years from the Scheduled Commercial Operation Date or on the date the PPA is terminated if earlier.

Available pricing under the Standard PPAs is addressed separately in Section X below:

Form of Standard PPA	Eligible and Electing to Transfer Oregon RPS-Qualified RECs to PGE*	On-System QF	Wind QF or Solar QF
Standard On-System Non-Variable PPA	no	yes	no
Standard Off-System Non-Variable PPA	no	no	no
Standard On-System Variable PPA**	no	yes	yes
Standard Off-System Variable PPA**	no	no	yes
Renewable Standard On-System Non-Variable PPA	yes	yes	no
Renewable Standard Off-System Non-Variable PPA	yes	no	no
Renewable Standard On-System Variable PPA**	yes	yes	yes
Renewable Standard Off-System Variable PPA**	yes	no	yes

\*QFs that generate electricity from a source capable of producing Oregon RPS-Qualified RECs may elect to enter into a Renewable Standard PPA providing for the transfer of RECs to PGE but are not required to do so. Under the terms of a Renewable Standard PPA, a QF retains ownership of all RECs associated with Net Output during the Renewable Resource Sufficiency Period, and transfers to PGE all RECs associated with Net Output from the start of the Renewable Resource Deficiency Period through the remainder of the term of the Renewable Standard PPA.

~~\*\*In addition to Wind QFs or Solar QFs, QFs utilizing run of river hydro as the primary motive force are eligible for both Variable and Non-Standard Variable PPAs and the pricing corresponding to the PPA type. (If a QF utilizing run of river hydro as the primary motive force elects to receive prices identified in Tables 1(a and b) or 4(a & b), the QF must execute a Standard Non-Variable PPA.)~~—

**VII. PROCESS FOR OBTAINING A STANDARD PPA****1. Communications**

~~A Seller must initiate the~~ The QF application process ~~will be conducted by contacting PGE electronic mail and all communications by email at Qualifying.Facility@pgn.com or by calling the Company at (503) 464-7523~~ the Seller ~~should be directed to Qualifying.Facility@pgn.com~~. The Company will respond to all such communications in a timely manner. If the Company is not able to comply with a request by the Seller ~~because on the basis~~ of incomplete or missing information from the Seller, the Company will notify the Seller of the additional information it requires.

**2. Process**

a. ~~The Seller must submit a written request to the Company for a Standard PPA.~~ In order to obtain a project-specific draft Standard PPA from the Company, the Seller must provide ~~PGE with a completed IIR in electronic format as an Excel workbook. Throughout the process described below, in writing to the Company may request additional general project information, including but not included in the IIR only if such additional limited to information is necessary for sufficient to allow~~ the Company to (i) understand the existing or proposed QF project, (ii) determine whether the QF project is eligible for a Standard PPA, ~~or and~~ (iii) complete a ~~draft~~ Standard PPA.

b. ~~Upon receiving a completed IIR from the Seller, if To meet the requirements of Section VII.2.a above, Seller must complete an Initial Information Request that is available from the Company's website (<https://www.portlandgeneral.com/business/power-choices-pricing/renewable-power/install-solar-wind-more/sell-power-to-pge>) and appropriate for the type of QF for which the Seller seeks a Standard PPA. The Seller must submit the completed Initial Information Request to the Company in electronic format as an Excel workbook or in such other reasonable format as may be required by the Company.~~

~~c.b.~~ After receiving a completed Initial Information Request from the Seller, the Company may request that the Seller provide additional or clarifying information if necessary for the Company to fully understand the Seller's proposal or if necessary for the Company to complete a draft Standard PPA. If the Company requires additional or clarifying information, it will request such information from the Seller in writing within 15 business days of receiving ~~the a~~ completed ~~IIR. Initial Information Request from the Seller~~. If necessary, the Company may repeat this process until it has obtained all ~~information necessary to (i) understand the existing additional or proposed QF, (ii) determine whether the QF is eligible for a Standard PPA, and (iii) complete a Standard PPA.~~ clarifying information.

a. ~~The Company will provide all Standard PPAs to Seller in PDF format at each stage in the process and will provide redlines from prior document drafts.~~

~~d.c.~~ The Company will provide the Seller with a draft Standard PPA within 15



business days following receipt of all information in the ~~IIR Initial Information Request~~ and any additional clarifying information requested by the Company pursuant to this Schedule. The Company may re-issue a draft Standard PPA if there are any material changes to the information provided by the Seller to the Company, including, but not limited to, changes to the Facility Nameplate Capacity Rating; the applicable minimum, maximum, or ~~estimated~~ average Net Output delivered to the point of interconnection; the location; the motive force; or the Scheduled Commercial Operation Date.

~~e.d. If the Seller desires to proceed with the Standard PPA after reviewing the Company's draft Standard PPA, it must request in writing that the Company prepare a final draft Standard PPA. In connection with such request, the Seller must provide the Company with an update on the generation interconnection and transmission arrangements for the QF. After reviewing the draft Standard PPA provided by PGE, the Seller may either (i) approve the draft Standard PPA in writing without requesting any changes or modifications; or (ii) prepare a set of written comments and proposals (including, without limitation, a request for any changes or modifications to information previously provided by the Seller to the Company) or the Seller can approve the draft Standard PPA in writing without requesting any changes or modifications.~~

~~a. If the Seller desires to proceed with the draft Standard PPA without requesting any changes or modifications, it must approve the draft Standard PPA in writing and request in writing that the Company prepare a final executable Standard PPA. After receiving the Seller's written approval and request that the Company prepare a final executable Standard PPA, the Company will provide the Seller with a final executable Standard PPA with 15 business days.~~

~~f.e. If the Seller provides PGE with a set of written comments and proposals for any changes or modifications to either the draft Standard PPA or the information previously provided by the Seller to the Company, the Company will have 15 business days from the receipt of such written comments and proposals within which to: (i) request additional or clarifying information from the Seller; or (ii) provide the Seller with a revised draft Standard PPA. This process may be repeated until such time as (if the Seller submits no further has requested a material change to the prior draft Standard PPA and PGE has all of the information it requires to understand the project and prepare a revised draft Standard PPA); or (iii) provide the Seller with a final draft Standard PPA (if the Seller has not requested a material change to the prior draft Standard PPA and PGE has all of the information it requires to understand the project and prepare a final draft Standard PPA). If the Seller provides PGE with a written request for a final draft Standard PPA and does not submit any written comments or proposals to materially modify any of the terms and conditions of the previous last draft Standard PPA provided by PGE, or changes or modifications to information previously provided by the PGE will provide the Seller to the Company, and provides PGE with a written approval of the final draft Standard PPA and within 15 business days of such a written request for a final executable Standard PPA.~~

~~g. Seller must execute the final executable version of the Standard PPA within 15 business days of receipt. After reviewing the final draft Standard PPA, the Seller may either provide the Company with written comments and proposals regarding the final draft Standard PPA (including without limitation, a request for any changes or modifications to information previously provided by the Seller to the Company) or the Seller may approve the final draft Standard PPA in writing without requesting any changes. If the Seller prepares written comments and proposals the Company will respond in 15 business days to those comments and proposals. If the Seller proposes any material changes to the final draft Standard PPA and the Company accepts such changes, the Company will either: (i) request any additional or clarifying information required by the Company to understand the project proposal; or (ii) issue a revised draft Standard PPA. After receiving written approval of a final draft Standard PPA without requesting any material changes or modifications, the Company will prepare and forward to the Seller a final executable version of the Standard PPA within 15 business days.~~

~~b. Once the Seller executes the final executable version of the Standard PPA and returns all copies to the Company, the Company will execute the Standard PPA within 15 business days of receipt. Following the Company's execution, a fully executed copy will be returned to the Seller.~~

~~h.f. While a legally enforceable obligation is established once the Seller executes the final executable version of the Standard PPA, the Standard PPA itself will not be final and binding until the Standard PPA has been executed by both parties. The prices paid to the Seller will be those approved by the Commission at the time Seller executes PGE receives the final executable version of the Standard PPA executed by the Seller.~~

## VIII. INTERCONNECTION REQUIREMENTS

In addition to executing a PPA, QFs connecting directly to the Company's electrical system are required to enter into an interconnection agreement with the Company that governs the physical interconnection of the ~~Facility~~ project at its ~~Facility~~ Nameplate Capacity Rating to the Company's electrical system. QFs must contact the Company's Transmission and Reliability Services Department to arrange for interconnection. The Company's interconnection process, including required system upgrades, can take up to 36 months, depending on the complexity of the project and the length of time necessary for interconnection studies. QFs whose Facility will interconnect ~~QFs interconnecting~~ directly to transmission or distribution systems owned by entities other than the Company must contact the owner of such systems to determine the interconnection requirements and wheeling arrangements necessary to move the power to the delivery point ~~Delivery Point~~.

## ~~IX. UPGRADES FOR OFF-SYSTEM QFs~~

~~The Company will evaluate available delivery capability on the Company's system between the Delivery Point and the Company's designated sink point that is required to enable the Company to accept delivery of the QF's Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to the Company's designated sink point. If the Company determines that sufficient delivery capability exists on the Company's~~

~~transmission system, the Company will arrange, be responsible for, and make available transmission service on the Company's transmission system from the Delivery Point to the designated sink point. If the Company determines that insufficient delivery capability exists on the Company's system: (i) the Seller will be responsible for obtaining and paying for necessary studies and paying for any upgrades necessary to enable the Company to accept deliveries of Net Output from the QF and to effectuate delivery from the Delivery Point to the Company's designated sink point; or (ii) the Seller will be responsible for acquiring and paying for any necessary transmission service from third-party Transmission Providers necessary to effectuate delivery from the Delivery Point to the Company's designated sink point. If any upgrades to the Company's system are identified pursuant to part (i), the Company and the Seller shall enter into an agreement to establish the terms under which PGE shall arrange for and Seller will pay for such upgrades provided that Seller may terminate the Standard PPA if the cost of such upgrades is reasonably projected to exceed One Hundred Thousand Dollars (\$100,000). After all necessary upgrades have been completed, PGE will arrange, be responsible for, and make available transmission service from the Delivery Point to the designated sink point.~~

#### ~~X. UPGRADES FOR ON-SYSTEM QFs~~

~~Any upgrades required to enable the Company to effectuate delivery of the QF's Net Output to the Company's designated sink point will be identified and addressed in the interconnection process. Seller is responsible for paying for any identified upgrades, pursuant to Oregon Administrative Rules Chapter 860, Division 82. If an On-System QF's interconnection is not subject to OAR 860-082, then any upgrades necessary for delivery will be identified and assessed to the Seller through a separate process similar to the process described in Section IX.~~

#### ~~XI.IX. PRICING OPTIONS~~

The Company offers two categories of pricing options for QFs: (1) Non-Renewable Fixed Price Options, which are available to all QFs meeting the Eligibility Requirements and not entering into a Renewable Standard PPA except for Solar QFs sized at more than 3 MW (calculated as described in Section V above); and (2) Renewable Fixed Price Options, which are available to QFs meeting the Eligibility Requirements that are eligible and elect to enter into a Renewable Standard PPA except for Solar QFs sized at more than 3 MW (calculated as described in Section V above). (See Section VI above for a description of eligibility requirements to enter into Renewable Standard PPAs.) Prices will be those in effect at the time the Seller delivers to PGE a signed Standard PPA that is in final executable form pursuant to the procedures described in Article VII above. Additional details about pricing options are provided below.

##### **1. Non-Renewable Fixed Price Options**

Non-Renewable Fixed Price Options are available to all QFs meeting the Eligibility Requirements and that are ineligible for, or do not elect to enter into, a Renewable Standard PPA, provided that, Solar QFs sized at more than 3 MW (calculated as described in Section V above) are ineligible to receive the Non-Renewable Fixed Price Option and are required to negotiate prices pursuant to the terms of Schedule 202. This fixed price option is available for a maximum period of 15 years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date. Prices will be equal to the Non-Renewable prices in

Tables 1a and 1b, 2a and 2b, or 3a and ~~3b3e~~, depending on the type of QF.

If the QF is an Off-System Wind QF, the Seller is paid the wind integration costs in Table 7, in addition to the prices listed in Tables 2a and 2b.

A Seller with a PPA term that expires or is terminated more than 15 years from the earlier of Commercial Operation Date or Scheduled Commercial Operation Date will receive pricing equal to the Daily Market Index Price based on the interval that the energy is generated and delivered for the remainder of the term after the 15-year fixed price option period expires.

**2. Renewable Fixed Price Options**

Renewable Fixed Price Options are available to QFs that meet the Eligibility Requirements and that are eligible for and elect to enter into a Renewable Standard PPA; provided that, Solar QFs sized at more than 3 MW (calculated as described in Section V above) are ineligible to receive the Renewable Fixed Price Option and are required to negotiate prices pursuant to the terms of Schedule 202. These fixed price options are available for a maximum period of 15 years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date.

If the QF is an Off-System Wind QF, the Seller is paid the wind integration costs in Table 7, in addition to the prices listed in Tables 5a and 5b.

A Seller with a PPA term that expires or is terminated more than 15 years from the earlier of the Commercial Operation Date or Scheduled Commercial Operation Date will receive pricing equal to the Daily Market Index Price based on the interval the energy is generated for the remainder of the term after the 15-year fixed price option period expires.

**3. Pricing Tables**

The prices paid to QFs under a Standard PPA are set forth in the tables provided in Section XV. The chart provided below describes which QFs are eligible for the available pricing options.

<b>PRICING TABLES</b>	<b>ELIGIBLE QFs (in all cases must be eligible for a Standard PPA)</b>
Tables 1a, 1b: Non-Renewable Fixed Price Option for QF that is neither Wind QF nor Solar QF	All QFs, other than Wind QFs and Solar QFs, that are either ineligible for or elect not to enter into a Renewable Standard PPA.
Tables 2a, 2b: Non-Renewable Fixed Price Option for Wind QF	All Wind QFs that elect not to enter into a Renewable Standard PPA.
Tables 3a, 3b: Non-Renewable Fixed Price Option for Solar QF	All Solar QFs sized at or below 3 MW (calculated as described in Section V above) that elect not to enter into a Renewable Standard PPA.

Tables 4a, 4b: Renewable Fixed Price Option for QF that is neither Wind QF nor Solar QF	All QFs, other than Wind QFs and Solar QFs, that are eligible for and elect to enter into a Renewable Standard PPA.
Tables 5a, 5b: Renewable Fixed Price Option for Wind QF	Wind QFs that are eligible for and elect to enter into a Renewable Standard PPA.
Tables 6a, 6b: Renewable Fixed Price Option for Solar QF	Solar QFs sized at or below 3 MW (calculated as described in Section V above) that are eligible for and elect to enter into a Renewable Standard PPA.
Table 7: Wind Integration Costs	Wind QFs not directly interconnected to PGE's transmission or distribution system.

**XII-X. MONTHLY SERVICE CHARGE**

Each separately metered QF not associated with a retail customer account will be charged the basic meter charge set forth in Schedule 300 of PGE's Retail Tariff.

**XIII. DISPUTE RESOLUTION**

~~In the event that any dispute arises between the Company and the owner of a QF in connection with the provisions of this Schedule, the Company and the owner of the QF will promptly meet and use all reasonable efforts to negotiate in good faith a resolution to the matter. If the Company and the owner of the QF cannot resolve the dispute within five business days after the dispute arose, then either party may file a complaint asking the Commission to adjudicate the dispute. Disputes arising in connection with an executed Standard PPA will be resolved in accordance with the terms of the Standard PPA.~~

**XIV-XI. SPECIAL CONDITIONS**

1. Delivery of energy by Seller will be at a voltage, phase, frequency, and power factor as specified by the Company.
2. If the Seller also receives retail Electricity Service from the Company at the same location, any payments under this schedule will be credited to the Seller's retail Electricity Service bill. At the option of the Customer, any net credit over \$10.00 will be paid by check to the Customer.
3. Unless required by state or federal law, if the Public Utility Regulatory Policies Act of 1978 (PURPA) is repealed, PPAs entered into pursuant to this schedule will not terminate prior to the Standard PPA's termination date.

**XV-XII. PRICING OPTIONS**

The following tables set forth the pricing approved by the Commission for use in the Standard PPAs. The following tables will not apply to Solar QFs with a Facility Nameplate Capacity Rating (calculated as described in Section V above) exceeding 3 MW.

For purposes of the following tables, "On-Peak Hours" are defined as 6:00 a.m. to 10:00 p.m. Pacific Prevailing Time Monday through Saturday, excluding NERC holidays, and

“Off-Peak Hours” are all hours other than On-Peak Hours. ~~These time periods will begin and end one hour later for the period between the second Sunday in March and the first Sunday in April and for the period between the last Sunday in October and the first Sunday in November.~~

Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
**Non-Renewable Fixed Price Option**

Table 1a

TABLE 1a												
Avoided Costs												
Non-Renewable Fixed Price Option for QFs that are neither Wind QFs nor Solar QFs												
On-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018					15.25	17.28	29.26	34.87	30.79	24.93	24.93	31.05
2019	27.84	26.24	21.48	18.19	17.76	18.19	29.34	32.67	30.37	24.48	26.41	30.78
2020	31.72	30.00	24.32	19.61	18.98	19.91	30.66	35.05	31.96	27.38	29.43	34.92
2021	53.16	53.01	52.61	50.38	50.26	50.41	50.57	50.64	50.61	50.78	51.95	52.88
2022	54.48	54.34	53.95	51.85	51.74	51.90	52.08	52.20	52.21	52.38	53.73	54.66
2023	56.37	56.22	55.84	53.95	53.82	53.99	54.16	54.32	54.33	54.50	55.07	56.02
2024	57.14	57.22	57.27	56.39	56.47	56.55	56.63	56.70	56.79	56.86	57.95	58.04
2025	59.42	59.50	59.22	58.30	58.35	58.38	58.47	58.55	58.64	58.76	59.85	59.94
2026	61.26	61.34	60.96	59.99	60.00	60.09	60.18	60.28	60.36	60.45	61.62	61.71
2027	63.05	63.15	63.21	62.23	62.32	62.42	62.51	62.61	62.71	62.81	64.05	64.15
2028	65.50	65.60	65.71	64.78	64.88	64.99	65.09	65.20	65.31	65.57	66.73	66.84
2029	68.38	68.50	68.61	67.74	67.99	68.31	68.43	68.55	68.68	68.83	70.20	70.32
2030	72.05	73.56	73.70	72.63	72.78	72.93	73.06	73.21	73.35	73.60	75.04	75.19
2031	76.89	77.04	77.19	75.90	76.04	76.20	76.35	76.51	76.67	76.89	78.46	78.63
2032	80.15	80.31	80.32	78.82	78.98	79.15	79.31	79.49	79.65	79.83	81.57	81.74
2033	83.87	84.06	83.65	82.24	82.40	82.36	82.54	82.72	82.89	83.08	84.89	85.08
2034	87.14	87.33	85.15	83.71	83.90	83.97	84.15	84.33	84.53	84.70	86.54	86.74
2035	88.57	88.77	86.55	84.34	84.53	83.66	83.83	84.01	84.17	84.53	86.09	86.28
2036	90.60	90.80	88.52	86.23	86.42	85.54	85.71	85.89	86.07	86.41	88.05	88.24
2037	92.98	93.19	90.82	88.49	88.67	87.76	87.94	88.13	88.31	88.67	90.35	90.55
2038	95.27	95.48	93.05	90.63	90.82	89.89	90.08	90.27	90.45	90.83	92.55	92.76
2039	97.63	97.85	95.34	92.86	93.04	92.07	92.26	92.46	92.67	93.04	94.82	95.04
2040	100.01	100.24	97.64	95.08	95.29	94.29	94.50	94.68	94.89	95.29	97.13	97.33
2041	102.51	102.74	100.07	97.43	97.64	96.62	96.81	97.02	97.24	97.64	99.54	99.75
2042	105.06	105.30	102.54	99.81	100.03	98.97	99.17	99.40	99.63	100.03	101.97	102.21
2043	107.67	107.92	105.08	102.27	102.48	101.39	101.60	101.84	102.07	102.48	104.49	104.74



Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
**Non-Renewable Fixed Price Option**

Table 1b

TABLE 1b												
Avoided Costs												
Non-Renewable Fixed Price Option for QFs that are neither Wind QFs nor Solar QFs												
On-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018					6.58	6.58	15.91	23.91	24.42	21.36	21.36	25.69
2019	23.34	22.68	18.07	11.66	9.45	8.57	18.77	23.21	23.64	21.48	22.60	26.12
2020	25.48	25.68	20.14	14.07	10.90	10.53	19.99	26.14	26.63	24.34	25.96	30.65
2021	23.55	23.41	23.01	20.77	20.65	20.80	20.97	21.03	21.00	21.17	22.35	23.27
2022	24.28	24.14	23.76	21.65	21.54	21.70	21.88	22.00	22.01	22.18	23.53	24.47
2023	25.47	25.32	24.94	23.05	22.92	23.09	23.26	23.42	23.43	23.60	24.16	25.12
2024	25.82	25.91	25.95	25.07	25.15	25.23	25.31	25.39	25.47	25.55	26.64	26.72
2025	27.37	27.46	27.18	26.26	26.30	26.33	26.42	26.51	26.59	26.71	27.80	27.89
2026	28.57	28.66	28.27	27.30	27.31	27.40	27.49	27.59	27.68	27.77	28.93	29.02
2027	29.71	29.81	29.87	28.89	28.98	29.08	29.17	29.27	29.37	29.47	30.71	30.81
2028	31.50	31.60	31.70	30.77	30.88	30.98	31.08	31.20	31.30	31.56	32.72	32.84
2029	33.70	33.82	33.92	33.06	33.30	33.63	33.74	33.86	33.99	34.14	35.51	35.64
2030	36.67	38.19	38.32	37.26	37.40	37.55	37.69	37.83	37.97	38.22	39.67	39.81
2031	40.80	40.95	41.11	39.82	39.95	40.11	40.27	40.43	40.59	40.80	42.37	42.54
2032	43.58	43.74	43.75	42.25	42.41	42.57	42.73	42.92	43.08	43.26	44.99	45.17
2033	46.33	46.52	46.11	44.69	44.86	44.82	45.00	45.17	45.35	45.54	47.35	47.54
2034	48.72	48.91	46.73	45.30	45.48	45.56	45.74	45.92	46.11	46.28	48.13	48.32
2035	49.51	49.71	47.50	45.28	45.47	44.60	44.77	44.96	45.11	45.47	47.04	47.22
2036	50.89	51.09	48.81	46.52	46.71	45.83	46.00	46.17	46.36	46.70	48.34	48.53
2037	52.35	52.56	50.19	47.86	48.03	47.13	47.31	47.50	47.68	48.03	49.72	49.91
2038	53.83	54.04	51.61	49.19	49.37	48.45	48.63	48.82	49.01	49.38	51.10	51.31
2039	55.36	55.57	53.06	50.58	50.77	49.80	49.98	50.18	50.40	50.77	52.55	52.76
2040	56.89	57.12	54.52	51.96	52.18	51.17	51.38	51.56	51.77	52.18	54.01	54.21
2041	58.52	58.76	56.09	53.45	53.66	52.64	52.83	53.04	53.26	53.66	55.56	55.77
2042	60.20	60.44	57.68	54.95	55.17	54.11	54.31	54.54	54.76	55.17	57.11	57.35
2043	61.91	62.16	59.32	56.51	56.73	55.63	55.85	56.08	56.31	56.73	58.73	58.98

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PRICING OPTIONS FOR STANDARD PPA  
**Non-Renewable Fixed Price Option**

Table 2a

TABLE 2a												
Avoided Costs												
Non-Renewable Fixed Price Option for Wind QF												
On-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018					14.38	16.41	28.39	34.00	29.92	24.06	24.06	30.18
2019	26.96	25.36	20.60	17.31	16.88	17.31	28.46	31.79	29.49	23.60	25.53	29.90
2020	30.82	29.10	23.42	18.71	18.08	19.01	29.76	34.15	31.06	26.48	28.53	34.02
2021	35.34	35.20	34.80	32.56	32.44	32.60	32.76	32.83	32.79	32.96	34.14	35.06
2022	36.31	36.16	35.78	33.68	33.57	33.73	33.91	34.03	34.03	34.21	35.56	36.49
2023	37.78	37.63	37.25	35.36	35.23	35.40	35.57	35.72	35.74	35.91	36.47	37.43
2024	38.29	38.37	38.42	37.54	37.62	37.70	37.78	37.85	37.94	38.01	39.10	39.19
2025	40.13	40.22	39.94	39.02	39.06	39.09	39.18	39.27	39.35	39.47	40.56	40.65
2026	41.59	41.67	41.29	40.32	40.33	40.42	40.51	40.61	40.69	40.78	41.95	42.04
2027	42.99	43.09	43.14	42.16	42.25	42.36	42.45	42.55	42.65	42.75	43.99	44.09
2028	45.04	45.14	45.24	44.32	44.42	44.52	44.63	44.74	44.84	45.11	46.26	46.38
2029	47.51	47.63	47.73	46.87	47.11	47.44	47.56	47.68	47.80	47.96	49.32	49.45
2030	50.76	52.28	52.41	51.35	51.49	51.65	51.78	51.92	52.06	52.31	53.76	53.90
2031	55.18	55.33	55.48	54.19	54.33	54.49	54.64	54.80	54.96	55.18	56.75	56.92
2032	58.14	58.30	58.32	56.82	56.98	57.14	57.30	57.49	57.65	57.82	59.56	59.73
2033	61.28	61.47	61.06	59.64	59.81	59.77	59.95	60.13	60.30	60.49	62.30	62.49
2034	64.03	64.22	62.04	60.61	60.79	60.86	61.04	61.23	61.42	61.59	63.43	63.63
2035	65.07	65.27	63.06	60.85	61.03	60.16	60.33	60.52	60.68	61.03	62.60	62.78
2036	66.70	66.90	64.62	62.34	62.52	61.64	61.81	61.99	62.17	62.51	64.15	64.34
2037	68.54	68.74	66.37	64.05	64.22	63.32	63.50	63.69	63.87	64.22	65.91	66.10
2038	70.34	70.54	68.11	65.70	65.88	64.95	65.14	65.33	65.51	65.89	67.61	67.82
2039	72.20	72.41	69.91	67.43	67.61	66.64	66.83	67.03	67.24	67.61	69.39	69.61
2040	74.06	74.29	71.69	69.13	69.35	68.35	68.55	68.74	68.94	69.35	71.18	71.39
2041	76.04	76.28	73.61	70.97	71.18	70.15	70.35	70.55	70.78	71.18	73.07	73.28
2042	78.07	78.31	75.56	72.82	73.05	71.99	72.18	72.41	72.64	73.05	74.98	75.23
2043	80.14	80.39	77.55	74.74	74.96	73.86	74.08	74.31	74.54	74.96	76.96	77.21

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PRICING OPTIONS FOR STANDARD PPA  
Non-Renewable Fixed Price Option

Table 2b

TABLE 2b												
Avoided Costs												
Non-Renewable Fixed Price Option for Wind QF												
Off-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018					5.71	5.71	15.04	23.04	23.55	20.49	20.49	24.82
2019	22.46	21.80	17.19	10.78	8.57	7.69	17.89	22.33	22.76	20.60	21.72	25.24
2020	24.58	24.78	19.24	13.17	10.00	9.63	19.09	25.24	25.73	23.44	25.06	29.75
2021	22.63	22.49	22.09	19.85	19.73	19.88	20.05	20.11	20.08	20.25	21.43	22.35
2022	23.34	23.20	22.82	20.71	20.60	20.76	20.94	21.06	21.07	21.24	22.59	23.53
2023	24.51	24.36	23.98	22.09	21.96	22.13	22.30	22.46	22.47	22.64	23.20	24.16
2024	24.84	24.93	24.97	24.09	24.17	24.25	24.33	24.41	24.49	24.57	25.66	25.74
2025	26.37	26.46	26.18	25.26	25.30	25.33	25.42	25.51	25.59	25.71	26.80	26.89
2026	27.55	27.64	27.25	26.28	26.29	26.38	26.47	26.57	26.66	26.75	27.91	28.00
2027	28.67	28.77	28.83	27.85	27.94	28.04	28.13	28.23	28.33	28.43	29.67	29.77
2028	30.44	30.54	30.64	29.71	29.82	29.92	30.02	30.14	30.24	30.50	31.66	31.78
2029	32.62	32.74	32.84	31.98	32.22	32.55	32.66	32.78	32.91	33.06	34.43	34.56
2030	35.57	37.09	37.22	36.16	36.30	36.45	36.59	36.73	36.87	37.12	38.57	38.71
2031	39.68	39.83	39.99	38.70	38.83	38.99	39.15	39.31	39.47	39.68	41.25	41.42
2032	42.44	42.60	42.61	41.11	41.27	41.43	41.59	41.78	41.94	42.12	43.85	44.03
2033	45.16	45.35	44.94	43.52	43.69	43.65	43.83	44.00	44.18	44.37	46.18	46.37
2034	47.53	47.72	45.54	44.11	44.29	44.37	44.55	44.73	44.92	45.09	46.94	47.13
2035	48.30	48.50	46.29	44.07	44.26	43.39	43.56	43.75	43.90	44.26	45.83	46.01
2036	49.65	49.85	47.57	45.28	45.47	44.59	44.76	44.93	45.12	45.46	47.10	47.29
2037	51.09	51.30	48.93	46.60	46.77	45.87	46.05	46.24	46.42	46.77	48.46	48.65
2038	52.54	52.75	50.32	47.90	48.08	47.16	47.34	47.53	47.72	48.09	49.81	50.02
2039	54.05	54.26	51.75	49.27	49.46	48.49	48.67	48.87	49.09	49.46	51.24	51.45
2040	55.55	55.78	53.18	50.62	50.84	49.83	50.04	50.22	50.43	50.84	52.67	52.87
2041	57.15	57.39	54.72	52.08	52.29	51.27	51.46	51.67	51.89	52.29	54.19	54.40
2042	58.81	59.05	56.29	53.56	53.78	52.72	52.92	53.15	53.37	53.78	55.72	55.96
2043	60.49	60.74	57.90	55.09	55.31	54.21	54.43	54.66	54.89	55.31	57.31	57.56

Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
**Non-Renewable Fixed Price Option**

Table 3a

TABLE 3a												
Avoided Costs												
Non-Renewable Fixed Price Option for Solar QF (less than or equal to 3MW)												
On-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018					15.25	17.28	29.26	34.87	30.79	24.93	24.93	31.05
2019	27.84	26.24	21.48	18.19	17.76	18.19	29.34	32.67	30.37	24.48	26.41	30.78
2020	31.72	30.00	24.32	19.61	18.98	19.91	30.66	35.05	31.96	27.38	29.43	34.92
2021	34.38	34.23	33.83	31.60	31.48	31.63	31.79	31.86	31.83	32.00	33.17	34.09
2022	35.32	35.18	34.80	32.69	32.58	32.75	32.92	33.04	33.05	33.22	34.57	35.51
2023	36.77	36.62	36.24	34.35	34.22	34.39	34.56	34.71	34.73	34.90	35.46	36.42
2024	37.27	37.36	37.40	36.52	36.61	36.68	36.76	36.84	36.92	37.00	38.09	38.17
2025	39.09	39.18	38.89	37.98	38.02	38.05	38.14	38.22	38.31	38.43	39.52	39.61
2026	40.52	40.61	40.22	39.26	39.27	39.35	39.44	39.54	39.63	39.72	40.89	40.97
2027	41.90	42.00	42.06	41.08	41.17	41.27	41.36	41.46	41.56	41.66	42.90	43.00
2028	43.93	44.03	44.14	43.21	43.31	43.41	43.52	43.63	43.74	44.00	45.16	45.27
2029	46.38	46.50	46.60	45.74	45.98	46.31	46.43	46.54	46.67	46.83	48.19	48.32
2030	49.61	51.12	51.25	50.19	50.34	50.49	50.62	50.76	50.91	51.16	52.60	52.74
2031	54.00	54.14	54.30	53.01	53.15	53.31	53.46	53.62	53.78	54.00	55.57	55.74
2032	56.95	57.11	57.13	55.62	55.78	55.95	56.11	56.29	56.46	56.63	58.37	58.54
2033	60.05	60.24	59.84	58.42	58.59	58.55	58.73	58.90	59.08	59.27	61.08	61.27
2034	62.77	62.96	60.78	59.35	59.53	59.60	59.79	59.97	60.16	60.33	62.17	62.37
2035	63.79	63.99	61.78	59.57	59.75	58.88	59.05	59.24	59.40	59.75	61.32	61.50
2036	65.41	65.61	63.33	61.04	61.23	60.35	60.52	60.70	60.88	61.22	62.86	63.05
2037	67.21	67.41	65.04	62.71	62.89	61.99	62.17	62.36	62.54	62.89	64.58	64.77
2038	68.98	69.19	66.76	64.34	64.52	63.60	63.78	63.98	64.16	64.54	66.26	66.47
2039	70.82	71.03	68.52	66.04	66.23	65.26	65.44	65.64	65.85	66.23	68.01	68.22
2040	72.65	72.89	70.28	67.72	67.94	66.94	67.14	67.33	67.54	67.94	69.77	69.98
2041	74.61	74.84	72.17	69.53	69.74	68.72	68.91	69.12	69.34	69.74	71.64	71.85
2042	76.60	76.84	74.09	71.35	71.58	70.52	70.71	70.94	71.17	71.58	73.51	73.76
2043	78.64	78.89	76.05	73.24	73.46	72.36	72.58	72.81	73.04	73.46	75.46	75.71

Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
**Non-Renewable Fixed Price Option**

Table 3b

TABLE 3b												
Avoided Costs												
Non-Renewable Fixed Price Option for Solar QF (less than or equal to 3 MW)												
Off-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018					6.58	6.58	15.91	23.91	24.42	21.36	21.36	25.69
2019	23.34	22.68	18.07	11.66	9.45	8.57	18.77	23.21	23.64	21.48	22.60	26.12
2020	25.48	25.68	20.14	14.07	10.90	10.53	19.99	26.14	26.63	24.34	25.96	30.65
2021	23.55	23.41	23.01	20.77	20.65	20.80	20.97	21.03	21.00	21.17	22.35	23.27
2022	24.28	24.14	23.76	21.65	21.54	21.70	21.88	22.00	22.01	22.18	23.53	24.47
2023	25.47	25.32	24.94	23.05	22.92	23.09	23.26	23.42	23.43	23.60	24.16	25.12
2024	25.82	25.91	25.95	25.07	25.15	25.23	25.31	25.39	25.47	25.55	26.64	26.72
2025	27.37	27.46	27.18	26.26	26.30	26.33	26.42	26.51	26.59	26.71	27.80	27.89
2026	28.57	28.66	28.27	27.30	27.31	27.40	27.49	27.59	27.68	27.77	28.93	29.02
2027	29.71	29.81	29.87	28.89	28.98	29.08	29.17	29.27	29.37	29.47	30.71	30.81
2028	31.50	31.60	31.70	30.77	30.88	30.98	31.08	31.20	31.30	31.56	32.72	32.84
2029	33.70	33.82	33.92	33.06	33.30	33.63	33.74	33.86	33.99	34.14	35.51	35.64
2030	36.67	38.19	38.32	37.26	37.40	37.55	37.69	37.83	37.97	38.22	39.67	39.81
2031	40.80	40.95	41.11	39.82	39.95	40.11	40.27	40.43	40.59	40.80	42.37	42.54
2032	43.58	43.74	43.75	42.25	42.41	42.57	42.73	42.92	43.08	43.26	44.99	45.17
2033	46.33	46.52	46.11	44.69	44.86	44.82	45.00	45.17	45.35	45.54	47.35	47.54
2034	48.72	48.91	46.73	45.30	45.48	45.56	45.74	45.92	46.11	46.28	48.13	48.32
2035	49.51	49.71	47.50	45.28	45.47	44.60	44.77	44.96	45.11	45.47	47.04	47.22
2036	50.89	51.09	48.81	46.52	46.71	45.83	46.00	46.17	46.36	46.70	48.34	48.53
2037	52.35	52.56	50.19	47.86	48.03	47.13	47.31	47.50	47.68	48.03	49.72	49.91
2038	53.83	54.04	51.61	49.19	49.37	48.45	48.63	48.82	49.01	49.38	51.10	51.31
2039	55.36	55.57	53.06	50.58	50.77	49.80	49.98	50.18	50.40	50.77	52.55	52.76
2040	56.89	57.12	54.52	51.96	52.18	51.17	51.38	51.56	51.77	52.18	54.01	54.21
2041	58.52	58.76	56.09	53.45	53.66	52.64	52.83	53.04	53.26	53.66	55.56	55.77
2042	60.20	60.44	57.68	54.95	55.17	54.11	54.31	54.54	54.76	55.17	57.11	57.35
2043	61.91	62.16	59.32	56.51	56.73	55.63	55.85	56.08	56.31	56.73	58.73	58.98

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PRICING OPTIONS FOR STANDARD PPA  
Renewable Fixed Price Option

Table 4a

TABLE 4a												
Renewable Avoided Costs												
Renewable Fixed Price Option for QFs that are neither Wind QFs nor Solar QFs												
On-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018					15.25	17.28	29.26	34.87	30.79	24.93	24.93	31.05
2019	27.84	26.24	21.48	18.19	17.76	18.19	29.34	32.67	30.37	24.48	26.41	30.78
2020	31.72	30.00	24.32	19.61	18.98	19.91	30.66	35.05	31.96	27.38	29.43	34.92
2021	35.25	33.33	26.96	21.68	20.97	22.02	34.07	38.99	35.53	30.39	32.69	38.84
2022	37.42	35.37	28.60	22.99	22.23	23.34	36.16	41.39	37.71	32.25	34.69	41.23
2023	37.44	35.39	28.62	23.01	22.25	23.36	36.18	41.41	37.73	32.26	34.71	41.25
2024	33.46	31.46	29.68	24.29	21.51	14.47	26.46	29.70	32.48	32.50	33.08	34.88
2025	109.78	104.72	100.19	86.52	79.49	61.62	92.04	100.26	107.30	107.36	108.82	113.41
2026	111.98	106.82	102.20	88.25	81.08	62.85	93.88	102.27	109.44	109.51	111.00	115.68
2027	114.22	108.95	104.24	90.01	82.70	64.11	95.75	104.31	111.63	111.70	113.22	117.99
2028	116.27	110.92	106.12	91.65	84.21	65.30	97.49	106.20	113.64	113.71	115.26	120.11
2029	118.83	113.35	108.45	93.65	86.04	66.70	99.62	108.52	116.14	116.20	117.79	122.75
2030	121.20	115.61	110.61	95.52	87.76	68.03	101.61	110.69	118.46	118.53	120.14	125.20
2031	123.62	117.92	112.82	97.43	89.51	69.39	103.64	112.90	120.83	120.90	122.54	127.71
2032	125.62	119.82	114.63	98.97	90.92	70.45	105.29	114.71	122.77	122.84	124.52	129.77
2033	128.61	122.69	117.38	101.36	93.12	72.19	107.82	117.46	125.70	125.78	127.49	132.86
2034	131.31	125.26	119.85	103.51	95.11	73.75	110.10	119.93	128.34	128.41	130.16	135.64
2035	133.81	127.64	122.12	105.45	96.88	75.10	112.18	122.20	130.78	130.85	132.64	138.22
2036	136.09	129.81	124.20	107.25	98.53	76.38	114.09	124.28	133.01	133.09	134.90	140.58
2037	139.21	132.79	127.05	109.71	100.80	78.14	116.70	127.13	136.06	136.14	137.99	143.80
2038	141.99	135.44	129.59	111.90	102.81	79.70	119.04	129.68	138.78	138.86	140.75	146.68
2039	144.83	138.15	132.18	114.14	104.86	81.29	121.41	132.27	141.55	141.63	143.56	149.61
2040	147.44	140.64	134.57	116.22	106.79	82.81	123.62	134.66	144.10	144.18	146.15	152.30
2041	150.67	143.73	137.51	118.75	109.10	84.57	126.32	137.61	147.26	147.35	149.36	155.65
2042	153.68	146.60	140.26	121.12	111.28	86.26	128.84	140.36	150.21	150.29	152.34	158.76
2043	156.76	149.53	143.06	123.54	113.50	87.99	131.42	143.16	153.21	153.30	155.38	161.93

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PRICING OPTIONS FOR STANDARD PPA  
Renewable Fixed Price Option

Table 4b

TABLE 4b												
Renewable Avoided Costs												
Renewable Fixed Price Option for QFs that are neither Wind QFs nor Solar QFs												
Off-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018					6.58	6.58	15.91	23.91	24.42	21.36	21.36	25.69
2019	23.34	22.68	18.07	11.66	9.45	8.57	18.77	23.21	23.64	21.48	22.60	26.12
2020	25.48	25.68	20.14	14.07	10.90	10.53	19.99	26.14	26.63	24.34	25.96	30.65
2021	29.15	29.38	22.96	15.91	12.23	11.81	22.79	29.92	30.49	27.83	29.70	35.15
2022	31.09	31.33	24.47	16.93	13.00	12.55	24.28	31.91	32.52	29.67	31.68	37.50
2023	31.41	31.65	24.71	17.09	13.12	12.66	24.53	32.24	32.85	29.98	32.00	37.89
2024	29.94	27.68	27.33	23.19	20.10	12.65	23.44	27.06	29.10	29.67	31.04	32.02
2025	68.81	63.08	62.21	51.70	43.86	24.97	52.32	61.52	66.70	68.13	71.61	74.10
2026	70.19	64.34	63.45	52.73	44.74	25.47	53.37	62.75	68.03	69.49	73.04	75.58
2027	71.59	65.63	64.72	53.78	45.63	25.97	54.44	64.01	69.39	70.88	74.50	77.09
2028	72.82	66.76	65.83	54.71	46.42	26.42	55.37	65.11	70.58	72.10	75.78	78.41
2029	74.48	68.28	67.33	55.95	47.47	27.02	56.63	66.59	72.19	73.74	77.50	80.20
2030	75.97	69.64	68.68	57.07	48.42	27.56	57.77	67.92	73.63	75.22	79.05	81.80
2031	77.49	71.03	70.05	58.21	49.39	28.11	58.92	69.28	75.10	76.72	80.63	83.44
2032	78.82	72.25	71.26	59.21	50.24	28.60	59.93	70.47	76.40	78.04	82.02	84.87
2033	80.61	73.90	72.88	60.56	51.38	29.25	61.30	72.08	78.14	79.82	83.89	86.80
2034	82.23	75.38	74.33	61.77	52.41	29.83	62.52	73.52	79.70	81.41	85.56	88.54
2035	83.87	76.88	75.82	63.01	53.46	30.43	63.77	74.99	81.29	83.04	87.27	90.31
2036	85.31	78.21	77.12	64.09	54.38	30.95	64.87	76.28	82.69	84.47	88.77	91.86
2037	87.25	79.99	78.88	65.55	55.62	31.66	66.35	78.01	84.57	86.39	90.80	93.95
2038	89.00	81.59	80.46	66.86	56.73	32.29	67.67	79.57	86.26	88.12	92.61	95.83
2039	90.78	83.22	82.07	68.20	57.86	32.94	69.03	81.16	87.99	89.88	94.46	97.75
2040	92.34	84.65	83.48	69.37	58.86	33.50	70.21	82.56	89.50	91.43	96.09	99.43
2041	94.44	86.57	85.38	70.95	60.20	34.27	71.81	84.44	91.54	93.51	98.28	101.69
2042	96.33	88.31	87.08	72.37	61.40	34.95	73.25	86.13	93.37	95.38	100.24	103.73
2043	98.25	90.07	88.83	73.81	62.63	35.65	74.71	87.85	95.23	97.28	102.24	105.80



Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
Renewable Fixed Price Option

Table 5a

TABLE 5a												
Renewable Avoided Costs												
Renewable Fixed Price Option for Wind QF												
On-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018					14.38	16.41	28.39	34.00	29.92	24.06	24.06	30.18
2019	26.96	25.36	20.60	17.31	16.88	17.31	28.46	31.79	29.49	23.60	25.53	29.90
2020	30.82	29.10	23.42	18.71	18.08	19.01	29.76	34.15	31.06	26.48	28.53	34.02
2021	34.33	32.41	26.04	20.76	20.05	21.10	33.15	38.07	34.61	29.47	31.77	37.92
2022	36.48	34.43	27.66	22.05	21.29	22.40	35.22	40.45	36.77	31.31	33.75	40.29
2023	36.48	34.43	27.66	22.05	21.29	22.40	35.22	40.45	36.77	31.30	33.75	40.29
2024	32.48	30.48	28.70	23.31	20.53	13.49	25.48	28.72	31.50	31.52	32.10	33.90
2025	90.50	85.44	80.91	67.24	60.21	42.34	72.75	80.98	88.01	88.08	89.54	94.12
2026	92.31	87.15	82.53	68.58	61.41	43.18	74.21	82.60	89.77	89.84	91.33	96.01
2027	94.15	88.89	84.18	69.95	62.64	44.04	75.69	84.25	91.57	91.63	93.15	97.92
2028	95.81	90.45	85.66	71.19	63.75	44.84	77.03	85.73	93.18	93.25	94.79	99.65
2029	97.96	92.48	87.58	72.78	65.17	45.82	78.75	87.65	95.27	95.33	96.92	101.88
2030	99.91	94.33	89.33	74.23	66.47	46.74	80.32	89.40	97.17	97.24	98.85	103.92
2031	101.91	96.21	91.11	75.72	67.80	47.68	81.93	91.19	99.12	99.18	100.83	106.00
2032	103.61	97.81	92.62	76.96	68.91	48.44	83.28	92.70	100.76	100.83	102.51	107.76
2033	106.02	100.09	94.79	78.77	70.53	49.60	85.23	94.87	103.11	103.18	104.90	110.27
2034	108.20	102.15	96.74	80.40	72.00	50.65	86.99	96.82	105.23	105.30	107.05	112.53
2035	110.31	104.14	98.62	81.96	73.39	51.61	88.68	98.71	107.28	107.36	109.14	114.73
2036	112.19	105.92	100.30	83.35	74.63	52.48	90.19	100.39	109.11	109.19	111.00	116.68
2037	114.76	108.34	102.60	85.26	76.35	53.69	92.26	102.69	111.61	111.69	113.54	119.36
2038	117.05	110.51	104.65	86.96	77.87	54.76	94.10	104.74	113.84	113.92	115.81	121.74
2039	119.40	112.72	106.74	88.71	79.43	55.86	95.98	106.83	116.12	116.20	118.13	124.18
2040	121.49	114.70	108.62	90.28	80.84	56.86	97.68	108.72	118.16	118.24	120.20	126.36
2041	124.21	117.26	111.05	92.28	82.63	58.11	99.85	111.14	120.80	120.88	122.89	129.18
2042	126.70	119.61	113.27	94.13	84.29	59.27	101.85	113.37	123.22	123.31	125.35	131.77
2043	129.23	122.00	115.53	96.01	85.97	60.46	103.89	115.63	125.68	125.77	127.86	134.40

Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
Renewable Fixed Price Option

Table 5b

TABLE 5b												
Renewable Avoided Costs												
Renewable Fixed Price Option for Wind QF												
Off-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018					5.71	5.71	15.04	23.04	23.55	20.49	20.49	24.82
2019	22.46	21.80	17.19	10.78	8.57	7.69	17.89	22.33	22.76	20.60	21.72	25.24
2020	24.58	24.78	19.24	13.17	10.00	9.63	19.09	25.24	25.73	23.44	25.06	29.75
2021	28.23	28.46	22.04	14.99	11.31	10.89	21.87	29.00	29.57	26.91	28.78	34.23
2022	30.15	30.39	23.53	15.99	12.06	11.61	23.34	30.97	31.58	28.73	30.74	36.56
2023	30.45	30.69	23.75	16.13	12.16	11.70	23.57	31.28	31.89	29.02	31.04	36.93
2024	28.96	26.70	26.35	22.21	19.12	11.67	22.46	26.08	28.12	28.69	30.06	31.04
2025	67.81	62.08	61.21	50.70	42.86	23.97	51.32	60.52	65.70	67.13	70.61	73.10
2026	69.17	63.32	62.43	51.71	43.72	24.45	52.35	61.73	67.01	68.47	72.02	74.56
2027	70.55	64.59	63.68	52.74	44.59	24.93	53.40	62.97	68.35	69.84	73.46	76.05
2028	71.76	65.70	64.77	53.65	45.36	25.36	54.31	64.05	69.52	71.04	74.72	77.35
2029	73.40	67.20	66.25	54.87	46.39	25.94	55.55	65.51	71.11	72.66	76.42	79.12
2030	74.87	68.54	67.58	55.97	47.32	26.46	56.67	66.82	72.53	74.12	77.95	80.70
2031	76.37	69.91	68.93	57.09	48.27	26.99	57.80	68.16	73.98	75.60	79.51	82.32
2032	77.68	71.11	70.12	58.07	49.10	27.46	58.79	69.33	75.26	76.90	80.88	83.73
2033	79.44	72.73	71.71	59.39	50.21	28.08	60.13	70.91	76.97	78.65	82.72	85.63
2034	81.04	74.19	73.14	60.58	51.22	28.64	61.33	72.33	78.51	80.22	84.37	87.35
2035	82.66	75.67	74.61	61.80	52.25	29.22	62.56	73.78	80.08	81.83	86.06	89.10
2036	84.07	76.97	75.88	62.85	53.14	29.71	63.63	75.04	81.45	83.23	87.53	90.62
2037	85.99	78.73	77.62	64.29	54.36	30.40	65.09	76.75	83.31	85.13	89.54	92.69
2038	87.71	80.30	79.17	65.57	55.44	31.00	66.38	78.28	84.97	86.83	91.32	94.54
2039	89.47	81.91	80.76	66.89	56.55	31.63	67.72	79.85	86.68	88.57	93.15	96.44
2040	91.00	83.31	82.14	68.03	57.52	32.16	68.87	81.22	88.16	90.09	94.75	98.09
2041	93.07	85.20	84.01	69.58	58.83	32.90	70.44	83.07	90.17	92.14	96.91	100.32
2042	94.94	86.92	85.69	70.98	60.01	33.56	71.86	84.74	91.98	93.99	98.85	102.34
2043	96.83	88.65	87.41	72.39	61.21	34.23	73.29	86.43	93.81	95.86	100.82	104.38

Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
Renewable Fixed Price Option

Table 6a

TABLE 6a												
Renewable Avoided Costs												
Renewable Fixed Price Option for Solar QF (less than or equal to 3 MW)												
On-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018					15.25	17.28	29.26	34.87	30.79	24.93	24.93	31.05
2019	27.84	26.24	21.48	18.19	17.76	18.19	29.34	32.67	30.37	24.48	26.41	30.78
2020	31.72	30.00	24.32	19.61	18.98	19.91	30.66	35.05	31.96	27.38	29.43	34.92
2021	35.25	33.33	26.96	21.68	20.97	22.02	34.07	38.99	35.53	30.39	32.69	38.84
2022	37.42	35.37	28.60	22.99	22.23	23.34	36.16	41.39	37.71	32.25	34.69	41.23
2023	37.44	35.39	28.62	23.01	22.25	23.36	36.18	41.41	37.73	32.26	34.71	41.25
2024	33.46	31.46	29.68	24.29	21.51	14.47	26.46	29.70	32.48	32.50	33.08	34.88
2025	89.46	84.40	79.87	66.19	59.16	41.29	71.71	79.93	86.97	87.03	88.50	93.08
2026	91.24	86.08	81.46	67.52	60.35	42.12	73.14	81.53	88.71	88.77	90.26	94.94
2027	93.07	87.80	83.09	68.86	61.55	42.96	74.60	83.16	90.48	90.55	92.07	96.84
2028	94.70	89.35	84.55	70.08	62.64	43.73	75.92	84.63	92.07	92.14	93.69	98.54
2029	96.82	91.35	86.44	71.64	64.04	44.69	77.62	86.52	94.14	94.20	95.78	100.75
2030	98.76	93.17	88.17	73.08	65.32	45.59	79.17	88.25	96.02	96.08	97.70	102.76
2031	100.73	95.03	89.93	74.54	66.62	46.50	80.75	90.01	97.94	98.00	99.65	104.82
2032	102.42	96.62	91.43	75.77	67.72	47.25	82.09	91.51	99.57	99.64	101.32	106.57
2033	104.80	98.87	93.56	77.55	69.31	48.37	84.01	93.64	101.89	101.96	103.67	109.05
2034	106.94	100.89	95.48	79.14	70.74	49.39	85.73	95.56	103.97	104.04	105.79	111.27
2035	109.03	102.86	97.34	80.68	72.11	50.33	87.40	97.43	106.00	106.08	107.86	113.45
2036	110.90	104.62	99.01	82.06	73.34	51.19	88.90	99.09	107.82	107.89	109.71	115.39
2037	113.43	107.01	101.27	83.93	75.02	52.36	90.93	101.36	110.28	110.36	112.21	118.03
2038	115.70	109.15	103.29	85.61	76.52	53.41	92.74	103.38	112.49	112.56	114.46	120.39
2039	118.01	111.33	105.36	87.32	78.05	54.47	94.60	105.45	114.73	114.81	116.74	122.79
2040	120.08	113.29	107.21	88.87	79.43	55.45	96.27	107.31	116.75	116.83	118.79	124.95
2041	122.77	115.83	109.61	90.85	81.20	56.67	98.42	109.71	119.36	119.45	121.46	127.75
2042	125.23	118.14	111.80	92.66	82.82	57.80	100.38	111.90	121.75	121.84	123.88	130.30
2043	127.73	120.50	114.04	94.51	84.48	58.96	102.39	114.14	124.18	124.27	126.36	132.91

Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
Renewable Fixed Price Option

Table 6b

TABLE 6b												
Renewable Avoided Costs												
Renewable Fixed Price Option for Solar QF (less than or equal to 3 MW)												
Off-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2018					6.58	6.58	15.91	23.91	24.42	21.36	21.36	25.69
2019	23.34	22.68	18.07	11.66	9.45	8.57	18.77	23.21	23.64	21.48	22.60	26.12
2020	25.48	25.68	20.14	14.07	10.90	10.53	19.99	26.14	26.63	24.34	25.96	30.65
2021	29.15	29.38	22.96	15.91	12.23	11.81	22.79	29.92	30.49	27.83	29.70	35.15
2022	31.09	31.33	24.47	16.93	13.00	12.55	24.28	31.91	32.52	29.67	31.68	37.50
2023	31.41	31.65	24.71	17.09	13.12	12.66	24.53	32.24	32.85	29.98	32.00	37.89
2024	29.94	27.68	27.33	23.19	20.10	12.65	23.44	27.06	29.10	29.67	31.04	32.02
2025	68.81	63.08	62.21	51.70	43.86	24.97	52.32	61.52	66.70	68.13	71.61	74.10
2026	70.19	64.34	63.45	52.73	44.74	25.47	53.37	62.75	68.03	69.49	73.04	75.58
2027	71.59	65.63	64.72	53.78	45.63	25.97	54.44	64.01	69.39	70.88	74.50	77.09
2028	72.82	66.76	65.83	54.71	46.42	26.42	55.37	65.11	70.58	72.10	75.78	78.41
2029	74.48	68.28	67.33	55.95	47.47	27.02	56.63	66.59	72.19	73.74	77.50	80.20
2030	75.97	69.64	68.68	57.07	48.42	27.56	57.77	67.92	73.63	75.22	79.05	81.80
2031	77.49	71.03	70.05	58.21	49.39	28.11	58.92	69.28	75.10	76.72	80.63	83.44
2032	78.82	72.25	71.26	59.21	50.24	28.60	59.93	70.47	76.40	78.04	82.02	84.87
2033	80.61	73.90	72.88	60.56	51.38	29.25	61.30	72.08	78.14	79.82	83.89	86.80
2034	82.23	75.38	74.33	61.77	52.41	29.83	62.52	73.52	79.70	81.41	85.56	88.54
2035	83.87	76.88	75.82	63.01	53.46	30.43	63.77	74.99	81.29	83.04	87.27	90.31
2036	85.31	78.21	77.12	64.09	54.38	30.95	64.87	76.28	82.69	84.47	88.77	91.86
2037	87.25	79.99	78.88	65.55	55.62	31.66	66.35	78.01	84.57	86.39	90.80	93.95
2038	89.00	81.59	80.46	66.86	56.73	32.29	67.67	79.57	86.26	88.12	92.61	95.83
2039	90.78	83.22	82.07	68.20	57.86	32.94	69.03	81.16	87.99	89.88	94.46	97.75
2040	92.34	84.65	83.48	69.37	58.86	33.50	70.21	82.56	89.50	91.43	96.09	99.43
2041	94.44	86.57	85.38	70.95	60.20	34.27	71.81	84.44	91.54	93.51	98.28	101.69
2042	96.33	88.31	87.08	72.37	61.40	34.95	73.25	86.13	93.37	95.38	100.24	103.73
2043	98.25	90.07	88.83	73.81	62.63	35.65	74.71	87.85	95.23	97.28	102.24	105.80

Schedule 201

WIND INTEGRATION

Table 7

TABLE 7		
Integration Costs		
Year	Wind	Solar
2018	0.87	0.00
2019	0.88	0.00
2020	0.90	0.00
2021	0.92	0.00
2022	0.94	0.00
2023	0.96	0.00
2024	0.98	0.00
2025	1.00	0.00
2026	1.02	0.00
2027	1.04	0.00
2028	1.06	0.00
2029	1.08	0.00
2030	1.10	0.00
2031	1.12	0.00
2032	1.14	0.00
2033	1.17	0.00
2034	1.19	0.00
2035	1.21	0.00
2036	1.24	0.00
2037	1.26	0.00
2038	1.29	0.00
2039	1.31	0.00
2040	1.34	0.00
2041	1.37	0.00
2042	1.39	0.00
2043	1.42	0.00

STANDARD OFF-SYSTEM NON-VARIABLE

-POWER PURCHASE AGREEMENT

BETWEEN

[COUNTERPARTY NAME]

AND

PORTLAND GENERAL ELECTRIC COMPANY

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Exhibits

<u>Exhibit A</u>	<u>Description of Facility</u>
<u>Exhibit B</u>	<u>Seller’s Interconnection Facilities and Delivery Attributes</u>
<u>Exhibit C</u>	<u>Seller’s Net Output Estimates</u>
<u>Exhibit D</u>	<u>Collateral Assignment and Consent Agreement Form</u>
<u>Exhibit E</u>	<u>Start-Up Testing</u>
<u>Exhibit F</u>	<u>Schedule 201</u>
<u>Exhibit G</u>	<u>Illustrative Examples of Payment and Lost Energy Value Calculations</u>

STANDARD OFF-SYSTEM NON-VARIABLE  
POWER PURCHASE THIS AGREEMENT

This STANDARD OFF-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT (“Agreement”) is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] (“\_\_\_\_\_” (“Seller”)) and Portland General Electric Company, an Oregon corporation (“PGE”) (hereinafter each a “Party” and ~~of~~ collectively, “Parties”) and is ~~effective upon execution by both Parties~~ (“Effective Date”).

RECITALS

A. [New QF] Seller intends to construct, own, operate and maintain a New QF [identify resource type] \_\_\_\_\_ facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, with a Nameplate Capacity Rating of \_\_\_\_\_ kilowatt (“kW”), as further described in Exhibit AB (“Facility”); and Exhibit B.

A. [Existing QF] Seller owns and intends to operate and maintain an Existing QF [identify resource type] \_\_\_\_\_ facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in Exhibit A and Exhibit B.

B. Seller intends to operate the Facility as a “Qualifying Facility,” as ~~that~~ such term is defined in the FERC regulations codified at 18 CFR Part 292 Section 3.1.3, below.

C. ~~\_\_\_\_\_ Seller wishes to shall~~ sell and PGE ~~is willing to shall~~ purchase the ~~entire~~ Net Output, ~~as such term is defined in Section 1.19, below,~~ from the Facility, ~~subject to and~~ in accordance with the terms and conditions of this Agreement, ~~and Seller wishes to provide energy and capacity pursuant to this Agreement.-~~

## AGREEMENT

NOW, THEREFORE, the Parties ~~mutually~~ agree as follows:

### SECTION 1: DEFINITIONS AND CONTRACT INTERPRETATION

#### 1.1 Defined Terms.

~~For all purposes of~~ ~~When used in~~ this Agreement, the following terms shall have the following meanings:

**“Adjusted Delivered Net Output”** means, for any given period, Net Output delivered as Firm Energy to the Delivery Point during the period *plus* Net Output that would have been delivered as Firm Energy to the Delivery Point during any period in which Seller was excused from its delivery obligations due to a Force Majeure Event, based on the Estimated Monthly Average Net Output set forth in **Exhibit C** (pro-rated for partial months as applicable).

**“Affiliate”** means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller. For this purpose, **“control”** means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

**“Agreement”** means this Standard Off-System Non-Variable Power Purchase Agreement and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

**“Alternative Minimum Net Output”** has the meaning set forth in **Exhibit C**.

**“Ancillary Services”** means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services.”

**“Applicable Law”** means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

1.1. **“As-built Supplement”** means ~~at the~~ supplement to Exhibit **A** and **Exhibit B** provided by Seller in accordance with Section 4.4 following completion of construction of the Facility, ~~or modifications to the Facility, which describes~~ **describing** the Facility as actually built.

**“Balancing Authority”** means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to the Facility.

**“Bankrupt”** means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against ~~2{00052924.2}~~



it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, or (iii) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets.

1.2. ~~“Billing Period” means one from the start of the first day of each calendar month to the end of the last day of each~~ calendar month.

“Business Day” means any day other than Saturday, Sunday or the following holidays: New Year’s Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.

1.3. ~~“Cash Escrow” means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller’s placement of cash in by two parties to place money into the custody of the escrow agent a third party for delivery to PGE a grantee only after the fulfillment of any of the conditions specified in Section . Amounts in the Cash Escrow shall earn interest at the rate applicable to money market deposits at escrow agent.~~

“Claims” means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.

“Commercial Operation” has the meaning given to it in Section .

“Commercial Operation Date” has the meaning given to it in Section .

“Commission” means the Public Utility Commission of Oregon.

“Contract Price” means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under the Non-Renewable Fixed Price Option for \_\_\_\_\_ [specify applicable Non-Renewable Fixed Price Option based on resource type, in accordance with Schedule], as published in the Schedule and attached as Exhibit F, and thereafter, for the remainder of the Term, the Daily Market Index Price in effect during the interval when the energy is generated.

~~1.4. “Commercial Operation Date” means the date that the Facility is deemed by PGE to be fully operational and reliable. PGE may, at its discretion require, among other things, that all of the following events have occurred:~~

~~1.4.1. (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from a Licensed Professional Engineer (“LPE”) acceptable to PGE in its reasonable judgment stating that the Facility is able to generate electric power reliably in amounts required by this Agreement and in accordance with all other terms and conditions of this Agreement (certifications required under this Section 1.4 can be provided by one or more LPEs);~~

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STANDARD OFF-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT

~~1.4.2. Start-Up Testing of the Facility has been completed in accordance with Section 1.28;~~

~~1.4.3. (facilities with nameplate under 500 kW exempt from following requirement) After PGE has received notice of completion of Start-Up Testing, PGE has received a certificate addressed to PGE from an LPE stating that the Facility has operated for testing purposes under this Agreement uninterrupted for a Test Period at a rate in kW of at least 75 percent of average annual Net Output divided by 8,760 based upon any sixty (60) minute period for the entire testing period. The Facility must provide ten (10) working days written notice to PGE prior to the start of the initial testing period. If the operation of the Facility is interrupted during this initial testing period or any subsequent testing period, the Facility shall promptly start a new Test Period and provide PGE forty-eight (48) hours written notice prior to the start of such testing period;~~

~~1.4.4. (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from an LPE stating that all required interconnection facilities have been constructed and all required interconnection tests have been completed;~~

~~1.4.5. (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from an LPE stating that Seller has obtained all Required Facility Documents and, if requested by PGE in writing, has provided copies of any or all such requested Required Facility Documents;~~

~~1.4.6. PGE has received a copy of the executed Generation Interconnection and Transmission Agreements.~~

~~1.5. "Contract Price" means the applicable price, including on-peak and off-peak prices, as specified in the Schedule.~~

~~1.6.1.4. "Contract Year" means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time ("PPT") on January 1 and ending at 24:00 hours PPT on December 31; provided, however, that the first Contract Year shall commence on ~~upon~~ the Commercial Operation Date and end on December 31<sup>st</sup> of ~~or its anniversary during the Term, except the calendar~~ final contract year in which the Commercial Operation Date occurs, and ~~will be the period from the last~~ Contract Year shall ~~anniversary of the Commercial Operation Date during the Term until the end~~ on the last day of the Term.~~

~~1.7.1.5. "Credit Support Effective Date" has the meaning given to it set forth in Section 2.1.~~

~~1.8. "Creditworthiness Requirements" "Environmental Attributes" shall mean any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gasses (GHGs) that have been determined by the United Nations~~

~~Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere.~~

~~1.9.1.6. \_\_\_\_\_ "Facility" has the meaning given to it set forth in Section \_\_\_\_\_ the Recitals.~~

~~1.10. "Forward Replacement Price" means the price at which PGE, acting in a commercially reasonable manner, purchases for delivery at the Point of Delivery a replacement for any Net Output that Seller is required to deliver under this Agreement plus (i) costs reasonably incurred by PGE in purchasing such replacement Net Output, and (ii) additional transmission charges, if any, reasonably incurred by PGE in causing replacement energy to be delivered to the Point of Delivery. If PGE elects not to make such a purchase, costs of purchasing replacement Net Output shall be at the Mid-C Index Price for such energy not delivered, plus any additional cost or expense incurred as a result of Seller's failure to deliver, as determined by PGE in a commercially reasonable manner (but not including any penalties, ratcheted demand or similar charges).~~

~~1.11. "Generation Interconnection Agreement" means an agreement governing the interconnection of the Facility with \_\_\_\_\_ electric system.~~

~~1.12. "Letter of Credit" means an engagement by a bank or other person made at the request of a customer that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the letter of credit.~~

~~1.13. "Licensed Professional Engineer" or "LPE" means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.~~ "Daily Market

~~1.14. "Lost Energy Value" means for a Contract Year: zero plus any reasonable costs incurred by PGE to purchase replacement power and/or transmission to deliver the replacement power to the Point of Delivery, unless the Contract Year's Net Output is less than the Minimum Net Output and the Contract Year's time-weighted average of the Mid-C Index Price for On-Peak and Off-Peak Hours is greater than the time-weighted average of the Contract Price for On-Peak and Off-Peak Hours for that Contract Year, in which case Lost Energy Value equals: (Minimum Net Output - Net Output for the Contract Year) X (the lower of: the time-weighted average of the Contract Price for On-Peak and Off-Peak Hours; or the time-weighted average of the Mid-C Index Price for On-Peak and Off-Peak Hours - the time-weighted average of the Contract Price for On-Peak and Off-Peak Hours) minus Transmission Curtailment Replacement Energy Cost, if any, for like period plus any reasonable costs incurred by PGE to purchase replacement power and/or transmission to deliver the replacement power to the Point of Delivery~~

~~4.15-1.7.~~ **“Mid-C Index Price”** means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C-Physical for Average On-Peak Power and Average Off-Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>.~~https://www.theice.com/products/OTC/Physical-Energy/Electricity.~~ In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Delivery Point~~Mid-C trading hub~~.

**“Delay Damages”** has the meaning given to it in Section .

**“Delivery Period”** has the meaning given to it in Section .

**“Delivery Point”** means the point of delivery where Seller delivers energy to the PGE system, as specified in **Exhibit B**. PGE and Seller may mutually agree to amend the Delivery Point.

**“e-Tag”** means NERC electronic tag.

**“Effective Date”** has the meaning given to it in Section .

**“Estimated Annual Average ~~Minimum~~ Net Output”** means ~~shall have~~ the relevant amount ~~meaning~~ specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

**“Estimated Annual Maximum Net Output”** means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

**“Estimated Monthly Average Net Output”** means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

**“Estimated Monthly Maximum Net Output”** means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

~~4.16-1.8.~~ **“Existing QF”** means a QF that (1) is or has been operational before the Effective Date ~~Section 4.2~~ of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party. -

**“Expiration Date”** has the meaning given to it in Section .

**“Facility”** is the entire facility as specified in **Exhibit A** and **Exhibit B**.

**“Facility ~~Nameplate~~ Capacity Rating”** means the ~~sum~~ ~~maximum capacity~~ of the Nameplate Capacity Ratings for all Generation Units comprising the Facility.

**“FERC”** means the Federal Energy Regulatory Commission or any successor government agency.

**“Firm Energy”** means energy scheduled and delivered on a firm basis to the Delivery Point via firm transmission rights.

**“Force Majeure”** or **“Force Majeure Event”** has the meaning given to it in Section .

**“Generator”** means the electrical component within the Facility measured in kW that converts mechanical energy into electrical energy.

“**Generation Unit**” means a complete electrical generation system within the Facility that is able to generate and deliver energy to the Point of Interconnection independent of other Generation Units within the same Facility.

“**Governmental Authority**” means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

“**Imbalance Energy**” means that portion of Firm Energy, measured in kWh, scheduled and delivered to the Delivery Point that was not Net Output.

“**Interconnection Agreement**” means an agreement governing the interconnection of the Facility with \_\_\_\_\_’s *[specify relevant transmission system or distribution system owner]* electric system.

“**kW**” and “**kWh**” mean kilowatt and kilowatt hour, respectively.

“**Lender**” means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.

“**Letter of Credit**” means an irrevocable standby letter of credit from an institution selected ~~as stated~~ by the Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

“**Licensed Professional Engineer**” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in \_\_\_\_\_, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a **manufacturer** or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.

“**Lost Energy**” means (~~–expressed in kWh~~):

- A. In connection with a Facility after the Commercial Operation Date, if Seller fails to meet the Minimum Delivery Guarantee, then with respect to a Contract Year, an amount equal to the Minimum Net Output less the Adjusted Delivered Net Output; or
- B. In connection with a Facility that does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see **Exhibit C**) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual Commercial Operation Date or contract termination pursuant to Section 9. The Estimated Monthly Average Net Output shall be pro-rated for any partial months; or

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C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 9 of this Agreement because of Seller's default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see **Exhibit C**) for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see **Exhibit C**) for each month from the date of termination through the end of the Term. The Estimated Monthly Average Net Output shall be pro-rated for any partial months.

“Lost Energy Value” means:

A. In connection with Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly to each calendar month in the Contract Year and then allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in **Exhibit C** (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year *plus* any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period); and
- The Off-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period).

If the above calculation of the Lost Energy Value for the Contract Year results in a negative value, the Lost Energy Value for the Contract Year shall be deemed zero. See the example calculation in **Exhibit G**.

B. In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during ~~kW~~, which Seller has failed to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below) *plus* any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

4.17-1.9. The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement

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Price (for On-Peak Hours) shall not exceed the Contract Price for On-Peak Hours for the same period; and ~~10,000 kW.~~

- The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) multiplied by the (applicable Replacement Price for Off-Peak Hours less the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.

If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in Exhibit G.

C. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Lost Energy for the applicable calendar month or partial calendar month multiplied by (the Replacement Price for On-Peak Hours for the period less the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month multiplied by (the Replacement Price for Off-Peak Hours for the period less the Contract Price for Off-Peak Hours for the period); and
- Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in Exhibit G.

“Minimum Delivery Guarantee” has the meaning given to it in Section .

“Minimum Net Output” means, for a Contract Year, seventy-five percent (75%) of the Estimated Annual Average Net Output from the Facility for the period as set forth in Exhibit C (pro-rated as required for partial Contract Years and partial months, as applicable), unless Seller selects an Alternative Minimum Net Output consistent with the terms of Exhibit C of this Agreement (pro-rated for any period less than 12 calendar months), in which case the Minimum Net Output equals the selected Alternative Minimum Net Output.



“Nameplate Capacity Rating” means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.

“NERC” means the North American Electric Reliability Corporation.

“Net Available Capacity” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Point of Interconnection continuously for sixty (60) minutes.

~~1.18. “Net Output” means all energy. “Net Dependable Capacity” means the maximum capacity the Facility can sustain over a specified period modified for seasonal limitations, if any, and reduced by the capacity required for station service or auxiliaries.~~

~~1.19.1.10. “Net Output” means all energy expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the Point of Interconnection, and less transformation and transmission losses.~~

“New QF” means any QF that is not an Existing QF.

~~1.20. “Off-Peak Hours” means all hours other than has the meaning provided in the Schedule.~~

~~1.21.1.11. “On-Peak Hours” has the meaning provided in the Schedule.~~

“On-Peak Energy Imbalance Accumulation” and “Off-Peak Energy Imbalance Accumulation” have the meanings given to them in Section .

“On-Peak Hours” means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.

“Person” means any individual, corporation, limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.

“Planned Maintenance” means outages scheduled 90 calendar days in advance, with prior written notice to PGE.

“Point of Interconnection” means the point of interconnection between the Facility and the interconnecting Transmission Provider or distribution system owner, as specified in Exhibit B.

~~1.22. “Point of Delivery” means the PGE System.~~

~~1.23.1.12. “Prime Rate” means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or~~

more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

“Product” means, each and together, as a single bundled product, Net Output and, if applicable, Imbalance Energy, together with all associated capacity.

4.24.1.13. “Prudent Electrical Practices” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the ~~WECC~~Western Electricity Coordinating Council that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all ~~Applicable Law, applicable laws and regulations.~~ Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

“PURPA” means the Public Utility Regulatory Policies Act of 1978.

“Qualifying Facility” has the meaning set forth in the Recitals.

“Reliability Entity” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

“Replacement Price” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at the Mid-Columbia trading hub for any Net Output that Seller fails to deliver as required under this Agreement.

When the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Delivery Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices shall be calculated as follows for each applicable calendar month (or partial calendar month):

- For Lost Energy During On-Peak Hours: the hourly average of the on-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).
- For Lost Energy During Off-Peak Hours: the hourly average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

When the Replacement Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 9, the Replacement Price shall be the respective On-Peak Hours and Off-

Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices during the applicable period.

~~4.25.1.14.~~ “Required Facility Documents” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as the Interconnection Agreement and the Transmission Agreement ~~including without limitation those set forth in Exhibit G.~~

~~4.26.1.15.~~ “Schedule” means PGE’s ~~shall mean PGE~~ Schedule 201 filed with the ~~Oregon Public Utilities Commission and (“Commission”)~~ in effect on the date that Seller delivers to PGE an executed copy ~~Effective Date~~ of this Agreement. For ease of reference and informational purposes only, a copy of the Schedule is ~~and~~ attached hereto as Exhibit F; however, if there is any difference between Exhibit F and the Schedule ~~E~~, the terms of the Schedule shall apply and prevail ~~which are hereby incorporated by reference.~~

“Scheduled Commercial Operation Date” has the meaning given to it in Section .

~~4.27.1.16.~~ “Senior Lien” means a prior lien ~~that~~ which has precedence as to the property under the lien over another lien or encumbrance.

“Specified Facility Nameplate Capacity Rating” means the Facility Nameplate Capacity Rating set forth in Exhibit A, as it may be amended from time to time in accordance with this Agreement.

~~4.28.1.17.~~ “Start-Up Testing” means the performance completion of applicable ~~required factory and~~ start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in Exhibit E ~~(as it may be updated by Seller) during the Test Period~~ D.

~~4.29.1.18.~~ “Step-in Rights” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.

“Surplus Delivery” has the meaning given to it in Section . By definition, Surplus Delivery shall always be a positive number.

“Term” has the meaning given to it in Section .

“Test Energy” means electric energy generated by the Facility during the Test Period.

~~4.30.1.19.~~ “Test Period” means a ~~shall mean the period~~ during which Start-Up Testing is to be conducted beginning on the Effective Date and ending on the Termination Date.

~~4.31.~~ “Test Period” shall mean a period of sixty (60) days or a commercially reasonable period determined by the Seller.

~~4.32.~~ “Transmission Agreement” means an agreement (or agreements) between executed by the Seller and the Transmission Provider(s) that provide(s) for the transmission and delivery of Firm Energy from the Facility ~~Transmission Services.~~

~~4.33.1.20.~~ “Transmission Curtailment” means ~~a limitation on Seller’s ability to the deliver any portion of the scheduled energy to PGE due to the unavailability of transmission to the Point of Delivery~~ Point, at no less than the Specified Facility Nameplate Capacity 12{00052924.2}

Rating. ~~The Transmission Agreement shall have a term of at least the lesser of (i) five (5) years, with renewal rights, or (ii) until the Expiration Date of this Agreement, (for any reason other than Force Majeure).~~

~~1.34. "Transmission Curtailment Replacement Energy Cost" means the greater of zero or the difference between Mid-C Index Price — Contract Price X curtailed energy for periods of Transmission Curtailment.~~

~~1.35. "Transmission Provider(s)" means \_\_\_\_\_, the transmission system operator(s) with whom Seller will enter or has entered into the signatory (other than the Seller) to the Transmission Agreement(s) to provide-~~

~~1.36.1.21. "Transmission Services" means any and all services (including but not limited to ancillary services and control area services) required for the firm transmission and delivery of Firm Energy from the Facility to the Point of Delivery Point in accordance with for a term not less than the Term of this Agreement.~~

~~"WECC" means the Western Electricity Coordinating Council or any successor thereto.~~

## 1.2 Interpretation.

~~In this Agreement, references to Recitals, Sections, and Exhibits are references to the recitals, sections and exhibits of this Agreement. The article and section headings in this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms "includes" or "including" mean "includes but is not limited to" and "including but not limited to," respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in this Agreement in accordance with such recognized meanings.~~

~~References to Recitals, Sections, and Exhibits are to be the recitals, sections and exhibits of this Agreement.~~

## SECTION 2: TERM; FACILITY; COMMERCIAL OPERATION DATE

### 1.3 Term.

~~2.1. The term of this This Agreement ("Term") commences on the date this Agreement is signed shall become effective upon execution by both Parties ("Effective Date").~~

~~2.2. Time is of the essence of this Agreement, and ends on the earlier of [Seller-selected date or fixed-interval period of time that is no more than 20 years from the Scheduled Seller's ability to meet certain requirements prior to the Commercial Operation Date] ("Expiration Date") or the date on which this Agreement is terminated pursuant to and to complete all requirements to establish the Commercial Operation Date is critically important. Therefore,~~

~~2.2.1. By \_\_\_\_\_ [date to be determined by the Seller] Seller shall begin initial deliveries of Net Output; and~~

~~By \_\_\_\_\_ [date to be determined by the terms of the Agreement.~~

### 1.4 Construction of the Facility.

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1.4.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE's system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement. ~~subject to Section 2.2.3 below~~ Seller shall, at its sole cost, design and construct the Facility and obtain all transmission and interconnection rights, necessary to enable the delivery of energy from the Facility to the Delivery Point, all in compliance with this Agreement, the Required Facility Documents, and Prudent Electrical Practices.

1.4.2 Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement may be reviewed by PGE, which review shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE's information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section .

#### 1.5 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with Exhibit E (as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility), and shall provide written notice to PGE when the Start-Up Testing has been successfully completed. Seller must provide no less than one (1) business days' written notice to PGE prior to the commencement of Start-Up Testing, and must provide PGE ten (10) business day's written notice prior to commencing sales of Test Energy to PGE. In order to complete Start-Up Testing, Seller may schedule and deliver Test Energy to PGE pursuant to the scheduling procedures set forth in Section , and PGE shall compensate the Seller for delivered Test Energy in accordance with Section . This Section 2.3 does not apply if the Facility is an Existing QF unless the Existing QF elects to conduct Start-Up Testing.

#### 1.6 Commercial Operation.

"Commercial Operation" will be achieved when the Facility is fully constructed and determined by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have occurred:

1.6.1 If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with Exhibit E, and PGE has received Seller's written certification of completion of Start-Up Testing.

1.6.2 PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that the Facility is interconnected and operational in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.



1.6.3 PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE's reasonable satisfaction, which may include equipment specifications.

1.6.4 PGE has received a letter addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement and Transmission Agreement(s), and any other Required Facility Documents requested by PGE.

1.6.5 PGE has received the following documents with respect to the Facility: the As-built Supplement, including but not limited to an electrical single-line diagram, a 12x24 estimated net energy profile, and a 8760 net energy production estimate.

1.6.6 PGE has received copies of all insurance certificates required ~~all requirements~~ under Section .

1.6.7 PGE has received any Credit Support required under Section .

1.7 Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section . Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, including but not limited to information required in **Exhibit A** and **Exhibit B**. PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, provided that PGE shall not unreasonably withhold such certification. The date of Seller's notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the "**Commercial Operation Date**" for all purposes under this Agreement.

1.8 Scheduled Commercial Operation Date.

2.2.2.2.1.1. By no later than \_\_\_\_\_ ("**Scheduled Commercial Operation Date**"), Seller shall have completed all requirements under Section 4.4 and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE's negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE's negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date ("**Delay Damages**"). If Commercial

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Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section .

~~2.2.3. Status Unless the Parties agree in writing that a later Commercial Operation Date is reasonable and necessary, the Commercial Operation Date shall be no more than three (3) years from the Effective Date. Buyer will not unreasonably withhold agreement to a Commercial Operation Date that is more than three (3) years from the Effective date if the Seller has demonstrated that a later Commercial Operation Date is reasonable and necessary.~~

~~2.3. This Agreement shall terminate on \_\_\_\_\_, \_\_\_\_\_ [date to be chosen by Seller but not to exceed 20 years from the date contained in Section 2.2.2], or the date the Agreement is terminated in accordance with Section 8 or 11.2, whichever is earlier ("Termination Date").~~

### SECTION 3: REPRESENTATIONS AND WARRANTIES

3.1. Seller and PGE represent, covenant, and warrant as follows:

~~3.1.1. Seller warrants it is a \_\_\_\_\_ duly organized under the laws of \_\_\_\_\_.~~

~~3.1.2. Seller warrants that the execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.~~

~~1.9 Seller warrants that the Facility.~~

~~3.1.3. Seller is and shall construct and operate for the Facility so as Term of this Agreement continue to ensure its status as be a "Qualifying Facility and in a manner consistent with its " ("QF") as that term is defined in the version of 18 C.F.R. Part 292 in effect on the Effective Date. Seller has provided the appropriate QF certification, which may include a Federal Energy Regulatory Commission ("FERC Qualifying Facility") self-certification, to PGE prior to PGE's execution of this Agreement. At any time during the Term of this Agreement, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment discretion that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE's request documentation QF under all applicable requirements.~~

~~3.1.4. Seller warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and Seller is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

~~3.1.5.3.1.1. Seller warrants that during the Term of this Agreement, all of Seller's right, title and interest in and to the Facility shall be free and clear of all liens and encumbrances other than liens and encumbrances arising from third party financing of the Facility other than workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE~~



in its reasonable judgment demonstrating that the Facility is a Qualifying Facility, ~~posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.~~

~~3.1.6. Seller shall~~ Seller warrants that it will design and operate the Facility consistent with Prudent Electrical Practices.

~~3.1.7. Seller warrants that the Facility has a Nameplate Capacity Rating not greater than 10,000 kW.~~

~~3.1.8. Seller warrants that Net Dependable Capacity of the Facility is \_\_\_\_\_ kW.~~

~~3.1.9. Seller estimates that the average annual Net Output to be delivered by the Facility to PGE is \_\_\_\_\_ kilowatt-hours ("kWh"), which amount PGE will include in its resource planning.~~

~~3.1.10. Seller will schedule and deliver from the Facility to PGE at the Point of Delivery Net Output not to exceed a maximum of \_\_\_\_\_ kWh of Net Output during each Contract Year ("Maximum Net Output"). The cost of delivering energy from the Facility to PGE is the sole responsibility of the Seller.~~

~~3.1.11. By the Commercial Operation Date, Seller has entered into a Generation Interconnection Agreement for a term not less than the term of this Agreement.~~

~~3.1.12. PGE warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and PGE is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

~~3.1.13. Seller warrants that (i) the Facility satisfies the eligibility requirements specified in the Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Rates and Standard PPA in PGE's Schedule and (ii) Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to not be in compliance with the Definition of a Small Cogeneration Facility to fail or Small Power Production Facility Eligible to satisfy Receive the eligibility requirements specified in the Schedule for entering into the form of Standard Rates and Standard PPA and pricing reflected in this Agreement. in PGE's Schedule. Seller shall will provide, upon request by PGE, not more frequently than every 36 months, any such documentation and information as may be reasonably required to establish Seller's continued compliance with the applicable eligibility requirements. PGE shall such Definition. PGE agrees to take reasonable steps to maintain the confidentiality of any such portion of the above described documentation and information that the Seller identifies as confidential, provided that except PGE may will provide all such confidential information to the Commission upon the Commission's request.~~

#### SECTION 4: DELIVERY AND SALE OF ENERGY; SCHEDULING POWER AND PRICE

##### 1.10 Delivery and Sale of Energy.

~~Except as otherwise provided in this Agreement, commencing~~ Commencing on the Commercial Operation Effective Date and continuing until the end of through the Term (the "Delivery Period"), of this Agreement, Seller shall deliver and sell and to PGE shall receive and purchase all of the the entire Net Output

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delivered as Firm Energy at the Delivery Point. In reliance on Seller's representations and warranties in Section . Seller may also deliver and PGE shall receive and purchase Imbalance Energy delivered at the Delivery Point, subject to Section . Title and risk of loss related to the Product shall transfer from Seller to PGE at the Delivery Point.

### 1.11 Surplus Delivery.

For purposes of this Agreement, (i) "On-Peak Energy Imbalance Accumulation" means total Firm Energy delivered to the Delivery Point during On-Peak Hours during a Billing Period less total Net Output during On-Peak Hours during such Billing Period; and (ii) "Off-Peak Energy Imbalance Accumulation" means total Firm Energy delivered to the Delivery Point during Off-Peak Hours during a Billing Period less total Net Output during Off-Peak Hours during such Billing Period. Any positive On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation shall be deemed "Surplus Delivery." PGE shall accept but not pay for Surplus Delivery. Any negative On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation during a Billing Period implies that Seller has delivered less than the aggregate Net Output during the applicable hours in the Billing Period. For the avoidance of doubt, the Parties agree that Seller is not entitled to compensation for any portion of total Net Output that exceeds total Firm Energy delivered to the Delivery Point during the applicable Billing Period.

### 1.12 Estimated Net Output.

Seller's good faith, commercially reasonable estimate of the Facility's monthly and annual average and maximum Net Output during the Delivery Period, and Seller's basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in Exhibit C, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section . Seller acknowledges that PGE will use these estimates in its resource planning and for purposes of determining the Minimum Delivery Guarantee.

### 1.13 Minimum Delivery Guarantee.

~~4.1.—Seller guarantees that it. Seller's Net Output shall be scheduled and delivered to PGE at the Point of Delivery in accordance with Section 4.5. PGE shall pay Seller the Contract Price for all scheduled and delivered Net Output. For the first 15 years measured from the date in Section 2.2.2, the Contract Price will be the Standard Fixed Price Option under the Schedule; thereafter and for the remainder of the Term, the Contract Price will be equal to the Mid-C Index Price.~~

~~4.2.—Seller shall schedule and deliver to PGE from the Facility, for each Contract Year, Net Output equal to or greater than the Minimum Net Output, pro-rated for any partial years. This guarantee is referred to in (either (a) if Seller does not select the Alternative Minimum Amount as defined in Exhibit A of this Agreement, seventy-five percent (75%) of its average annual Net Output or (b) if selected by Seller, the Alternative Minimum Amount designated for each Contract Year), provided that such Minimum Net Output shall be reduced on a pro-rata basis for any periods during a Contract Year(s) that the Facility was prevented from generating electricity for reasons of Force Majeure.~~

~~4.3.—Seller agrees that if Seller does not deliver the Minimum Net Output each Contract Year for reasons other than Transmission Curtailment, PGE will suffer losses~~

~~equal to the Lost Energy Value. As damages for Seller's failure to deliver the Minimum Net Output (subject to adjustment for reasons of Force Majeure as provided in Section 4.2) in any Contract Year, notwithstanding any other provision of this Agreement the purchase price payable by PGE for future deliveries shall be reduced until Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period, in monthly amounts (not more than 24 months), of such reduction so as to avoid Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility for QF Facilities sized at 100 kW or smaller, the provisions of this section shall not apply.~~

~~4.4.4.1. Upon completion of construction of the Facility, Seller shall provide PGE an As-built Supplement to specify the actual Facility as the "Minimum Delivery Guarantee." built. Seller shall not increase the Nameplate Capacity Rating above that specified in Exhibit B or increase the ability of the Facility to deliver Net Output in quantities in excess of the Net Dependable Capacity, or the Maximum Net Output as described in Section 3.1.10 above, through any means including, but not limited to, replacement, modification, or addition of existing equipment, except with prior written notice to PGE. In the event Seller increases the Nameplate Capacity Rating of the Facility to no more than 10,000 kW pursuant to this section, PGE shall pay the Contract Price for the additional delivered Net Output. In the event Seller increases the Nameplate Capacity Rating of the Facility to greater than 10,000 kW, then Seller shall be required to enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 10,000 kW.~~

#### 1.14 Scheduling Procedures.

~~4.5.4.2. Seller shall provide preschedules for all deliveries of energy hereunder, including identification of receiving and generating control areas, by 9:00:00 PPT on the last business day prior to the scheduled date of delivery. -All energy shall be scheduled according to the most current North America Energy Reliability Corporation (NERC) and Western Electricity Coordinating Council (WECC) scheduling rules and practices.- The Parties' respective representatives shall maintain hourly real-time schedule coordination; provided, however, that in the absence of such coordination, the hourly schedule established by the exchange of preschedules shall be considered final. Seller and PGE shall maintain records of hourly energy schedules for accounting and operating purposes. -The final E-Tag shall be the controlling evidence of the Parties' schedule. All energy shall be prescheduled according to customary WECC scheduling practices. -Seller shall make commercially reasonable efforts to schedule in any hour an amount equal to its expected Net Output for such hour. -Seller shall maintain a minimum of two years records of Net Output and shall agree to allow PGE to have access to such records and to imbalance information kept by the Transmission Provider. The cost of delivering energy from the Facility to PGE shall be the sole responsibility of the Seller.~~

#### 1.15 Loss of Interconnection and Curtailment.

~~4.6. — PGE shall not be liable to Seller and Seller may report under §1605(b) of the Energy Policy Act of 1992 or under any applicable program as belonging to Seller any of the Environmental Attributes produced with respect to the Facility, and PGE shall not report under such program that such Environmental Attributes belong to it.~~

#### SECTION 5: OPERATION AND CONTROL

~~5.1. — Seller shall operate and maintain the Facility in a safe manner in accordance with the Generation Interconnection Agreement, and Prudent Electrical Practices. PGE shall have no obligation to purchase the Product Net Output from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the Facility to the extent that, due to the action of a Reliability Entity, a Force Majeure Event or PGE's construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility or transmission to the PGE's electric system is curtailed, disconnected, suspended or interrupted, or (ii) generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller's control.~~

#### ARTICLE 2: PRICE, BILLING AND PAYMENT

##### 2.1 Prices and Payment for Delivered Product.

~~2.1.1 During the Delivery Period, PGE shall pay Seller an amount for Product delivered during a Billing Period calculated as follows: the Contract Price *multiplied by* the lesser of (i) Net Output during the Billing Period or (ii) Firm Energy delivered to the Delivery Point during the Billing Period. PGE shall not pay for Surplus Delivery. An illustrative example is provided in **Exhibit G**. In determining the amount due to Seller for the Product, the amount of Net Output generated in any hour shall be deemed to be zero or greater.~~

~~2.1.2 Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy *multiplied by* the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.~~

~~2.1.3 Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.~~

##### 2.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.

~~By the thirtieth (30th) calendar day following the end of any calendar month *whole or in* which Delay Damages accrue, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (and supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future~~

deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in **Exhibit G**.

### 2.3 Invoicing and Payment for Lost Energy Value Related to Minimum Delivery Guarantee.

If Seller fails to satisfy the Minimum Delivery Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following the end of the Contract Year, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, the amount payable by PGE for future deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period of such reduction (not to exceed one year) so as to minimize the risk of Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in **Exhibit G**.

### 2.4 Form of Payment and Interest on Late Payments.

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.

### 2.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.

## **ARTICLE 3: METERING**

### 3.1 Metering.

Metering shall be performed at the location and in a manner consistent with this Agreement, as specified in **Exhibit B**. Seller shall provide to PGE information in hourly increments for all Net Output and any other energy purchased under this Agreement.

### 3.2 Meter Installation, Inspection and Correction.

Seller shall arrange for the installation, testing, and maintenance of the metering equipment required by Section in accordance with Prudent Electrical Practices. PGE shall have reasonable access to observe, at its own expense, all inspection, testing, repair and replacement of the metering equipment. Upon request, Seller shall provide documentation regarding all inspection, testing, repair and replacement of the metering equipment.

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If the Facility has a revenue grade meter in addition to the meter used to calculate deliveries and payments and the revenue grade meter is installed near the meter used to calculate deliveries and payments, Seller will send an annual report to PGE comparing the readings between the two meters. If the difference between the two meters is more than two percent (2.0%), PGE may request that the meters be recalibrated and that PGE receive the results of the tests. Also, PGE will be notified promptly of any other recalibration or calibration tests on the meter used to calculate deliveries and payments. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter be tested and recalibrated during the term of the Agreement and consistent with the terms of this Section. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter be tested and recalibrated 12 months after the Commercial Operation Date, at Seller's expense. If the test demonstrates a variance of more than two percent (2.0%) then PGE may request another test and recalibration twenty-four (24) months after the last test. If the test demonstrates a variance of less than two percent (2.0%), then PGE may not request a test and recalibration at the Seller's expense for thirty-six (36) months. PGE may arrange for testing and recalibration at its own expense, after reasonable notice and opportunity for Seller to have a representative on site.

If any of inspections or tests reveal an error exceeding two percent (2.0%), either fast or slow, appropriate correction, based upon the inaccuracy found, shall be made with respect to previous readings for the period during which the Facility metering equipment rendered inaccurate measurements (such period not to exceed twelve (12) months). If the period of inaccuracy cannot be ascertained, correction shall be made to measurements taken since the metering equipment was last tested, provided that such period shall not exceed three (3) months. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered. Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of the metering inaccuracy.

#### **ARTICLE 4: OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES**

##### 4.1 Seller's Duty to Operate and Maintain the Facility.

Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices. ~~part-~~ **Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.** ~~;~~

4.1.1 Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide copies of the same to PGE upon request.

##### 4.2 Outages.

On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with a schedule of all planned outages 22{00052924.2}

~~for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the Specified Facility Nameplate Capacity Rating for twenty-four (24) or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of 5.2. Seller agrees to provide sixty (60) days advance written notice of any scheduled maintenance that would require shut down of the Facility for any period of time.~~

~~5.3. If the Facility ceases operation for unscheduled maintenance, Seller immediately shall notify PGE of the necessity of such unscheduled maintenance that could affect the generation, scheduling or delivery of energy to PGE, the time when such maintenance has occurred or will occur, and the anticipated duration of such maintenance. Seller shall take all reasonable measures and exercise its best efforts to avoid unscheduled maintenance, to limit the duration of such unscheduled maintenance, and to perform unscheduled maintenance during Off-Peak hours.~~

#### SECTION 6: CREDITWORTHINESS

~~4.2.1 In the event Seller: a) is unable to represent or warrant as required by Section .~~

~~4.2.2 Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable efforts to avoid or mitigate outages during PGE's system emergencies.~~

~~4.3 Facility Upgrades.~~

~~4.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.~~

~~4.3.2 At any time after the Commercial Operation Date upon at least six months prior written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in Exhibit C, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in Exhibit C for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.~~

~~4.3.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section or Section 3 that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend Exhibit A and Exhibit C as appropriate to reflect the modifications.~~

~~4.3.2.2 So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 10,000 kW, then Seller will continue to receive the Contract Price for all delivered Net Output.~~



4.3.3 If Seller increases the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 10,000 kW, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 10,000 kW, consistent with then-current Applicable Law, provided that the new power purchase agreement must be a negotiated agreement under Schedule 202.

## ARTICLE 5: REPRESENTATIONS AND WARRANTIES

### 5.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

5.1.1 Seller is duly organized and in good standing under the laws of the state of incorporation or formation.

5.1.2 The execution, delivery and performance of this Agreement are within Seller's powers, ~~have it has not been~~ duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

5.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to ~~a debtor in any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).~~

5.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

5.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

5.1.6 Either Seller satisfies the requirements set forth in Section through below (the "**Creditworthiness Requirements**"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section .

5.1.6.1 Seller is not and has not been Bankrupt ~~proceeding~~ within the past two (2) years, and there are no proceedings pending; ~~b) becomes such a debtor during the Term; or being contemplated by Seller or, to Seller's knowledge, threatened against Seller that would result in Seller being or becoming Bankrupt.~~

5.1.6.2 Seller is not in default under any of its material agreements and is ~~or will not be~~ current on all of its financial obligations, including construction-related financial obligations.

5.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

5.1.7 No later than the Commercial Operation Date, Seller will possess a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

5.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

5.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

5.1.10 In connection with Seller's delivery of Firm Energy as required under this Agreement: Seller's delivery of Imbalance Energy, if any, results from Seller's purchase of energy imbalance ancillary service that the Transmission Provider(s) require(s) Seller to procure, as a condition of providing transmission service, in order to correct a mismatch between energy scheduled by the Facility and the real-time production of the Facility.

5.1.11 Seller has the right to sell the Product to PGE free and clear of liens or encumbrances.

## 5.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

5.2.1 It is a corporation duly organized under the laws of Oregon.

5.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

5.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

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5.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

5.2.5 It is not and has not been Bankrupt within the past two (2) years and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

5.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

### 5.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article 7 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

## ARTICLE 6: CREDIT SUPPORT

### 6.1 Required Credit Support.

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall immediately notify PGE in writing and shall promptly (and in no less than ten (10) business days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). In each case, the amount of Credit Support required shall be calculated as follows: (aggregate number of On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the weighted average Contract Price for On-Peak Hours – the weighted average Contract Price for Off-Peak Hours) x (Net Available Capacity). The amount of Credit Support required shall be updated annually, on the anniversary of the month Credit Support was first required to be provided. The updated amount of Credit Support shall be calculated for each subsequent 12-month period, consistent with the calculation described in this Section.

If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.

default security in an amount reasonably acceptable to PGE in one of the following forms: Senior Lien, Step in Rights, a Cash Escrow or Letter of Credit. The amount of such default security that shall be acceptable to PGE shall be equal to: (annual On Peak

~~Hours) X (On Peak Price – Off Peak Price) X (Minimum Net Output / 8760).~~  
Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its reasonable discretion, grant an exception to the requirements to provide default security if the Seller ~~QF~~ has negotiated financial arrangements with the Lender ~~construction loan lender~~ that mitigate Seller's financial risk to PGE.

## 6.2 Right to Draw on Credit Support.

At any time after the occurrence and during the continuation of an Event of Default, or upon an early termination of this Agreement by PGE pursuant to Section , PGE may draw on Seller's Credit Support to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the Credit Support during the Term, PGE shall inform Seller within fifteen (15) business days, and Seller shall promptly, and in no more than fifteen (15) business days following notice from PGE, restore the Credit Support to the amount required under Section . However, for avoidance of doubt, Seller shall have no obligation to replenish the Credit Support if PGE has terminated the Agreement.

## SECTION 7: BILLINGS, COMPUTATIONS AND PAYMENTS

~~7.1.— On or before the thirtieth (30th) day following the end of each Billing Period, PGE shall send to Seller payment for Seller's deliveries of Net Output to PGE, together with computations supporting such payment. PGE may offset any such payment to reflect amounts owing from Seller to PGE pursuant to this Agreement and any other agreement related to the Facility between the Parties or otherwise.~~

~~7.2.— Any amounts owing after the due date thereof shall bear interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by applicable law.~~

## SECTION 8: DEFAULT, REMEDIES AND TERMINATION

### 6.3 Events of Default.

~~An "Event of Default" means, with respect~~8.1.— In addition to any other event that may constitute a Party default under this Agreement, the occurrence of any of the following unless otherwise excused~~events shall constitute defaults~~ under this Agreement:

6.3.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;

6.3.2 any ~~8.1.1.— Breach by Seller or PGE of a representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;~~

the failure of a Party to perform any material covenant or obligation, except for Section 3.1.4, set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by  
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Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party explaining the circumstances supporting the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;-

6.3.3 with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

6.3.4 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement or Transmission Agreement(s) within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement or Transmission Agreement(s) at any time during the term of this Agreement;

6.3.5 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

~~with respect to Seller, Seller fails, for any two or more~~8.1.2. Seller's failure to provide default security, if required by Section 6, prior to delivery of any Net Output to PGE or within ten (10) days of notice.

~~8.1.3. Seller's failure to deliver the Minimum Net Output for two consecutive Contract Years to satisfy the Minimum Delivery Guarantee;-~~

~~with respect to 8.1.4. If Seller, Seller fails is no longer a Qualifying Facility.~~

~~8.1.5. Failure of PGE to make any required payment pursuant to establish~~Section 7.1.

~~8.1.6. Seller's failure to meet the Commercial Operation Date on or before;~~

~~8.2 In the Scheduled Commercial Operation Date, event of a default under Section 8.1.6, PGE may provide Seller with written notice of default. Seller shall have one (1) year in which to cure the default under this Section 9.1.8, during which time the Seller shall pay PGE Delay Damages pursuant to the terms of Section and Section. damages equal to the Lost Energy Value. If Seller is unable to cure the default, PGE may immediately terminate this Agreement as provided in Section 8.3. PGE's resource sufficiency/deficiency position shall have no bearing on PGE's right to terminate the Agreement under this Section 8.2.~~

6.4 Lender's Right to Cure a Seller Event of Default.

Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under Section of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the



applicable cure period set forth in this Agreement.

#### 6.5 Termination for Default.

~~If an Event of Default has occurred and is continuing, the non-defaulting Party~~8.3. ~~In the event of a default hereunder, the non-defaulting party~~ may immediately terminate this Agreement at its sole discretion, ~~and without the non-defaulting Party incurring any liability to the defaulting Party,~~ by delivering written notice to the ~~defaulting Party.~~ ~~In addition, the non-defaulting Party~~other Party, and, ~~except for damages related to a default pursuant to Section 8.1.3, by a QF sized at 100 kW or smaller,~~ may pursue any and all other legal or equitable remedies available to it, including recovery of damages as set forth below.

#### 6.6 Damages.

~~If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value. Amounts owed by Seller pursuant to this Section shall be due within fifteen (15) business days after any invoice from PGE for the same. Damages owing under this Section 9.4 provided by law or pursuant to this Agreement including damages related to the need to procure replacement power. Such termination shall be effective upon the date of delivery of notice, as provided in Section 20.1. The rights provided in this Section 8 are cumulative and in addition to damages owing pursuant to Sections , , and . An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G such that the exercise of one or more rights shall not constitute a waiver of any other rights.~~

#### 6.7 Payment of Outstanding Obligations.

~~8.4.~~ ~~If this Agreement is terminated pursuant to as provided in this Section , then within thirty (30) calendar days of termination~~8, PGE shall make all payments due and owing to Seller as of the time of receipt of notice of termination; provided, within thirty (30) days, that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section or otherwise, pursuant to the terms of this Agreement, are owed to Seller as of the time of receipt of notice of default. PGE shall not be required to pay Seller for Product any Net Output delivered by Seller after the effective date of any termination~~such notice of default.~~

#### 6.8 Post-Termination PURPA Status.

~~8.5.~~ ~~If this Agreement is terminated as a result of Seller's default, Seller shall pay PGE the positive difference, if any, obtained by subtracting the Contract Price from the sum of the Forward Replacement Price for the Minimum Net Output that Seller was otherwise obligated to provide for a period of twenty-four (24) months from the date of termination plus any cost incurred for transmission purchased by PGE to deliver the replacement power to the Point of Delivery and the estimated administrative cost to the utility to acquire replacement power. Accounts owed by Seller pursuant to this paragraph shall be due within five (5) business days after any invoice from PGE for the same.~~

~~8.6.~~ ~~In the event (i) PGE terminates this Agreement pursuant to this Article 9 or Seller terminates this Agreement without cause, and (ii) Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, Section 8, and Seller wishes to again sell Net Output~~  
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to PGE from the Facility following such termination, ~~then PGE in its sole discretion may (but will not be obliged to) require that Seller, its Affiliate, or its successor shall do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to until the Terms of this Agreement, then Seller and PGE shall promptly (as set forth in Section 2.3) would have run in due course had the Agreement remained in effect. At such time Seller and PGE agree to~~ execute a written document ratifying the terms of this Agreement. PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.

~~8.7. Sections 8.1, 8.4, 8.5, 8.6, 10, and 19.2 shall survive termination of this Agreement.~~

### SECTION 9: TRANSMISSION CURTAILMENTS

~~9.1. Seller shall give PGE notice as soon as reasonably practicable of any Transmission Curtailment that is likely to affect Seller's ability to deliver any portion of energy scheduled pursuant to Sections 4.5 of this Agreement.~~

~~9.2. If as the result of a Transmission Curtailment, Seller does not deliver any portion of energy (including real-time adjustments), scheduled pursuant to Section 4.5 of this Agreement, Seller shall pay PGE the Transmission Curtailment Replacement Energy Cost for the number of MWh of energy reasonably determined by PGE as the difference between (i) the scheduled energy that would have been delivered to PGE under this Agreement during the period of Transmission Curtailment and (ii) the actual energy, if any, that was delivered to PGE for the period.~~

### SECTION 10: INDEMNIFICATION AND LIABILITY

#### 6.9 Seller's Indemnity.

~~10.1. Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, Seller's delivery of electric power to PGE or with the facilities at or prior to the Point of Delivery, or otherwise arising out of this Agreement, including the delivery of energy to and at the Delivery Point; (ii) Seller's development, construction, ownership, operation, maintenance without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or decommissioning of the Facility; (iii) the violation of any law, rule, order for damage to, or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except destruction or economic loss of property belonging to PGE, Seller or others, excepting to the extent such Claim is loss, claim, action or suit may be caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.~~

#### 6.10 PGE's Indemnity.



~~10.2.~~ PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all ~~Claims, loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal,~~ resulting from, or arising out of or in any way connected with ~~(i) PGE's receipt of energy under electric power from Seller or with the facilities at or after the Point of Delivery, or otherwise arising out of this Agreement after its delivery at the Delivery Point; (ii) the violation of, including without limitation any law, rule, order or regulation by PGE or any of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure to perform any of PGE's obligations under this Agreement; (iv) PGE's breach of any representation, loss, claim, action or warranty set forth in this Agreement; suit, for or (v) PGE's negligence on account of injury, bodily or willful misconduct in connection with this Agreement, except otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PGE, Seller or others, excepting to the extent such Claim is loss, claim, action or suit may be caused by Seller's breach of this Agreement or by the negligence or willful misconduct~~ of Seller, its directors, officers, employees, agents or representatives.

#### 6.11 No Dedication.

~~10.3.~~ Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent ~~Person individual or entity.~~

#### 6.12 Disclaimer of Consequential Damages.

~~10.4.~~ NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

### SECTION 11: INSURANCE

~~11.1.~~ Prior to the connection of the Facility to PGE's electric system, provided such Facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, with an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance policies for bodily injury and property damage liability. Such insurance shall include provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder; a cross-liability or severability of insurance interest clause; and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days' prior written notice to PGE. Initial limits of liability for all requirements under this section shall be \$1,000,000 million single limit, which limits may be required to be increased or decreased by PGE as PGE determines in its reasonable judgment economic conditions or claims experience may warrant.

~~6.13 11.2. Prior to the connection of the Facility to PGE's electric system, provided such facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, in an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance acceptable to PGE against property damage or destruction in an amount not less than the cost of replacement of the Facility. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Certificates of Insurance.~~

~~Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required Seller shall waive its insurers' rights of subrogation against PGE regarding Facility property losses.~~

~~11.3. Prior to the connection of the Facility to PGE's electric system and at all other times such insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion and without limitation of other remedies, may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.~~

#### 6.14 Required Insurance.

~~Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than "B+" by the A.M. Best Company the insurance coverage specified below:~~

~~6.14.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.~~

~~6.14.2 All Risk Property Insurance providing coverage in an amount at least equal to the full replacement value of the Facility against "all risks" of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk Policy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar~~

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facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the Facility is destroyed or substantially destroyed, it may terminate this Agreement. ~~SECTION 12: Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers' rights of subrogation against PGE regarding Facility property losses.~~

#### 6.15 Required Provisions.

6.15.1 The Comprehensive General Liability Policy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

6.15.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days' prior written notice to PGE.

6.15.3 Insurance coverage provided on a "claims-made" basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

### FORCE MAJEURE

#### 6.16 Definition of "Force Majeure."

~~12.1.~~ As used in this Agreement, "Force Majeure" or "~~an event of~~ Force Majeure **Event**" means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party's from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: ~~cause beyond the reasonable control of the Seller or of PGE which, despite the exercise of due diligence, such Party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to~~ acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) which by the exercise of reasonable foresight such Party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome, subject, in each case, to the requirements of the first sentence of this paragraph. Force Majeure, however, specifically excludes Transmission Curtailment, the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of

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~~a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility's equipment, or (viii) smoke, haze, ash or other obstruction of sunlight (except to the extent such obstruction is caused by fires or volcanic eruptions), and obligations for the payment of money when due.~~

#### 6.17 Effect of Force Majeure.

~~12.2.~~ If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: (i)

~~12.2.1.~~ the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section of this Agreement describing the particulars of the occurrence; (ii) and

~~12.2.2.~~ the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the non-performing Party uses commercially reasonable efforts to remedy its inability to perform its obligations under this Agreement.

### ARTICLE 7: GENERAL PROVISIONS

#### 7.1 Relationship of the Parties.

~~12.2.3. the non-performing Party uses its best efforts to remedy its inability to perform its obligations under this Agreement.~~

~~12.3. No obligations of either Party which arose before the Force Majeure causing the suspension of performance shall be excused as a result of the Force Majeure.~~

~~12.4. Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.~~

### SECTION 13: SEVERAL OBLIGATIONS

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such party shall be jointly and severally liable for Seller's obligations under this Agreement.

#### 7.2 No Third Party Beneficiaries.

This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

#### 7.3 Governing Law.

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SECTION 14: CHOICE OF LAW

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~**which** may direct the application of the laws of another jurisdiction.

Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement SECTION 15: PARTIAL INVALIDITY AND PURPA REPEAL

~~It is subject to~~**not** the ~~jurisdiction~~**intention** of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, ~~to violate any laws governing the subject matter of this Agreement. If any~~ complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute.

~~The public utility's compliance with~~**of the terms of** this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

7.4 Severability.

~~If any of the terms of this~~**the** Agreement are finally held or determined to be invalid, illegal or void as being contrary to any ~~Applicable Law~~**applicable law** or public policy, all other terms of ~~this~~**e** Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any ~~Applicable Law~~**applicable law** and the intent of the Parties to this Agreement.

7.5 Effect of ~~In the event the Public Utility Regulatory Policies Act (PURPA~~ ~~Repeal.~~

~~The repeal of PURPA shall not result in the early termination of)~~**is repealed**, this Agreement **shall not terminate prior to the Termination Date**, unless such termination is mandated by state ~~or~~**of** federal law.

7.6 Waiver.SECTION 16: WAIVER

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

7.7 Survival.

~~Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.~~

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7.8 Successors and Assigns.

SECTION 17: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

~~This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party or this Agreement. Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide upon request copies of the same to PGE.~~

SECTION 18: SUCCESSORS AND ASSIGNS

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. ~~Neither party may assign any of its rights or delegate any of its obligations hereunder. No assignment hereof by either Party shall become effective without the prior written consent of the other party, which Party being first obtained and such consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that, Notwithstanding the foregoing, either Party may assign its rights or delegate its obligations, in whole or in part, this Agreement without such the other Party's consent and upon thirty (30) calendar days' prior written notice to the other party, to an entity that acquires all as part of (a) a sale of all or substantially all of the business or assigning Party's assets of the assigning party to which this Agreement pertains, whether by, or (b) a merger, consolidation or other reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective. Party.~~

7.9 Financing Documents.

~~Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and expense associated with PGE's review and activities reasonably required under this Section 13.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE's sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.~~

7.10 Entire Agreement; Amendments; Order of Precedence.

SECTION 19: ENTIRE AGREEMENT

19.1. This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding the contents of the Agreement, including PGE's PGE's purchase of energy Net Output from the Facility. No amendment or modification of this Agreement shall be effective unless it is in writing and signed by both parties. If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail. Parties.

7.11 Seller Release.

19.2. By executing this Agreement, Seller releases PGE from any third party claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

7.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

7.13 Notices.

SECTION 20: NOTICES

20.1. All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered if delivered in person or when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.

Notices	PGE	Seller
	<u>Portland General Electric</u> <u>C/O QF Contract Management</u> <u>3WTC-0306</u> <u>121 SW Salmon St</u> <u>Portland, OR 97204</u>	

To Seller: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

with a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



To PGE: ~~Contracts Manager~~  
~~QF Contracts, 3WTC0306~~  
~~PGE - 121 SW Salmon St.~~  
~~Portland, Oregon 97204~~

~~20.2.~~ The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section ~~13.13. 20.~~

*Signature Page Follows.*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(Name Seller)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT A

**FACILITY DESCRIPTION**

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

Seller's Facility consists of generators fueled by \_\_\_\_\_.

Location of the Facility: The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_, with GPS coordinates of \_\_\_\_\_.

The location is more particularly described as follows:

[legal description of parcel]

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section 6.3.2).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating and the Net Available Capacity:

\_\_\_\_\_  
\_\_\_\_\_

Interconnection Rating: \_\_\_\_\_ kW (the Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

\_\_\_\_\_  
\_\_\_\_\_

Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES**

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

Point of Delivery: \_\_\_\_\_

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Entity with whom the Facility is or will be interconnected: \_\_\_\_\_

Transmission Provider(s): \_\_\_\_\_

**C. The following information shall be provided in the As-built Supplement prior to Commercial Operation:**

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):

\_\_\_\_\_

Specification of Point of Interconnection: \_\_\_\_\_

**EXHIBIT C**  
**SELLER'S MINIMUM NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output during the Delivery Period, and the resulting Estimated Annual Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output  
(as measured at the Facility meter at the Point of Interconnection)**

<u>Month</u>	<u>Estimated Monthly Average Net Output (kWh)</u>		<u>Percentage of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%)</u>		<u>Estimated Monthly Maximum Net Output (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>						
<u>February</u>						
<u>March</u>						
<u>April</u>						
<u>May</u>						
<u>June</u>						
<u>July</u>						
<u>August</u>						
<u>September</u>						
<u>October</u>						
<u>November</u>						
<u>December</u>						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated Annual Average Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Average Net Output)

Estimated Annual Maximum Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Maximum Net Output)

**C.3. Alternative Minimum Net Output**

~~In this Exhibit,~~ Seller may at its option designate an alternative to the Minimum Net Output value ~~of~~ to seventy-five (75%) percent of the Estimated Annual Average~~annual average~~ Net Output set forth above~~specified~~ in this Exhibit. If designated, such alternative shall be known as the ~~“Section 3.1.9 of the Agreement (“Alternative Minimum Net Output.”~~Amount”). Such Alternative Minimum Net Output~~Amount~~, if provided, shall exceed zero, and shall be established in accordance with Prudent Electrical Practices, and documentation supporting such a determination shall be provided to PGE upon execution of the Agreement. Such documentation shall be commercially reasonable, and may include, but is not limited to, documents used in financing the project, and data on output of similar projects operated by Sseller, PGE or others.

Annual Alternative Minimum Net Output: \_\_\_\_\_ kWh

<u>Month</u>	<u>Alternative Minimum Net Output (if specified) (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>		
<u>February</u>		
<u>March</u>		
<u>April</u>		
<u>May</u>		
<u>June</u>		
<u>July</u>		
<u>August</u>		
<u>September</u>		
<u>October</u>		
<u>November</u>		
<u>December</u>		

~~EXHIBIT B~~  
~~DESCRIPTION OF SELLER'S FACILITY~~

~~[Seller to Complete]~~

~~EXHIBIT C~~  
REQUIRED FACILITY DOCUMENTS

~~[Seller list all permits and authorizations required for this project]~~

~~Sellers Generation Interconnection Agreement with interconnecting utility~~

~~Firm Transmission Agreement between Seller and Transmission Provider~~



**EXHIBIT D**  
**COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM**  
**(Power Purchase Agreement – \_\_\_\_\_)**

This Collateral Assignment and Consent Agreement (the “*Agreement*”) is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY** (“*PGE*” or “*Buyer*”), **[INSERT LENDER]**, a \_\_\_\_\_ company (the “*Lender*”), and **[INSERT SELLER]**, a \_\_\_\_\_ company (the “*Borrower*” or “*Seller*”) (the “*Parties*” or each a “*Party*”).

**RECITALS**

A. \_\_\_\_\_ Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the “*Loan Agreement*”), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.

B. \_\_\_\_\_ Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the “*PPA*” or the “*Assigned Agreement*”), a copy of which is attached as *Exhibit A*, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power” from which Seller shall sell and PGE shall purchase Net Output (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).

C. \_\_\_\_\_ As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the “*Security Agreement*”), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other “Collateral” defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the “*Secured Obligations*”). The Loan Agreement and the Security Agreement are referred to herein as the “*Security Documents*.”

**AGREEMENTS**

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. \_\_\_\_\_ Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower’s right, title and interest in and to the Assigned Agreement.

2. \_\_\_\_\_ Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller’s rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

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assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

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\_\_\_\_\_ With a copy to:

\_\_\_\_\_ If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

\_\_\_\_\_ If to Lender:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

EXHIBIT E

## START-UP TESTING

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing.]

**[Seller identify appropriate tests]**

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

1. Pressure tests of all steam system equipment;
2. Calibration of all pressure, level, flow, temperature and monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Insulation resistance and point-to-point continuity tests;
6. Bench tests of all protective devices;
7. Tests required by manufacturer of equipment; and
8. Complete pre-parallel checks with PGE.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

1. Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
2. Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Stator windings dielectric test;
7. Armature and field windings resistance tests;
8. Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
9. Heat runs;
10. Tests required by manufacturer of equipment;
11. Excitation and voltage regulation operation tests;
1. 12. Open circuit and short circuit;

Saturation tests;

13. Governor system steady state stability test;

14. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
15. Auto stop/start sequence;
16. Level control system tests; and
17. Completion of all state and federal environmental testing requirements.

~~EXHIBIT E~~



**EXHIBIT F**

SCHEDULE **201**

[Attach ~~currently in-effect~~ Schedule 201]

**EXHIBIT G**

**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**

**STANDARD OFF-SYSTEM VARIABLE  
-POWER PURCHASE AGREEMENT**

**BETWEEN**

**[COUNTERPARTY NAME]**

**AND**

**PORTLAND GENERAL ELECTRIC COMPANY**

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Exhibits

<u>Exhibit A</u>	<u>Description of Facility</u>
<u>Exhibit B</u>	<u>Seller's Interconnection Facilities and Delivery Attributes</u>
<u>Exhibit C</u>	<u>Seller's Net Output Estimates</u>
<u>Exhibit D</u>	<u>Collateral Assignment and Consent Agreement Form</u>
<u>Exhibit E</u>	<u>Start-Up Testing</u>
<u>Exhibit F</u>	<u>Schedule 201</u>
<u>Exhibit G</u>	<u>Illustrative Examples of Payment and Lost Energy Value Calculations</u>
<u>Exhibit H</u>	<u>Negotiated Prices for Option B, Solar Standard Terms and Negotiated Price Agreement (if applicable)</u>

**STANDARD OFF-SYSTEM VARIABLE  
POWER PURCHASE THIS AGREEMENT**

This STANDARD OFF-SYSTEM VARIABLE POWER PURCHASE AGREEMENT ("**Agreement**") is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] ("~~\_\_\_\_\_~~ ("**Seller**")") and Portland General Electric Company, an Oregon corporation ("**PGE**") (hereinafter each a "**Party**" ~~and~~ collectively, "**Parties**"). ~~and is effective upon execution by both Parties ("**Effective Date**"). The Parties agree this Agreement is a [choose one]:~~

- ~~**Option A:** Standard Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating ~~nameplate capacity~~ no greater than 3 MW and other qualifying facilities with Facility Nameplate Capacity Rating ~~nameplate capacity~~ no greater than 10 MW; if this option is selected then Option A will apply under Section 1.6, Section 3.1.14, and Section 4.3, and there will be no Exhibit E]; or~~
- ~~**Option B:** Solar Standard Terms and Negotiated Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating ~~nameplate capacity~~ above 3 MW but no greater than 10 MW; if this option is selected, then Option B will apply under Section 1.6, Section 3.1.14, and Section 4.3, and there will be an Exhibit ~~HE~~ containing the negotiated prices agreed to by the Parties].~~

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STANDARD OFF-SYSTEM VARIABLE POWER PURCHASE AGREEMENT

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~~Eligibility for a Standard Price Agreement (Option A) or a Solar Standard Terms and Negotiated Price Agreement (Option B) is governed by the Schedule and applicable Commission orders.~~

### RECITALS

A. ~~[New QF]~~ Seller intends to construct, own, operate and maintain a ~~New QF~~ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, ~~with a Nameplate Capacity Rating of \_\_\_\_\_ kilowatt ("kW"),~~ as further described in Exhibit A ("~~Facility~~"); and ~~Exhibit B.~~

A. ~~[Existing QF]~~ Seller owns and intends to operate and maintain an Existing QF [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in ~~Exhibit A and Exhibit B.~~

B. Seller intends to operate the Facility as a "Qualifying Facility," as ~~that~~ such term is defined in ~~the FERC regulations codified at 18 CFR Part 292~~ Section 3.1.3, below.

C. Seller ~~wishes to~~ shall sell and PGE ~~is willing to~~ shall purchase the ~~entire~~ Net Output, ~~as such term is defined in Section 1.21, below,~~ from the Facility, ~~subject to and in accordance with the terms and conditions of this Agreement, and Seller wishes to provide energy and capacity pursuant to this Agreement.~~

### AGREEMENT

NOW, THEREFORE, the Parties ~~mutually~~ agree as follows:

#### SECTION 1: DEFINITIONS AND CONTRACT INTERPRETATION

##### 1.1 Defined Terms.

~~For all purposes of~~ When used in this Agreement, the following terms shall have the following meanings:

"Affiliate" means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

"Agreement" means this Standard Off-System Variable Power Purchase Agreement (Option A or Option B) and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

"Ancillary Services" means any of the services identified by a Transmission Provider in its transmission tariff as "ancillary services."

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STANDARD OFF-SYSTEM VARIABLE POWER PURCHASE AGREEMENT

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“Applicable Law” means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

1.1. —“As-built Supplement” means ~~at~~ the supplement to Exhibit A ~~and Exhibit B~~ provided by Seller in accordance with Section ~~4.3~~ following completion of construction of the Facility, ~~or modifications to the Facility, which describes~~ ~~describing~~ the Facility as actually built.

“Balancing Authority” means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to the Facility.

“Bankrupt” means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, or (iii) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets.

1.2. —“Base Hours” ~~means~~ ~~is defined as~~ the total number of hours in each Contract Year (8,760 or 8,784 for leap years), ~~provided, however, that Base Hours for the first Contract Year shall be the number of hours commencing on the first hour of the day after the Commercial Operation Date and ending on the last hour of December 31<sup>st</sup> of the calendar year in which the Commercial Operation Date occurs, and that Base Hours for the last Contract Year shall be the number of hours commencing on January 1 of the calendar year in which the Term ends and ending the last hour of the last day of the Term.~~ ~~year).~~

~~1.3. —“Billing Period:” means ~~one from the start of the first day of each~~ calendar month, ~~to the end of the last day of each~~ calendar month.~~

“Business Day” means any day other than Saturday, Sunday or the following holidays: New Year’s Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.

1.4. —“Cash Escrow” means an agreement ~~among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller’s placement of cash in~~ ~~by two parties to place money into~~ the custody of ~~the escrow agent a third party~~ for delivery to ~~PGE a grantee~~ ~~only~~ after the fulfillment of ~~any of~~ the conditions specified ~~in~~.

1.5. —“Commercial Operation Date” ~~means the date that the Facility is deemed by PGE to be fully operational and reliable. PGE may, at its discretion require, among other things, that all of the following events have occurred:~~

1.5.1. — ~~(facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from a Licensed Professional Engineer (“LPE”) acceptable to PGE in its reasonable judgment stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement (certifications required under this Section . Amounts in the Cash~~

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STANDARD OFF-SYSTEM VARIABLE POWER PURCHASE AGREEMENT

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Escrow shall earn interest at the rate applicable to money market deposits at escrow agent. ~~1.5 can be provided by one or more LPEs);~~

“Claims” means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.

“Commercial Operation” has the meaning given to it in Section .

“Commercial Operation Date” has the meaning given to it in Section .

“Commission” means the Public Utility Commission of Oregon.

“Contract Price” means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under the Non-Renewable Fixed Price Option for \_\_\_\_\_ [specify applicable Non-Renewable Fixed Price Option based on resource type, in accordance with Schedule], as published in the Schedule and attached as **Exhibit F** (or in the case of QFs electing Option B, the Solar Standard Terms and Negotiated Price Agreement, as set forth in the price matrix attached as **Exhibit H**, which reflects the negotiated price, including on-peak and off-peak prices), and thereafter, for the remainder of the Term, the Daily Market Index Price in effect during the interval when the energy is generated.

~~“Contract 1.5.2. — Start-Up Testing of the Facility has been completed in accordance with Section 1.35;~~

~~1.5.3. (facilities with nameplate under 500 kW exempt from following requirement) After PGE has received notice of completion of Start-Up Testing, PGE has received a certificate addressed to PGE from an LPE stating that the Facility has operated for testing purposes under this Agreement and was continuously mechanically available for operation for a minimum of 120 hours. The Facility must provide ten (10) working days written notice to PGE prior to the start of the initial testing period. If the mechanical availability of the Facility is interrupted during this initial testing period or any subsequent testing period, the Facility shall promptly start a new Test Period and provide PGE forty-eight (48) hours written notice prior to the start of such testing period;~~

~~1.5.4. (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from an LPE stating that all required interconnection facilities have been constructed and all required interconnection tests have been completed;~~

~~1.5.5. (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from an LPE stating that Seller has obtained all Required Facility Documents and, if requested by PGE in writing, has provided copies of any or all such requested Required Facility Documents;~~

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~~STANDARD OFF-SYSTEM VARIABLE POWER PURCHASE AGREEMENT  
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~~1.5.6. PGE has received a copy of the executed Generation Interconnection and Transmission Agreements.~~

~~1.6. "Contract Price" means (see the selection made in the first paragraph of this Agreement to determine whether Option A or Option B applies — only one option applies):~~

~~**Option A:** "Contract Price" means the applicable price, including on-peak and off-peak prices, as specified in the Schedule. For the first 15 years measured from the date in Section 2.2.2, the Contract Price will be the Standard Fixed Price Option under the Schedule; thereafter and for the remainder of the Term, the Contract Price will be equal to the Mid-C Index Price.~~

~~**Option B:** "Contract Price" means: (i) the negotiated price, including on-peak and off-peak prices, as specified in Exhibit E; or (ii) the Mid-C Index Price. For the first 15 years measured from the date in Section 2.2.2, the Contract Price will be the negotiated price specified in Exhibit E; thereafter and for the remainder of the Term, the Contract Price will be equal to the Mid-C Index Price. The negotiated price established in Exhibit E is not necessarily the same as the Standard Fixed Price Option or the Renewable Fixed Price Option established in the Schedule.~~

~~1.8. "Contract Year" means each twelve (12) month period commencing upon the Commercial Operation Date or its anniversary during the Term, except the final contract year will be the period from the last anniversary of the Commercial Operation Date during the Term until the end of the Term.~~

~~1.8. "Effective Date" has the meaning set forth in Section 2.1.~~

~~1.9 "Environmental Attributes" shall mean any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gasses (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere.~~

~~1.10. "Facility" has the meaning set forth in the Recitals.~~

~~1.11. "Generation Interconnection Agreement" means an agreement governing the interconnection of the Facility with \_\_\_\_\_ electric system.~~

~~1.12. "Generation Unit" means each separate electrical generator that contributes toward Nameplate Capacity Rating included in Exhibit A. For solar facilities, a generating unit is a complete solar electrical generation system within the Facility that is able to generate and deliver energy to the Point of Delivery independent of other Generation Units within the same Facility.~~

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~~1.13. "Letter of Credit" means an engagement by a bank or other person made at the request of a customer that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the letter of credit.~~

~~1.14. "Licensed Professional Engineer" or "LPE" means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment,~~ at 00:00 hours Pacific Prevailing Time ("PPT") on January 1 and ending at 24:00 hours PPT on December 31; *provided, however*, that the first Contract Year shall commence on

~~1.15. "Lost Energy" means ((the Guarantee of Mechanical Availability as set forth in 3.1.10 / MAP) X Net Output for a Calendar Year) – Net Output for the Calendar Year. Lost Energy shall be zero unless the result of the calculation in this subsection results in a positive number.~~

~~1.16. "Lost Energy Value" means Lost Energy X the excess of the annual time-weighted average Mid-C Index Price for On Peak Hours and Off Peak Hours over the time weighted average Contract Price for On Peak and Off Peak Hours for the corresponding time period (provided that such excess shall not exceed the Contract Price and further provided that Lost Energy is deemed to be zero prior to reaching the Commercial Operation Date and end on December 31<sup>st</sup> of the calendar year in which the Commercial Operation Date occurs, and the last Contract Year shall end on the last day of the Term.) plus any reasonable costs incurred by PGE to purchase replacement power and/or transmission to deliver the replacement power to the Point of Delivery. (For Start-Up Lost Energy Value See 1.34)~~

"Credit Support" has the meaning given to it in Section .

"Creditworthiness Requirements" has the meaning given to it in Section .

~~1.17. "Mechanical Availability Percentage" or "MAP" shall mean that percentage for any Contract Year for the Facility calculated in accordance with the following formula:~~

$$\text{MAP} = 100 \times (\text{Operational Hours}) / (\text{Base Hours} \times \text{Number of Units})$$

~~1.18. "Mid-C Index Price" means the Day Ahead Intercontinental Exchange ("ICE") index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>~~ In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Delivery Point Mid-C trading hub.

"Delay Damages" has the meaning given to it in Section .

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STANDARD OFF-SYSTEM VARIABLE POWER PURCHASE AGREEMENT  
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“Delivery Period” has the meaning given to it in Section .

“Delivery Point” means the point of delivery where Seller delivers energy to the PGE system, as specified in Exhibit B. PGE and Seller may mutually agree to amend the Delivery Point.

“e-Tag” means NERC electronic tag.

“Effective Date” has the meaning given to it in Section .

“Estimated Annual Average Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Annual Maximum Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Average Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Maximum Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Existing QF” means a QF that (1) is or has been operational before the Effective Date of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party.

“Expiration Date” has the meaning given to it in Section .

“Facility” is the entire facility as specified in Exhibit A and Exhibit B.

“Facility 1.19. Nameplate Capacity Rating” means the ~~sum maximum capacity~~ of the Nameplate Capacity Ratings for all Generation Units comprising the Facility.

“FERC” means the Federal Energy Regulatory Commission or any successor government agency.

“Firm Energy” means energy scheduled and delivered on a firm basis to the Delivery Point via firm transmission rights.

“Force Majeure” or “Force Majeure Event” has the meaning given to it in Section .

“Generator” means the electrical component within the Facility measured in kW that converts mechanical energy or solar radiation into electrical energy.

“Generation Unit” means a complete electrical generation system within the Facility that is able to generate and deliver energy to the Point of Interconnection independent of other Generation Units within the same Facility. For example, for a solar facility, a Generation Unit is an inverter and the panels associated with such inverter.

“Governmental Authority” means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

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“Imbalance Energy” means that portion of Firm Energy, measured in kWh, scheduled and delivered to the Delivery Point that was not Net Output.

“Interconnection Agreement” means an agreement governing the interconnection of the Facility with \_\_\_\_\_’s [specify relevant transmission system or distribution system owner] electric system.

“kW” and “kWh” mean kilowatt and kilowatt hour, respectively.

“Lender” means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.

“Letter of Credit” means an irrevocable standby letter of credit from an institution selected ~~as stated~~ by the Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

“Licensed Professional Engineer” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in Section , and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.

“Lost Energy” means (~~expressed in~~ kWh):

- A. In connection with a Facility after the Commercial Operation Date, if the Mechanical Availability Percentage falls below the Minimum Availability Guarantee for a Contract Year, ((the Minimum Availability Guarantee as determined pursuant to Section / the actual Mechanical Availability Percentage for the applicable Contract Year) X actual Net Output for the applicable Contract Year) - actual Net Output for the applicable Contract Year; or
- B. In connection with a Facility that does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see Exhibit C) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual Commercial Operation Date or contract termination pursuant to Section 9. The Estimated Monthly Average Net Output shall be pro-rated for any partial months; or
- C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 9 of this Agreement because of Seller’s default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month during the 24 months following termination, or the sum of the Estimated Monthly

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Average Net Output (by On-Peak and Off-Peak Hours – see **Exhibit C**) for each month from the date of termination through the end of the Term. The Estimated Monthly Average Net Output shall be pro-rated for any partial months.

**“Lost Energy Value”** means:

A. In connection with Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly to each calendar month in the Contract Year and then allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in **Exhibit C** (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year *plus* any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period); and
- The Off-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period).

If the above calculation of the Lost Energy Value for the Contract Year results in a negative value, the Lost Energy Value for the Contract Year shall be deemed zero. See the example calculation in **Exhibit G**.

B. In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during ~~kW~~, which Seller has failed to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below) *plus* any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) shall not exceed the Contract Price for On-Peak Hours for the same period; and ~~10,000 kW~~.

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- The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.

If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in **Exhibit G**.

C. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for On-Peak Hours for the period *less* the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for Off-Peak Hours for the period *less* the Contract Price for Off-Peak Hours for the period); and
- Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in **Exhibit G**.

“**Mechanical Availability Percentage**” or “**MAP**” means that percentage for any Contract Year for the Facility calculated in accordance with the following formula:

$$\text{MAP} = 100 \times (\text{Operational Hours}) / (\text{Base Hours} \times \text{Number of Units})$$

“**Minimum Availability Guarantee**” has the meaning given to it in Section .

“**Nameplate Capacity Rating**” means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.

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“NERC” means the North American Electric Reliability Corporation.

“Net Available Capacity” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Point of Interconnection continuously for sixty (60) minutes.

~~“Net Output” means all energy, 1.20. “Net Dependable Capacity” means the maximum capacity the Facility can sustain over a specified period modified for seasonal limitations, if any, and reduced by the capacity required for station service or auxiliaries.~~

~~1.21. “Net Output” means all energy expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the Point of Interconnection, and less transformation and transmission losses. Net Output does not include any environmental attributes.~~

“New QF” means any QF that is not an Existing QF.

~~1.22. “Number of Units” means the number of Generation Units in the Facility, as specified in Exhibit A.~~

~~1.23. “Off-Peak Hours” means all hours other than has the meaning provided in the Schedule.~~

~~1.24. “On-Peak Hours” has the meaning provided in the Schedule.~~

“On-Peak Energy Imbalance Accumulation” and “Off-Peak Energy Imbalance Accumulation” have the meanings given to them in Section .

“On-Peak Hours” means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.

~~1.25. “Operational Hours” for the Facility means the total across all Generation Units of the number of hours each of the Facility’s Generation Units is are potentially capable of producing power at its Nameplate Capacity Rating regardless of actual weather conditions, season and time of day or night, without any mechanical operating constraint or restriction, and potentially capable of delivering such power to the Point of Delivery Point in a Contract Year. For each Contract Year, each Generation Unit is eligible During up to include no, but not more than, 200 hours as Operational Hours when the Generation Unit is not operational because of Planned Maintenance or during a Contract Year for each Generation Unit and hours during which an event of Force Majeure exists, a Generation Unit shall be considered potentially capable of delivering such power to the Point of Delivery. For example, ifn the Facility consists of two separate Generation Units of 1.5 MW each and Generation Unit 1 is operational for 8,460 hours and is not operational for 300 hours due to absence of any Planned Maintenance or an event beyond 200 hours on any Generation Unit or Event of Force Majeure; and Generation Unit 2 is operational for 8,560 hours and is not operational for 200 hours due to Planned Maintenance or an event of Force Majeure, then, the Operational Hours for the Facility for the a wind farm with 5 separate two MW turbines would be 43,800 for a Contract Year would be calculated as follows: Generation Unit 1 Operational Hours = 8,460~~

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+ 200 = 8,660. Generation Unit 2 Operational Hours = 8,560 + 200 = 8,760. Operational Hours of the Facility = 8,760 + 8,660 = 17,420.

“Person” means any individual, corporation, limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.

4.26.—“Planned Maintenance” means outages scheduled 90 calendar days in advance, with PGE’s prior written notice to PGE, provided however that maintenance during Off-Peak Hours (except Sundays between 6:00 a.m. and 10:00 p.m. PPT) on a Facility comprised of only solar Generators consent, which shall not be considered Planned Maintenance unreasonably withheld.

“4.27.—“Point of Interconnection” Delivery” means the point of interconnection between the Facility and the interconnecting Transmission Provider or distribution PGE system owner, as specified-

4.28.—“Pre-Commercial Operation Date Minimum Net Output” shall mean, unless such MWh is specifically set forth by Seller in Exhibit BA, an amount in MWh equal to seventy-five percent (75%) of Nameplate Capacity Rating X thirty percent (30%) for a wind or other renewable QF or fifty percent (50%) for a solar QF X (whole months since the date selected in Section 2.2.1 / 12) X (8760 hours — 200 hours (assumed Planned Maintenance)) for each month. If Seller has provided specific expected monthly Net Output amounts for the Facility in Exhibit A, “Pre-Commercial Operation Date Minimum Net Output” shall mean seventy-five percent (75%) X expected net output set forth in Exhibit A for each month.

4.29.—“Prime Rate” means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

“Product” means, each and together, as a single bundled product, Net Output and, if applicable, Imbalance Energy, together with all associated capacity.

“4.30.—“Prudent Electrical Practices”” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the WECC Western Electricity Coordinating Council that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all Applicable Law applicable laws and regulations. Prudent Electrical Practices are not intended to be



limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

“PURPA” means the Public Utility Regulatory Policies Act of 1978.

“Qualifying Facility” has the meaning set forth in the Recitals.

“Reliability Entity” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

“Replacement Price” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at the Mid-Columbia trading hub for any Net Output that Seller fails to deliver as required under this Agreement.

When the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Availability Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices shall be calculated as follows for each applicable calendar month (or partial calendar month):

- For Lost Energy During On-Peak Hours: the hourly average of the on-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).
- For Lost Energy During Off-Peak Hours: the hourly average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

When the Replacement Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 9, the Replacement Price shall be the respective On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices during the applicable period.

~~“1.31. “Required Facility Documents:”~~ means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as the Interconnection Agreement and the Transmission Agreement, including without limitation those set forth in Exhibit B.

1.1. ~~1.32.~~ “Schedule” ~~means PGE’s~~ shall mean PGE Schedule 201 filed with the ~~Oregon Public Utilities Commission and (“Commission”)~~ in effect on the date that Seller delivers to PGE an executed copy ~~Effective Date~~ of this Agreement. For ease of reference and informational purposes only, a copy of the Schedule is ~~and~~ attached hereto as Exhibit F; however, if there is any difference between Exhibit F and the Schedule ~~D~~, the terms of the Schedule shall apply and prevail ~~which are hereby incorporated by reference.~~

“Scheduled Commercial Operation Date” has the meaning given to it in Section .

1.2. ~~1.33.~~ “Senior Lien” means a prior lien ~~that~~**which** has precedence as to the property under the lien over another lien or encumbrance.

“Specified Facility Nameplate Capacity Rating” means the Facility Nameplate Capacity Rating set forth in Exhibit A, as it may be amended from time to time in accordance with this Agreement.

“Start-Up Testing” means the performance of applicable start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in Exhibit E (as it may be updated by Seller) during the Test Period.

~~1.3. 1.34. “Start-Up Lost Energy Value” means for the period after the date specified in Section 2.2.2 but prior to achievement of the Commercial Operation Date: zero, unless the Net Output is less than the pro-rated Pre-Commercial Operation Date Minimum Net Output for the applicable delay period, and the time-weighted average of the delay period’s Mid-C Index Price for On-Peak Hours and Off-Peak Hours is greater than the time-weighted average of the delay period’s Contract Price for On-Peak Hours and Off-Peak Hours, in which case Startup Lost Energy Value equals: (pro-rated Pre-Commercial Operation Date Minimum Net Output for the applicable period – Net Output for the applicable period) X (the lower of: the time-weighted average of the Contract Price for On-Peak hours and Off-Peak Hours during the applicable period; or (the time-weighted average of the Mid-C Index Price for On-Peak Hours and Off-Peak Hours during the applicable period – the time-weighted average of the Contract Price for On-Peak Hours and Off-Peak Hours during the applicable period)). The time-weighted average in this section will reflect the relative proportions of On-Peak Hours and Off-Peak Hours in each day.~~

~~1.4. 1.35. “Start-Up Testing” means the completion of applicable required factory and start-up tests as set forth in Exhibit C.~~

~~1.5.1.3. 1.36.~~ “Step-in Rights” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.

“Surplus Delivery” has the meaning given to it in Section . By definition, Surplus Delivery shall always be a positive number.

“Term” has the meaning given to it in Section .

“Test Energy” means electric energy generated by the Facility during the Test Period.

“Test Period” means a period during which Start-Up Testing is to be conducted.

~~1.6. 1.37. “Term” shall mean the period beginning on the Effective Date and ending on the Termination Date.~~

~~1.7. — 1.38. “Test Period” shall mean a period of sixty (60) days or a commercially reasonable period determined by the Seller.~~

~~1.39. “Transmission Agreement” means an agreement (or agreements) between executed by the Seller and the Transmission Provider(s) that provide(s) for Transmission Services.~~

~~1.40. “Transmission Curtailment” means a limitation on Seller’s ability to deliver any portion of the scheduled energy to PGE due to the unavailability of transmission to the Point of Delivery (for any reason other than Force Majeure).~~

~~1.41. “Transmission Curtailment Replacement Energy Cost” means the greater of zero or the amount calculated as: ((Mid-C Index Price — Contract Price) X curtailed energy) for periods of Transmission Curtailment.~~

~~1.42. “Transmission Provider(s)” means the signatory (other than the Seller) to the Transmission Agreement.~~

~~1.43. “Transmission Services” means any and all services (including but not limited to ancillary services and control area services) required for the firm transmission and delivery of Firm Energy from the Facility to the Point of Delivery Point, at no for a term not less than the Specified Facility Nameplate Capacity Rating. The Transmission Agreement shall have a term of at least the lesser of (i) five (5) years, with renewal rights, or (ii) until the Expiration Date Term of this Agreement.~~

~~“Transmission Provider(s)” means \_\_\_\_\_, the transmission system operator(s) with whom Seller will enter or has entered into the Transmission Agreement(s) to provide for delivery of Firm Energy from the Facility to the Delivery Point in accordance with this Agreement.~~

~~“WECC” means the Western Electricity Coordinating Council or any successor thereto.~~

## 1.2 Interpretation.

~~In this Agreement, references References to Recitals, Sections, and Exhibits are references to be the recitals, sections and exhibits of this Agreement. The article and section headings in~~

### SECTION 2: TERM; COMMERCIAL OPERATION DATE

~~2.1. — This Agreement shall become effective upon execution by both Parties (“Effective Date”).~~

~~2.2. — Time is of the essence of this Agreement, and Seller’s ability to meet certain requirements prior to the Commercial Operation Date and to complete all requirements to establish the Commercial Operation Date is critically important. Therefore,~~

~~2.2.1. By \_\_\_\_\_ [date to be determined by the] Seller shall begin initial deliveries of Net Output; and~~

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~~2.2.2. By \_\_\_\_\_ [date to be determined by the Seller subject to Section 2.2.3 below] Seller shall have completed all requirements under Section 1.5 and shall have established the Commercial Operation Date.~~

~~2.2.3. Unless the Parties agree in writing that a later Commercial Operation Date is reasonable and necessary, the Commercial Operation Date shall be no more than three (3) years from the Effective Date. Buyer will not unreasonably withhold agreement to a Commercial Operation Date that is more than three (3) years from the Effective date if the Seller has demonstrated that a later Commercial Operation Date is reasonable and necessary.~~

~~2.3. This Agreement shall terminate on \_\_\_\_\_, \_\_\_\_\_ [date to be chosen by Seller but not to exceed 20 years from the date contained in Section 2.2.2], or the date the Agreement is terminated in accordance with Section 8 or 11, whichever is earlier ("Termination Date").~~

### SECTION 3: REPRESENTATIONS AND WARRANTIES

~~3.1. Seller and PGE represent, covenant, and warrant as follows:~~

~~3.1.1. \_\_\_\_\_ Seller warrants it is a \_\_\_\_\_ duly organized under the laws of \_\_\_\_\_.~~

~~3.1.2. \_\_\_\_\_ Seller warrants that the execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.~~

~~3.1.3. \_\_\_\_\_ Seller warrants that the Facility is and shall for the Term of this Agreement be inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms "includes" or "including" mean "includes but is not limited to" and "including but not limited to," respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in continue to be a "Qualifying Facility" ("QF") as that term is defined in the version of 18 C.F.R. Part 292 in effect on the Effective Date. Seller has provided the appropriate QF certification, which may include a Federal Energy Regulatory Commission ("FERC") self-certification to PGE prior to PGE's execution of this Agreement. At any time during the Term of this Agreement in accordance with such recognized meanings, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable discretion that the Facility continues to qualify as a QF under all applicable requirements.~~

### ARTICLE 2: TERM; FACILITY; COMMERCIAL OPERATION

#### 2.1 Term.

~~The term of this Agreement ("Term") commences on the date this Agreement is signed by both Parties ("Effective Date") and ends on the earlier of \_\_\_\_\_ [Seller-selected date or fixed-interval period of time that is no more than 20 years from the Scheduled Commercial Operation~~

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Date] (“Expiration Date”) or the date on which this Agreement is terminated pursuant to the terms of the Agreement.

## 2.2 Construction of the Facility.

2.2.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE’s system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement. Seller shall, at its sole cost, design and construct the Facility and obtain all transmission and interconnection rights, necessary to enable the delivery of energy from the Facility to the Delivery Point, all in compliance with this Agreement, the Required Facility Documents, and Prudent Electrical Practices.

2.2.2 Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement may be reviewed by PGE, which review shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE’s information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section .

## 2.3 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with **Exhibit E** (as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility), and shall provide written notice to PGE when the Start-Up Testing has been successfully completed. Seller must provide no less than one (1) business day’s written notice to PGE prior to the commencement of Start-Up Testing, and must provide PGE ten (10) business days’ written notice prior to commencing sales of Test Energy to PGE. In order to complete Start-Up Testing, Seller may schedule and deliver Test Energy to PGE pursuant to the scheduling procedures set forth in Section , and PGE shall compensate the Seller for delivered Test Energy in accordance with Section . This Section 2.3 does not apply if the Facility is an Existing QF unless the Existing QF elects to conduct Start-Up Testing.

## 2.4 Commercial Operation.

“Commercial Operation” will be achieved when the Facility is fully constructed and determined by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of 3.1.4. ~~Seller warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and Seller is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

3.1.5. ~~Seller warrants that during the Term of this Agreement, all of Seller’s right, title and interest in and to the Facility shall be free and clear of all liens and encumbrances other than liens and encumbrances arising from third party financing of the Facility other {00052925.2}~~

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~~than workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.~~

~~3.1.6. Seller warrants that it will design and operate the Facility consistent with Prudent Electrical Practices.~~

~~3.1.7. Seller warrants that the Facility has a Nameplate Capacity Rating not greater than 10,000 kW.~~

~~3.1.8. Seller warrants that Net Dependable Capacity of the Facility is \_\_\_\_\_ kW.~~

~~3.1.9. Seller estimates that the average annual Net Output to be delivered by the Facility to PGE is \_\_\_\_\_ kilowatt-hours ("kWh"), which amount PGE will include in its resource planning.~~

~~3.1.10. Seller represents and warrants that the Facility shall achieve the following events to have occurred:~~

~~2.4.1 If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with Exhibit E, and PGE has received Seller's written certification of completion of Start-Up Testing.~~

~~2.4.2 PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that the Facility is interconnected and operational in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.~~

~~2.4.3 PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE's reasonable satisfaction, which may include equipment specifications.~~

~~2.4.4 PGE has received a letter addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement and Transmission Agreement(s), and any other Required Facility Documents requested by PGE.~~

~~2.4.5 PGE has received the following documents with respect to the Facility: the As-built Supplement, including but not limited to an electrical single-line diagram, a 12x24 estimated net energy profile, a 8760 net energy production estimate, and (for solar QFs) an annual degradation factor.~~

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2.4.6 PGE has received copies of all insurance certificates required under Section .

2.4.7 PGE has received any Credit Support required under Section .

2.5 Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section , Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, including but not limited to information required in Exhibit A and Exhibit B. PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, provided that PGE shall not unreasonably withhold such certification. The date of Seller's notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the "Commercial Operation Date" for all purposes under this Agreement.

2.6 Scheduled Commercial Operation Date.

By no later than ("Scheduled Commercial Operation Date"), Seller shall have completed all requirements under Section and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE's negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE's negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date ("Delay Damages"). If Commercial Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section .

2.7 Status of the Facility.

2.7.1 Seller shall construct and operate the Facility so as to ensure its status as a Qualifying Facility and in a manner consistent with its FERC Qualifying Facility certification. At any time during the Term, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE's request documentation acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility.

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2.7.2 Seller shall not make any changes in its ownership, control or management that would cause the Facility to fail to satisfy the eligibility requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement. Seller shall provide upon request by PGE, not more frequently than every 36 months, any documentation and information as may be reasonably required to establish Seller's continued compliance with the applicable eligibility requirements. PGE shall take reasonable steps to maintain the confidentiality of any such documentation and information that Seller identifies as confidential, provided that PGE may provide all such information to the Commission upon the Commission's request.

### ARTICLE 3: DELIVERY AND SALE OF ENERGY; SCHEDULING

#### 3.1 Delivery and Sale of Energy.

Except as otherwise provided in this Agreement, commencing on the Commercial Operation Date and continuing until the end of the Term (the "Delivery Period"), Seller shall deliver and sell and PGE shall receive and purchase all of the Net Output delivered as Firm Energy at the Delivery Point. In reliance on Seller's representations and warranties in Section , Seller may also deliver and PGE shall receive and purchase Imbalance Energy delivered at the Delivery Point, subject to Section . Title and risk of loss related to the Product shall transfer from Seller to PGE at the Delivery Point.

#### 3.2 Surplus Delivery.

For purposes of this Agreement, (i) "On-Peak Energy Imbalance Accumulation" means total Firm Energy delivered to the Delivery Point during On-Peak Hours during a Billing Period less total Net Output during On-Peak Hours during such Billing Period; and (ii) "Off-Peak Energy Imbalance Accumulation" means total Firm Energy delivered to the Delivery Point during Off-Peak Hours during a Billing Period less total Net Output during Off-Peak Hours during such Billing Period. Any positive On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation shall be deemed "Surplus Delivery." PGE shall accept but not pay for Surplus Delivery. Any negative On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation during a Billing Period implies that Seller has delivered less than the aggregate Net Output during the applicable hours in the Billing Period. For the avoidance of doubt, the Parties agree that Seller is not entitled to compensation for any portion of total Net Output that exceeds total Firm Energy delivered to the Delivery Point during the applicable Billing Period.

#### 3.3 Estimated Net Output.

Seller's good faith, commercially reasonable estimate of the Facility's monthly and annual average and maximum Net Output during the Delivery Period, and Seller's basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in Exhibit C, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section . Seller acknowledges that PGE will use these estimates in its resource planning.

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### 3.4 Minimum Availability Guarantee.

Seller hereby guarantees that the Facility will achieve Mechanical Availability Percentages that meet or exceed the following (“Minimum ~~(“Guarantee of Mechanical Availability Guarantee”):~~”):

~~3.1.10.1. \_\_\_\_\_ Ninety percent (90%) beginning in the first Contract Year and extending through the Term of this Agreement for the Facility, if the Facility was operational and sold electricity to PGE or another buyer prior to the Effective Date of this Agreement; or~~

~~3.1.10.2. \_\_\_\_\_ Ninety percent (90%) beginning in Contract Year three and extending throughout the remainder of the Term of this Agreement. -~~

~~3.1.10.3. \_\_\_\_\_ Annually, within 90 calendar days of the end of each Contract Year, Seller shall send to PGE a detailed written report demonstrating and providing evidence of the actual Mechanical Availability Percentage MAP for the previous Contract Year.~~

~~As a remedy for 3.1.10.4 — Seller’s failure to satisfy meet the Minimum Guarantee of Mechanical Availability Guarantee in any Contract a Calendar Year, Seller shall owe PGE result in damages payable to PGE by Seller equal to the Lost Energy Value. PGE shall bill Seller for such damages in accordance with Section 7.~~

### 3.5 Scheduling Procedures.

~~3.1.11. \_\_\_\_\_ Seller will deliver from the Facility to PGE at the Point of Delivery Net Output not to exceed a maximum of \_\_\_\_\_ kWh of Net Output during each Contract Year (“Maximum Net Output”). The cost of delivering energy from the Facility to PGE is the sole responsibility of the Seller.~~

~~3.1.12. \_\_\_\_\_ By the Commercial Operation Date, Seller has entered into a Generation Interconnection Agreement for a term not less than the term of this Agreement.~~

~~3.1.13. \_\_\_\_\_ PGE warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and PGE is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

~~3.1.14. (See the selection made in the first paragraph of this Agreement to determine whether Option A or Option B applies — only one option applies):~~

~~**Option A:** — Seller warrants that (i) the Facility satisfies the eligibility requirements for the Standard Fixed Price Option specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA” and (ii) Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to not be in compliance with the eligibility requirements for the Standard Fixed Price Option specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or~~

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~~the Renewable Fixed Price Option under the Standard PPA.” Seller will provide, upon request by PGE not more frequently than every 36 months, such documentation and information as may be reasonably required to establish Seller’s continued compliance with such Definition. PGE agrees to take reasonable steps to maintain the confidentiality of any portion of the above-described documentation and information that the Seller identifies as confidential except PGE will provide all such confidential information to the Public Utility Commission of Oregon upon the Commission’s request.~~

~~**Option B:**— Seller warrants that (i) the Facility satisfies the eligibility requirements for a Standard PPA specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA” and (ii) Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to not be in compliance with the eligibility requirements for a Standard PPA specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA.” Seller will provide, upon request by PGE not more frequently than every 36 months, such documentation and information as may be reasonably required to establish Seller’s continued compliance with such Definition. PGE agrees to take reasonable steps to maintain the confidentiality of any portion of the above-described documentation and information that the Seller identifies as confidential except PGE will provide all such confidential information to the Public Utility Commission of Oregon upon the Commission’s request.~~

#### SECTION 4: DELIVERY OF POWER AND PRICE

~~4.1.— Commencing on the Effective Date and continuing through the Term of this Agreement, Seller shall sell to PGE the entire Net Output delivered from the Facility at the Point of Delivery.~~

~~4.2.— PGE shall pay Seller the Contract Price for all delivered Net Output.4.3.— (See the selection made in the first paragraph of this Agreement to determine whether Option A or Option B applies — only one option applies):~~

~~**Option A:**— Upon completion of construction of the Facility, Seller shall provide PGE an As-built Supplement to specify the actual Facility as built. Seller shall not increase the Nameplate Capacity Rating above that specified in Exhibit A or increase the ability of the Facility to deliver Net Output in quantities in excess of the Net Dependable Capacity, or the Maximum Net Output as described in Section 3.1.11 above, through any means including, but not limited to, replacement, modification, or addition of existing equipment, except with prior written notice to PGE. In the event Seller increases the Nameplate Capacity Rating of the Facility pursuant to this section to no more than 3,000 kW (if the Facility produces Net Output through solar generation), or to no more than 10,000 kW (if the Facility does not produce Net Output through solar generation), PGE shall pay the Contract Price for the additional delivered Net Output. In the event Seller increases the {00052925.2}~~

~~Nameplate Capacity Rating of the Facility to greater than 3,000 kW and the Facility produces Net Output through solar generation, then Seller shall be required to enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 3,000 kW. In the event Seller increases the Nameplate Capacity Rating of the Facility to greater than 3,000 kW but no greater than 10,000 kW and the Facility produces Net Output through solar generation, the new power purchase agreement will be (at Seller's choice) either a standard (Schedule 201) power purchase agreement or a negotiated (Schedule 202) power purchase agreement and neither option is eligible for Schedule 201 prices. In the event the Seller increases the Nameplate Capacity Rating to greater than 10,000 kW and the Facility produces Net Output through solar generation, then Seller shall be required to enter into a new negotiated (Schedule 202) power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 3,000 kW. In the event Seller increases the Nameplate Capacity Rating to greater than 10,000 kW and the Facility produces Net Output through means other than solar generation, then Seller shall be required to enter into a new negotiated (Schedule 202) power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 10,000 kW.~~

~~**Option B:** Upon completion of construction of the Facility, Seller shall provide PGE an As-built Supplement to specify the actual Facility as built. Seller shall not increase the Nameplate Capacity Rating above that specified in Exhibit A or increase the ability of the Facility to deliver Net Output in quantities in excess of the Net Dependable Capacity, or the Maximum Net Output as described in Section 3.1.11 above, through any means including, but not limited to, replacement, modification, or addition of existing equipment, except with prior written notice to PGE. In the event Seller increases the Nameplate Capacity Rating of the Facility to no more than 10,000 kW pursuant to this section, PGE shall pay the Contract Price for the additional delivered Net Output. In the event Seller increases the Nameplate Capacity Rating to greater than 10,000 kW, then Seller shall be required to enter into a new negotiated (Schedule 202) power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 10,000 kW.~~

~~4.4.—Seller shall provide preschedules for all deliveries of energy hereunder, including identification of receiving and generating control areas, by 9:00:00 PPT on the last business day prior to the scheduled date of delivery. -All energy shall be scheduled according to the most current **North America Energy Reliability Corporation (NERC)** and **Western Electricity Coordinating Council (WECC)** scheduling rules and practices.- The Parties' respective representatives shall maintain hourly real-time schedule coordination; provided, however, that in the absence of such coordination, the hourly schedule established by the exchange of preschedules shall be considered final. -Seller and PGE shall maintain records of hourly energy schedules for accounting and operating purposes. The final E-Tag shall be the controlling evidence of the Parties' schedule. -All energy shall be prescheduled according to customary WECC scheduling practices.- Seller shall make~~

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commercially reasonable efforts to schedule in any hour an amount equal to its expected Net Output for such hour. -Seller shall maintain a minimum of two years records of Net Output and shall agree to allow PGE to have access to such records and to imbalance information kept by the Transmission Provider. The cost of delivering energy from the Facility to PGE shall be the sole responsibility of the Seller.

### 3.6 Loss of Interconnection and Curtailment.

~~4.1.— PGE shall not be liable to Seller and~~~~4.5.— Seller may report under §1605(b) of the Energy Policy Act of 1992 or under any applicable program as belonging to Seller any of the Environmental Attributes produced with respect to the Facility, and PGE shall not report under such program that such Environmental Attributes belong to it.~~

## SECTION 5: OPERATION AND CONTROL

~~5.1.— Seller shall operate and maintain the Facility in a safe manner in accordance with the Generation Interconnection Agreement, and Prudent Electrical Practices. PGE shall have no obligation to purchase the Product Net Output from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the the Facility to the extent that, due to the action of a Reliability Entity, a Force Majeure Event or PGE's construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility to the PGE's electric system is disconnected, suspended or interrupted, or (ii) in whole or in part, pursuant to the Generation Interconnection Agreement, or to the extent generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller's control.~~

## ARTICLE 4: PRICE, BILLING AND PAYMENT

### 4.1 Prices and Payment for Delivered Product.

4.1.1 During the Delivery Period, PGE shall pay Seller an amount for Product delivered during a Billing Period calculated as follows: the Contract Price *multiplied by* the lesser of (i) Net Output during the Billing Period or (ii) Firm Energy delivered to the Delivery Point during the Billing Period. PGE shall not pay for Surplus Delivery. An illustrative example is provided in **Exhibit G**. In determining the amount due to Seller for the Product, the amount ~~as a result of~~ Net Output generated in any hour shall be deemed to be zero or greater.

4.1.2 Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy *multiplied by* the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.

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4.1.3 Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.

4.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.

By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (and supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in **Exhibit G**.

4.3 Invoicing and Payment for Lost Energy Value Related to Minimum Availability Guarantee.

If Seller fails to satisfy the Minimum Availability Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following PGE's receipt of Seller's detailed written report for such Contract Year in accordance with Section , PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, the amount payable by PGE for future deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period of such reduction (not to exceed one year) so as to minimize the risk of Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in **Exhibit G**.

4.4 Form of Payment and Interest on Late Payments.

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this ~~Seller's noncompliance with the Generation Interconnection Agreement~~, this Section does not limit the interest that may be awarded under Applicable Law.

4.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.

## ARTICLE 5: METERING

### 5.1 Metering.

Metering shall be performed at the location and in a manner consistent with this Agreement, as specified in Exhibit B. Seller shall provide to PGE information in hourly increments for all Net Output and any other energy purchased under this Agreement.

### 5.2 Meter Installation, Inspection and Correction.

Seller shall arrange for the installation, testing, and maintenance of the metering equipment required by Section in accordance with Prudent Electrical Practices. PGE shall have reasonable access to observe, at its own expense, all inspection, testing, repair and replacement of the metering equipment. Upon request, Seller shall provide documentation regarding all inspection, testing, repair and replacement of the metering equipment.

If the Facility has a revenue grade meter in addition to the meter used to calculate deliveries and payments and the revenue grade meter is installed near the meter used to calculate deliveries and payments, Seller will send an annual report to PGE comparing the readings between the two meters. If the difference between the two meters is more than two percent (2.0%), PGE may request that the meters be recalibrated and that PGE receive the results of the tests. Also, PGE will be notified promptly of any other recalibration or calibration tests on the meter used to calculate deliveries and payments. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter be tested and recalibrated during the term of the Agreement and consistent with the terms of this Section. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter be tested and recalibrated 12 months after the Commercial Operation Date, at Seller's expense. If the test demonstrates a variance of more than two percent (2.0%) then PGE may request another test and recalibration twenty-four (24) months after the last test. If the test demonstrates a variance of less than two percent (2.0%), then PGE may not request a test and recalibration at the Seller's expense for thirty-six (36) months. PGE may arrange for testing and recalibration at its own expense, after reasonable notice and opportunity for Seller to have a representative on site.

If any of inspections or tests reveal an error exceeding two percent (2.0%), either fast or slow, appropriate correction, based upon the inaccuracy found, shall be made with respect to previous readings for the period during which the Facility metering equipment rendered inaccurate measurements (such period not to exceed twelve (12) months). If the period of inaccuracy cannot be ascertained, correction shall be made to measurements taken since the metering equipment was last tested, provided that such period shall not exceed three (3) months. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered. Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of the metering inaccuracy.

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**ARTICLE 6: OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES**

**6.1 Seller's Duty to Operate and Maintain the Facility.**

Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices.— Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.—

6.1.1 Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide copies of the same to PGE upon request.

**6.2 Outages.**

On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with a schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the Specified Facility Nameplate Capacity Rating for twenty-four (24) or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of 5.2.— ~~Seller agrees to provide sixty (60) days advance written notice of any scheduled maintenance that would require shut down of the Facility for any period of time.~~

~~5.3. If the Facility ceases operation for unscheduled maintenance, Seller immediately shall notify PGE of the necessity of such unscheduled maintenance, the time when such maintenance has occurred or will occur, and the anticipated duration of such maintenance. Seller shall take all reasonable measures and exercise its best efforts to avoid unscheduled maintenance, to limit the duration of such unscheduled maintenance, and to perform unscheduled maintenance during Off-Peak hours.~~

**SECTION 6: CREDITWORTHINESS**

~~6.2.1 In the event Seller: a) is unable to represent or warrant as required by Section 13.13.~~

6.2.2 Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable efforts to avoid or mitigate outages during PGE's system emergencies.

**6.3 Facility Upgrades.**

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6.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

6.3.2 At any time after the Commercial Operation Date upon at least six months prior written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in Exhibit C, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in Exhibit C for any other reason, including by installing additional generating units or replacement equipment<sup>3</sup> that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

6.3.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section or Section that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend Exhibit A and Exhibit C as appropriate to reflect the modifications.

6.3.2.2 So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller will continue to receive the Contract Price for all delivered Net Output.

6.3.3 If Seller increases the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 3,000 kW (solar) or 10,000 kW (all other QFs), consistent with then-current Applicable Law:

6.3.3.1 If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to more than 3,000 kW and no greater than 10,000 kW, then Seller may elect to enter either (a) a standard power purchase agreement with negotiated prices, or (b) a negotiated power purchase agreement with negotiated prices.

6.3.3.2 If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

6.3.3.3 If the Facility produces Net Output through any resource types other than solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

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## ARTICLE 7: REPRESENTATIONS AND WARRANTIES

### 7.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

7.1.1 Seller is duly organized and in good standing under the laws of the state of incorporation or formation.

7.1.2 The execution, delivery and performance of this Agreement are within Seller's powers, ~~have it has not been~~ duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

7.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to ~~a debtor in any~~ bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

7.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

7.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

7.1.6 Either Seller satisfies the requirements set forth in Section through below (the "Creditworthiness Requirements"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section .

7.1.6.1 Seller is not and has not been Bankrupt ~~proceeding~~ within the past two (2) years, and there are no proceedings pending; ~~b) becomes such a debtor during the Term; or being contemplated by Seller or, to Seller's knowledge, threatened against Seller that would result in Seller being or becoming Bankrupt.~~

7.1.6.2 Seller ~~e)~~ is not in default under any of its material agreements and ~~is or will not be~~ current on all of its financial obligations, including construction-related financial obligations.

7.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other

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than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

7.1.7 No later than the Commercial Operation Date, Seller will possess a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

7.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

7.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

7.1.10 In connection with Seller's delivery of Firm Energy as required under this Agreement: Seller's delivery of Imbalance Energy, if any, results from Seller's purchase of energy imbalance ancillary service that the Transmission Provider(s) require(s) Seller to procure, as a condition of providing transmission service, in order to correct a mismatch between energy scheduled by the Facility and the real-time production of the Facility.

7.1.11 Seller has the right to sell the Product to PGE free and clear of liens or encumbrances.

7.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

7.2.1 It is a corporation duly organized under the laws of Oregon.

7.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

7.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

7.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

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7.2.5 It is not and has not been Bankrupt within the past two (2) years and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

7.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

### 7.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article 7 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

## ARTICLE 8: CREDIT SUPPORT

### 8.1 Required Credit Support.

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall immediately notify PGE in writing and shall promptly (and in no less than ten (10) business days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). In each case, the amount of Credit Support required shall be calculated as follows: (aggregate number of On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the weighted average Contract Price for OnPeak Hours – the weighted average Contract Price for OffPeak Hours) x (Net Available Capacity). The amount of Credit Support required shall be updated annually, on the anniversary of the month Credit Support was first required to be provided. The updated amount of Credit Support shall be calculated for each subsequent 12-month period, consistent with the calculation described in this Section.

If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.

~~default security in an amount reasonably acceptable to PGE in one of the following forms: Senior Lien, Step-in Rights, a Cash Escrow or Letter of Credit. The amount of such default security that shall be acceptable to PGE shall be equal to: (annual On Peak Hours) X (On Peak Price – Off Peak Price) X (Net Dependable Capacity). Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its~~

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reasonable discretion, grant an exception to the requirements to provide default security if the ~~Seller~~<sup>QF</sup> has negotiated financial arrangements with the ~~Lender~~<sup>construction loan lender</sup> that mitigate Seller's financial risk to PGE.

## 8.2 Right to Draw on Credit Support.

At any time after the occurrence and during the continuation of an Event of Default, or upon an early termination of this Agreement by PGE pursuant to Section , PGE may draw on Seller's Credit Support to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the Credit Support during the Term, PGE shall inform Seller within fifteen (15) business days, and Seller shall promptly, and in no more than fifteen (15) business days following notice from PGE, restore the Credit Support to the amount required under Section . However, for avoidance of doubt, Seller shall have no obligation to replenish the Credit Support if PGE has terminated the Agreement.

## SECTION 7: BILLINGS, COMPUTATIONS AND PAYMENTS

~~7.1.— On or before the thirtieth (30th) day following the end of each Billing Period, PGE shall send to Seller payment for Seller's deliveries of Net Output to PGE, together with computations supporting such payment. PGE may offset any such payment to reflect amounts owing from Seller to PGE pursuant to this Agreement and any other agreement related to the Facility between the Parties or otherwise. On or before the thirtieth (30<sup>th</sup>) day following the end of each Contract Year, PGE shall bill for any Lost Energy Value accrued pursuant to this Agreement.~~

~~7.2.— Any amounts owing after the due date thereof shall bear interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by applicable law.~~

## SECTION 8: DEFAULT, REMEDIES AND TERMINATION

### 8.3 Events of Default.

~~An "Event of Default" means, with respect to 8.1. In addition to any other event that may constitute a Party default under this Agreement, the occurrence of any of the following unless otherwise excused events shall constitute defaults under this Agreement:~~

~~8.3.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;~~

~~8.3.2 any 8.1.1. Breach by Seller or PGE of a representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;~~

~~the failure of a Party to perform any material covenant or obligation, except for Section 3.1.4, set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other {00052925.2}~~

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Party explaining the circumstances supporting the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;-

with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such~~8.1.2. — Seller's failure is not cured to provide default security, if required by Section 6, prior to delivery of any Net Output to PGE or within 30 calendar~~10 days of notice.

8.3.3 ~~8.1.3. — Seller's receipt of written notice from PGE;~~

8.3.4 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement or Transmission Agreement(s) within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement or Transmission Agreement(s) at any time during the term of this Agreement;

8.3.5 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

8.3.6 with respect to Seller, Seller fails, for any two or more~~failure to meet the Guarantee of Mechanical Availability established in Section 3.1.10 for two~~ consecutive Contract Years to satisfy the Minimum Availability Guarantee;

~~or Seller's failure to provide any written report required by Section if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE; that section.~~

~~with respect to 8.1.4. — If Seller, Seller fails is no longer a Qualifying Facility.~~

~~8.1.5. — Failure of PGE to make any required payment pursuant to establish~~Section 7.1.

~~8.1.6 — Seller's failure to meet the Commercial Operation Date on or before-~~

8.3.7 ~~8.2 — In the Scheduled Commercial Operation Date. event of a default under Section 8.1.6, PGE may provide Seller with written notice of default. Seller shall have one (1) year in which to cure the default under this Section 9.1.9, during which time the Seller shall pay PGE Delay Damages pursuant to the terms of Section and damages equal to the Lost Energy Value. If Seller is unable to cure the default, PGE may immediately terminate this Agreement as provided in Section .~~

8.4 Lender's Right to Cure a Seller Event of Default.

Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under 8.3. — PGE's resource sufficiency/deficiency

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~~position shall have no bearing on PGE's right to terminate the Agreement under this Section of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement 8.2.~~

#### 8.5 Termination for Default.

~~If an Event 8.3. In the event of Default has occurred and is continuing a default under this Agreement, except as otherwise provided in this Agreement, the non-defaulting Party may immediately terminate this Agreement at its sole discretion, and without the non-defaulting Party incurring any liability to the defaulting Party, by delivering written notice to the defaulting Party. In addition, the non-defaulting Party may pursue any and all other legal or equitable remedies available to it, including recovery of damages as set forth below.~~

#### 8.6 Damages.

~~If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value. Amounts owed by Seller pursuant to this Section shall be due within fifteen (15) business days after any invoice from PGE for the same. Damages owing under this Section 9.4 shall be cumulative and in addition to provided by law or pursuant to this Agreement including damages owing pursuant to Sections ., . and . An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G, related to the need to procure replacement power. A termination hereunder shall be effective upon the date of delivery of notice, as provided in Section 20. The rights provided in this Section 8 are cumulative such that the exercise of one or more rights shall not constitute a waiver of any other rights.~~

#### 8.7 Payment of Outstanding Obligations.

~~8.4.— If this Agreement is terminated pursuant to as provided in this Section, then within thirty (30) calendar days of termination 8, PGE shall make all payments due and owing, within thirty (30) days, that, pursuant to the terms of this Agreement, are owed to Seller as of the time of receipt of notice of termination; provided that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section or otherwise. default. PGE shall not be required to pay Seller for Product any Net Output delivered by Seller after the effective date of any termination such notice of default.~~

#### 8.8 Post-Termination PURPA Status.

~~8.5.— In the event (i) PGE terminates this Agreement pursuant to this Article 9 or Seller terminates this Agreement without cause, and (ii) Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, Section 8, and Seller wishes to again sell Net Output to PGE from the Facility following such termination, then PGE in its sole discretion may (but will not be obliged to) require that Seller, its Affiliate, or its successor shall do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to until the Terms of this Agreement, then (as set forth in Section 2.3) would have run in due course had the Agreement remained in effect. At~~

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~~such time~~ Seller and PGE ~~shall promptly agree to~~ execute a written document ratifying the terms of this Agreement. ~~PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.~~

~~8.6. Sections 8.1, 8.4, 8.5, 10, and 19.2 shall survive termination of this Agreement.~~

#### SECTION 9: TRANSMISSION CURTAILMENTS

~~9.1. Seller shall give PGE notice as soon as reasonably practicable of any Transmission Curtailment that is likely to affect Seller's ability to deliver any portion of energy scheduled pursuant to Section 4.4 of this Agreement.~~

~~9.2. If as the result of a Transmission Curtailment, Seller does not deliver any portion of energy (including real-time adjustments), scheduled pursuant to Section 4.4 of this Agreement, Seller shall pay PGE the Transmission Curtailment Replacement Energy Cost for the number of MWh of energy reasonably determined by PGE as the difference between (i) the scheduled energy that would have been delivered to PGE under this Agreement during the period of Transmission Curtailment and (ii) the actual energy, if any, that was delivered to PGE for the period.~~

#### SECTION 10: INDEMNIFICATION AND LIABILITY

##### 8.9 Seller's Indemnity.

~~10.1. Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder Seller's delivery of electric power to PGE or with the facilities at or prior to the Point of Delivery, or otherwise arising out of this Agreement, including the delivery of energy to and at the Delivery Point; (ii) Seller's development, construction, ownership, operation, maintenance without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or decommissioning of the Facility; (iii) the violation of any law, rule, order death of, persons, or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except for damage to, or destruction or economic loss of property belonging to PGE, Seller or others, excepting to the extent such Claim is loss, claim, action or suit may be caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.~~

##### 8.10 PGE's Indemnity.

~~10.2. PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all Claims loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting {00052925.2}~~

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from, or arising out of or in any way connected with ~~(i) PGE's receipt of energy under electric power from Seller or with the facilities at or after the Point of Delivery, or otherwise arising out of this Agreement after its delivery at the Delivery Point; (ii) the violation of, including without limitation any law, rule, order or regulation by PGE or any of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure to perform any of PGE's obligations under this Agreement; (iv) PGE's breach of any representation, loss, claim, action or warranty set forth in this Agreement; suit, for or (v) PGE's negligence on account of injury, bodily or willful misconduct in connection with this Agreement, except otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PGE, Seller or others, excepting to the extent such Claim is loss, claim, action or suit may be caused by Seller's breach of this Agreement or by the negligence or willful misconduct~~ of Seller, its directors, officers, employees, agents or representatives.

#### 8.11 No Dedication.

~~10.3.~~ Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent ~~Person~~ individual or entity.

#### 8.12 Disclaimer of Consequential Damages.

~~10.4.~~ NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

### SECTION 11: INSURANCE

~~11.1.~~ Prior to the connection of the Facility to PGE's electric system, provided such Facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, with an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance policies for bodily injury and property damage liability. Such insurance shall include provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder; a cross-liability or severability of insurance interest clause; and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days' prior written notice to PGE. Initial limits of liability for all requirements under this section shall be \$1,000,000 million single limit, which limits may be required to be increased or decreased by PGE as PGE determines in its reasonable judgment economic conditions or claims experience may warrant.

~~11.2.~~ Prior to the connection of the Facility to PGE's electric system, provided

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~~such facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, in an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance acceptable to PGE against property damage or destruction in an amount not less than the cost of replacement of the Facility. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Certificates of Insurance.~~

~~Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required Seller shall waive its insurers' rights of subrogation against PGE regarding Facility property losses.~~

~~11.3. Prior to the connection of the Facility to PGE's electric system and at all other times such~~ insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion ~~and without limitation of other remedies~~, may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.

#### 8.14 Required Insurance.

~~Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than "B+" by the A.M. Best Company the insurance coverage specified below:~~

~~8.14.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.~~

~~8.14.2 All Risk Property Insurance providing coverage in an amount at least equal to the full replacement value of the Facility against "all risks" of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk Policy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk~~

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Policy will be maintained in accordance with terms available in the insurance market for similar facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the Facility is destroyed or substantially destroyed, it may terminate this Agreement. SECTION 12: Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers' rights of subrogation against PGE regarding Facility property losses.

#### 8.15 Required Provisions.

8.15.1 The Comprehensive General Liability Policy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

8.15.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days' prior written notice to PGE.

8.15.3 Insurance coverage provided on a "claims-made" basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

### FORCE MAJEURE

#### 8.16 Definition of "Force Majeure."

~~12.1.~~ As used in this Agreement, "Force Majeure" or "~~an event of~~ Force Majeure **Event**" means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party's from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: ~~cause beyond the reasonable control of the Seller or of PGE which, despite the exercise of due diligence, such Party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to~~ acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. ~~Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) which by the exercise of reasonable foresight such Party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome, subject, in each case, to the requirements of the first sentence of this paragraph. Force Majeure, however, specifically excludes~~ the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not {00052925.2}

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~~limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility's equipment, or (viii) smoke, haze, ash or other obstruction of sunlight (except to the extent such obstruction is caused by fires or volcanic eruptions), and obligations for the payment of money when due.~~

#### 8.17 Effect of Force Majeure.

~~12.2.—~~If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: (i)

~~12.2.1.—~~the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section of this Agreement describing the particulars of the occurrence; (ii) and

~~12.2.2.—~~the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the non-performing Party uses commercially reasonable efforts to remedy its inability to perform its obligations under this Agreement.

### ARTICLE 9: GENERAL PROVISIONS

#### 9.1 Relationship of the Parties.

~~12.2.3.—~~the non-performing Party uses its best efforts to remedy its inability to perform its obligations under this Agreement.

~~12.3.—~~No obligations of either Party which arose before the Force Majeure causing the suspension of performance shall be excused as a result of the Force Majeure.

~~12.4.—~~Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.

### SECTION 13: SEVERAL OBLIGATIONS

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such party shall be jointly and severally liable for Seller's obligations under this Agreement.

#### 9.2 No Third Party Beneficiaries.

This Agreement shall not impart any rights enforceable by any third party (other than a permitted {00052925.2})

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successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

### 9.3 Governing Law.

#### SECTION 14: CHOICE OF LAW

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~**which** may direct the application of the laws of another jurisdiction.

Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement**SECTION 15: PARTIAL INVALIDITY AND PURPA REPEAL**

It is subject to~~not~~ the jurisdiction~~intention~~ of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, ~~to violate any laws governing the subject matter of this Agreement. If any~~ complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute.

The public utility's compliance with ~~of~~ the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

### 9.4 Severability.

If any of the terms of this~~the~~ Agreement are finally held or determined to be invalid, illegal or void as being contrary to any Applicable Law~~applicable law~~ or public policy, all other terms of this~~se~~ Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law~~applicable law~~ and the intent of the Parties to this Agreement.

### 9.5 Effect of ~~In the event the Public Utility Regulatory Policies Act (PURPA~~ Repeal.

The repeal of PURPA shall not result in the early termination of) ~~is repealed,~~ this Agreement ~~shall not terminate prior to the Termination Date,~~ unless such termination is mandated by state or federal law.

### 9.6 Waiver.

#### SECTION 16: WAIVER

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this



Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

#### 9.7 Survival.

Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.

#### 9.8 Successors and Assigns.

### SECTION 17: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

~~This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party or this Agreement. Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide upon request copies of the same to PGE.~~

### SECTION 18: SUCCESSORS AND ASSIGNS

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. ~~Neither party may assign any of its rights or delegate any of its obligations hereunder. No assignment hereof by either Party shall become effective without the prior written consent of the other party, which Party being first obtained and such consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that, Notwithstanding the foregoing, either Party may assign its rights or delegate its obligations, in whole or in part, this Agreement without such the other Party's consent and upon thirty (30) calendar days' prior written notice to the other party, to an entity that acquires all as part of (a) a sale of all or substantially all of the business or assigning Party's assets of the assigning party to which this Agreement pertains, whether by, or (b) a merger, consolidation or other reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective. Party.~~

#### 9.9 Financing Documents.

Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and {00052925.2}

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expense associated with PGE's review and activities reasonably required under this Section 13.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in **Exhibit D**, as revised by PGE from time to time in PGE's sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.

9.10 Entire Agreement; Amendments; Order of Precedence.

**SECTION 19: ENTIRE AGREEMENT**

19.1.—This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding the contents of the Agreement, including PGE's ~~PGE's~~ purchase of ~~energy~~ **Net Output** from the Facility. No ~~amendment or~~ modification of this Agreement shall be effective unless it is in writing and signed by both ~~parties~~. If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail.  
**Parties.**

9.11 Seller Release.

19.2.—By executing this Agreement, Seller releases PGE from any ~~third party~~ claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

9.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

9.13 Notices.

**SECTION 20: NOTICES**

20.1.—All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered ~~if delivered in person or~~ when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.

<u>Notices</u>	<u>PGE</u>	<u>Seller</u>
	<u>Portland General Electric C/O QF Contract Management 3WTC-0306 121 SW Salmon St Portland, OR 97204</u>	

To Seller: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

with a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To PGE: \_\_\_\_\_ Contracts Manager  
\_\_\_\_\_ QF Contracts, 3WTC0306  
\_\_\_\_\_ PGE - 121 SW Salmon St.  
\_\_\_\_\_ Portland, Oregon 97204

~~20.2.~~ The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section ~~13.13. 20.~~

Signature Page Follows.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

{00052925.2}

STANDARD OFF-SYSTEM VARIABLE POWER PURCHASE AGREEMENT

PAGE

Date: \_\_\_\_\_

\_\_\_\_\_  
(Name Seller)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**  
**FACILITY DESCRIPTION OF SELLER'S FACILITY**

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

Seller's Facility consists of generators fueled by \_\_\_\_\_.  
Location of the Facility: The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_,  
with GPS coordinates of \_\_\_\_\_

The location is more particularly described as follows:  
[legal description of parcel]

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section ).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating and the Net Available Capacity:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Interconnection Rating: \_\_\_\_\_ kW (the Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

As-built Average Annual Degradation Percentage (applicable only to QFs with solar Generation Units).

**{Seller to Complete}**

~~{Sellers may include reasonable expected monthly Net Output for purposes of~~

~~Section 1.34 (Start-Up Lost Energy Value). Amounts may vary by month and shall~~

~~{00052925.2}~~

~~EXHIBIT A – DESCRIPTION OF SELLER'S FACILITY~~

~~PAGE~~

~~be assumed repeated for each Contract Year, unless amounts for each Contract Year of this Agreement are set forth in this Exhibit A. Such amounts, if provided, shall exceed zero, and shall be established in accordance with Prudent Electrical Practices and documentation supporting such a determination shall be provided to PGE upon execution of this Agreement. Such documentation shall be commercially reasonable, and may include, but is not limited to, documents used in financing the project, and data on output of similar projects operated by seller, PGE or others.]~~

**EXHIBIT B**

**SELLER'S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES**

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

Point of Delivery: \_\_\_\_\_

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Entity with whom the Facility is or will be interconnected: \_\_\_\_\_

Transmission Provider(s): \_\_\_\_\_

**C. The following information shall be provided in the As-built Supplement prior to Commercial Operation:**

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):  
\_\_\_\_\_  
\_\_\_\_\_

Specification of Point of ~~REQUIRED FACILITY DOCUMENTS~~

~~**{Seller list all permits and authorizations required for this project}**~~

~~Sellers-Generation Interconnection:~~

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ -Agreement



**EXHIBIT C**

**SELLER'S NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output during the Delivery Period, and the resulting Estimated Annual Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output  
 (as measured at the Facility meter at the Point of Interconnection)**

<u>Month</u>	<u>Estimated Monthly Average Net Output (kWh)</u>		<u>Percentage of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%)</u>		<u>Estimated Monthly Maximum Net Output (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>						
<u>February</u>						
<u>March</u>						
<u>April</u>						
<u>May</u>						
<u>June</u>						
<u>July</u>						
<u>August</u>						
<u>September</u>						
<u>October</u>						
<u>November</u>						
<u>December</u>						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated Annual Average Net Output: \_\_\_\_\_ kWh  
 (sum of Estimated Monthly Average Net Output)

Estimated Annual Maximum Net Output: \_\_\_\_\_ kWh  
 (sum of Estimated Monthly Maximum Net Output)

## EXHIBIT D

### COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

(Power Purchase Agreement – \_\_\_\_\_)

This Collateral Assignment and Consent Agreement (the “*Agreement*”) is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY** (“*PGE*” or “*Buyer*”), [INSERT LENDER], a \_\_\_\_\_ company (the “*Lender*”), and [INSERT SELLER], a \_\_\_\_\_ company (the “*Borrower*” or “*Seller*”) (the “*Parties*” or each a “*Party*”).

### RECITALS

A. \_\_\_\_\_ Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the “*Loan Agreement*”), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.

B. \_\_\_\_\_ Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the “*PPA*” or the “*Assigned Agreement*”), a copy of which is attached as *Exhibit A*, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power from which Seller shall sell and PGE shall purchase Net Output” (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).

C. \_\_\_\_\_ As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the “*Security Agreement*”), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other “Collateral” defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the “*Secured Obligations*”). The Loan Agreement and the Security Agreement are referred to herein as the “*Security Documents*.”

### AGREEMENTS

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. \_\_\_\_\_ Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower’s right, title and interest in and to the Assigned Agreement.

2. \_\_\_\_\_ Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller’s rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such {00052925.2}

EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

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\_\_\_\_\_ With a copy to:

\_\_\_\_\_ If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

\_\_\_\_\_ If to Lender:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

{00052925.2}

EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

PAGE 3

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**EXHIBIT E**  
**START-UP TESTING**

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing.]

**[Seller identify appropriate tests]**

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

1. \_\_\_\_\_ Pressure tests of all steam system equipment;
2. \_\_\_\_\_ Calibration of all pressure, level, flow, temperature and monitoring instruments;
3. \_\_\_\_\_ Operating tests of all valves, operators, motor starters and motor;
4. \_\_\_\_\_ Alarms, signals, and fail-safe or system shutdown control tests;
5. \_\_\_\_\_ Insulation resistance and point-to-point continuity tests;
6. \_\_\_\_\_ Bench tests of all protective devices;
7. \_\_\_\_\_ Tests required by manufacturer of equipment; and
8. \_\_\_\_\_ Complete pre-parallel checks with PGE.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

1. \_\_\_\_\_ Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
2. \_\_\_\_\_ Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
3. \_\_\_\_\_ Brake tests;
4. \_\_\_\_\_ Energization of transformers;
5. \_\_\_\_\_ Synchronizing tests (manual and auto);
6. \_\_\_\_\_ Stator windings dielectric test;
7. \_\_\_\_\_ Armature and field windings resistance tests;
8. \_\_\_\_\_ Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
9. \_\_\_\_\_ Heat runs;
10. \_\_\_\_\_ Tests required by manufacturer of equipment;
11. \_\_\_\_\_ Excitation and voltage regulation operation tests;
1. \_\_\_\_\_ 12. \_\_\_\_\_ Open circuit and short circuit;

Ssaturation tests;

13. \_\_\_\_\_ Governor system steady state stability test;

14. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
15. Auto stop/start sequence;
16. Level control system tests; and
17. Completion of all state and federal environmental testing requirements.



~~EXHIBIT D~~

2.

**EXHIBIT F**

SCHEDULE 201

[Attach ~~currently in-effect~~ Schedule 201]

~~EXHIBIT E~~

**EXHIBIT G**  
**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**

**EXHIBIT H**

**NEGOTIATED CONTRACT PRICES**

**[Attach negotiated prices for Option B – Solar Standard Terms and ~~On-Peak and Off-Peak~~  
Negotiated Price ~~Contract Prices if Option B is~~  
~~selected in the first paragraph of the Agreement, otherwise delete Exhibit E]~~**

**STANDARD ~~ONIN~~-SYSTEM NON-VARIABLE  
-POWER PURCHASE AGREEMENT**

**BETWEEN**

**[COUNTERPARTY NAME]**

**AND**

**PORTLAND GENERAL ELECTRIC COMPANY**

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<u>Exhibit A</u>	<u>Description of Facility</u>
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<u>Exhibit C</u>	<u>Seller’s Net Output Estimates</u>
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<u>Exhibit F</u>	<u>Schedule 201</u>
<u>Exhibit G</u>	<u>Illustrative Examples of Payment and Lost Energy Value Calculations</u>

**STANDARD ON-SYSTEM NON-VARIABLE  
POWER PURCHASE  
THIS AGREEMENT**

This STANDARD ON-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT (“**Agreement**”) is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] (“~~\_\_\_\_\_~~ (“**Seller**”)) and Portland General Electric Company, an Oregon corporation (“**PGE**”) (hereinafter each a “**Party**” ~~and~~**or** collectively, “**Parties**”) ~~and is effective upon execution by both Parties (“Effective Date”)~~.

**RECITALS**

A. [New QF] Seller intends to construct, own, operate and maintain a New QF [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_ with a Nameplate Capacity Rating of \_\_\_\_\_ kilowatt (“**kW**”), as further described in Exhibit AB (“**Facility**”); and Exhibit B.

A. [Existing QF] Seller owns and intends to operate and maintain an Existing QF [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in Exhibit A and Exhibit B.

B. Seller intends to operate the Facility as a “Qualifying Facility,” as ~~that~~**such** term is defined in the FERC regulations codified at 18 CFR Part 292 Section 3.1.3, below.

{00052926.2}

C. ~~Seller wishes to~~**shall** sell and PGE ~~is willing to~~**shall** purchase the ~~entire~~-Net Output, ~~as such term is defined in Section 1.19, below,~~ from the Facility, ~~subject to and~~ in accordance with the terms and conditions of this Agreement, ~~and Seller wishes to provide energy and capacity pursuant to this Agreement.~~

## AGREEMENT

NOW, THEREFORE, the Parties ~~mutually~~ agree as follows:

### SECTION 1: DEFINITIONS AND CONTRACT INTERPRETATION

#### 1.1 Defined Terms.

~~For all purposes of~~**When used in** this Agreement, the following terms shall have the following meanings:

**“Adjusted Delivered Net Output”** means, for any given period, Net Output delivered as Firm Energy to the Delivery Point during the period **plus** Net Output that would have been delivered as Firm Energy to the Delivery Point during any period in which Seller was excused from its delivery obligations due to a Force Majeure Event, based on the Estimated Monthly Average Net Output set forth in **Exhibit C** (pro-rated for partial months as applicable).

**“Affiliate”** means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

**“Agreement”** means this Standard On-System Non-Variable Power Purchase Agreement and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

**“Alternative Minimum Net Output”** has the meaning set forth in **Exhibit C**.

**“Ancillary Services”** means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services.”

**“Applicable Law”** means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

**4.1.**—**“As-built Supplement”** means ~~at~~**the** supplement to Exhibit ~~A and Exhibit B~~ provided by Seller in accordance with Section ~~4.4~~ following completion of construction of the Facility, ~~or modifications to the Facility, which describes~~**describing** the Facility as actually built.

**“Balancing Authority”** means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to the Facility.



**“Bankrupt”** means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, or (iii) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets.

**“Billing Period”** means one calendar month.

**“Business Day”** means any day other than Saturday, Sunday or the following holidays: New Year’s Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.

~~1.2. —“Billing Period” means a period between PGE’s readings of its power purchase billing meter at the Facility in the normal course of PGE’s business. Such periods may vary and may not coincide with calendar months, however, PGE shall use best efforts to read the power purchase billing meter in 12 equally spaced periods per year.~~

~~1.3. —“Cash Escrow” means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller’s placement of cash in by two parties to place money into the custody of the escrow agent a third party for delivery to PGE a grantee only after the fulfillment of any of the conditions specified in Section . Amounts in the Cash Escrow shall earn interest at the rate applicable to money market deposits at escrow agent.~~

**“Claims”** means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.

**“Commercial Operation”** has the meaning given to it in Section .

~~1.4. —“Commercial Operation Date” has the meaning given to it in Section .~~

**“Commission”** means the Public Utility Commission of Oregon.

**“Contract Price”** means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under the Non-Renewable Fixed Price Option for \_\_\_\_\_ *[specify applicable Non-Renewable Fixed Price Option based on resource type, in accordance with Schedule]*, as published in the Schedule and attached as **Exhibit F**, and thereafter, for the remainder of the Term, the Daily Market Index Price in effect during the interval when the energy is generated.

**“Contract Year”** means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time (“PPT”) on January 1 and ending at 24:00 hours PPT on December 31; *provided, {00052926.2}*

STANDARD ON-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT

~~however, date that the~~ first Contract Year shall commence on the Commercial Operation Date and end on December 31<sup>st</sup> of the calendar year in which the Commercial Operation Date occurs, and the last Contract Year shall end on the last day of the Term.

“Credit Support” has the meaning given to it in Section .

“Creditworthiness Requirements” has the meaning given to it in Section .

“Daily Market Index Price” means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>. In the event ICE no longer publishes this index, ~~Facility is deemed by PGE~~ and the Seller agree to select an alternative successor index representative of the Point of Interconnection.

“Delay Damages” has the meaning given to it in Section .

“Delivery Period” has the meaning given to it in Section .

“Effective Date” has the meaning given to it in Section .

“Estimated Annual Average Net Output” means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Annual Maximum Net Output” means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Average Net Output” means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Maximum Net Output” means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Existing QF” means a QF that (1) is or has been ~~to be~~ fully operational before the Effective Date of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party. ~~and reliable. PGE may, at its discretion require, among other things, that all of the following events have occurred:~~

“Expiration

~~1.4.1. (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from a Licensed Professional Engineer (“LPE”) acceptable to PGE in its reasonable judgment stating that the Facility is able to generate electric power reliably in amounts required by this Agreement and in accordance with all other terms and conditions of this Agreement (certifications required under this Section 1.4 can be provided by one or more LPEs);~~

~~1.4.2. Start-Up Testing of the Facility has been completed in accordance with Section 1.28;~~

~~1.4.3. (facilities with nameplate under 500 kW exempt from following requirement) After PGE has received notice of completion of Start-Up Testing, PGE has received a certificate addressed to PGE from an LPE stating that the Facility has operated for testing purposes under this Agreement uninterrupted for a Test Period at a rate in kW~~

{00052926.2}

STANDARD ON-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT

~~of at least 75 percent of average annual Net Output divided by 8,760 based upon any sixty (60) minute period for the entire testing period. The Facility must provide ten (10) working days written notice to PGE prior to the start of the initial testing period. If the operation of the Facility is interrupted during this initial testing period or any subsequent testing period, the Facility shall promptly start a new Test Period and provide PGE forty-eight (48) hours written notice prior to the start of such testing period;~~

~~1.4.4. (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from an LPE stating that in accordance with the Generation Interconnection Agreement, all required interconnection facilities have been constructed, all required interconnection tests have been completed; and the Facility is physically interconnected with PGE's electric system.~~

~~1.4.5. (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from an LPE stating that Seller has obtained all Required Facility Documents and if requested by PGE in writing, has provided copies of any or all such requested Required Facility Documents;~~

~~1.5. "Contract Price" means the applicable price, including on-peak and off-peak prices, as specified in the Schedule.~~

~~1.6. "Contract Year" means each twelve (12) month period commencing upon the Commercial Operation Date or its anniversary during the Term, except the final contract year will be the period from the last anniversary of the Commercial Operation Date during the Term until the end of the Term.~~

~~1.7. "Effective Date" has the meaning given to it set forth in Section 2.1.~~

~~"Facility" is the entire facility as specified in Exhibit A and Exhibit B.~~

~~"Facility Nameplate Capacity Rating" means the sum of the Nameplate Capacity Ratings for all Generation Units comprising the Facility.~~

~~"FERC" means the Federal Energy Regulatory Commission or any successor government agency.~~

~~"Force Majeure" or "Force Majeure Event"~~1.8. ~~"Environmental Attributes" shall mean any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx) nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gasses (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere.~~

~~1.9. "Facility" has the meaning given to it set forth in Section the Recitals.~~

~~"Generator" means the electrical component within the Facility measured in kW that converts mechanical energy into electrical energy.~~

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“Generation Unit” means a complete electrical generation system within the Facility that is able to generate and deliver energy to the Point of Interconnection independent of other Generation Units within the same Facility.

“Governmental Authority” means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

~~“1.10. “Forward Replacement Price” means the price at which PGE, acting in a commercially reasonable manner, purchases for delivery at the Point of Delivery a replacement for any Net Output that Seller is required to deliver under this Agreement plus (i) costs reasonably incurred by PGE in purchasing such replacement Net Output, and (ii) additional transmission charges, if any, reasonably incurred by PGE in causing replacement energy to be delivered to the Point of Delivery. If PGE elects not to make such a purchase, costs of purchasing replacement Net Output shall be at the Mid-C Index Price for such energy not delivered, plus any additional cost or expense incurred as a result of Seller’s failure to deliver, as determined by PGE in a commercially reasonable manner (but not including any penalties, ratcheted demand or similar charges).~~

~~1.11. “Generation Interconnection Agreement” means anthe generation interconnection agreement to be entered into separately between PGE and Seller governing the interconnection of the Facility with PGE’s electric system.~~

“kW” and “kWh” mean kilowatt and kilowatt hour, respectively.

“Lender” means any Person and PGE, providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits operation, and maintenance of interconnection facilities required to accommodate deliveries of Seller’s Net Output.

~~1.12. “Letter of Credit” means an irrevocable standby letter of credit from an institution selected engagement by the Seller that has a long-term senior unsecured debt rating of “A” bank or greater from S&P or “A2” or greater from Moody’s, in other person made at the request of a form reasonably acceptable to PGE, naming PGE as customer that the party entitled to demand issuer will honor drafts or other demands for payment and present draw requests thereunder. upon compliance with the conditions specified in the letter of credit.~~

~~“1.13. “Licensed Professional Engineer” or “LPE” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in , and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.~~

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“Lost Energy” means (in kWh):

- A. In connection with a Facility after the Commercial Operation Date, if Seller fails to meet the Minimum Delivery Guarantee, then with respect to a Contract Year, an amount equal to the Minimum Net Output less the Adjusted Delivered Net Output; or
- B. In connection with a Facility that does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see Exhibit C) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual Commercial Operation Date or contract termination pursuant to Section 9. The Estimated Monthly Average Net Output shall be pro-rated for any partial months; or
- C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 9 of this Agreement because of Seller’s default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month from the date of termination through the end of the Term. The Estimated Monthly Average Net Output shall be pro-rated for any partial months.

4.14. “Lost Energy Value” means:

- A. In connection with Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly to each calendar month in the Contract Year and then allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in Exhibit C (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year ~~for a Contract Year: zero~~ plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services ~~power and/or transmission charges.~~

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year *multiplied by* the (applicable Replacement Price for On-Peak Hours ~~less to deliver the replacement power to the Point of Delivery, unless the Contract Year’s Net Output is less than the Minimum Net Output and the Contract Year’s time-weighted average of the Mid-C Index Price for On-Peak and Off-Peak Hours is greater than the time-weighted average of the Contract Price for On-Peak Hours for the same period); and~~
- The Off-Peak Hours ~~for that Contract Year, in which case~~ Lost Energy for each applicable calendar month (or partial calendar month) in ~~Value equals: (Minimum Net Output - Net Output for the Contract Year) X (the Contract~~

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~~Year multiplied by lower of:~~ the (applicable Replacement Price for Off-Peak Hours ~~less time-weighted average of~~ the Contract Price for ~~On-Peak and Off-Peak Hours;~~ for the same period).

~~If the above calculation time-weighted average of the~~ Lost Energy Value for ~~Mid-G Index Price for On-Peak and Off-Peak Hours — the time-weighted average of~~ the Contract ~~Year results in a negative value, the~~ Lost Energy Value ~~Price for the Contract Year shall be deemed zero. See the example calculation in Exhibit G.~~

~~In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the~~ Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during which Seller has failed to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see ~~below On-Peak and Off-Peak Hours~~) plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services replacement power and/or transmission charges to deliver the replacement power to the Point of Delivery.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) multiplied by the (applicable Replacement Price for On-Peak Hours less the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) shall not exceed the Contract Price for On-Peak Hours for the same period; and
- The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) multiplied by the (applicable Replacement Price for Off-Peak Hours less the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.

If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in Exhibit G.

B. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Lost Energy for the applicable calendar month or partial calendar month multiplied by (the Replacement Price for On-Peak Hours for the period less the Contract Price for On-Peak Hours for the period); and

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- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month multiplied by (the Replacement Price for Off-Peak Hours for the period less the Contract Price for Off-Peak Hours for the period); and
- Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in Exhibit G.

~~“1.15. “Mid-C Index Price” means the Day Ahead Intercontinental Exchange (“ICE”) for the bilateral OTC market for energy at the Mid-C Physical for On Peak Power and Off Peak Power. In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Mid-C trading hub.~~

~~1.16. “Minimum Delivery Guarantee” has Net Output” shall have the meaning given to it provided in Section 4.2 of this Agreement.~~

“Minimum Net Output” means, for a Contract Year, seventy-five percent (75%) of the Estimated Annual Average Net Output from the Facility for the period as set forth in Exhibit C (pro-rated as required for partial Contract Years and partial months, as applicable), unless Seller selects an Alternative Minimum Net Output consistent with the terms of Exhibit C of this Agreement (pro-rated for any period less than 12 calendar months), in which case the Minimum Net Output equals the selected Alternative Minimum Net Output.

~~1.17. “Nameplate Capacity Rating” means the full-load electrical quantities assigned maximum capacity of the Facility as stated by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions manufacturer, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate kW, which shall not exceed 10,000 kW.~~

~~1.18. “Net Dependable Capacity Rating is usually indicated on a nameplate attached to the individual machine or device” means the maximum capacity the Facility can sustain over a specified period modified for seasonal limitations, if any, and reduced by the capacity required for station service or auxiliaries.~~

“NERC” means the North American Electric Reliability Corporation.

“Net Available Capacity” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Point of Interconnection continuously for sixty (60) minutes.

~~“1.19. “Net Output” means all energy, expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the Point of Interconnection and less transformation and transmission losses.~~

“New QF” means any QF that is not an Existing QF.

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~~4.20. "Off-Peak Hours" means all hours other than has the meaning provided in the Schedule.~~

~~4.21. "On-Peak Hours" has the meaning provided in the Schedule.~~

~~"On-Peak Hours" means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.~~

~~"Person" means any individual, corporation, limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.~~

~~"Planned Maintenance" means outages scheduled 90 calendar days in advance, with prior written notice to PGE.~~

~~4.22. "Point of Interconnection" means the Delivery" means the high side of the generation step up transformer(s) located at the point of interconnection between the Facility and PGE's PGE's distribution or transmission system, as specified in Exhibit B the Generation Interconnection Agreement.~~

4.23. "Prime Rate" means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

~~"Product" means, each and together, as a single bundled product, Net Output together with all associated capacity.~~

~~4.24. "Prudent Electrical Practices" means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the WECC Western Electricity Coordinating Council that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all Applicable Law, applicable laws and regulations.~~ Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

~~"PURPA" means the Public Utility Regulatory Policies Act of 1978.~~

~~"Qualifying Facility" has the meaning set forth in the Recitals.~~

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**“Reliability Entity”** means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

**“Replacement Price”** means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at the Mid-Columbia trading hub for any Net Output that Seller fails to deliver as required under this Agreement.

When the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Delivery Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices shall be calculated as follows for each applicable calendar month (or partial calendar month):

- For Lost Energy During On-Peak Hours: the hourly average of the on-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).
- For Lost Energy During Off-Peak Hours: the hourly average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

When the Replacement Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 9, the Replacement Price shall be the respective On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices during the applicable period.

~~“1.25. “Required Facility Documents”~~ means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as the Interconnection Agreement ~~including without limitation those set forth in Exhibit C.~~

~~1.26. “Schedule”~~ means ~~PGE’s~~ shall mean PGE Schedule 201 filed with the ~~Oregon Public Utilities Commission and (“Commission”)~~ in effect on the date that Seller delivers to PGE an executed copy ~~Effective Date~~ of this Agreement. For ease of reference and informational purposes only, a copy of the Schedule is ~~and~~ attached hereto as Exhibit ~~F~~; however, if there is any difference between ~~Exhibit F~~ and the Schedule ~~E~~, the terms of the Schedule shall apply and prevail ~~which are hereby incorporated by reference.~~

**“Scheduled Commercial Operation Date”** has the meaning given to it in Section .

~~1.27. “Senior Lien”~~ means a prior lien ~~that~~ which has precedence as to the property under the lien over another lien or encumbrance.

**“Specified Facility Nameplate Capacity Rating”** means the Facility Nameplate Capacity Rating set forth in ~~Exhibit A~~, as it may be amended from time to time in accordance with this Agreement.

~~“1.28. “Start-Up Testing”~~ means the ~~performance~~ completion of applicable ~~required~~ factory and start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in Exhibit ~~E~~ (as it may be updated by Seller) during the Test Period ~~D~~.

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~~4.29.~~ “Step-in Rights” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.

~~“Term” has the meaning given to it in Section .~~

~~4.30. “Term” shall mean the period beginning on the Effective Date and ending on the Termination Date.~~

~~4.34. “Test Energy” means electric energy generated by the Facility during the Test Period.~~

~~“Test Period” means shall mean a period during which Start-Up Testing is to be conducted.~~

~~“WECC” means the Western Electricity Coordinating Council of sixty (60) days or any successor thereto a commercially reasonable period determined by the Seller.~~

## 1.2 Interpretation.

~~In this Agreement, references to Recitals, Sections, and Exhibits are references to the recitals, sections and exhibits of this Agreement. The article and section headings in this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms “includes” or “including” mean “includes but is not limited to” and “including but not limited to,” respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in this Agreement in accordance with such recognized meanings.~~

~~References to Recitals, Sections, and Exhibits are to be the recitals, sections and exhibits of this Agreement.~~

## SECTION 2: TERM; FACILITY; COMMERCIAL OPERATION DATE

### 1.3 Term.

~~2.1. The term of this This Agreement (“Term”) commences on the date this Agreement is signed shall become effective upon execution by both Parties (“Effective Date”).~~

~~2.2. Time is of the essence of this Agreement, and ends on the earlier of [Seller-selected date or fixed-interval period of time that is no more than 20 years from the Scheduled Seller's ability to meet certain requirements prior to the Commercial Operation Date] (“Expiration Date”) or the date on which this Agreement is terminated pursuant to and to complete all requirements to establish the Commercial Operation Date is critically important. Therefore,~~

~~2.2.1. By \_\_\_\_\_ [date to be determined by the Seller] Seller shall begin initial deliveries of Net Output; and~~

~~2.2.2. By \_\_\_\_\_ [date to be determined by the terms of the Agreement.~~

### 1.4 Construction of the Facility.

1.4.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE's system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement. ~~subject to Section 2.2.3 below~~ Seller shall, at its sole cost, design and construct the Facility and obtain all interconnection rights, necessary to enable the delivery of energy from the Facility to the Point of Interconnection, all in compliance with this Agreement, the Required Facility Documents, and Prudent Electrical Practices.

1.4.2 Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement may be reviewed by PGE, which review shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE's information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section .

#### 1.5 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with Exhibit E (as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility), and shall provide written notice to PGE when the Start-Up Testing has been successfully completed. Seller must provide no less than one (1) business days' written notice to PGE prior to the commencement of Start-Up Testing, and must provide PGE ten (10) business day's written notice prior to commencing sales of Test Energy to PGE. PGE shall compensate the Seller for delivered Test Energy in accordance with Section . This Section 2.3 does not apply if the Facility is an Existing QF unless the Existing QF elects to conduct Start-Up Testing.

#### 1.6 Commercial Operation.

"Commercial Operation" will be achieved when the Facility is fully constructed and determined by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have occurred:

1.6.1 If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with Exhibit E, and PGE has received Seller's written certification of completion of Start-Up Testing.

1.6.2 PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that the Facility is interconnected and operational in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.

1.6.3 PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE's reasonable satisfaction, which may include equipment specifications.

1.6.4 PGE has received a letter addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement, and any other Required Facility Documents requested by PGE.

1.6.5 PGE has received the following documents with respect to the Facility: the As-built Supplement, including but not limited to an electrical single-line diagram, a 12x24 estimated net energy profile, and a 8760 net energy production estimate.

1.6.6 PGE has received copies of all insurance certificates required ~~all requirements~~ under Section .

1.6.7 PGE has received any Credit Support required under Section .

1.7 Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section , Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, including but not limited to information required in **Exhibit A** and **Exhibit B**. PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, provided that PGE shall not unreasonably withhold such certification. The date of Seller's notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the "**Commercial Operation Date**" for all purposes under this Agreement.

1.8 Scheduled Commercial Operation Date.

By no later than \_\_\_\_\_ ("**Scheduled Commercial Operation Date**"), Seller shall have completed all requirements under Section 4.4 and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE's negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE's negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date ("**Delay Damages**"). If Commercial Operation does {00052926.2}

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not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section .

~~Status 2.2.3.— Unless the Parties agree in writing that a later Commercial Operation Date is reasonable and necessary, the Commercial Operation Date shall be no more than three (3) years from the Effective Date. Buyer will not unreasonably withhold agreement to a Commercial Operation Date that is more than three (3) years from the Effective date if the Seller has demonstrated that a later Commercial Operation Date is reasonable and necessary.~~

~~2.3.— This Agreement shall terminate on \_\_\_\_\_, \_\_\_\_\_ [date to be chosen by Seller but not to exceed 20 years from the date contained in Section 2.2.2], or the date the Agreement is terminated in accordance with Section 9 or 11.2, whichever is earlier ("Termination Date").~~

### SECTION 3: REPRESENTATIONS AND WARRANTIES

~~3.1.— Seller and PGE represent, covenant, and warrant as follows:~~

~~3.1.1. Seller warrants it is a \_\_\_\_\_ duly organized under the laws of \_\_\_\_\_.~~

~~3.1.2. Seller warrants that the execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.~~

~~1.9 Seller warrants that the Facility.~~

~~3.1.3.3.1.1. Seller is and shall construct and operate for the Facility so as Term of this Agreement continue to ensure its status as be a "Qualifying Facility and in a manner consistent with its " ("QF") as that term is defined in the version of 18 C.F.R. Part 292 in effect on the Effective Date. Seller has provided the appropriate QF certification, which may include a Federal Energy Regulatory Commission ("FERC Qualifying Facility ") self-certification, to PGE prior to PGE's execution of this Agreement. At any time during the Term of this Agreement, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment discretion that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE's request documentation acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility. QF under all applicable requirements.~~

~~3.1.4. Seller shall Seller warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and Seller is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

~~3.1.5. Seller warrants that during the Term of this Agreement, all of Seller's right, title and interest in and to the Facility shall be free and clear of all liens and encumbrances other than liens and encumbrances arising from third-party financing of the Facility other than workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been~~

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~~released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.~~

~~3.1.6. Seller warrants that it will design and operate the Facility consistent with Prudent Electrical Practices.~~

~~3.1.7. Seller warrants that the Facility has a Nameplate Capacity Rating not greater than 10,000 kW.~~

~~3.1.8. Seller warrants that Net Dependable Capacity of the Facility is \_\_\_\_\_ kW.~~

~~3.1.9. Seller estimates that the average annual Net Output to be delivered by the Facility to PGE is \_\_\_\_\_ kilowatt-hours ("kWh"), which amount PGE will include in its resource planning.~~

~~3.1.10. Seller will deliver from the Facility to PGE at the Point of Delivery Net Output not to exceed a maximum of \_\_\_\_\_ kWh of Net Output during each Contract Year ("Maximum Net Output").~~

~~3.1.11. By the Commercial Operation Date, Seller has entered into a Generation Interconnection Agreement for a term not less than the term of this Agreement.~~

~~3.1.12. PGE warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and PGE is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

~~3.1.13. Seller warrants that (i) the Facility satisfies the eligibility requirements specified in the Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Rates and Standard PPA in PGE's Schedule and (ii) Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to not be in compliance with the Definition of a Small Cogeneration Facility to fail or Small Power Production Facility Eligible to satisfy Receive the eligibility requirements specified in the Schedule for entering into the form of Standard Rates and Standard PPA and pricing reflected in this Agreement in PGE's Schedule. Seller shall will provide, upon request by PGE, not more frequently than every 36 months, any such documentation and information as may be reasonably required to establish Seller's continued compliance with the applicable eligibility requirements. PGE shall such Definition. PGE agrees to take reasonable steps to maintain the confidentiality of any such portion of the above described documentation and information that the Seller identifies as confidential, provided that except PGE may will provide all such confidential information to the Commission upon the Commission's request.~~

#### ~~SECTION 4: DELIVERY AND SALE OF ENERGY; SCHEDULING POWER AND PRICE~~

##### ~~1.10 Delivery and Sale of Energy.~~

~~Except as otherwise provided in this Agreement, commencing on the Commercial Operation Commencing on the Effective Date and continuing until the end of through the Term (the "Delivery Period"), of this Agreement, Seller shall deliver and sell and to PGE shall receive and purchase all of the the entire Net Output delivered at the Point of Interconnection. Title and risk of loss related to the Product shall transfer from Seller to PGE at the~~

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Point of Interconnection.1.11 Estimated Net Output.

Seller's good faith, commercially reasonable estimate of the Facility's monthly and annual average and maximum Net Output during the Delivery Period, and Seller's basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in **Exhibit C**, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section . Seller acknowledges that PGE will use these estimates in its resource planning and for purposes of determining the Minimum Delivery Guarantee.

1.12 Minimum Delivery Guarantee.

Seller guarantees that it will deliver to PGE from the Facility, for each Contract Year, Net Output equal to or greater than the Minimum Net Output, pro-rated for any partial years. This guarantee is referred to in this Agreement as the "Minimum Delivery Guarantee."

1.13 Loss of Interconnection and Curtailment.

PGE shall not be liable to Seller and shall have no obligation to purchase the Product from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the extent that, due to the action of a Reliability Entity, a Force Majeure Event or PGE's construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility to the electric system is disconnected, suspended or interrupted, or (ii) generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller's control.

## ARTICLE 2: PRICE, BILLING AND PAYMENT

2.1 Prices and Payment for Delivered Product.

2.1.1 During the Delivery Period, ~~at the Point of Delivery.~~ PGE shall pay Seller an amount for Product delivered during a Billing Period calculated as follows: the Contract Price **multiplied by for all delivered** Net Output ~~during.~~ ~~For the~~ Billing Period. An illustrative example is provided in **Exhibit G**.

2.1.2 Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay ~~15 years measured from the date in Section 2.2.2,~~ the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy **multiplied by** the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.

2.1.3 Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.

## 2.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.

By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (and supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in Exhibit G.

## 2.3 Invoicing and Payment for Lost Energy Value Related to Minimum Delivery Guarantee.

~~4.1.—If Seller fails to satisfy the Minimum Delivery Guarantee during any will be the Standard Fixed Price Option under the Schedule; thereafter and for the remainder of the Term, the Contract Year, on or before Price will be equal to the forty-fifth (45th) calendar day following Mid-C Index Price.~~

~~4.2.— Seller shall deliver to PGE from the end of the Facility for each Contract Year, PGE will in Net Output equal to or greater than the Minimum Net Output (either (a) if Seller does not select the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) Alternative Minimum Amount as defined in Exhibit A of this Agreement, seventy-five percent (75%) of its average annual Net Output or (b) if selected by Seller, the Alternative Minimum Amount designated for each Contract Year), provided that such Minimum Net Output shall be reduced on a pro-rata basis for any periods during a Contract Year that the Facility was prevented from generating electricity for reasons of Force Majeure.~~

~~4.3.4.1. Seller agrees that if Seller does not deliver the Minimum Net Output each Contract Year, PGE will suffer losses equal to the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due. As damages for Seller's failure to deliver the Minimum Net Output (subject to adjustment for reasons of Force Majeure as provided in such invoice. Thereafter, if applicable, the amount Section 4.2) in any Contract Year, notwithstanding any other provision of this Agreement, the purchase price payable by PGE for future deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period, in monthly amounts (not more than 24 months), of such reduction (not to exceed one year) so as to minimize the risk of Seller's avoid Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G. For QF Facilities sized at 100 kW or smaller, the provisions of this section shall not apply.~~

## 2.4 Form of Payment and Interest on Late Payments.

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The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.

## 2.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.

~~4.4.— Upon completion of construction of the Facility, Seller shall provide PGE an As-built Supplement to specify the actual Facility as built. Seller shall not increase the Nameplate Capacity Rating above that specified in Exhibit B or increase the ability of the Facility to deliver Net Output in quantities in excess of the Net Dependable Capacity, or the Maximum Net Output as described in Section 3.1.10 above, through any means including, but not limited to, replacement, modification, or addition of existing equipment, except with prior written notice to PGE. In the event Seller increases the Nameplate Capacity Rating of the Facility to no more than 10,000 kW pursuant to this section, PGE shall pay the Contract Price for the additional delivered Net Output. In the event Seller increases the Nameplate Capacity Rating to greater than 10,000 kW, then Seller shall be required to enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 10,000 kW.~~

~~4.5.— To the extent not otherwise provided in the Generation Interconnection Agreement, all costs associated with the modifications to PGE's interconnection facilities or electric system occasioned by or related to the interconnection of the Facility with PGE's system, or any increase in generating capability of the Facility, or any increase of delivery of Net Dependable Capacity from the Facility, shall be borne by Seller.~~

~~4.6.— Seller may report under §1605(b) of the Energy Policy Act of 1992 or under any applicable program as belonging to Seller any of the Environmental Attributes produced with respect to the Facility, and PGE shall not report under such program that such Environmental Attributes belong to it.~~

## SECTION 5: OPERATION AND CONTROL

~~5.1.— Seller shall operate and maintain the Facility in a safe manner in accordance with the Generation Interconnection Agreement, and Prudent Electrical Practices. PGE shall have no obligation to purchase Net Output from the Facility to the extent the interconnection of the Facility to PGE's electric system is disconnected, suspended or interrupted, in whole or in part, pursuant to the Generation Interconnection Agreement, or to the extent generation curtailment is required as a result of Seller's noncompliance with the Generation Interconnection Agreement. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken~~

~~with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility.~~

~~5.2. Seller agrees to provide sixty (60) days advance written notice of any scheduled maintenance that would require shut down of the Facility for any period of time.~~

~~5.3. If the Facility ceases operation for unscheduled maintenance, Seller immediately shall notify PGE of the necessity of such unscheduled maintenance, the time when such maintenance has occurred or will occur, and the anticipated duration of such maintenance. Seller shall take all reasonable measures and exercise its best efforts to avoid unscheduled maintenance, to limit the duration of such unscheduled maintenance, and to perform unscheduled maintenance during Off-Peak hours.~~

#### SECTION 6: CREDITWORTHINESS

~~In the event Seller: a) is unable to represent or warrant as required by Section 3 that it has not been a debtor in any bankruptcy proceeding within the past two (2) years; b) becomes such a debtor during the Term; or c) is not or will not be current on all its financial obligations, Seller shall immediately notify PGE and shall promptly (and in no less than 10 days after notifying PGE) provide default security in an amount reasonably acceptable to PGE in one of the following forms: Senior Lien, Step-in Rights, a Cash Escrow or Letter of Credit. The amount of such default security that shall be acceptable to PGE shall be equal to: (annual On Peak Hours) X (On Peak Price — Off Peak Price) X (Minimum Net Output / 8760). Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its discretion, grant an exception to the requirements to provide default security if the QF has negotiated financial arrangements with the construction loan lender that mitigate Seller's financial risk to PGE.~~

#### SECTION 7: METERING

##### 2.6 Metering Equipment and Location.

~~7.1. PGE shall design, furnish, install, own, inspect, test, maintain and replace all metering equipment at Seller's cost and as required pursuant to the ~~Generation~~ Interconnection Agreement.~~

~~7.2. Metering shall be performed at the location and in a manner consistent with this Agreement and as specified in the ~~Generation~~ Interconnection Agreement. All Net Output purchased hereunder shall be adjusted to account for electrical losses, if any, between the point of metering and the Point of ~~Interconnection~~ Delivery, so that the purchased amount reflects the net amount of power flowing into PGE's system at the Point of ~~Interconnection~~ Delivery.~~

##### 2.7 Meter Installation, Inspection and Correction.

~~7.3. PGE shall periodically inspect, test, repair and replace the metering equipment as provided in the ~~Generation~~ Interconnection Agreement. If any of the inspections or tests discloses an error exceeding two (2%) percent of the actual energy~~

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delivery, either fast or slow, proper correction, based upon the inaccuracy found, shall be made of previous readings for the actual period during which the metering equipment rendered inaccurate measurements if that period can be ascertained. If the actual period cannot be ascertained, the proper correction shall be made to the measurements taken during the time the metering equipment was in service since last tested, but not exceeding three (3) months, in the amount the metering equipment shall have been shown to be in error by such test. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next billing or payment rendered. Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of such inaccuracy of metering equipment.

### 2.8 Metering Costs.

~~7.4.~~—To the extent not otherwise provided in the ~~Generation~~ Interconnection Agreement, all of PGE's costs relating to all metering equipment installed to accommodate Seller's Facility shall be borne by Seller.

## **ARTICLE 3: OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES**

### 3.1 Seller's Duty to Operate and Maintain the Facility.

3.1.1 Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.

3.1.2 Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide copies of the same to PGE upon request.

### 3.2 Outages.

3.2.1 On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with a schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the Specified Facility Nameplate Capacity Rating for twenty-four (24) or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of Section .



3.2.2 Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable efforts to avoid or mitigate outages during PGE's system emergencies.

### 3.3 Facility Upgrades.

3.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

3.3.2 At any time after the Commercial Operation Date upon at least six months prior written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in Exhibit C, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in Exhibit C for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

3.3.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section or Section that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend Exhibit A and Exhibit C as appropriate to reflect the modifications.

3.3.2.2 So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 10,000 kW, then Seller will continue to receive the Contract Price for all delivered Net Output.

3.3.3 If Seller increases the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 10,000 kW, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 10,000 kW, consistent with then-current Applicable Law, provided that the new power purchase agreement must be a negotiated agreement under Schedule 202.

## ARTICLE 4: REPRESENTATIONS AND WARRANTIES

### 4.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

4.1.1 Seller is duly organized and in good standing under the laws of the state of incorporation or formation.

4.1.2 The execution, delivery and performance of this Agreement are within Seller's powers, have been duly authorized by all necessary action, and do not violate any of the terms and

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conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

4.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

4.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

4.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

4.1.6 Either Seller satisfies the requirements set forth in Section through below (the "**Creditworthiness Requirements**"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section .

4.1.6.1 Seller is not and has not been Bankrupt within the past two (2) years, and there are no proceedings pending or being contemplated by Seller or, to Seller's knowledge, threatened against Seller that would result in Seller being or becoming Bankrupt.

4.1.6.2 Seller is not in default under any of its material agreements and is current on all of its financial obligations, including construction-related financial obligations.

4.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

4.1.7 No later than the Commercial Operation Date, Seller will possess a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

4.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

4.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

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4.1.10 Seller has the right to sell the Product to PGE free and clear of liens or encumbrances.

4.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

4.2.1 It is a corporation duly organized under the laws of Oregon.

4.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

4.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

4.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

4.2.5 It is not and has not been Bankrupt within the past two (2) years and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

4.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

4.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article 7 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

**ARTICLE 5: CREDIT SUPPORT**

Required Credit Support. ~~SECTION 8: BILLINGS, COMPUTATIONS AND PAYMENTS~~

8.1. — On or before the thirtieth (30th) day following the end of each Billing Period, PGE shall send to Seller payment for Seller's deliveries of Net Output to PGE, together with computations supporting such payment. PGE may offset any such payment to reflect amounts owing from Seller to PGE pursuant to this Agreement, the Generation

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promptly, and in no more than fifteen (15) business days following notice from PGE, restore the Credit Support to the amount required under Section . However, for avoidance of doubt, Seller shall have no obligation to replenish the Credit Support if PGE has terminated the Agreement.

## **ARTICLE 6: DEFAULT, REMEDIES AND TERMINATION**

### **6.1 Events of Default.**

An “Event of Default” means, with respect to a Party, the occurrence of any of the following unless otherwise excused under this Agreement:

6.1.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;

6.1.2 any representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;

6.1.3 the failure of a Party to perform any material covenant or obligation set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party explaining the circumstances supporting the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;

6.1.4 with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such failure is not cured within 30 calendar days of Seller’s receipt of written notice from PGE;

6.1.5 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement at any time during the term of this Agreement;

6.1.6 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller’s receipt of written notice from PGE;

with respect to Seller, Seller fails, for any two or more consecutive Contract Years to satisfy the Minimum Delivery Guarantee;-

with respect to 9.1.4. If Seller, Seller fails to establish is no longer a Qualifying Facility.  
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~~9.1.5. Failure of PGE to make any required payment pursuant to Section 8.1.~~

~~9.1.6 Seller's failure to meet the Commercial Operation Date on or before the Scheduled Commercial Operation Date.~~

~~9.2. In the event of a default under Section 9.1.6, PGE may provide Seller with written notice of default. Seller shall have one (1) year in which to cure the default under this Section 10.1.9, during which time the Seller shall pay PGE Delay Damages pursuant to the terms of Section and damages equal to the Lost Energy Value. If Seller is unable to cure the default, PGE may immediately terminate this Agreement as provided in Section 9.3. PGE's resource sufficiency/deficiency position shall have no bearing on PGE's right to terminate the Agreement under this Section 9.2.~~

## 6.2 Lender's Right to Cure a Seller Event of Default.

~~Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under Section of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement.~~

## 6.3 Termination for Default.

~~If an Event of Default has occurred and is continuing 9.3. In the event of a default hereunder, the non-defaulting Party may immediately terminate this Agreement at its sole discretion, and without the non-defaulting Party incurring any liability to the defaulting Party, by delivering written notice to the defaulting Party. In addition, the non-defaulting Party other Party, and, except for damages related to a default pursuant to Section 9.1.3 by a QF sized at 100 kW or smaller, may pursue any and all other legal or equitable remedies available to it, including recovery of damages as set forth below.~~

## 6.4 Damages.

~~If this Agreement is terminated provided by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value. Amounts owed by Seller law or pursuant to this Section shall be due within fifteen (15) business days after any invoice from PGE for the same. Damages owing under this Section 10.4 shall be cumulative and in addition to Agreement including damages owing pursuant to Sections . . and . An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G related to the need to procure replacement power. Such termination shall be effective upon the date of delivery of notice, as provided in Section 20.1. The rights provided in this Section 9 are cumulative such that the exercise of one or more rights shall not constitute a waiver of any other rights.~~

## 6.5 Payment of Outstanding Obligations.

~~9.4. If this Agreement is terminated pursuant to as provided in this Section , then within thirty (30) calendar days of termination, 9 PGE shall make all payments due and owing, within thirty (30) days, that, pursuant to the terms of this Agreement, are owed to Seller as of the time~~

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of receipt of notice of ~~termination; provided that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section or otherwise~~ default. PGE shall not be required to pay Seller for ~~Product~~ any Net Output delivered by Seller after ~~the effective date of any termination~~ such notice of default.

#### 6.6 Post-Termination PURPA Status.

~~9.5.— If this Agreement is terminated as a result of Seller's default, Seller shall pay PGE the positive difference, if any, obtained by subtracting the Contract Price from the sum of the Forward Replacement Price for the Minimum Net Output that Seller was otherwise obligated to provide for a period of twenty-four (24) months from the date of termination. Accounts owed by Seller pursuant to this paragraph shall be due within five (5) business days after any invoice from PGE for the same.~~

~~9.6.— In the event (i) PGE terminates this Agreement pursuant to this Article 9 or Seller terminates this Agreement without cause, and (ii) Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, Section 9, and Seller wishes to again sell Net Output to PGE from the Facility following such termination, then PGE in its sole discretion may (but will not be obliged to) require that Seller, its Affiliate, or its successor shall do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to until the Terms of this Agreement, then Seller and PGE shall promptly (as set forth in Section 2.3) would have run in due course had the Agreement remained in effect. At such time Seller and PGE agree to execute a written document ratifying the terms of this Agreement. PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.~~

~~9.7.— Sections 9.1 9.4 9.5 9.6, 10, and 19.2 shall survive termination of this Agreement.~~

### SECTION 10: INDEMNIFICATION AND LIABILITY

#### 6.7 Seller's Indemnity.

~~10.1.— Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, including the delivery of energy to and at electric power to PGE or with the facilities at or prior to the Point of Interconnection; (ii) Seller's development, construction, ownership, operation, maintenance, or decommissioning of the Facility; (iii) the violation of any law, rule, order or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is Delivery, or otherwise arising out of this Agreement, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PGE, Seller or others, excepting to the extent such loss, claim, action or suit may be caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.~~

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6.8 PGE's Indemnity.

~~10.2.~~ PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all ~~Claims, loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal,~~ resulting from, or arising out of or in any way connected with ~~(i) PGE's receipt of energy under electric power from Seller or with the facilities at or after the Point of Delivery, or otherwise arising out of this Agreement after its delivery at the Point of Interconnection; (ii) the violation of, including without limitation any law, rule, order, loss, claim, action or regulation by PGE, suit, for or any on account of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure, injury, bodily or otherwise, to perform any, or death of PGE's obligations under this Agreement; (iv) PGE's breach, persons, or for damage to, or destruction or economic loss of any representation or warranty set forth in this Agreement; or (v) PGE's negligence or willful misconduct in connection with this Agreement, except property belonging to PGE, Seller or others, excepting to the extent such Claim is loss, claim, action or suit may be caused by Seller's breach of this Agreement or by the negligence or willful misconduct of Seller, its directors, officers, employees, agents or representatives.~~

6.9 No Dedication.

~~10.3.~~ Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent ~~Person individual or entity.~~

6.10 Disclaimer of Consequential Damages.

~~10.4.~~ NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

SECTION 11: INSURANCE

~~11.1.~~ Prior to the connection of the Facility to PGE's electric system, provided such Facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, with an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance policies for bodily injury and property damage liability. Such insurance shall include provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder; a cross-liability or severability of insurance interest clause; and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days' prior written notice to PGE. Initial limits of liability for all

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~~requirements under this section shall be \$1,000,000 million single limit, which limits may be required to be increased or decreased by PGE as PGE determines in its reasonable judgment economic conditions or claims experience may warrant.~~

~~6.11 11.2. Prior to the connection of the Facility to PGE's electric system, provided such facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, in an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance acceptable to PGE against property damage or destruction in an amount not less than the cost of replacement of the Facility. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Certificates of Insurance.~~

~~Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required Seller shall waive its insurers' rights of subrogation against PGE regarding Facility property losses.~~

~~11.3. Prior to the connection of the Facility to PGE's electric system and at all other times such~~ insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion ~~and without limitation of other remedies~~, may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.

#### 6.12 Required Insurance.

Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than "B+" by the A.M. Best Company the insurance coverage specified below:

6.12.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.

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6.12.2 All Risk Property Insurance providing coverage in an amount at least equal to the full replacement value of the Facility against “all risks” of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk Policy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the Facility is destroyed or substantially destroyed, it may terminate this Agreement. SECTION 12:—Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers’ rights of subrogation against PGE regarding Facility property losses.

### 6.13 Required Provisions.

6.13.1 The Comprehensive General Liability Policy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

6.13.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days’ prior written notice to PGE.

6.13.3 Insurance coverage provided on a “claims-made” basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

## FORCE MAJEURE

### 6.14 Definition of “Force Majeure.”

~~12.1.—As used in this Agreement, “Force Majeure” or “an event of Force Majeure Event” means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party’s from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: cause beyond the reasonable control of the Seller or of PGE which, despite the exercise of due diligence, such Party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) which by the exercise of reasonable foresight such Party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome, subject, in~~

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~~each case, to the requirements of the first sentence of this paragraph. Force Majeure, however, specifically excludes the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility's equipment, or (viii) smoke, haze, ash or other obstruction of sunlight (except to the extent such obstruction is caused by fires or volcanic eruptions), and obligations for the payment of money when due.~~

#### 6.15 Effect of Force Majeure.

~~12.2.~~ If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: (i)

~~12.2.1.~~ the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section of this Agreement describing the particulars of the occurrence; (ii) and

~~12.2.2.~~ the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the non-performing Party uses commercially reasonable efforts to remedy its inability to perform its obligations under this Agreement.

### ARTICLE 7: GENERAL PROVISIONS

#### 7.1 Relationship of the Parties.

~~12.2.3.~~ the non-performing Party uses its best efforts to remedy its inability to perform its obligations under this Agreement.

~~12.3.~~ No obligations of either Party which arose before the Force Majeure causing the suspension of performance shall be excused as a result of the Force Majeure.

~~12.4.~~ Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.

### SECTION 13: SEVERAL OBLIGATIONS

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such party shall be jointly and severally liable for Seller's obligations under this Agreement.

7.2 No Third Party Beneficiaries.

This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

7.3 Governing Law.SECTION 14: CHOICE OF LAW

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~which may direct the application of the laws of another jurisdiction.

Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement  
SECTION 15: PARTIAL INVALIDITY AND PURPA REPEAL

It is subject to~~not~~ the jurisdiction~~intention~~ of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, to violate any laws governing the subject matter of this Agreement. If any complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute.

The public utility's compliance with~~of the terms of~~ this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

7.4 Severability.

If any of the terms of this~~the~~ Agreement are finally held or determined to be invalid, illegal or void as being contrary to any ~~Applicable Law~~applicable law or public policy, all other terms of this~~is~~ Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any ~~Applicable Law~~applicable law and the intent of the Parties to this Agreement.

7.5 Effect of ~~In the event the Public Utility Regulatory Policies Act (PURPA~~ Repeal.

The repeal of PURPA shall not result in the early termination of)~~is repealed,~~ this Agreement shall not terminate prior to the Termination Date,~~unless such termination is mandated by state or federal law.~~

7.6 Waiver.SECTION 16: WAIVER

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this {00052926.2}

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Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

#### 7.7 Survival.

Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.

#### 7.8 Successors and Assigns.

### SECTION 17: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

~~This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party or this Agreement. Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide upon request copies of the same to PGE.~~

### SECTION 18: SUCCESSORS AND ASSIGNS

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. ~~Neither party may assign any of its rights or delegate any of its obligations hereunder. No assignment hereof by either Party shall become effective without the prior written consent of the other party, which Party being first obtained and such consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that. Notwithstanding the foregoing, either pParty may assign its rights or delegate its obligations, in whole or in part, this Agreement without such the other Party's consent and upon thirty (30) calendar days' prior written notice to the other party, to an entity that acquires all as part of (a) a sale of all or substantially all of the business or assigning Party's assets of the assigning party to which this Agreement pertains, whether by, or (b) a merger, consolidation or other reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective. Party.~~

#### 7.9 Financing Documents.

Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and

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expense associated with PGE’s review and activities reasonably required under this Section 13.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE’s sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.

7.10 Entire Agreement; Amendments; Order of Precedence.

SECTION 19: ENTIRE AGREEMENT

~~19.1.~~ This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding ~~the contents of the Agreement, including PGE’s~~ PGE’s purchase of ~~energy~~ Net Output from the Facility. No ~~amendment or~~ modification of this Agreement shall be effective unless it is in writing and signed by both ~~parties.~~ Parties. ~~If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail.~~

7.11 Seller Release.

~~19.2.~~ By executing this Agreement, Seller releases PGE from any ~~third party~~ claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

7.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

7.13 Notices.

SECTION 20: NOTICES

~~20.1.~~ All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered ~~if delivered in person or~~ when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.

<u>Notices</u>	<u>PGE</u>	<u>Seller</u>
	<u>Portland General Electric</u> <u>C/O QF Contract Management</u> <u>3WTC-0306</u> <u>121 SW Salmon St</u> <u>Portland, OR 97204</u>	

To Seller: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

with a copy to: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To PGE: \_\_\_\_\_ Contracts Manager  
\_\_\_\_\_ QF Contracts, 3WTC0306  
\_\_\_\_\_ PGE - 121 SW Salmon St.  
\_\_\_\_\_ Portland, Oregon 97204

~~20.2.~~ The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section ~~13.13. 20.~~

Signature Page Follows.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

(Name Seller)

By: \_\_\_\_\_

Name: \_\_\_\_\_

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Title: \_\_\_\_\_

Date: \_\_\_\_\_



EXHIBIT A

**FACILITY DESCRIPTION**

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

Seller's Facility consists of generators fueled by \_\_\_\_\_.

Location of the Facility: The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_, with GPS coordinates of \_\_\_\_\_.

The location is more particularly described as follows:

[legal description of parcel]

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section 6.3.2).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating and the Net Available Capacity:

\_\_\_\_\_  
\_\_\_\_\_

Interconnection Rating: \_\_\_\_\_ kW (the Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

\_\_\_\_\_

Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

EXHIBIT B

SELLER'S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

Point of Interconnection (name of distribution feeder or transmission line):

\_\_\_\_\_

**B. The following information shall be provided in the As-built Supplement prior to Commercial Operation:**

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):

\_\_\_\_\_

Specification of Point of Interconnection: \_\_\_\_\_

**EXHIBIT C**  
**SELLER'S MINIMUM NET OUTPUT ESTIMATES**

~~It is~~ Seller to provide commercially reasonable estimate of Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output during the Delivery Period, and the resulting Estimated Annual Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output**  
**(as measured at the Facility meter at the Point of Interconnection)**

<u>Month</u>	<u>Estimated Monthly Average Net Output (kWh)</u>		<u>Percentage of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%)</u>		<u>Estimated Monthly Maximum Net Output (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>						
<u>February</u>						
<u>March</u>						
<u>April</u>						
<u>May</u>						
<u>June</u>						
<u>July</u>						
<u>August</u>						
<u>September</u>						
<u>October</u>						
<u>November</u>						
<u>December</u>						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated Annual Average Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Average Net Output)

Estimated Annual Maximum Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Maximum Net Output)

**C.3. Alternative Minimum Net Output**

~~this Exhibit~~, Seller may at its option designate an alternative to the Minimum Net Output value ~~of~~ ~~to~~ seventy-five (75%) percent of the Estimated Annual Average ~~annual average~~ Net Output set forth above ~~specified~~ in this Exhibit. If designated, such alternative shall be known as the “~~Section 3.1.9 of the Agreement~~ (“Alternative Minimum Net Output.” ~~Amount~~)”. Such Alternative Minimum Net Output ~~Amount~~, if provided, shall exceed zero, and shall be established in accordance with Prudent Electrical Practices, and documentation supporting such a determination shall be provided to PGE upon execution of the Agreement. Such documentation shall be commercially reasonable, and may include, but is not limited to, documents used in financing the project, and data on output of similar projects operated by Sseller, PGE or others.

Annual Alternative Minimum Net Output: \_\_\_\_\_ kWh

<u>Month</u>	<u>Alternative Minimum Net Output (if specified) (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>		
<u>February</u>		
<u>March</u>		
<u>April</u>		
<u>May</u>		
<u>June</u>		
<u>July</u>		
<u>August</u>		
<u>September</u>		
<u>October</u>		
<u>November</u>		
<u>December</u>		

~~EXHIBIT B~~  
~~DESCRIPTION OF SELLER'S FACILITY~~  
~~[Seller to Complete]~~

~~EXHIBIT C~~

~~REQUIRED FACILITY DOCUMENTS~~

~~[Seller list all permits and authorizations required for this project]~~

~~Sellers Generation Interconnection Agreement~~

## EXHIBIT D

**COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM**  
**(Power Purchase Agreement – )**

This Collateral Assignment and Consent Agreement (the “*Agreement*”) is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY** (“*PGE*” or “*Buyer*”), **[INSERT LENDER]**, a \_\_\_\_\_ company (the “*Lender*”), and **[INSERT SELLER]**, a \_\_\_\_\_ company (the “*Borrower*” or “*Seller*”) (the “*Parties*” or each a “*Party*”).

**RECITALS**

A. \_\_\_\_\_ Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the “*Loan Agreement*”), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.

B. \_\_\_\_\_ Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the “*PPA*” or the “*Assigned Agreement*”), a copy of which is attached as *Exhibit A*, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power” from which Seller shall sell and PGE shall purchase Net Output (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).

C. \_\_\_\_\_ As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the “*Security Agreement*”), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other “Collateral” defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the “*Secured Obligations*”). The Loan Agreement and the Security Agreement are referred to herein as the “*Security Documents*.”

**AGREEMENTS**

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. \_\_\_\_\_ Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower’s right, title and interest in and to the Assigned Agreement.

2. \_\_\_\_\_ Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller’s rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

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assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

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With a copy to:

If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

If to Lender:

With a copy to:

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT E**  
**START-UP TESTING**

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing.]

**~~[Seller identify appropriate tests]~~**

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

- ~~1.~~ Pressure tests of all steam system equipment;
- ~~2.~~ Calibration of all pressure, level, flow, temperature and monitoring instruments;
- ~~3.~~ Operating tests of all valves, operators, motor starters and motor;
- ~~4.~~ Alarms, signals, and fail-safe or system shutdown control tests;
- ~~5.~~ Insulation resistance and point-to-point continuity tests;
- ~~6.~~ Bench tests of all protective devices;
- ~~7.~~ Tests required by manufacturer of equipment; and
- ~~8.~~ Complete pre-parallel checks with PGE.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

- ~~1.~~ Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
- ~~2.~~ Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
- ~~3.~~ Brake tests;
- ~~4.~~ Energization of transformers;
- ~~5.~~ Synchronizing tests (manual and auto);
- ~~6.~~ Stator windings dielectric test;
- ~~7.~~ Armature and field windings resistance tests;
- ~~8.~~ Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
- ~~9.~~ Heat runs;
- ~~10.~~ Tests required by manufacturer of equipment;
- ~~11.~~ Excitation and voltage regulation operation tests;
- ~~1.~~ ~~12.~~ Open circuit and short circuit;

~~S~~saturation tests;

- ~~13.~~ Governor system steady state stability test;

14. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
15. Auto stop/start sequence;
16. Level control system tests; and
17. Completion of all state and federal environmental testing requirements.

~~EXHIBIT E~~

**EXHIBIT F**

SCHEDULE 201

[Attach ~~currently in-effect~~ Schedule 201]



**EXHIBIT G**

**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**

**STANDARD ~~ON~~-SYSTEM VARIABLE**

**-POWER PURCHASE AGREEMENT**

**BETWEEN**

**[COUNTERPARTY NAME]**

**AND**

**PORTLAND GENERAL ELECTRIC COMPANY**

**TABLE OF CONTENTS**

Exhibits

<u>Exhibit A</u>	<u>Description of Facility</u>
<u>Exhibit B</u>	<u>Seller's Interconnection Facilities and Delivery Attributes</u>
<u>Exhibit C</u>	<u>Seller's Net Output Estimates</u>
<u>Exhibit D</u>	<u>Collateral Assignment and Consent Agreement Form</u>
<u>Exhibit E</u>	<u>Start-Up Testing</u>
<u>Exhibit F</u>	<u>Schedule 201</u>
<u>Exhibit G</u>	<u>Illustrative Examples of Payment and Lost Energy Value Calculations</u>
<u>Exhibit H</u>	<u>Negotiated Prices for Option B, Solar Standard Terms and Negotiated Price Agreement (if applicable)</u>

**STANDARD ON-SYSTEM VARIABLE**  
**POWER PURCHASE**  
**THIS AGREEMENT**

This STANDARD ON-SYSTEM VARIABLE POWER PURCHASE AGREEMENT ("Agreement") is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] ("\_\_\_\_\_  
\_\_\_\_\_" ("Seller")) and Portland General Electric Company, an Oregon corporation ("PGE") (hereinafter each a "Party" ~~and~~ collectively, "Parties"); ~~and is effective upon execution by both Parties ("Effective Date"). The Parties agree this Agreement is a [choose one]:~~

- ~~Option A:~~ Standard Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating~~nameplate capacity~~ no greater than 3 MW and other qualifying facilities with Facility Nameplate Capacity Rating~~nameplate capacity~~ no greater than 10 MW; ~~if this option is selected then Option A will apply under Section 1.6, Section 3.1.14, and Section 4.3, and there will be no Exhibit E~~]; or
- ~~Option B:~~ Solar Standard Terms and Negotiated Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating~~nameplate capacity~~ above 3 MW but no greater than 10 MW; ~~if this option is selected, then Option B will apply under Section 1.6, Section 3.1.14, and Section 4.3, and there will be an Exhibit HE containing the negotiated prices agreed to by the Parties~~].

~~Eligibility for a Standard Price Agreement (Option A) or a Solar Standard Terms and Negotiated Price Agreement (Option B) is governed by the Schedule and applicable Commission orders.~~

## RECITALS

A. ~~[New QF]~~ Seller intends to construct, own, operate and maintain a New QF ~~[identify resource type]~~ \_\_\_\_\_ facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, \_\_\_\_\_ ~~with a Nameplate Capacity Rating of \_\_\_\_\_ kilowatt ("kW")~~, as further described in Exhibit A ("Facility"); and Exhibit B.

A. ~~[Existing QF]~~ Seller owns and intends to operate and maintain an Existing QF ~~[identify resource type]~~ \_\_\_\_\_ facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in Exhibit A and Exhibit B.

B. Seller intends to operate the Facility as a "Qualifying Facility," as ~~that~~such term is defined in ~~the FERC regulations codified at 18 CFR Part 292~~Section 3.1.3, below.

C. Seller ~~wishes to~~shall sell and PGE ~~is willing to~~shall purchase the ~~entire~~ Net Output, ~~as such term is defined in Section 1.21, below~~, from the Facility, subject to and in accordance with the terms and conditions of this Agreement, and Seller wishes to provide energy and capacity pursuant to this Agreement.

## AGREEMENT

NOW, THEREFORE, the Parties ~~mutually~~ agree as follows:

### SECTION 1: DEFINITIONS AND CONTRACT INTERPRETATION

#### 1.1 Defined Terms.

~~For all purposes of~~When used in this Agreement, the following terms shall have the following meanings:

"Affiliate" means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

"Agreement" means this Standard On-System Variable Power Purchase Agreement (Option A or Option B) and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

"Ancillary Services" means any of the services identified by a Transmission Provider in its transmission tariff as "ancillary services."

"Applicable Law" means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

1.1. "As-built Supplement" means ~~at~~ the supplement to Exhibit A ~~and Exhibit B~~ provided by Seller in accordance with Section 4.3 following completion of construction of the Facility, ~~or modifications to the Facility, which describes~~ ~~describing~~ the Facility as actually built.

~~"Balancing Authority" means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to the Facility.~~

~~"Bankrupt" means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, or (iii) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets.~~

4.2. — "Base Hours" ~~means is defined as~~ the total number of hours in each Contract Year (8,760 or 8,784 for leap ~~years~~), ~~provided year~~.

~~4.3.1.2. "Billing Period" means a period between PGE's readings of its power purchase billing meter at the Facility in the normal course of PGE's business. Such periods may vary and may not coincide with calendar months, however, that Base Hours for the first Contract Year shall be the number of hours commencing on the first hour of the day after the Commercial Operation Date and ending on the last hour of December 31<sup>st</sup> of the calendar year. PGE shall use best efforts to read the power purchase billing meter in which the Commercial Operation Date occurs, and that Base Hours for the last Contract Year shall be the number of hours commencing on January 1 of the calendar 12 equally spaced periods per year in which the Term ends and ending the last hour of the last day of the Term.~~

~~"Billing Period" means one calendar month.~~

~~"Business Day" means any day other than Saturday, Sunday or the following holidays: New Year's Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.~~

4.4. — "Cash Escrow" means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller's placement of cash in ~~by two parties to place money into the custody of the escrow agent a third party for delivery to PGE a grantee only~~ after the fulfillment of ~~any of~~ the conditions specified in Section . Amounts in the Cash Escrow shall earn interest at the rate applicable to money market deposits.

~~4.5.1.3. "Commercial Operation Date" means the date that the Facility is deemed by PGE to be fully operational and reliable. PGE may, at escrow agent, its discretion require, among other things, that all of the following events have occurred:~~

~~"Claims" means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.~~

“Commercial Operation” has the meaning given to it in Section .

“Commercial Operation Date” has the meaning given to it in Section .

“Commission” means the Public Utility Commission of Oregon.

“Contract Price” means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under the Non-Renewable Fixed Price Option for \_\_\_\_\_ *[specify applicable Non-Renewable Fixed Price Option based on resource type, in accordance with Schedule]*, as published in the Schedule and attached as **Exhibit F** (or in the case of QFs electing Option B, the Solar Standard Terms and Negotiated Price Agreement, as set forth in the price matrix attached as **Exhibit H**, which reflects the negotiated price, including on-peak and off-peak prices), and thereafter, for the remainder of the Term, the Daily Market Index Price in effect during the interval when the energy is generated.

~~1.5.1.—“Contract (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from a Licensed Professional Engineer (“LPE”) acceptable to PGE in its reasonable judgment stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement (certifications required under this Section 1.5 can be provided by one or more LPEs);~~

~~1.5.2.— Start-Up Testing of the Facility has been completed in accordance with Section 1.35;~~

~~1.5.3.— (facilities with nameplate under 500 kW exempt from following requirement) After PGE has received notice of completion of Start-Up Testing, PGE has received a certificate addressed to PGE from an LPE stating that the Facility has operated for testing purposes under this Agreement and was continuously mechanically available for operation for a minimum of 120 hours. The Facility must provide ten (10) working days written notice to PGE prior to the start of the initial testing period. If the mechanical availability of the Facility is interrupted during this initial testing period or any subsequent testing period, the Facility shall promptly start a new Test Period and provide PGE forty-eight (48) hours written notice prior to the start of such testing period;~~

~~1.5.4.— (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from an LPE stating that in accordance with the Generation Interconnection Agreement, all required interconnection facilities have been constructed all required interconnection tests have been completed; and the Facility is physically interconnected with PGE's electric system.~~

~~1.5.5.— (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from an LPE stating that Seller has obtained all Required Facility Documents and, if requested by PGE in writing, has provided copies of any or all such requested Required Facility Documents;~~

~~1.6.— “Contract Price” means (see the selection made in the first paragraph of this Agreement to determine whether Option A or Option B applies — only one option applies);~~

~~**Option A:** “Contract Price” means the applicable price, including on-peak and off-peak prices, as specified in the Schedule. For the first 15 years measured from the date in Section 2.2.2, the Contract Price will be the Standard Fixed Price Option under the Schedule; thereafter and for the remainder of the Term, the Contract Price will be equal to the Mid-C Index Price.~~

~~**Option B:** “Contract Price” means: (i) the negotiated price, including on-peak and off-peak prices, as specified in Exhibit E; or (ii) the Mid-C Index Price. For the first 15 years measured from the date in Section 2.2.2, the Contract Price will be the negotiated price specified in Exhibit E; thereafter and for the remainder of the Term, the Contract Price will be equal to the Mid-C Index Price. The negotiated price established in Exhibit E is not necessarily the same as the Standard Fixed Price Option or the Renewable Fixed Price Option established in the Schedule.~~

~~1.7.1.4. “Contract Year” means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time (“PPT”) on January 1 and ending at 24:00 hours PPT on December 31; provided, however, that the first Contract Year shall commence on ~~upon~~ the Commercial Operation Date and end on December 31<sup>st</sup> of ~~or its anniversary during the Term, except the calendar~~ final contract year in which will be the period from the last anniversary of the Commercial Operation Date occurs, and the last Contract Year shall end on the last day of ~~during the Term, until the end of the Term.~~~~

~~1.8.1.5. “Credit Support Effective Date” has the meaning given to it set forth in Section 2.1.~~

~~1.9. “Creditworthiness Requirements” “Environmental Attributes” shall mean any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gasses (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere.~~

~~1.10.1.6. “Facility” has the meaning given to it set forth in Section the Recitals.~~

~~1.11. “Generation Interconnection Agreement” means the generation interconnection agreement to be entered into separately between Seller and PGE, providing for the construction, operation, and maintenance of interconnection facilities required to accommodate deliveries of Seller's Net Output.~~

~~1.12. “Generation Unit” means each separate electrical generator that contributes towards Nameplate Capacity Rating included on Exhibit A. For solar facilities, a generating unit is a complete solar electrical generation system within the Facility that is able to generate and deliver energy to the Point of Delivery independent of other Generation Units within the same Facility.~~



~~1.13. "Letter of Credit" means an engagement by a bank or other person made at the request of a customer that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the letter of credit.~~

~~1.14. "Licensed Professional Engineer" or "LPE" means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.~~ **Daily Market**

~~1.15. "Lost Energy" means ((the Guarantee of Mechanical Availability as set forth in 3.1.10 / MAP) X Net Output for a Calendar Year) – Net Output for the Calendar Year. Lost Energy shall be zero unless the result of the calculation in this subsection results in a positive number.~~

~~1.16. "Lost Energy Value" means Lost Energy X the excess of the annual time-weighted average Mid-C Index Price for On-Peak and Off-Peak Hours over the time-weighted average Contract Price for On-Peak and Off-Peak Hours for the corresponding time period, (provided that such excess shall not exceed the Contract Price and further provided that Lost Energy is deemed to be zero prior to reaching the Commercial Operation Date) plus any reasonable costs incurred by PGE to purchase replacement power and/or transmission to deliver the replacement power to the Point of Delivery..(For Start-Up Lost Energy Value see 1.34).~~

~~1.17. "Mechanical Availability Percentage" or "MAP" shall mean that percentage for any Contract Year for the Facility calculated in accordance with the following formula:~~

$$\text{MAP} = 100 \times (\text{Operational Hours}) / (\text{Base Hours} \times \text{Number of Units})$$

~~1.18.1.7. "Mid-C Index Price" means the Day Ahead Intercontinental Exchange ("ICE") index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak Power found on the following website:~~

~~<https://www.theice.com/products/OTC/Physical-Energy/Electricity> <https://www.theice.com/products/OTC/Physical-Energy/Electricity>.– In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Point of Interconnection ~~Mid-C trading hub~~.~~

~~"Delay Damages" has the meaning given to it in Section .~~

~~"Delivery Period" has the meaning given to it in Section .~~

~~"Effective Date" has the meaning given to it in Section .~~

~~"Estimated Annual Average Net Output" means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.~~

~~"Estimated Annual Maximum Net Output" means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.~~



“Estimated Monthly Average Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Maximum Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Existing QF” means a QF that (1) is or has been operational before the Effective Date of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party.

“Expiration Date” has the meaning given to it in Section .

“Facility” is the entire facility as specified in Exhibit A and Exhibit B.

“Facility –Nameplate Capacity Rating” means the ~~sum~~maximum capacity of the Nameplate Capacity Ratings for all Generation Units comprising the Facility.

“FERC” means the Federal Energy Regulatory Commission or any successor government agency.

“Force Majeure” or “Force Majeure Event” has the meaning given to it in Section .

“Generator” means the electrical component within the Facility measured in kW that converts mechanical energy or solar radiation into electrical energy.

“Generation Unit” means a complete electrical generation system within the Facility that is able to generate and deliver energy to the Point of Interconnection independent of other Generation Units within the same Facility. For example, for a solar facility, a Generation Unit is an inverter and the panels associated with such inverter.

“Governmental Authority” means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

“Interconnection Agreement” means an agreement between PGE and Seller governing the interconnection of the Facility with PGE’s electric system.

“kW” and “kWh” mean kilowatt and kilowatt hour, respectively.

“Lender” means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.

“Letter of Credit” means an irrevocable standby letter of credit from an institution selected ~~as stated by the~~ Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

“Licensed Professional Engineer” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in , and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or

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STANDARD ON-SYSTEM VARIABLE POWER PURCHASE AGREEMENT

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of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.

“Lost Energy” means (~~–expressed in~~ kWh):

- A. In connection with a Facility after the Commercial Operation Date, if the Mechanical Availability Percentage falls below the Minimum Availability Guarantee for a Contract Year, ((the Minimum Availability Guarantee as determined pursuant to Section / the actual Mechanical Availability Percentage for the applicable Contract Year) X actual Net Output for the applicable Contract Year) - actual Net Output for the applicable Contract Year; or
- B. In connection with a Facility that does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see Exhibit C) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual Commercial Operation Date or contract termination pursuant to Section 9. The Estimated Monthly Average Net Output shall be pro-rated for any partial months; or
- C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 9 of this Agreement because of Seller’s default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month from the date of termination through the end of the Term. The Estimated Monthly Average Net Output shall be pro-rated for any partial months.

“Lost Energy Value” means:

- A. In connection with Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly to each calendar month in the Contract Year and then allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in Exhibit C (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year *plus* any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period); and
- The Off-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period).

If the above calculation of the Lost Energy Value for the Contract Year results in a negative value, the Lost Energy Value for the Contract Year shall be deemed zero. See the example calculation in **Exhibit G**.

B. In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during ~~kW~~, which Seller has failed to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below) *plus* any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

~~1.19.1.8.~~ The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) **shall not exceed** the Contract Price for On-Peak Hours for the same period; and ~~10,000 kW~~.

- The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.

If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in **Exhibit G**.

C. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for On-Peak Hours for the period *less* the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for Off-Peak Hours for the period *less* the Contract Price for Off-Peak Hours for the period); and
- Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to

deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in Exhibit G.

“Mechanical Availability Percentage” or “MAP” means that percentage for any Contract Year for the Facility calculated in accordance with the following formula:

$$\text{MAP} = 100 \times (\text{Operational Hours}) / (\text{Base Hours} \times \text{Number of Units})$$

“Minimum Availability Guarantee” has the meaning given to it in Section .

“Nameplate Capacity Rating” means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.

“NERC” means the North American Electric Reliability Corporation.

“Net Available Capacity” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Point of Interconnection continuously for sixty (60) minutes.

~~1.20.—“Net Output” means all energy. “Net Dependable Capacity” means the maximum capacity the Facility can sustain over a specified period modified for seasonal limitations, if any, and reduced by the capacity required for station service or auxiliaries.~~

~~1.21.1.9. “Net Output” means all energy expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the Point of Interconnection. —and less transformation and transmission losses. Net Output does not include any environmental attributes.~~

“New QF” means any QF that is not an Existing QF.

~~1.22.1.10. “Number of Units” means the number of Generation Units in the Facility, as specified described in Exhibit A.~~

~~1.23.—“Off-Peak Hours” means all hours other than has the meaning provided in the Schedule.~~

~~1.24.1.11. “On-Peak Hours” has the meaning provided in the Schedule.~~

“On-Peak Hours” means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.

~~1.25.1.12. “Operational Hours” for the Facility means the total across all Generation Units of the number of hours each of the Facility’s Generation Units is are potentially capable of producing power at its Nameplate Capacity Rating regardless of actual weather, season and time of day or night, without any mechanical operating~~

constraint or restriction, and potentially capable of delivering such power to the Point of Interconnection Delivery in a Contract Year. ~~For each Contract Year, each Generation Unit is eligible During up to include no, but not more than, 200 hours as Operational Hours when the Generation Unit is not operational because of Planned Maintenance or during a Contract Year for each Generation Unit and hours during which an event of Force Majeure exists, a Generation Unit shall be considered potentially capable of delivering such power to the Point of Delivery. For example, if the Facility consists of two separate Generation Units of 1.5 MW each and Generation Unit 1 is operational for 8,460 hours and is not operational for 300 hours due to absence of any Planned Maintenance or an event of Force Majeure; and Generation Unit 2 is operational for 8,560 hours and is not operational for beyond 200 hours due to Planned Maintenance or an event on any Generation Unit or Event of Force Majeure, then the Operational Hours for the Facility for the a wind farm with 5 separate two MW turbines would be 43,800 for a Contract Year would be calculated as follows: Generation Unit 1 Operational Hours = 8,460 + 200 = 8,660. Generation Unit 2 Operational Hours = 8,560 + 200 = 8,760. Operational Hours of the Facility = 8,760 + 8,660 = 17,420.~~

“Person” means any individual, corporation, limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.

4.26.1.13. “Planned Maintenance” means outages scheduled 90 calendar days in advance, with PGE’s prior written notice to PGE, provided however that maintenance during Off-Peak Hours (except Sundays between 6:00 a.m. and 10:00 p.m. PPT) on a Facility comprised of only solar Generators consent, which shall not be considered Planned Maintenance unreasonably withheld.

4.27. “Point of Interconnection Delivery” means the high side of the generation step up transformer(s) located at the point of interconnection between the Facility and PGE’s PGE’s distribution or transmission system, as specified in the Generation Interconnection Agreement.

4.28.1.14. “Pre-Commercial Operation Date Minimum Net Output” shall mean, unless such MWh is specifically set forth by Seller in Exhibit BA, an amount in MWh equal to seventy five percent (75%) of the Nameplate Capacity Rating X thirty percent (30%) for a wind or other renewable QF or fifty percent (50%) for a solar QF X (whole months since the date selected in Section 2.2.1 / 12) X (8760 hours – 200 hours (assumed Planned Maintenance)) for each month. If Seller has provided specific expected monthly Net Output amounts for the Facility in Exhibit A, “Pre-Commercial Operation Date Minimum Net Output” shall mean seventy five (75%) X expected Net Output set forth in Exhibit A for each month.

4.29.1.15. “Prime Rate” means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

“Product” means, each and together, as a single bundled product, Net Output together with all associated capacity.

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~~4.30-1.16.~~ “Prudent Electrical Practices” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the ~~WECC Western Electricity Coordinating Council~~ that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all ~~Applicable Law, applicable laws and regulations.~~ Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

“PURPA” means the Public Utility Regulatory Policies Act of 1978.

“Qualifying Facility” has the meaning set forth in the Recitals.

“Reliability Entity” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

“Replacement Price” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at the Mid-Columbia trading hub for any Net Output that Seller fails to deliver as required under this Agreement.

When the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Availability Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices shall be calculated as follows for each applicable calendar month (or partial calendar month):

- For Lost Energy During On-Peak Hours: the hourly average of the on-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).
- For Lost Energy During Off-Peak Hours: the hourly average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

When the Replacement Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 9, the Replacement Price shall be the respective On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices during the applicable period.

~~4.34-1.17.~~ “Required Facility Documents” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as the Interconnection Agreement ~~including without limitation those set forth in Exhibit B.~~

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~~1.32.1.18.~~ “Schedule” ~~means PGE’s shall mean PGE~~ Schedule 201 filed with the Oregon Public Utilities Commission and (“Commission”) in effect on the date that Seller delivers to PGE an executed copy Effective Date of this Agreement. For ease of reference and informational purposes only, a copy of the Schedule is and attached hereto as Exhibit F; however, if there is any difference between Exhibit F and the Schedule, the terms of the Schedule shall apply and prevail which are hereby incorporated by reference.

“Scheduled Commercial Operation Date” has the meaning given to it in Section .

~~1.33.1.19.~~ “Senior Lien” means a prior lien ~~that~~ which has precedence as to the property under the lien over another lien or encumbrance.

“Specified Facility Nameplate Capacity Rating” means the Facility Nameplate Capacity Rating set forth in Exhibit A, as it may be amended from time to time in accordance with this Agreement.

~~1.34.~~ “Start-Up Testing” means the performance of applicable start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in Exhibit E (as it may be updated by Seller) during the Test Period. “Start-Up Lost Energy Value” means for the period after the date specified in Section 2.2.2 but prior to achievement of the Commercial Operation Date: zero, unless the Net Output is less than the pro-rated Pre-Commercial Operation Date Minimum Net Output for the applicable delay period, and the time-weighted average of the delay period’s Mid-G Index Price for On-Peak Hours and Off-Peak Hours is greater than the time-weighted average of the delay period’s Contract Price for On-Peak Hours and Off-Peak Hours, in which case Startup Lost Energy Value equals: (pro-rated Pre-Commercial Operation Date Minimum Net Output for the applicable period - Net Output for the applicable period) X (the lower of: the time-weighted average of the Contract Price for On-Peak hours and Off-Peak Hours during the applicable period; or (the time-weighted average of the Mid-G Index Price for On-Peak Hours and Off-Peak Hours during the applicable period — the time-weighted average of the Contract Price for On-Peak Hours and Off-Peak Hours during the applicable period)). The time-weighted average in this section will reflect the relative proportions of On-Peak Hours and Off-Peak Hours in each day.

~~1.35.1.20.~~ “Start-Up Testing” means the completion of applicable required factory and start-up tests as set forth in Exhibit G.

~~1.36.1.21.~~ “Step-in Rights” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.

“Term” has the meaning given to it in Section .

~~1.37.~~ “Term” shall mean the period beginning on the Effective Date and ending on the Termination Date.

“Test Energy” means electric energy generated by the Facility during the Test Period.

“Test Period” means shall mean a period during which Start-Up Testing is to be conducted.

~~1.38.1.22.~~ “WECC” means the Western Electricity Coordinating Council ~~of sixty (60) days or any successor thereto~~ a commercially reasonable period determined by the Seller.



1.2 Interpretation.

In this Agreement, references to Recitals, Sections, and Exhibits are references to the recitals, sections and exhibits of this Agreement. The article and section headings in this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms “includes” or “including” mean “includes but is not limited to” and “including but not limited to,” respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in this Agreement in accordance with such recognized meanings.

~~References to Recitals, Sections, and Exhibits are to be the recitals, sections and exhibits of this Agreement.~~

~~SECTION 2: TERM; FACILITY; COMMERCIAL OPERATION DATE~~

1.3 Term.

~~2.1.—The term of this This Agreement (“Term”) commences on the date this Agreement is signed shall become effective upon execution by both Parties (“Effective Date”).~~

~~2.2.—Time is of the essence of this Agreement, and ends on the earlier of [Seller-selected date or fixed-interval period of time that is no more than 20 years from the Scheduled Seller's ability to meet certain requirements prior to the Commercial Operation Date] (“Expiration Date”) or the date on which this Agreement is terminated pursuant to and to complete all requirements to establish the Commercial Operation Date is critically important. Therefore,~~

~~2.2.1—By \_\_\_\_\_ [date to be determined by the Seller] Seller shall begin initial deliveries of Net Output; and~~

~~By \_\_\_\_\_ [date to be determined by the terms of the Agreement.~~

1.4 Construction of the Facility.

1.4.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE’s system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement. ~~subject to Section 2.2.3 below~~ Seller shall, at its sole cost, design and construct the Facility and obtain all interconnection rights, necessary to enable the delivery of energy from the Facility to the Point of Interconnection, all in compliance with this Agreement, the Required Facility Documents, and Prudent Electrical Practices.

1.4.2 Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement may be reviewed by PGE, which review shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE’s information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely responsible for the economic and technical feasibility, operational

capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section .

### 1.5 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with Exhibit E (as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility), and shall provide written notice to PGE when the Start-Up Testing has been successfully completed. Seller must provide no less than one (1) business days' written notice to PGE prior to the commencement of Start-Up Testing, and must provide PGE ten (10) business day's written notice prior to commencing sales of Test Energy to PGE. PGE shall compensate the Seller for delivered Test Energy in accordance with Section . This Section 2.3 does not apply if the Facility is an Existing QF unless the Existing QF elects to conduct Start-Up Testing.

### 1.6 Commercial Operation.

“Commercial Operation” will be achieved when the Facility is fully constructed and determined by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have occurred:

1.6.1 If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with Exhibit E, and PGE has received Seller's written certification of completion of Start-Up Testing.

1.6.2 PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that the Facility is interconnected and operational in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.

1.6.3 PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE's reasonable satisfaction, which may include equipment specifications.

1.6.4 PGE has received a letter addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement, and any other Required Facility Documents requested by PGE.

1.6.5 PGE has received the following documents with respect to the Facility: the As-built Supplement, including but not limited to an electrical single-line diagram, a 12x24 estimated net energy profile, a 8760 net energy production estimate, and (for solar QFs) an annual degradation factor.

1.6.6 PGE has received copies of all insurance certificates required ~~all requirements~~ under Section .

1.6.7 PGE has received any Credit Support required under Section .

1.7 Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section , Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, including but not limited to information required in Exhibit A and Exhibit B. PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, provided that PGE shall not unreasonably withhold such certification. The date of Seller's notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the "Commercial Operation Date" for all purposes under this Agreement.

1.8 Scheduled Commercial Operation Date.

2.2.22.1.1 By no later than \_\_\_\_\_ ("Scheduled Commercial Operation Date"), Seller shall have completed all requirements under Section 4.5 and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE's negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE's negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date ("Delay Damages"). If Commercial Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section .

~~2.2.3 — Status Unless the Parties agree in writing that a later Commercial Operation Date is reasonable and necessary, the Commercial Operation Date shall be no more than three (3) years from the Effective Date. PGE will not unreasonably withhold agreement to a Commercial Operation Date that is more than three (3) years from the Effective date if the Seller has demonstrated that a later Commercial Operation Date is reasonable and necessary.~~

~~2.3. — This Agreement shall terminate on \_\_\_\_\_, \_\_\_\_\_ [date to be chosen by Seller but not to exceed 20 years from the date contained in Section 2.2.2], or the date the Agreement is terminated in accordance with Section 9 or 11, whichever is earlier ("Termination Date").~~

### SECTION 3: REPRESENTATIONS AND WARRANTIES

3.1. — Seller and PGE represent, covenant, and warrant as follows:

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~~3.1.1. Seller warrants it is a \_\_\_\_\_ duly organized under the laws of \_\_\_\_\_.~~

~~3.1.2. Seller warrants that the execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.~~

~~1.9 Seller warrants that the Facility.~~

~~3.1.3. Seller is and shall construct and operate for the Facility so as Term of this Agreement continue to ensure its status as be a "Qualifying Facility and in a manner consistent with its FERC Qualifying Facility certification." ("QF") as that term is defined in the version of 18 C.F.R. Part 292 in effect on the Effective Date. Seller has provided the appropriate QF certification, which may include a Federal Energy Regulatory Commission ("FERC") self-certification to PGE prior to PGE's execution of this Agreement. At any time during the Term of this Agreement, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment discretion that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE's request documentation QF under all applicable requirements.~~

~~3.1.4. Seller warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and Seller is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

~~3.1.5.3.1.1. Seller warrants that during the Term of this Agreement, all of Seller's right, title and interest in and to the Facility shall be free and clear of all liens and encumbrances other than liens and encumbrances arising from third-party financing of the Facility other than workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility. posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.~~

~~1.9.1 Seller shall not make any changes in its ownership, control or management that would cause the Facility to fail to satisfy the eligibility requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement. Seller shall provide upon request by PGE, not more frequently than every 36 months, any documentation and information as may be reasonably required to establish Seller's continued compliance with the applicable eligibility requirements. PGE shall take reasonable steps to maintain the confidentiality of any such documentation and information that Seller identifies as confidential, provided that PGE may provide all such information to the Commission upon the Commission's request.~~

## **ARTICLE 2: DELIVERY AND SALE OF ENERGY; SCHEDULING**

~~2.1 Delivery and Sale of Energy.~~

~~Except as otherwise provided in this Agreement, commencing on the Commercial Operation Date and continuing until the end of the Term (the "Delivery Period"), Seller shall deliver and sell and PGE shall receive and purchase~~

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all of the Net Output delivered at the Point of Interconnection. Title and risk of loss related to the Product shall transfer from Seller to PGE at the Point of Interconnection.

## 2.2 Estimated Net Output.

Seller's good faith, commercially reasonable estimate of the Facility's monthly and annual average and maximum Net Output during the Delivery Period, and Seller's basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in Exhibit C, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section . Seller acknowledges that PGE will use these estimates in its resource planning.

## 2.3 Minimum Availability Guarantee.

~~3.1.6. Seller hereby guarantees Seller warrants that it will design and operate the Facility consistent with Prudent Electrical Practices.~~

~~3.1.7. Seller warrants that the Facility has a Nameplate Capacity Rating not greater than 10,000 kW.~~

~~3.1.8. Seller warrants that Net Dependable Capacity of the Facility is \_\_\_\_\_ kW.~~

~~3.1.9. Seller estimates that the average annual Net Output to be delivered by the Facility to PGE is \_\_\_\_\_ kilowatt-hours ("kWh"), which amount PGE will include in its resource planning.~~

~~3.1.10.3.1.2. Seller represents and warrants that the Facility will shall achieve the following Mechanical Availability Percentages that meet or exceed the following ("Minimum("Guarantee of Mechanical Availability Guarantee"): "):~~

~~3.1.10.13.1.2.1 \_\_\_\_\_ Ninety percent (90%) beginning in the first Contract Year and extending through the Term of this Agreement for the Facility, if the Facility was operational and sold electricity to PGE or another buyer prior to the Effective Date of this Agreement; or~~

~~3.1.10.23.1.2.2 \_\_\_\_\_ Ninety percent (90%) beginning in Contract Year three and extending throughout the remainder of the Term of this Agreement. -~~

~~3.1.10.33.1.2.3 \_\_\_\_\_ Annually, within 90 calendar days of the end of each Contract Year, Seller shall send to PGE a detailed written report demonstrating and providing evidence of the actual Mechanical Availability Percentage MAP for the previous Contract Year.~~

~~3.1.10.43.1.2.4 As a remedy for Seller's failure to satisfy meet the Minimum Guarantee of Mechanical Availability Guarantee in any Contract a Calendar Year, Seller shall owe PGE result in damages payable to PGE by Seller equal to the Lost Energy Value. PGE shall bill Seller for such damages in accordance with Section 7.~~

## 2.4 Loss of Interconnection and Curtailment.



~~PGE shall not be liable to Seller 3.1.11.— Seller will deliver from the Facility to PGE at the Point of Delivery Net Output not to exceed a maximum of \_\_\_\_\_ kWh of Net Output during each Contract Year (“Maximum Net Output”).~~

~~3.1.12.— By the Commercial Operation Date, Seller has entered into a Generation Interconnection Agreement for a term not less than the term of this Agreement.~~

~~3.1.13.— PGE warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and PGE is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

~~3.1.14.— (See the selection made in the first paragraph of this Agreement to determine whether Option A or Option B applies — only one option applies):~~

~~**Option A:**— Seller warrants that (i) the Facility satisfies the eligibility requirements for the Standard Fixed Price Option specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA” and (ii) Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to not be in compliance with the eligibility requirements for the Standard Fixed Price Option specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA.” Seller will provide, upon request by PGE not more frequently than every 36 months, such documentation and information as may be reasonably required to establish Seller’s continued compliance with such Definition. PGE agrees to take reasonable steps to maintain the confidentiality of any portion of the above-described documentation and information that the Seller identifies as confidential except PGE will provide all such confidential information to the Public Utility Commission of Oregon upon the Commission’s request.~~

~~**Option B:**— Seller warrants that (i) the Facility satisfies the eligibility requirements for a Standard PPA specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA” and (ii) Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to not be in compliance with the eligibility requirements for a Standard PPA specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA.” Seller will provide, upon request by PGE not more frequently than every 36 months, such documentation and information as may be reasonably required to establish Seller’s continued compliance with such Definition. PGE agrees to take reasonable steps to maintain the confidentiality of any portion of the above-described documentation and information that the Seller identifies as confidential except PGE will provide all such confidential information to the Public Utility Commission of Oregon upon the Commission’s request.~~

SECTION 4: DELIVERY OF POWER AND PRICE

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~~4.1.— Commencing on the Effective Date and continuing through the Term of this Agreement, Seller shall sell to PGE the entire Net Output delivered from the Facility at the Point of Delivery.~~

~~4.2.— PGE shall pay Seller the Contract Price for all delivered Net Output.~~

~~4.3.— (See the selection made in the first paragraph of this Agreement to determine whether Option A or Option B applies— only one option applies):~~

~~**Option A:**— Upon completion of construction of the Facility, Seller shall provide PGE an As-built Supplement to specify the actual Facility as built. Seller shall not increase the Nameplate Capacity Rating above that specified in Exhibit A or increase the ability of the Facility to deliver Net Output in quantities in excess of the Net Dependable Capacity, or the Maximum Net Output as described in Section 3.1.11 above, through any means including, but not limited to, replacement, modification, or addition of existing equipment, except with prior written notice to PGE. In the event Seller increases the Nameplate Capacity Rating of the Facility pursuant to this section to no more than 3,000 kW (if the Facility produces Net Output through solar generation), or to no more than 10,000 kW (if the Facility does not produce Net Output through solar generation), PGE shall pay the Contract Price for the additional delivered Net Output. In the event Seller increases the Nameplate Capacity Rating of the Facility to greater than 3,000 kW and the Facility produces Net Output through solar generation, then Seller shall be required to enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 3,000 kW. In the event Seller increases the Nameplate Capacity Rating of the Facility to greater than 3,000 kW but no greater than 10,000 kW and the Facility produces Net Output through solar generation, the new power purchase agreement will be (at Seller's choice) either a standard (Schedule 201) power purchase agreement or a negotiated (Schedule 202) power purchase agreement and neither option is eligible for Schedule 201 prices. In the event the Seller increases the Nameplate Capacity Rating to greater than 10,000 kW and the Facility produces Net Output through solar generation, then Seller shall be required to enter into a new negotiated (Schedule 202) power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 3,000 kW. In the event Seller increases the Nameplate Capacity Rating to greater than 10,000 kW and the Facility produces Net Output through means other than solar generation, then Seller shall be required to enter into a new negotiated (Schedule 202) power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 10,000 kW.~~

~~**Option B:**— Upon completion of construction of the Facility, Seller shall provide PGE an As-built Supplement to specify the actual Facility as built. Seller shall not increase the Nameplate Capacity Rating above that specified in Exhibit A or increase the ability of the Facility to deliver Net Output in quantities in excess of the Net Dependable Capacity, or the Maximum Net Output as described in Section 3.1.11 above, through any means including, but not limited to, replacement, modification, or addition of existing equipment, except with prior written notice to PGE. In the event Seller increases the Nameplate Capacity Rating of the Facility to no more than 10,000 kW pursuant to this section, PGE shall pay the Contract Price for the additional delivered Net Output. In the event Seller~~

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~~increases the Nameplate Capacity Rating to greater than 10,000 kW, then Seller shall be required to enter into a new negotiated (Schedule 202) power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 10,000 kW.~~

~~4.4. To the extent not otherwise provided in the Generation Interconnection Agreement, all costs associated with the modifications to PGE's interconnection facilities or electric system occasioned by or related to the interconnection of the Facility with PGE's system, or any increase in generating capability of the Facility, or any increase of delivery of Net Dependable Capacity from the Facility, shall be borne by Seller.~~

~~4.5. Seller may report under §1605(b) of the Energy Policy Act of 1992 or under any applicable program as belonging to Seller any of the Environmental Attributes produced with respect to the Facility, and PGE shall not report under such program that such Environmental Attributes belong to it.~~

#### SECTION 5: OPERATION AND CONTROL

~~5.1. Seller shall operate and maintain the Facility in a safe manner in accordance with the Generation Interconnection Agreement, and Prudent Electrical Practices. PGE shall have no obligation to purchase the Product Net Output from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the the Facility to the extent that, due to the action of a Reliability Entity, a Force Majeure Event or PGE's construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility to the PGE's electric system is disconnected, suspended or interrupted, or (ii) generation or transmission in whole or in part, pursuant to the Generation Interconnection Agreement, or to the extent generation curtailment is required, as a result of Seller's noncompliance with the Generation Interconnection Agreement. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility.~~

~~5.2. Seller agrees to provide sixty (60) days advance written notice of any scheduled maintenance that would require shut down of the Facility for any period of time.~~

~~5.3. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. the Facility ceases operation for unscheduled maintenance, Seller immediately shall notify PGE of the necessity of such unscheduled maintenance, the time when such maintenance has occurred or will occur, and the anticipated duration of such maintenance. Seller shall take all reasonable measures and exercise its best efforts to avoid unscheduled maintenance, to limit the duration of such unscheduled maintenance, and to perform unscheduled maintenance during Off-Peak hours.~~

#### SECTION 6: CREDITWORTHINESS

~~In the event Seller: a) is unable to represent or warrant as required by Section 3 that it has not been a debtor in any bankruptcy proceeding within the past two (2) years; b) becomes such a debtor during the Term; or c) is not or will not be current on all its financial obligations, Seller shall immediately notify PGE and shall promptly (and in no~~

~~less than 10 days after notifying PGE) provide default security in an amount reasonably acceptable to PGE in one of the following forms: Senior Lien, Step-in Rights, a Cash Escrow or Letter of Credit. The amount of such default security that shall be acceptable to PGE shall be equal to: (annual On Peak Hours) X (On Peak Price — Off Peak Price) X (Net Dependable Capacity). Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller's control. in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its discretion, grant an exception to the requirements to provide default security if the QF has negotiated financial arrangements with the construction loan lender that mitigate Seller's financial risk to PGE.~~

### **ARTICLE 3: PRICE, BILLING AND PAYMENT**

#### **3.1 Prices and Payment for Delivered Product.**

3.1.1 During the Delivery Period, PGE shall pay Seller an amount for Product delivered during a Billing Period calculated as follows: the Contract Price *multiplied by* Net Output during the Billing Period. An illustrative example is provided in **Exhibit G**.

3.1.2 Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy *multiplied by* the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.

3.1.3 Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.

#### **3.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.**

By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (and supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in **Exhibit G**.

#### **3.3 Invoicing and Payment for Lost Energy Value Related to Minimum Availability Guarantee.**

If Seller fails to satisfy the Minimum Availability Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following PGE's receipt of Seller's detailed written report for such Contract Year in accordance with Section , PGE will in the ordinary course deliver to Seller an invoice

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showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice. Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, the amount payable by PGE for future deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period of such reduction (not to exceed one year) so as to minimize the risk of Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.

### 3.4 Form of Payment and Interest on Late Payments.

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.

### 3.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.

## SECTION 7: METERING

### 3.6 Metering Equipment and Location.

7.1.—PGE shall design, furnish, install, own, inspect, test, maintain and replace all metering equipment at Seller's cost and as required pursuant to the ~~Generation~~ Interconnection Agreement.

7.2.—Metering shall be performed at the location and in a manner consistent with this Agreement and as specified in the ~~Generation~~ Interconnection Agreement. All Net Output purchased hereunder shall be adjusted to account for electrical losses, if any, between the point of metering and the Point of ~~Interconnection~~ Delivery, so that the purchased amount reflects the net amount of power flowing into PGE's system at the Point of ~~Interconnection~~ Delivery.

### 3.7 Meter Installation, Inspection and Correction.

7.3.—PGE shall periodically inspect, test, repair and replace the metering equipment as provided in the ~~Generation~~ Interconnection Agreement. If any of the inspections or tests discloses an error exceeding two (2%) percent of the actual energy delivery, either fast or slow, proper correction, based upon the inaccuracy found, shall be made of previous readings for the actual period during which the metering equipment rendered inaccurate measurements if that period can be ascertained. If the actual period cannot be ascertained, the proper correction shall be made to the measurements taken

during the time the metering equipment was in service since last tested, but not exceeding three (3) months, in the amount the metering equipment shall have been shown to be in error by such test. ~~Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered. Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of such inaccuracy of metering equipment.~~

3.8 Metering Costs.

~~7.4.—~~To the extent not otherwise provided in the ~~Generation~~ Interconnection Agreement, all of PGE's costs relating to all metering equipment installed to accommodate Seller's Facility shall be borne by Seller.

**ARTICLE 4: OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES**

4.1 Seller's Duty to Operate and Maintain the Facility.

4.1.1 Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.

4.1.2 Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide copies of the same to PGE upon request.

4.2 Outages.

4.2.1 On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with a schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the Specified Facility Nameplate Capacity Rating for twenty-four (24) or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of Section .

4.2.2 Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable efforts to avoid or mitigate outages during PGE's system emergencies.

4.3 Facility Upgrades.

4.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

4.3.2 At any time after the Commercial Operation Date upon at least six months prior written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in Exhibit C, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in Exhibit C for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

4.3.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section or Section that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend Exhibit A and Exhibit C as appropriate to reflect the modifications.

4.3.2.2 So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller will continue to receive the Contract Price for all delivered Net Output.

4.3.3 If Seller increases the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 3,000 kW (solar) or 10,000 kW (all other QFs), consistent with then-current Applicable Law:

4.3.3.1 If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to more than 3,000 kW and no greater than 10,000 kW, then Seller may elect to enter either (a) a standard power purchase agreement with negotiated prices, or (b) a negotiated power purchase agreement with negotiated prices.

4.3.3.2 If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

4.3.3.3 If the Facility produces Net Output through any resource types other than solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.



**ARTICLE 5: REPRESENTATIONS AND WARRANTIES**

**5.1 Representations and Warranties of Seller.**

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

5.1.1 Seller is duly organized and in good standing under the laws of the state of incorporation or formation.

5.1.2 The execution, delivery and performance of this Agreement are within Seller's powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

5.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

5.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

5.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

5.1.6 Either Seller satisfies the requirements set forth in Section through below (the "Creditworthiness Requirements"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section .

5.1.6.1 Seller is not and has not been Bankrupt within the past two (2) years, and there are no proceedings pending or being contemplated by Seller or, to Seller's knowledge, threatened against Seller that would result in Seller being or becoming Bankrupt.

5.1.6.2 Seller is not in default under any of its material agreements and is current on all of its financial obligations, including construction-related financial obligations.

5.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

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5.1.7 No later than the Commercial Operation Date, Seller will possess a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

5.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

5.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

5.1.10 Seller has the right to sell the Product to PGE free and clear of liens or encumbrances.

5.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

5.2.1 It is a corporation duly organized under the laws of Oregon.

5.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

5.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

5.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

5.2.5 It is not and has not been Bankrupt within the past two (2) years and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

5.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

5.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article 7 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

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## **ARTICLE 6: CREDIT SUPPORT**

### **6.1 Required Credit Support.**

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall immediately notify PGE in writing and shall promptly (and in no less than ten (10) business days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). In each case, the amount of Credit Support required shall be calculated as follows: (aggregate number of On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the weighted average Contract Price for On-Peak Hours – the weighted average Contract Price for Off-Peak Hours) x (Net Available Capacity). The amount of Credit Support required shall be updated annually, on the anniversary of the month Credit Support was first required to be provided. The updated amount of Credit Support shall be calculated for each subsequent 12-month period, consistent with the calculation described in this Section.

If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.

Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its reasonable discretion, grant an exception to the requirements to provide default security if the Seller has negotiated financial arrangements with the Lender that mitigate Seller's financial risk to PGE.

### **6.2 Right to Draw on Credit Support.**

At any time after the occurrence and during the continuation of an Event of Default, or upon an early termination of this Agreement by PGE pursuant to Section , PGE may draw on Seller's Credit Support to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the Credit Support during the Term, PGE shall inform Seller within fifteen (15) business days, and Seller shall promptly, and in no more than fifteen (15) business days following notice from PGE, restore the Credit Support to the amount required under Section . However, for avoidance of doubt, Seller shall have no obligation to replenish the Credit Support if PGE has terminated the Agreement.

## **ARTICLE 7: DEFAULT, REMEDIES AND TERMINATION**

### **7.1 Events of Default.**

An "Event of Default" means, with respect to a Party, the occurrence of any of the following unless otherwise excused under this Agreement:

7.1.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;

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7.1.2 any representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;

7.1.3 the failure of a Party to perform any material covenant or obligation set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party explaining the circumstances supporting the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;

7.1.4 with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

7.1.5 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement at any time during the term of this Agreement;

7.1.6 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

7.1.7 with respect to Seller, Seller fails, for any two or more consecutive Contract Years to satisfy the Minimum Availability Guarantee;

#### SECTION 8: BILLINGS, COMPUTATIONS AND PAYMENTS

~~8.1. On or before the thirtieth (30th) day following the end of each Billing Period, PGE shall send to Seller payment for Seller's deliveries of Net Output to PGE, together with computations supporting such payment. PGE may offset any such payment to reflect amounts owing from Seller to PGE pursuant to this Agreement, the Generation Interconnection Agreement, and any other agreement related to the Facility between the Parties or otherwise. On or before the thirtieth (30<sup>th</sup>) day following the end of each Contract Year, PGE shall bill for any Lost Energy Value accrued pursuant to this Agreement.~~

~~8.2. Any amounts owing after the due date thereof shall bear interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by applicable law.~~

#### SECTION 9: DEFAULT, REMEDIES AND TERMINATION

~~9.1. In addition to any other event that may constitute a default under this Agreement, the following events shall constitute defaults under this Agreement:~~

~~9.1.1. Breach by Seller or PGE of a representation or warranty, except for Section 3.1.4, set forth in this Agreement.~~

~~9.1.2. Seller's failure to provide default security, if required by Section 6, prior to delivery of any Net Output to PGE or within 10 days of notice.~~

~~9.1.3. Seller's failure to meet the Guarantee of Mechanical Availability established in Section 3.1.10 for two consecutive Contract Years or Seller's failure to provide any written report required by Section if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE; ~~that section.~~~~

~~with respect to 9.1.4. If Seller, Seller fails to establish is no longer a Qualifying Facility.~~

~~9.1.5. Failure of PGE to make any required payment pursuant to Section 8.1.~~

~~9.1.6. Seller's failure to meet the Commercial Operation Date on or before the Scheduled Commercial Operation Date.~~

~~9.2. In the event of a default under Section 9.1.6, PGE may provide Seller with written notice of default. Seller shall have one (1) year in which to cure the default under this Section 9.1.9, during which time the Seller shall pay PGE Delay Damages pursuant to the terms of Section and damages equal to the Lost Energy Value. If Seller is unable to cure the default, PGE may immediately terminate this Agreement as provided in Section 9.3. PGE's resource sufficiency/deficiency position shall have no bearing on PGE's right to terminate the Agreement under this Section 9.2.~~

## 7.2 Lender's Right to Cure a Seller Event of Default.

Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under Section of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement.

## 7.3 Termination for Default.

~~If an Event of Default has occurred and is continuing 9.3. In the event of a default under this Agreement, except as otherwise provided in this Agreement, the non-defaulting Pparty may immediately terminate this Agreement at its sole discretion, and without the non-defaulting Party incurring any liability to the defaulting Party, by delivering written notice to the defaulting other Party. In addition, the non-defaulting Pparty may pursue any and all other legal or equitable remedies available provided by law or pursuant to it, this Agreement including recovery of damages as set forth below.~~

## 7.4 Damages.

If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value. Amounts owed by Seller pursuant to this Section shall be due within fifteen (15) business days after

~~any invoice from PGE for the same. Damages owing under this Section 10.4 shall be related to the need to procure replacement power. A termination hereunder shall be effective upon the date of delivery of notice, as provided in Section 20. The rights provided in this Section 9 are cumulative and in addition to damages owing pursuant to Sections , , and . An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G such that the exercise of one or more rights shall not constitute a waiver of any other rights.~~

7.5 Payment of Outstanding Obligations.

~~9.4.—If this Agreement is terminated pursuant to as provided in this Section , then within thirty (30) calendar days of termination, 9 PGE shall make all payments due and owing, within thirty (30) days, that, pursuant to the terms of this Agreement, are owed to Seller as of the time of receipt of notice of termination; provided that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section or otherwise default. PGE shall not be required to pay Seller for Product any Net Output delivered by Seller after the effective date of any termination such notice of default.~~

7.6 Post-Termination PURPA Status.

~~9.5.—In the event (i) PGE terminates this Agreement pursuant to this Article 9 or Seller terminates this Agreement without cause, and (ii) Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, Section 9, and Seller wishes to again sell Net Output to PGE from the Facility following such termination, then PGE in its sole discretion may (but will not be obliged to) require that Seller, its Affiliate, or its successor shall do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to until the Terms of this Agreement, then Seller and PGE shall promptly (as set forth in Section 2.3) would have run in due course had the Agreement remained in effect. At such time Seller and PGE agree to execute a written document ratifying the terms of this Agreement. PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.~~

~~9.6.—Sections 9.1, 9.4, 9.5, 10, and 19.2 shall survive termination of this Agreement.~~

SECTION 10: INDEMNIFICATION AND LIABILITY

7.7 Seller's Indemnity.

~~10.1.—Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, including the delivery of energy to and at electric power to PGE or with the facilities at or prior to the Point of Interconnection; (ii) Seller's development, construction, ownership, operation, maintenance, or decommissioning of the Facility; (iii) the violation of any law, rule, order or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is Delivery, or otherwise arising out of this Agreement, including without limitation any loss, claim, action or suit, for or on account of {00052927.2}~~

~~injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PGE, Seller or others, excepting to the extent such loss, claim, action or suit may be caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.~~

7.8 PGE's Indemnity.

~~10.2.—~~PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all ~~Claims~~~~loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal,~~ resulting from, or arising out of or in any way connected with ~~(i) PGE's receipt of energy under electric power from Seller or with the facilities at or after the Point of Delivery, or otherwise arising out of this Agreement~~ after its delivery at the Point of Interconnection; ~~(ii) the violation of, including without limitation any law, rule, order, loss, claim, action or regulation by PGE~~ ~~suit, for or any on account of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure~~~~injury, bodily or otherwise, to perform any, or death of PGE's obligations under this Agreement;~~ ~~(iv) PGE's breach, persons, or for damage to, or destruction or economic loss of any representation or warranty set forth in this Agreement; or (v) PGE's negligence or willful misconduct in connection with this Agreement, except~~ ~~property belonging to PGE, Seller or others, excepting to the extent such Claim is~~ ~~loss, claim, action or suit may be~~ caused by ~~Seller's breach of this Agreement or by the negligence or willful misconduct of Seller, its directors, officers, employees, agents or representatives.~~

7.9 No Dedication.

~~10.3.—~~Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent ~~Person~~~~individual or entity.~~

7.10 Disclaimer of Consequential Damages.

~~10.4.—~~NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES ~~UNDER OR IN RESPECT OF THIS AGREEMENT~~, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

SECTION 11: INSURANCE

7.11 Certificates of Insurance.

~~Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required~~~~11.1.—~~ ~~Prior to the connection of the Facility to PGE's electric system, provided such Facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, with an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance policies for bodily injury and property damage liability. Such insurance shall include provisions or endorsements~~

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STANDARD ON-SYSTEM VARIABLE POWER PURCHASE AGREEMENT

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~~naming PGE, its directors, officers and employees as additional insureds; provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder; a cross-liability or severability of insurance interest clause; and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days' prior written notice to PGE. Initial limits of liability for all requirements under this section shall be \$1,000,000 million single limit, which limits may be required to be increased or decreased by PGE as PGE determines in its reasonable judgment economic conditions or claims experience may warrant.~~

~~11.2. Prior to the connection of the Facility to PGE's electric system, provided such facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, in an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance acceptable to PGE against property damage or destruction in an amount not less than the cost of replacement of the Facility. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers' rights of subrogation against PGE regarding Facility property losses.~~

~~11.3. Prior to the connection of the Facility to PGE's electric system and at all other times such~~ insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion ~~and without limitation of other remedies~~, may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.

#### 7.12 Required Insurance.

Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than "B+" by the A.M. Best Company the insurance coverage specified below:

7.12.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.

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STANDARD ON-SYSTEM VARIABLE POWER PURCHASE AGREEMENT

7.12.2 All Risk Property Insurance providing coverage in an amount at least equal to the full replacement value of the Facility against “all risks” of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk Policy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the Facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers’ rights of subrogation against PGE regarding Facility property losses.

7.13 Required Provisions.

7.13.1 The Comprehensive General Liability Policy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

7.13.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days’ prior written notice to PGE.

7.13.3 Insurance coverage provided on a “claims-made” basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

SECTION 12: FORCE MAJEURE

7.14 Definition of “Force Majeure.”

~~12.1.—As used in this Agreement, “Force Majeure” or “an event of Force Majeure Event” means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party’s from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: cause beyond the reasonable control of the Seller or of PGE which, despite the exercise of due diligence, such Party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) which by the exercise of reasonable foresight such Party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome, subject, in each case, to the requirements of the first sentence of this paragraph. Force Majeure,~~



~~however, specifically excludes~~ the cost or availability of resources ~~(including labor, fuel, materials and equipment)~~ to operate the Facility, ~~(ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws,~~ that affect the price of energy or transmission, ~~(iii) wind or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility's equipment, or (viii) smoke, haze, ash or other obstruction of sunlight (except to the extent such obstruction is caused by fires or volcanic eruptions), and obligations for the payment of money when due.~~

#### 7.15 Effect of Force Majeure.

~~12.2.~~—If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement ~~(other than payment obligations)~~ because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: ~~(i)~~

~~12.2.1.~~—the non-performing Party shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section of this Agreement describing the particulars of the occurrence; ~~(ii) and~~

~~12.2.2.~~—the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and ~~(iii) the non-performing Party uses commercially reasonable efforts to remedy its inability to perform its obligations under this Agreement.~~

### ARTICLE 8: GENERAL PROVISIONS

#### 8.1 Relationship of the Parties.

~~12.2.3. the non-performing Party uses its best efforts to remedy its inability to perform its obligations under this Agreement.~~

~~12.3. No obligations of either Party which arose before the Force Majeure causing the suspension of performance shall be excused as a result of the Force Majeure.~~

~~12.4. Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.~~

### SECTION 13: SEVERAL OBLIGATIONS

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such ~~p~~party shall be jointly and severally liable for Seller's obligations under this Agreement.

#### 8.2 No Third Party Beneficiaries.

This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

8.3 Governing Law.

SECTION 14: CHOICE OF LAW

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~which may direct the application of the laws of another jurisdiction.

Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement SECTION 15: PARTIAL INVALIDITY AND PURPA REPEAL

~~It is subject to~~not the ~~jurisdiction~~intention of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, -to violate any laws governing the subject matter of this Agreement. If any complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute.

The public utility's compliance with ~~of~~ the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

8.4 Severability.

If any of the terms of this~~the~~ Agreement are finally held or determined to be invalid, illegal or void as being contrary to any Applicable Law~~applicable law~~ or public policy, all other terms of this~~se~~ Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law~~applicable law~~ and the intent of the Parties to this Agreement.

8.5 Effect of ~~In the event the Public Utility Regulatory Policies Act (PURPA Repeal.~~

The repeal of PURPA shall not result in the early termination of)~~is repealed~~, this Agreement ~~shall not terminate prior to the Termination Date~~, unless such termination is mandated by state or federal law.

8.6 Waiver.

SECTION 16: WAIVER

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

8.7 Survival.

Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.

8.8 Successors and Assigns.

SECTION 17: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

~~This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party or this Agreement. Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide upon request copies of the same to PGE.~~

SECTION 18: SUCCESSORS AND ASSIGNS

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. ~~Neither party may assign any of its rights or delegate any of its obligations hereunder. No assignment hereof by either Party shall become effective without the prior written consent of the other party, which Party being first obtained and such consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that.~~ ~~Notwithstanding the foregoing,~~ either Party may assign its rights or delegate its obligations, in whole or in part, ~~this Agreement~~ without ~~such the other Party's~~ consent and upon thirty (30) calendar days' prior written notice to the other party, to an entity that acquires all ~~as part of (a) a sale of all or substantially all of the business or assigning Party's assets of the assigning party to which this Agreement pertains, whether by~~ ~~or (b) a merger, consolidation or other reorganization,~~ acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective. ~~Party.~~

8.9 Financing Documents.

Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and expense associated with PGE's review and activities reasonably required under this Section 13.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE's sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.

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8.10 Entire Agreement; Amendments; Order of Precedence.

SECTION 19: ENTIRE AGREEMENT

~~19.1.~~ This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding ~~the contents of the Agreement, including PGE's~~ PGE's purchase of ~~energy~~ Net Output from the Facility. No ~~amendment or~~ modification of this Agreement shall be effective unless it is in writing and signed by both ~~parties.~~ Parties. ~~If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail.~~

8.11 Seller Release.

~~19.2.~~ By executing this Agreement, Seller releases PGE from any ~~third party~~ claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

8.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

8.13 Notices.

SECTION 20: NOTICES

~~20.1.~~ All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered ~~if delivered in person or~~ when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.

<u>Notices</u>	<u>PGE</u>	<u>Seller</u>
	<u>Portland General Electric</u> <u>C/O QF Contract Management</u> <u>3WTC-0306</u> <u>121 SW Salmon St</u> <u>Portland, OR 97204</u>	

To Seller: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

with a copy to: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

~~To PGE: \_\_\_\_\_ Contracts Manager  
\_\_\_\_\_ QF Contracts, 3WTC0306  
\_\_\_\_\_ PGE - 121 SW Salmon St.  
\_\_\_\_\_ Portland, Oregon 97204~~

~~20.2~~—The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section 13.13. 20.

*Signature Page Follows.*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
(Name Seller)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



EXHIBIT A  
FACILITY DESCRIPTION OF SELLER'S FACILITY

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

Seller's Facility consists of generators fueled by \_\_\_\_\_.

Location of the Facility: The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_, with GPS coordinates of \_\_\_\_\_.

The location is more particularly described as follows:  
[legal description of parcel]

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section 6.3.2).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating and the Net Available Capacity:

\_\_\_\_\_  
\_\_\_\_\_

Interconnection Rating: \_\_\_\_\_ kW (the Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

\_\_\_\_\_

Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

As-built Average Annual Degradation Percentage (applicable only to QFs with solar Generation Units).

**[Seller to Complete]**

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EXHIBIT A – DESCRIPTION OF SELLER'S FACILITY

PAGE



~~[Sellers may include reasonable expected monthly Net Output for purposes of Section 1.34 (Start-Up Lost Energy Value). Amounts may vary by month and shall be assumed repeated for each Contract Year, unless amounts for each Contract Year of this Agreement are set forth in this Exhibit A. Such amounts, if provided, shall exceed zero, and shall be established in accordance with Prudent Electrical Practices and documentation supporting such a determination shall be provided to PGE upon execution of this Agreement. Such documentation shall be commercially reasonable, and may include, but is not limited to, documents used in financing the project, and data on output of similar projects operated by seller, PGE or others.]~~

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EXHIBIT A – DESCRIPTION OF SELLER’S FACILITY

PAGE

EXHIBIT B

**SELLER'S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES**

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

Point of ~~REQUIRED FACILITY DOCUMENTS~~

~~{Seller list all permits and authorizations required for this project}~~

~~Sellers Generation~~ Interconnection (name of distribution feeder or transmission line):

\_\_\_\_\_ Agreement

**B. The following information shall be provided in the As-built Supplement prior to Commercial Operation:**

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):

\_\_\_\_\_

Specification of Point of Interconnection:

\_\_\_\_\_

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EXHIBIT B – SELLER’S INTERCONNECTION FACILITIES

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**EXHIBIT C**

**SELLER'S NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output during the Delivery Period, and the resulting Estimated Annual Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output (as measured at the Facility meter at the Point of Interconnection)**

<u>Month</u>	<u>Estimated Monthly Average Net Output (kWh)</u>		<u>Percentage of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%)</u>		<u>Estimated Monthly Maximum Net Output (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>						
<u>February</u>						
<u>March</u>						
<u>April</u>						
<u>May</u>						
<u>June</u>						
<u>July</u>						
<u>August</u>						
<u>September</u>						
<u>October</u>						
<u>November</u>						
<u>December</u>						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated Annual Average Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Average Net Output)

Estimated Annual Maximum Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Maximum Net Output)

**EXHIBIT D**  
**COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM**  
**(Power Purchase Agreement – )**

This Collateral Assignment and Consent Agreement (the “*Agreement*”) is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY (“PGE” or “Buyer”)**, **[INSERT LENDER]**, a \_\_\_\_\_ company (the “*Lender*”), and **[INSERT SELLER]**, a \_\_\_\_\_ company (the “*Borrower*” or “*Seller*”) (the “*Parties*” or each a “*Party*”).

**RECITALS**

A. Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the “*Loan Agreement*”), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.

B. Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the “*PPA*” or the “*Assigned Agreement*”), a copy of which is attached as *Exhibit A*, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power” from which Seller shall sell and PGE shall purchase Net Output (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).

C. As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the “*Security Agreement*”), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other “Collateral” defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the “*Secured Obligations*”). The Loan Agreement and the Security Agreement are referred to herein as the “*Security Documents*.”

**AGREEMENTS**

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower’s right, title and interest in and to the Assigned Agreement.

2. Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller’s rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

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default has occurred and is continuing under the Security Documents between Seller and Lender (a “Financing Default”), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller’s right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys’ fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller’s obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE’s rights thereunder, or to enlarge or increase PGE’s obligations thereunder; or (ii) be construed as a consent by PGE to any further assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

\_\_\_\_\_ With a copy to:

If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

           If to Lender:

           With a copy to:

            
9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

PAGE 3



**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

EXHIBIT E  
START-UP TESTING

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing.]

**[Seller identify appropriate tests]**

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

- ~~1.~~ Pressure tests of all steam system equipment;
- ~~2.~~ Calibration of all pressure, level, flow, temperature and monitoring instruments;
- ~~3.~~ Operating tests of all valves, operators, motor starters and motor;
- ~~4.~~ Alarms, signals, and fail-safe or system shutdown control tests;
- ~~5.~~ Insulation resistance and point-to-point continuity tests;
- ~~6.~~ Bench tests of all protective devices;
- ~~7.~~ Tests required by manufacturer of equipment; and
- ~~8.~~ Complete pre-parallel checks with PGE.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

- ~~1.~~ Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
- ~~2.~~ Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
- ~~3.~~ Brake tests;
- ~~4.~~ Energization of transformers;
- ~~5.~~ Synchronizing tests (manual and auto);
- ~~6.~~ Stator windings dielectric test;
- ~~7.~~ Armature and field windings resistance tests;
- ~~8.~~ Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
- ~~9.~~ Heat runs;
- ~~10.~~ Tests required by manufacturer of equipment;
- ~~11.~~ Excitation and voltage regulation operation tests;
- ~~1.~~ ~~12.~~ Open circuit and short circuit;

~~S~~aturation tests;

- ~~13.~~ Governor system steady state stability test;
- ~~14.~~ Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
- ~~15.~~ Auto stop/start sequence;

- 16. Level control system tests; and
- 17. Completion of all state and federal environmental testing requirements.

~~EXHIBIT D~~

**EXHIBIT F**

SCHEDULE **201**

[Attach ~~currently in-effect~~ Schedule 201]

~~EXHIBIT E~~

**EXHIBIT G**  
**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**



EXHIBIT H

~~NEGOTIATED CONTRACT PRICES~~

[Attach negotiated prices for Option B – Solar Standard Terms and ~~On-Peak and Off-Peak~~  
~~Negotiated Price~~ **Negotiated Price** ~~Contract Prices if Option B is~~  
~~selected in the first paragraph of the Agreement, otherwise delete Exhibit E]~~

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EXHIBIT H – NEGOTIATED PRICES FOR OPTION B, SOLAR STANDARD TERMS AND NEGOTIATED PRICE  
AGREEMENT (IF APPLICABLE)

PAGE E-4

**STANDARD RENEWABLE OFF-SYSTEM NON-VARIABLE**

**-POWER PURCHASE AGREEMENT**

**BETWEEN**

**[COUNTERPARTY NAME]**

**AND**

**PORTLAND GENERAL ELECTRIC COMPANY**

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Exhibits

<u>Exhibit A</u>	<u>Description of Facility</u>
<u>Exhibit B</u>	<u>Seller's Interconnection Facilities and Delivery Attributes</u>
<u>Exhibit C</u>	<u>Seller's Net Output Estimates</u>
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**STANDARD RENEWABLE OFF-SYSTEM NON-VARIABLE  
POWER PURCHASE THIS AGREEMENT**

This STANDARD RENEWABLE OFF-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT (“**Agreement**”) is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] (“~~\_\_\_\_\_~~ (“**Seller**”)”) and Portland General Electric Company, an Oregon corporation (“**PGE**”) (hereinafter each a “**Party**” ~~and~~ collectively, “**Parties**”) ~~and is effective upon execution by both Parties (“Effective Date”).~~

**RECITALS**

A. [New QF] Seller intends to construct, own, operate and maintain a New QF ~~[identify resource type]~~ facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_ with a Nameplate Capacity Rating of \_\_\_\_\_ kilowatt (“**kW**”), as further described in Exhibit ~~A~~ **B** (“**Facility**”); and **Exhibit B**.

A. [Existing QF] Seller owns and intends to operate and maintain an Existing QF ~~[identify resource type]~~ facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in **Exhibit A** and **Exhibit B**.

B. Seller intends to operate the Facility as a “Qualifying Facility,” as ~~that~~ **such** term is defined in ~~the FERC regulations codified at 18 CFR Part 292~~ **Section 3.1.3, below**.

C. Seller ~~wishes to~~ **shall** sell and PGE ~~is willing to~~ **shall** purchase the ~~entire~~ Net Output, ~~as such term is defined in Section 1.19, below~~, from the Facility, ~~subject to and~~ in accordance with the terms and conditions of this Agreement, ~~and Seller wishes to provide energy and capacity pursuant to this Agreement.~~

**AGREEMENT**

NOW, THEREFORE, the Parties ~~mutually~~ agree as follows:

**SECTION 1: DEFINITIONS AND CONTRACT INTERPRETATION**

**1.1 Defined Terms.**

For all purposes of ~~When used in~~ this Agreement, the following terms shall have the following meanings:

**“Adjusted Delivered Net Output”** means, for any given period, Net Output delivered as Firm Energy to the Delivery Point during the period *plus* Net Output that would have been delivered as Firm Energy to the Delivery Point during any period in which Seller was excused from its delivery obligations due to a Force Majeure Event, based on the Estimated Monthly Average Net Output set forth in **Exhibit C** (pro-rated for partial months as applicable).

“Affiliate” means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

“Agreement” means this Standard Renewable Off-System Non-Variable Power Purchase Agreement and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

“Alternative Minimum Net Output” has the meaning set forth in Exhibit C.

“Ancillary Services” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services.”

“Applicable Law” means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

1.1. “As-built Supplement” means ~~at~~the supplement to Exhibit ~~A~~ and Exhibit B provided by Seller in accordance with Section 4.4 following completion of construction of the Facility, ~~or modifications to the Facility, which describes~~describing the Facility as actually built.

“Balancing Authority” means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to the Facility.

“Bankrupt” means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, or (iii) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets.

1.2. ~~“Billing Period” means one” means from the start of the first day of each calendar month to the end of the last day of each~~ calendar month.

“Business Day” means any day other than Saturday, Sunday or the following holidays: New Year’s Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.

1.3. “Cash Escrow” means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller’s placement of cash ~~in~~by two parties to place money into the custody of ~~the escrow agent~~a third party for delivery to ~~PGE~~a grantee only after the fulfillment of ~~any of~~the conditions specified in Section . Amounts in the Cash Escrow shall earn interest at the rate applicable to money market deposits at escrow agent.

“Claims” means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or

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~~Seller has obtained all Required Facility Documents and, if requested by PGE in writing, has provided copies of any or all such requested Required Facility Documents;~~

~~1.4.6. PGE has received a copy of the executed Generation Interconnection and Transmission Agreements.~~

~~1.5. "Contract Price" means the applicable price, including on-peak and off-peak prices, as specified in the Schedule.~~

~~1.6.1.4. "Contract Year" means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time ("PPT") on January 1 and ending at 24:00 hours PPT on December 31; provided, however, that the first Contract Year shall commence upon the Commercial Operation Date and end on December 31<sup>st</sup> of or its anniversary during the Term, except the calendar final contract year in which the Commercial Operation Date occurs, and will be the period from the last Contract Year shall anniversary of the Commercial Operation Date during the Term until the end on the last day of the Term.~~

~~"Credit Support" has the meaning given to it in Section .~~

~~"Creditworthiness Requirements" has the meaning given to it in Section .~~

~~"Daily Market Index Price" means the Day Ahead Intercontinental Exchange ("ICE") index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>. In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Delivery Point.~~

~~"Delay Damages" has the meaning given to it in Section .~~

~~"Delivery Period" has the meaning given to it in Section .~~

~~"Delivery Point" means the point of delivery where Seller delivers energy to the PGE system, as specified in Exhibit B. PGE and Seller may mutually agree to amend the Delivery Point.~~

~~"e-Tag" means NERC electronic tag.~~

~~1.7.1.5. "Effective Date" has the meaning given to it set forth in Section 2.1.~~

~~1.8.1.6. "Environmental Attributes" shall mean any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gasses (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere. Environmental Attributes do not include (i) production tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or~~

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~~STANDARD RENEWABLE OFF-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT~~

federal income taxation obligation, or (ii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits.

“Estimated Annual Average Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Annual Maximum Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Average Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Maximum Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Existing QF” means a QF that (1) is or has been operational before the Effective Date of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party.

“Expiration Date” has the meaning given to it in Section .

“Facility” is the entire facility as specified in Exhibit A and Exhibit B.

~~1.9. —“Facility Nameplate Capacity Rating” means the sum of the Nameplate Capacity Ratings for all “Facility” has the meaning set forth in the Recitals.~~

~~1.10. —“Forward Replacement Price” means the price at which PGE, acting in a commercially reasonable manner, purchases for delivery at the Point of Delivery a replacement for any Net Output that Seller is required to deliver under this Agreement plus (i) costs reasonably incurred by PGE in purchasing such replacement Net Output, and (ii) additional transmission charges, if any, reasonably incurred by PGE in causing replacement energy to be delivered to the Point of Delivery. If PGE elects not to make such a purchase, costs of purchasing replacement Net Output shall be Mid-C Index Price for such energy not delivered, plus any additional cost or expense incurred as a result of Seller’s failure to deliver, as determined by PGE in a commercially reasonable manner (but not including any penalties, ratcheted demand or similar charges).~~

“Generation Units comprising the Facility.

“FERC” means the Federal Energy Regulatory Commission or any successor government agency.

“Firm Energy” means energy scheduled and delivered on a firm basis to the Delivery Point via firm transmission rights.

“Force Majeure” or “Force Majeure Event” has the meaning given to it in Section .

“Generator” means the electrical component within the Facility measured in kW that converts mechanical energy into electrical energy.

“Generation Unit” means a complete electrical generation system within the Facility that is able to generate and deliver energy to the Point of Interconnection independent of other Generation Units within the same Facility.

“Governmental Authority” means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, 6{00052929.2}

STANDARD RENEWABLE OFF-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT



judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

“Imbalance Energy” means that portion of Firm Energy, measured in kWh, scheduled and delivered to the Delivery Point that was not Net Output.

4.14.1.7. “Interconnection Agreement” means an agreement governing the interconnection of the Facility with \_\_\_\_\_’s [specify relevant transmission system or distribution system owner] \_\_\_\_\_ electric system.

“kW” and “kWh” mean kilowatt and kilowatt hour, respectively.

“Lender” means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.

“Letter of Credit” means an irrevocable standby letter of credit from an institution selected by the Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

~~4.12. “Letter of Credit” means an engagement by a bank or other person made at the request of a customer that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the letter of credit.~~

4.13.1.8. “Licensed Professional Engineer” or “LPE” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, ~~except for being retained by Seller to perform the duties required in Section ,~~ and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. ~~Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.~~ Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.

“Lost Energy” means (in kWh):

- A. In connection with a Facility after the Commercial Operation Date, if Seller fails to meet the Minimum Delivery Guarantee, then with respect to a Contract Year, an amount equal to the Minimum Net Output less the Adjusted Delivered Net Output; or
- B. In connection with a Facility that does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see Exhibit C) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual Commercial

Operation Date or contract termination pursuant to Section 10. The Estimated Monthly Average Net Output shall be pro-rated for any partial months; or

- C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 10 of this Agreement because of Seller's default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see **Exhibit C**) for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see **Exhibit C**) for each month from the date of termination through the end of the Term. The Estimated Monthly Average Net Output shall be pro-rated for any partial months.

“Lost Energy Value” means:

- A. In connection with Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly to each calendar month in the Contract Year and then allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in **Exhibit C** (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year ~~for a Contract Year: zero~~ plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services power and/or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year *multiplied by* the (applicable Replacement Price for On-Peak Hours ~~less to deliver the replacement power to the Point of Delivery, unless the Contract Year's Net Output is less than the Minimum Net Output and the Contract Year's time-weighted average of the Mid-C Index Price for On-Peak and Off-Peak Hours is greater than the time-weighted average of the Contract Price for On-Peak Hours for the same period); and~~
- The Off-Peak Hours ~~for that Contract Year, in which case~~ Lost Energy for each applicable calendar month (or partial calendar month) in ~~Value equals: (Minimum Net Output – Net Output for the Contract Year) X (the Contract Year *multiplied by* lower of: the (applicable Replacement Price for Off-Peak Hours ~~less~~ time-weighted average of the Contract Price for On-Peak and Off-Peak Hours; for the same period).~~

If the above calculation ~~time-weighted average of the~~ Lost Energy Value for ~~Mid-C Index Price for On-Peak and Off-Peak Hours – the time-weighted average of the Contract Year results in a negative value, the Lost~~ Price for On-Peak and Off-Peak Hours) minus Transmission Curtailment Replacement Energy Value for the Contract Year shall be deemed zero. See the example calculation in **Exhibit G**.

B. In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually ~~Cost, if any, for~~ for each calendar month (or partial calendar month) during which Seller has failed to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below) ~~like period~~ plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services ~~replacement power and/or transmission~~ charges.

The monthly calculation of Lost Energy Value equals ~~to deliver the~~ sum of the following:

- The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) shall not exceed the Contract Price for On-Peak Hours for the same period; and
- The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.

If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in **Exhibit G**.

C. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for On-Peak Hours for the period *less* the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for Off-Peak Hours for the period *less* the Contract Price for Off-Peak Hours for the period); and
- Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required

to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in **Exhibit G**.

“**Minimum Net Output**” means, for a Contract Year, seventy-five percent (75%) of the Estimated Annual Average Net Output from the Facility for the period as set forth in **Exhibit C** (pro-rated as required for partial Contract Years and partial months, as applicable), unless Seller selects an Alternative Minimum Net Output consistent with the terms of **Exhibit C** of this Agreement (pro-rated for any period less than 12 calendar months), in which case the Minimum Net Output equals the selected Alternative Minimum Net Output.

~~4.14.1.9. “**Minimum power to the Point of Delivery Guarantee**” has the meaning given to it in Section .7~~

~~“**Mid-C Index Price**” means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On Peak Power and Average Off Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>“**Nameplate Capacity Rating**” means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.~~

~~“**NERC**” means the North American Electric Reliability Corporation.~~

~~“**Net Available Capacity**” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Point of Interconnection continuously for sixty (60) minutes.~~

~~4.15. “**Net Output**”: In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Mid-C trading hub.~~

~~4.16. “**Minimum Net Output**” shall have the meaning provided in Section 4.2 of this Agreement.~~

~~4.17. “**Nameplate Capacity Rating**” means the maximum capacity of the Facility as stated by the manufacturer, expressed in kW, which shall not exceed 10,000 kW.~~

~~4.18. “**Net Dependable Capacity**” means the maximum capacity the Facility can sustain over a specified period modified for seasonal limitations, if any, and reduced by the capacity required for station service or auxiliaries.~~

~~4.19. “**Net Output**” means all energy, expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at and less transformation and transmission losses.~~

~~4.20. “**Off-Peak Hours**” has the Facility meter at meaning provided in the Schedule.~~  
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~~1.21. "On-Peak Hours" has the meaning provided in the Schedule.~~

~~1.22.1.10. "Point of Interconnection. Delivery" means the PGE System.~~

~~"New QF" means any QF that is not an Existing QF.~~

~~"Off-Peak Hours" means all hours other than On-Peak Hours.~~

~~"On-Peak Energy Imbalance Accumulation" and "Off-Peak Energy Imbalance Accumulation" have the meanings given to them in Section .~~

~~"On-Peak Hours" means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.~~

~~"Oregon Renewable Portfolio Standard" means the renewable portfolio standard contemplated by ORS 469A.005 to 469A.200, and the implementing regulations, in each case as in effect on the Effective Date of this Agreement.~~

~~"Person" means any individual, corporation, limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.~~

~~"Planned Maintenance" means outages scheduled 90 calendar days in advance, with prior written notice to PGE.~~

~~"Point of Interconnection" means the point of interconnection between the Facility and the interconnecting Transmission Provider or distribution system owner, as specified in Exhibit B.~~

~~1.23.1.11. "Prime Rate" means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.~~

~~"Product" means, each and together, as a single bundled product, Net Output and, if applicable, Imbalance Energy, together with all associated capacity and Transferred RECs.~~

~~1.24.1.12. "Prudent Electrical Practices" means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the WECC Western Electricity Coordinating Council that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all Applicable Law, applicable laws and regulations. Prudent Electrical Practices are not~~



intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

“PURPA” means the Public Utility Regulatory Policies Act of 1978.

“Qualifying Facility” has the meaning set forth in the Recitals.

~~1.25. “REC” means Environmental Attributes and REC Reporting Rights, however commercially transferred or traded under any or other product names, such as “green tags,” “Green-e Certified,” or otherwise. RECs are accumulated on a MWh basis and one REC represents the Environmental Attributes and REC Reporting Rights made available by the generation of one MWh of energy by the Facility, as represented by the actual Net Output on an hourly basis. RECs do not include: (i) “Required Facility Documents” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility including without limitation those set forth in Exhibit C.~~

~~1.26.1.13. “RPS Attributes” means all attributes related to the Net Output generated by the Facility that are required in order to provide PGE with “qualifying electricity,” as that term is defined in Oregon’s Renewable Portfolio Standard Act, Ore. Rev. Stat. 469A.010, in effect at the time of execution of this Agreement. RPS Attributes do not include Environmental Attributes that are greenhouse gas offsets from methane capture not associated with the generation of electricity and not needed to ensure that there are zero net emissions associated with the generation of electricity; or (ii) thermal renewable energy certificates as defined in ORS 469A.132 and the implementing regulations. All RECs transferred to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.~~

“REC Reporting Rights” are the rights of a Person to report the ownership of accumulated RECs in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at such Person’s discretion, and include without limitation those REC Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present federal, state, or local law, regulation or bill, and international or foreign emissions trading program.

“Reliability Entity” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

“Renewable Resource Deficiency Period” means the period beginning January 1, 2025 through the termination or Expiration Date of this Agreement.

“Renewable Resource Sufficiency Period” means the period through 2024.

“Replacement Price” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at the Mid-Columbia trading hub for any Net Output that Seller fails to deliver as required under this Agreement.

When the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Delivery Guarantee or (ii) Seller’s failure to establish the

Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices shall be calculated as follows for each applicable calendar month (or partial calendar month):

- For Lost Energy During On-Peak Hours: the hourly average of the on-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).
- For Lost Energy During Off-Peak Hours: the hourly average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

When the Replacement Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 10, the Replacement Price shall be the respective On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices during the applicable period.

“Required Facility Documents” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as the Interconnection Agreement and the Transmission Agreement.

~~4.27.1.14.~~ “Schedule” means PGE’s shall mean PGE Schedule 201 filed with the Oregon Public Utilities Commission and (“Commission”) in effect on the date that Seller delivers to PGE an executed copy Effective Date of this Agreement. For ease of reference and informational purposes only, a copy of the Schedule is attached hereto as Exhibit F; however, if there is any difference between Exhibit F and the Schedule E, the terms of the Schedule shall apply and prevail which are hereby incorporated by reference.

“Scheduled Commercial Operation Date” has the meaning given to it in Section .

“Seller-Retained RECs” has the meaning given to it in Section .

~~4.28.1.15.~~ “Senior Lien” means a prior lien that which has precedence as to the property under the lien over another lien or encumbrance.

“Specified Facility Nameplate Capacity Rating” means the Facility Nameplate Capacity Rating set forth in Exhibit A, as it may be amended from time to time in accordance with this Agreement.

~~4.29.1.16.~~ “Start-Up Testing” means the performance completion of applicable required factory and start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in Exhibit E (as it may be updated by Seller) during the Test Period D.

~~4.30.1.17.~~ “Step-in Rights” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.

“Surplus Delivery” has the meaning given to it in Section . By definition, Surplus Delivery shall always be a positive number.

“Term” has the meaning given to it in Section .

“Test Energy” means electric energy generated by the Facility during the Test Period.



~~1.31.1.18. “Test Period” means a shall mean the period during which Start-Up Testing is to be conducted beginning on the Effective Date and ending on the Termination Date.~~

~~“Transferred RECs” has the meaning given to it in Section .~~

~~1.32. “Test Period” shall mean a period of sixty (60) days or a commercially reasonable period determined by the Seller.~~

~~1.33. “Transmission Agreement” means an agreement (or agreements) between executed by the Seller and the Transmission Provider(s) that provide(s) for Transmission Services.~~

~~1.34. “Transmission Curtailment” means a limitation on Seller’s ability to deliver any portion of the scheduled energy to PGE due to the unavailability of transmission to the Point of Delivery (for any reason other than Force Majeure).~~

~~1.35. “Transmission Curtailment Replacement Energy Cost” means the greater of zero or the difference between Dow Jones Mid-C Index Price — Contract Price X curtailed energy for periods of Transmission Curtailment.~~

~~1.36. “Transmission Provider(s)” means the signatory (other than the Seller) to the Transmission Agreement.~~

~~1.37.1.19. “Transmission Services” means any and all services (including but not limited to ancillary services and control area services) required for the firm transmission and delivery of Firm Energy from the Facility to the Point of Delivery Point, at no for a term not less than the Specified Facility Nameplate Capacity Rating. The Transmission Agreement shall have a term of at least the lesser of (i) five (5) years, with renewal rights, or (ii) until the Expiration Date Term of this Agreement.~~

~~“Transmission Provider(s)” means \_\_\_\_\_, the transmission system operator(s) with whom Seller will enter or has entered into the Transmission Agreement(s) to provide for delivery of Firm Energy from the Facility to the Delivery Point in accordance with this Agreement.~~

~~“WECC” means the Western Electricity Coordinating Council or any successor thereto.~~

~~“WREGIS” means the Western Renewable Energy Generation Information System.~~

## 1.2 Interpretation.

~~In this Agreement, references to Recitals, Sections, and Exhibits are references to the recitals, sections and exhibits of this Agreement. The article and section headings in this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms “includes” or “including” mean “includes but is not limited to” and “including but not limited to,” respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in this Agreement in accordance with such recognized meanings.~~

~~References to Recitals, Sections, and Exhibits are to be the recitals, sections and exhibits of this Agreement.~~

SECTION 2: TERM; FACILITY; COMMERCIAL OPERATION DATE

1.3 Term.

~~2.1.—The term of this~~This Agreement (“Term”) commences on the date this Agreement is signed~~shall become effective upon execution~~ by both Parties (“Effective Date”).

~~2.2.—Time is of the essence of this Agreement, and ends on the earlier of~~  
[Seller-selected date or fixed-interval period of time that is no more than 20 years from the Scheduled Seller's ability to meet certain requirements prior to the Commercial Operation Date] (“Expiration Date”) or the date on which this Agreement is terminated pursuant to ~~and to complete all requirements to establish the Commercial Operation Date~~ is critically important. Therefore,

~~2.2.1.—By \_\_\_\_\_ [date to be determined by the Seller] Seller shall begin initial deliveries of Net Output; and~~

~~By \_\_\_\_\_ [date to be determined by the~~ terms of the Agreement.

1.4 Construction of the Facility.

1.4.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE’s system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement. subject to Section 2.2.3 below] Seller shall, at its sole cost, design and construct the Facility and obtain all transmission and interconnection rights, necessary to enable the delivery of energy from the Facility to the Delivery Point, all in compliance with this Agreement, the Required Facility Documents, and Prudent Electrical Practices.

1.4.2 Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement may be reviewed by PGE, which review shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE’s information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section .

1.5 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with Exhibit E (as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility), and shall provide written notice to PGE when the Start-Up Testing has been successfully completed. Seller must provide no less than one (1) business day’s written notice to PGE prior to the commencement of Start-Up Testing, and must provide PGE ten (10) business days’ written notice prior to commencing sales of Test Energy to PGE. In order to complete Start-Up Testing, Seller may schedule and deliver Test Energy to PGE pursuant to the scheduling procedures set forth in Section .

and PGE shall compensate the Seller for delivered Test Energy in accordance with Section . This Section 2.3 does not apply if the Facility is an Existing QF unless the Existing QF elects to conduct Start-Up Testing.

#### 1.6 Commercial Operation.

“Commercial Operation” will be achieved when the Facility is fully constructed and determined by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have occurred:

1.6.1 If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with Exhibit E, and PGE has received Seller’s written certification of completion of Start-Up Testing.

1.6.2 PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that the Facility is interconnected and operational in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.

1.6.3 PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE’s reasonable satisfaction, which may include equipment specifications.

1.6.4 PGE has received a letter addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement and Transmission Agreement(s), and any other Required Facility Documents requested by PGE.

1.6.5 PGE has received the following documents with respect to the Facility: the As-built Supplement, including but not limited to an electrical single-line diagram, a 12x24 estimated net energy profile, and a 8760 net energy production estimate.

1.6.6 PGE has received copies of all insurance certificates required ~~all requirements~~ under Section .

1.6.7 PGE has received any Credit Support required under Section .

1.6.8 Seller has provided evidence of the registration of the Facility as a generating unit in WREGIS and satisfaction of any other requirements for the recording of RECs in WREGIS.

#### 1.7 Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section , Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, including but not limited to information required in Exhibit A and Exhibit B. PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification

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stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, provided that PGE shall not unreasonably withhold such certification. The date of Seller's notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the "**Commercial Operation Date**" for all purposes under this Agreement.

#### 1.8 Scheduled Commercial Operation Date.

2.2.2.2.1.1. By no later than \_\_\_\_\_ ("**Scheduled Commercial Operation Date**"), Seller shall have completed all requirements under Section 4.4 and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE's negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE's negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date ("**Delay Damages**"). If Commercial Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section .

2.2.3.—Status Unless the Parties agree in writing that a later Commercial Operation Date is reasonable and necessary, the Commercial Operation Date shall be no more than three (3) years from the Effective Date. PGE will not unreasonably withhold agreement to a Commercial Operation Date that is more than three (3) years from the Effective date if the Seller has demonstrated that a later Commercial Operation Date is reasonable and necessary.

2.3.— This Agreement shall terminate on \_\_\_\_\_, \_\_\_\_\_ [date to be chosen by Seller but not to exceed 20 years from the date contained in Section 2.2.2], or the date the Agreement is terminated in accordance with Section 8 or 11.2, whichever is earlier ("**Termination Date**").

### SECTION 3: REPRESENTATIONS AND WARRANTIES

3.1.— Seller and PGE represent, covenant, and warrant as follows:

3.1.1.— Seller warrants it is a \_\_\_\_\_ duly organized under the laws of \_\_\_\_\_.

3.1.2.— Seller warrants that the execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.

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1.9 ~~Seller warrants that the Facility.~~

~~3.1.3.3.1.1. Seller is and shall construct and operate for the Facility so as Term of this Agreement continue to ensure its status as be a "Qualifying Facility and in a manner consistent with its" ("QF") as that term is defined in the version of 18 C.F.R. Part 292 in effect on the Effective Date. Seller has provided the appropriate QF certification, which may include a Federal Energy Regulatory Commission ("FERC Qualifying Facility ") self-certification, to PGE prior to PGE's execution of this Agreement. At any time during the Term of this Agreement, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment discretion that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE's request documentation acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility. QF under all applicable requirements.~~

~~3.1.4.— Seller shall warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and Seller is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

~~3.1.5.— Seller warrants that during the Term of this Agreement, all of Seller's right, title and interest in and to the Facility shall be free and clear of all liens and encumbrances other than liens and encumbrances arising from third party financing of the Facility other than workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.~~

~~3.1.6.— Seller warrants that it will design and operate the Facility consistent with Prudent Electrical Practices.~~

~~3.1.7.— Seller warrants that the Facility has a Nameplate Capacity Rating not greater than 10,000 kW.~~

~~3.1.8.— Seller warrants that Net Dependable Capacity of the Facility is \_\_\_\_\_ kW.~~

~~3.1.9.— Seller estimates that the average annual Net Output to be delivered by the Facility to PGE is \_\_\_\_\_ kilowatt-hours ("kWh"), which amount PGE will include in its resource planning.~~

~~3.1.10.— Seller will schedule and deliver from the Facility to PGE at the Point of Delivery Net Output not to exceed a maximum of \_\_\_\_\_ kWh of Net Output during each Contract Year ("Maximum Net Output"). The cost of delivering energy from the Facility to PGE is the sole responsibility of the Seller.~~

~~3.1.11.— By the Commercial Operation Date, Seller has entered into a Generation Interconnection Agreement for a term not less than the term of this Agreement.~~

~~3.1.12.— PGE warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and PGE is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~



~~3.1.13. Seller warrants that the Facility satisfies the eligibility requirements specified in the Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Renewable Rates and Standard Renewable PPA in PGE's Schedule and Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to not be in compliance with the Definition of a Small Cogeneration Facility to fail or Small Power Production Facility Eligible to satisfy Receive the eligibility requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement. Renewable Rates and Standard Renewable PPA in PGE's Schedule. Seller shall will provide, upon request by PGE, not more frequently than every 36 months, any such documentation and information as may be reasonably required to establish Seller's continued compliance with the applicable eligibility requirements. PGE shall such Definition. PGE agrees to take reasonable steps to maintain the confidentiality of any such portion of the above described documentation and information that the Seller identifies as confidential, provided that except PGE may will provide all such confidential information to the Commission upon the Commission's request.~~

~~3.1.14. Seller warrants that it will comply with all requirements necessary for all Transferred RECs (as defined in Section 4.6) associated with Net Output to be issued, monitored, accounted for, and transferred by and through the Western Renewable Energy Generation System consistent with the provisions of OAR 330-160-0005 through OAR 330-160-0050. PGE warrants that it will reasonably cooperate in Seller's efforts to meet such requirements, including, for example serving as the qualified reporting entity for the Facility if the Facility is located in PGE's balancing authority.~~

~~**SECTION 4: DELIVERY OF POWER, PRICE AND SALE OF ENERGY;  
SCHEDULING ENVIRONMENTAL ATTRIBUTES**~~

~~1.10 Delivery and Sale of Energy.~~

~~Except as otherwise provided in this Agreement, commencing on the Commercial Operation Date and continuing until the end of the Term (the "Delivery Period"), Seller shall deliver and sell and PGE shall receive and purchase all of the Net Output delivered as Firm Energy at the Delivery Point. In reliance on Seller's representations and warranties in Section , Seller may also deliver and PGE shall receive and purchase Imbalance Energy delivered at the Delivery Point, subject to Section . Title and risk of loss related to the Product shall transfer from Seller to PGE at the Delivery Point, except that title to Transferred RECs shall transfer to PGE when generated.~~

~~1.11 Surplus Delivery.~~

~~For purposes of this Agreement, (i) "On-Peak Energy Imbalance Accumulation" means total Firm Energy delivered to the Delivery Point during On-Peak Hours during a Billing Period less total Net Output during On-Peak Hours during such Billing Period; and (ii) "Off-Peak Energy Imbalance Accumulation" means total Firm Energy delivered to the Delivery Point during Off-Peak Hours during a Billing Period less total Net Output during Off-Peak Hours during such Billing Period. Any positive On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation shall be deemed "Surplus Delivery." PGE shall accept but not pay for Surplus Delivery. Any negative On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation during a Billing Period implies that Seller has delivered less than the aggregate Net Output during the applicable hours in the Billing Period.~~

For the avoidance of doubt, the Parties agree that Seller is not entitled to compensation for any portion of total Net Output that exceeds total Firm Energy delivered to the Delivery Point during the applicable Billing Period.

#### 1.12 Estimated Net Output.

Seller's good faith, commercially reasonable estimate of the Facility's monthly and annual average and maximum Net Output during the Delivery Period, and Seller's basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in Exhibit C, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section . Seller acknowledges that PGE will use these estimates in its resource planning and for purposes of determining the Minimum Delivery Guarantee.

#### 1.13 Minimum Delivery Guarantee.

~~4.1.— Seller guarantees that it will deliver to PGE from the Facility, Commencing on the Effective Date and continuing through the Term of this Agreement, Seller shall sell to PGE the entire Net Output from the Facility. Seller's Net Output shall be scheduled and delivered to PGE at the Point of Delivery in accordance with Section 4.5. PGE shall pay Seller the Contract Price for all scheduled and delivered Net Output. For the first 15 years measured from the date in Section 2.2.2, the Contract Price will be the Renewable Fixed Price Option under the Schedule; thereafter and for the remainder of the Term, the Contract Price will be equal to the Mid-C Index Price.~~

~~4.2.— Seller shall schedule and deliver to PGE from the Facility for each Contract Year, Net Output equal to or greater than the Minimum Net Output, pro-rated for any partial years. This guarantee is referred to in (either (a) if Seller does not select the Alternative Minimum Amount as defined in Exhibit A of this Agreement, a minimum of seventy-five percent (75%) of its average annual Net Output or (b) if selected by Seller, the Alternative Minimum Amount), provided that such Minimum Net Output for the final Contract Year shall be reduced pro rata to reflect the Commercial Operation Date, and further provided that such Minimum Net Output shall be reduced on a pro-rata basis for any periods during a Contract Year that the Facility was prevented from generating electricity for reasons of Force Majeure.~~

~~4.3.4.1. Seller agrees that if Seller does not deliver the Minimum Net Output each Contract Year for reasons other than Transmission Curtailment, PGE will suffer losses equal to the Lost Energy Value. As damages for Seller's failure to deliver the Minimum Net Output (subject to adjustment for reasons of Force Majeure as provided in Section 4.2) in any Contract Year, notwithstanding any other provision of this Agreement as the "Minimum Delivery Guarantee," the purchase price payable by PGE for future deliveries shall be reduced until Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period, in monthly amounts, of such reduction so as to avoid Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility for QF Facilities sized at 100 kW or smaller, the provisions of this section shall not apply.~~

#### 1.14 Scheduling Procedures.

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~~4.4. Upon completion of construction of the Facility, Seller shall provide PGE an As-built Supplement to specify the actual Facility as built. Seller shall not increase the Nameplate Capacity Rating above that specified in Exhibit B or increase the ability of the Facility to deliver Net Output in quantities in excess of the Net Dependable Capacity, or the Maximum Net Output as described in Section 3.1.10 above, through any means including, but not limited to, replacement, modification, or addition of existing equipment, except with prior written notice to PGE. In the event Seller increases the Nameplate Capacity Rating of the Facility to no more than 10,000 kW pursuant to this section, PGE shall pay the Contract Price for the additional delivered Net Output. In the event Seller increases the Nameplate Capacity Rating of the Facility to greater than 10,000 kW, then Seller shall be required to enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 10,000 kW.~~

~~4.5.4.2. Seller shall provide preschedules for all deliveries of energy hereunder, including identification of receiving and generating control areas, by 9:00:00 PPT on the last business day prior to the scheduled date of delivery. All energy shall be scheduled according to the most current North America Energy Reliability Corporation (NERC) and Western Electricity Coordinating Council (WECC) scheduling rules and practices. The Parties' respective representatives shall maintain hourly real-time schedule coordination; provided, however, that in the absence of such coordination, the hourly schedule established by the exchange of preschedules shall be considered final. Seller and PGE shall maintain records of hourly energy schedules for accounting and operating purposes. The final E-Tag shall be the controlling evidence of the Parties' schedule. All energy shall be prescheduled according to customary WECC scheduling practices. Seller shall make commercially reasonable efforts to schedule in any hour an amount equal to its expected Net Output for such hour. Seller shall maintain a minimum of two years records of Net Output and shall agree to allow PGE to have access to such records and to imbalance information kept by the Transmission Provider. The cost of delivering energy from the Facility to PGE shall be the sole responsibility of the Seller.~~

#### 1.15 Loss of Interconnection and Curtailment.

~~PGE shall not be liable to Seller and shall have no obligation to purchase the Product from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the extent that, due to the action of a Reliability Entity, a Force Majeure Event or PGE's construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility to the electric system is disconnected, suspended or interrupted, or (ii) generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller's control.~~

## **ARTICLE 2: PRICE, BILLING AND PAYMENT**

### 2.1 Prices and Payment for Delivered Product.

2.1.1 During the Delivery Period, PGE shall pay Seller an amount for Product delivered during 21{00052929.2}

a Billing Period calculated as follows: the Contract Price *multiplied by* the lesser of (i) Net Output during the Billing Period or (ii) Firm Energy delivered to the Delivery Point during the Billing Period. PGE shall not pay for Surplus Delivery. An illustrative example is provided in **Exhibit G**. In determining the amount due to Seller for the Product, the amount of Net Output generated in any hour shall be deemed to be zero or greater.

2.1.2 Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy *multiplied by* the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.

2.1.3 Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.

## 2.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.

By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (and supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in **Exhibit G**.

## 2.3 Invoicing and Payment for Lost Energy Value Related to Minimum Delivery Guarantee.

If Seller fails to satisfy the Minimum Delivery Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following the end of the Contract Year, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, the amount payable by PGE for future deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period of such reduction (not to exceed one year) so as to minimize the risk of Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in **Exhibit G**.

## 2.4 Form of Payment and Interest on Late Payments.

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two 22{00052929.2}

percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.

### 2.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.

## **ARTICLE 3: METERING**

### 3.1 Metering.

Metering shall be performed at the location and in a manner consistent with this Agreement, as specified in Exhibit B. Seller shall provide to PGE information in hourly increments for all Net Output and any other energy purchased under this Agreement.

### 3.2 Meter Installation, Inspection and Correction.

Seller shall arrange for the installation, testing, and maintenance of the metering equipment required by Section in accordance with Prudent Electrical Practices. PGE shall have reasonable access to observe, at its own expense, all inspection, testing, repair and replacement of the metering equipment. Upon request, Seller shall provide documentation regarding all inspection, testing, repair and replacement of the metering equipment.

If the Facility has a revenue grade meter in addition to the meter used to calculate deliveries and payments and the revenue grade meter is installed near the meter used to calculate deliveries and payments, Seller will send an annual report to PGE comparing the readings between the two meters. If the difference between the two meters is more than two percent (2.0%), PGE may request that the meters be recalibrated and that PGE receive the results of the tests. Also, PGE will be notified promptly of any other recalibration or calibration tests on the meter used to calculate deliveries and payments. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter be tested and recalibrated during the term of the Agreement and consistent with the terms of this Section. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter be tested and recalibrated 12 months after the Commercial Operation Date, at Seller's expense. If the test demonstrates a variance of more than two percent (2.0%) then PGE may request another test and recalibration twenty-four (24) months after the last test. If the test demonstrates a variance of less than two percent (2.0%), then PGE may not request a test and recalibration at the Seller's expense for thirty-six (36) months. PGE may arrange for testing and recalibration at its own expense, after reasonable notice and opportunity for Seller to have a representative on site.

If any of inspections or tests reveal an error exceeding two percent (2.0%), either fast or slow, appropriate correction, based upon the inaccuracy found, shall be made with respect to previous readings for the period during which the Facility metering equipment rendered inaccurate measurements (such period not to exceed twelve (12) months). If the period of inaccuracy cannot be ascertained, correction shall be made to measurements taken since the metering equipment was last tested, provided that such period shall not exceed three (3) months. Any correction in billings or payments resulting from a correction in the meter

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records shall be made in the next monthly billing or payment rendered. Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of the metering inaccuracy.

~~4.6.— From the start of the Renewable Resource Deficiency Period through the remainder of the Term of this Agreement, Seller shall provide and PGE shall acquire the RPS Attributes for the Contract Years as specified in the Schedule and Seller shall retain ownership of all other Environmental Attributes (if any). During the Renewable Resource Sufficiency Period, Seller shall retain all Environmental Attributes in accordance with the Schedule. The Contract Price includes full payment for the Net Output and any RPS Attributes transferred to PGE under this Agreement. With respect to Environmental Attributes not transferred to PGE under this Agreement ("Seller-Retained Environmental Attributes") Seller may report under §1605(b) of the Energy Policy Act of 1992 or under any applicable program as belonging to Seller any of the Seller-Retained Environmental Attributes, and PGE shall not report under such program that such Seller-Retained Environmental Attributes belong to it. With respect to RPS Attributes transferred to PGE under this Agreement ("Transferred RECs"), PGE may report under §1605(b) of the Energy Policy Act of 1992 or under any applicable program as belonging to it any of the Transferred RECs, and Seller shall not report under such program that such Transferred RECs belong to it.~~

~~SECTION 5: OPERATION AND MAINTENANCE; OUTAGES; FACILITY  
UPGRADES CONTROL~~

3.3 Seller's Duty to Operate and Maintain the Facility.

~~5.4.— Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices. Generation Interconnection Agreement, and Prudent Electrical Practices. PGE shall have no obligation to purchase Net Output from the Facility to the extent the interconnection of the Facility or transmission to PGE's electric system is curtailed, disconnected, suspended or interrupted, in whole or in part. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.~~

~~3.3.1 5.2.— Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall ~~agrees to provide~~ copies of the same to PGE upon request.~~

3.4 Outages.

3.4.1 On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE

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with a schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the Specified Facility Nameplate Capacity Rating for twenty-four (24) or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of Section .

3.4.2 Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable efforts to avoid or mitigate outages during PGE's system emergencies.

### 3.5 Facility Upgrades.

3.5.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

3.5.2 At any time after the Commercial Operation Date upon at least six months prior~~sixty (60) days~~ advance written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in Exhibit C, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in Exhibit C for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

3.5.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section or Section that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend Exhibit A and Exhibit C as appropriate to reflect the modifications.

3.5.2.2 So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 10,000 kW, then Seller will continue to receive the Contract Price for all delivered Net Output.

3.5.3 If Seller increases the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 10,000 kW, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 10,000 kW, consistent with then-current Applicable Law, provided that the new power purchase agreement must be a negotiated agreement under Schedule 202.

## ARTICLE 4: ENVIRONMENTAL ATTRIBUTES

### 4.1 Seller-Retained RECs.

Seller shall retain ownership of all RECs ("Seller-Retained RECs") and all other  
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Environmental Attributes associated with Net Output of the Facility during the Test Period and during the Renewable Resource Sufficiency Period. PGE shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Seller-Retained RECs belong to any Person other than Seller.

#### 4.2 Transferred RECs.

4.2.1 Seller shall transfer to PGE and PGE shall acquire all RECs associated with Net Output from the start of the Renewable Resource Deficiency Period through the remainder of the Term (“**Transferred RECs**”). PGE’s payments for Product under this Agreement include full payment for all Transferred RECs. Seller shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Transferred RECs belong to any Person other than PGE. PGE shall be entitled to claim all rights associated with the Transferred RECs, including any value in the ownership, use or allocation of RECs created by legislation or regulation after the Effective Date.

4.2.2 Transferred RECs shall be deemed delivered and sold to PGE under this Agreement as they are produced, and title to Transferred RECs shall pass to PGE when generated. The Facility meter at the point of interconnection shall serve as the record source for purposes of calculating, certifying, and auditing Transferred RECs. In the event Seller generates power and associated RECs are transferred but the power is not delivered to PGE by Seller due to a Force Majeure Event, curtailment, or other reason, PGE and Seller will work together in good faith to return such RECs to Seller.

4.2.3 Seller shall comply with all requirements necessary for all Transferred RECs to be issued, monitored, accounted for, and transferred by and through WREGIS, consistent with the provisions of OAR 330-160-0005 through OAR 330-160-0090. Without limiting the generality of the foregoing, Seller shall cause the Facility to implement all necessary generation information communications in WREGIS, and report generation information to WREGIS pursuant to a WREGIS-approved meter that is dedicated to the Facility and only the Facility. Seller shall cause delivery and transfer of the Transferred RECs to PGE’s WREGIS account to be perfected in accordance with WREGIS rules. Seller shall hold the Transferred RECs in trust for PGE until such delivery and transfer is perfected. Each Party shall take such steps and further actions as may be required by WREGIS or Applicable Law in order to effect and confirm the sale and delivery of the Transferred RECs to PGE for all purposes. PGE will reasonably cooperate in Seller’s efforts to meet such requirements, including, for example serving as the qualified reporting entity for the Facility if the Facility is located in PGE’s Balancing Authority.

4.2.4 All RECs delivered to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.

## ARTICLE 5: REPRESENTATIONS AND WARRANTIES

### 5.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

5.1.1 Seller is duly organized and in good standing under the laws of the state of incorporation or formation.

5.1.2 The execution, delivery and performance of this Agreement are within Seller's powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

5.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

5.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

5.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

5.1.6 Either Seller satisfies the requirements set forth in Section through below (the "**Creditworthiness Requirements**"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section .

5.1.6.1 Seller is not and has not been Bankrupt within the past two (2) years, and there are no proceedings pending or being contemplated by Seller or, to Seller's knowledge, threatened against Seller that would result in Seller being or becoming Bankrupt.

5.1.6.2 Seller is not in default under any of its material agreements and is current on all of its financial obligations, including construction-related financial obligations.

5.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond



acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

5.1.7 No later than the Commercial Operation Date, Seller will possess a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

5.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

5.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

In connection with Seller's delivery of Firm Energy as required under this Agreement: Seller's delivery of Imbalance Energy, if any, results from Seller's purchase of energy imbalance ancillary service that the Transmission Provider(s) require(s) Seller to procure, as a condition of providing transmission service, in order to correct a mismatch between energy ~~of any scheduled~~ by the Facility and the real-time production ~~maintenance that would require shut down~~ of the Facility ~~for any period of time.~~

5.1.10 Seller has ~~5.3. If~~ the right to sell the Product to PGE free and clear of liens or encumbrances.

8.1.12 The Facility generates RECs associated with all Net Output that comply with the Oregon Renewable Portfolio Standard.

## 5.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

5.2.1 It is a corporation duly organized under the laws of Oregon.

5.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

5.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

5.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

5.2.5 It is not and has not been Bankrupt within the past two (2) years and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

5.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

### 5.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article 8 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

## ARTICLE 6: CREDIT SUPPORT

### 6.1 Required Credit Support.

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall cease operation for unscheduled maintenance, Seller immediately shall notify PGE in writing of the necessity of such unscheduled maintenance that could affect the generation, scheduling or delivery of energy to PGE, the time when such maintenance has occurred or will occur, and the anticipated duration of such maintenance. Seller shall take all reasonable measures and exercise its best efforts to avoid unscheduled maintenance, to limit the duration of such unscheduled maintenance, and to perform unscheduled maintenance during Off-Peak hours.

### SECTION 6: CREDITWORTHINESS

In the event Seller: a) is unable to represent or warrant as required by Section 3 that it has not been a debtor in any bankruptcy proceeding within the past two (2) years; b) becomes such a debtor during the Term; or c) is not or will not be current on all its financial obligations, Seller shall immediately notify PGE and shall promptly (and in no less than ten (10) business days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) default security in an amount reasonably acceptable to PGE in one of the following forms: Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). In each case, the amount of Credit Support required such default security that shall be calculated as follows: (aggregate number of acceptable to PGE shall be equal to: (annual On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the weighted average Contract) X (On-Peak Price — Off-Peak Price for On-Peak Hours — the weighted average Contract Price for Off-Peak Hours) x (Net Available Capacity). The amount of Credit Support required shall be updated annually, on the anniversary of the month Credit Support was first required to be provided. The updated amount of Credit Support shall be calculated for each subsequent 12-month period, consistent with the calculation described in this Section.

If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.

~~) X (Minimum Net Output / 8760).~~ Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its reasonable discretion, grant an exception to the requirements to provide default security if the Seller QF has negotiated financial arrangements with the Lender construction loan lender that mitigate Seller's financial risk to PGE.

## 6.2 Right to Draw on Credit Support.

At any time after the occurrence and during the continuation of an Event of Default, or upon an early termination of this Agreement by PGE pursuant to Section , PGE may draw on Seller's Credit Support to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the Credit Support during the Term, PGE shall inform Seller within fifteen (15) business days, and Seller shall promptly, and in no more than fifteen (15) business days following notice from PGE, restore the Credit Support to the amount required under Section . However, for avoidance of doubt, Seller shall have no obligation to replenish the Credit Support if PGE has terminated the Agreement.

## SECTION 7: BILLINGS, COMPUTATIONS AND PAYMENTS

~~7.1. On or before the thirtieth (30th) day following the end of each Billing Period, PGE shall send to Seller payment for Seller's deliveries of Net Output to PGE, together with computations supporting such payment. PGE may offset any such payment to reflect amounts owing from Seller to PGE pursuant to this Agreement and any other agreement related to the Facility between the Parties or otherwise.~~

~~7.2. Any amounts owing after the due date thereof shall bear interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by applicable law.~~

## SECTION 8: DEFAULT, REMEDIES AND TERMINATION

### 6.3 Events of Default.

~~An "Event of Default" means, with respect to~~ 8.1. In addition to any other event that may constitute a Party default under this Agreement, the occurrence of any of the following unless otherwise excused events shall constitute defaults under this Agreement:

6.3.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;

~~6.3.2 any 8.1.1. — Breach by Seller or PGE of a representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;~~

~~the failure of a Party to perform any material covenant or obligation, except for Section 3.1.4, set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party explaining the circumstances supporting the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;-~~

~~6.3.3 with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;~~

~~6.3.4 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement or Transmission Agreement(s) within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement or Transmission Agreement(s) at any time during the term of this Agreement;~~

~~6.3.5 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;~~

~~with respect to Seller, Seller fails, for any two or more 8.1.2. Seller's failure to provide default security, if required by Section 6, prior to delivery of any Net Output to PGE or within ten (10) days of notice.~~

~~8.1.3. — Seller's failure to deliver the Minimum Net Output for two consecutive Contract Years to satisfy the Minimum Delivery Guarantee;-~~

~~with respect to 8.1.4. — If Seller, Seller fails is no longer a Qualifying Facility.~~

~~8.1.5. — Failure of PGE to make any required payment pursuant to establish Section 7.1.~~

~~8.1.6. — Seller's failure to meet the Commercial Operation Date on or before-~~

~~8.2. — In the Scheduled Commercial Operation Date, event of a default under Section 8.1.6, PGE may provide Seller with written notice of default. Seller shall have one (1) year in which to cure the default under this Section 10.1.8, during which time the Seller shall pay PGE Delay Damages pursuant to the terms of Section and Section . damages equal to the Lost Energy Value. If Seller is unable to cure the default, PGE may immediately terminate this Agreement as provided in Section 8.3. PGE's resource sufficiency/deficiency position shall have no bearing on PGE's right to terminate the Agreement under this Section 8.2~~

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~~STANDARD RENEWABLE OFF-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT~~

#### 6.4 Lender's Right to Cure a Seller Event of Default.

Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under Section of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement.

#### 6.5 Termination for Default.

If an Event of Default has occurred and is continuing, the non-defaulting Party~~8.3.~~ In the event of a default hereunder, the non-defaulting party may immediately terminate this Agreement at its sole discretion, and without the non-defaulting Party incurring any liability to the defaulting Party, by delivering written notice to the defaulting Party. In addition, the non-defaulting Party~~other Party, and, except for damages related to a default pursuant to Section 8.1.3, by a QF sized at 100 kW or smaller,~~ may pursue any and all other legal or equitable remedies available to it, including recovery of damages as set forth below.

#### 6.6 Damages.

If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value. Amounts owed by Seller pursuant to this Section shall be due within fifteen (15) business days after any invoice from PGE for the same. Damages owing under this Section 10.4~~provided by law or pursuant to this Agreement including damages related to the need to procure replacement power. Such termination shall be effective upon the date of delivery of notice, as provided in Section 20.1. The rights provided in this Section 8 are cumulative~~ and in addition to damages owing pursuant to Sections , , and . An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G~~such that the exercise of one or more rights shall not constitute a waiver of any other rights.~~

#### 6.7 Payment of Outstanding Obligations.

~~8.4.~~ If this Agreement is terminated pursuant to ~~as provided in this Section~~ , then within thirty (30) calendar days of termination~~8,~~ PGE shall make all payments due and owing to Seller as of the time of receipt of notice of termination; ~~provided, within thirty (30) days, that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section or otherwise, pursuant to the terms of this Agreement, are owed to Seller as of the time of receipt of notice of default.~~ PGE shall not be required to pay Seller for Product ~~any Net Output~~ delivered by Seller after the effective date of any termination~~such notice of default.~~

#### 6.8 Post-Termination PURPA Status.

~~8.5.~~ If this Agreement is terminated as a result of Seller's default, Seller shall pay PGE the positive difference, if any, obtained by subtracting the Contract Price from the sum of the Forward Replacement Price for the Minimum Net Output that Seller was otherwise obligated to provide for a period of twenty-four (24) months from the date of termination plus any cost incurred for transmission purchased by PGE to deliver the replacement power to the Point of Delivery and the estimated administrative cost to the 32{00052929.2}



~~utility to acquire replacement power. Accounts owed by Seller pursuant to this paragraph shall be due within five (5) business days after any invoice from PGE for the same.~~

~~8.6.—In the event (i) PGE terminates this Agreement pursuant to this Article 10 or Seller terminates this Agreement without cause, and (ii) Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, Section 8, and Seller wishes to again sell Net Output to PGE from the Facility following such termination, then PGE in its sole discretion may (but will not be obliged to) require that Seller, its Affiliate, or its successor shall do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to until the Terms of this Agreement, then Seller and PGE shall promptly (as set forth in Section 2.3) would have run in due course had the Agreement remained in effect. At such time Seller and PGE agree to execute a written document ratifying the terms of this Agreement. PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.~~

~~8.7.—Sections 8.1, 8.4, 8.5, 8.6, 10, and 19.2 shall survive termination of this Agreement.~~

#### SECTION 9: TRANSMISSION CURTAILMENTS

~~9.1.—Seller shall give PGE notice as soon as reasonably practicable of any Transmission Curtailment that is likely to affect Seller's ability to deliver any portion of energy scheduled pursuant to Sections 4.5 of this Agreement.~~

~~9.2.—If as the result of a Transmission Curtailment, Seller does not deliver any portion of energy (including real-time adjustments), scheduled pursuant to Section 4.5 of this Agreement, Seller shall pay PGE the Transmission Curtailment Replacement Energy Cost for the number of MWh of energy reasonably determined by PGE as the difference between (i) the scheduled energy that would have been delivered to PGE under this Agreement during the period of Transmission Curtailment and (ii) the actual energy, if any, that was delivered to PGE for the period.~~

#### SECTION 10: INDEMNIFICATION AND LIABILITY

##### 6.9 Seller's Indemnity.

~~10.1.—Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, Seller's delivery of electric power to PGE or with the facilities at or prior to the Point of Delivery, or otherwise arising out of this Agreement, including the delivery of energy to and at the Delivery Point; (ii) Seller's development, construction, ownership, operation, maintenance without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or decommissioning of the Facility; (iii) the violation of any law, rule, order for damage to, or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except destruction or economic loss of 33{00052929.2}~~

~~property belonging to PGE, Seller or others, excepting to the extent such Claim is loss, claim, action or suit may be caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.~~

#### 6.10 PGE's Indemnity.

~~10.2.—PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all Claims, loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (i) PGE's receipt of energy under electric power from Seller or with the facilities at or after the Point of Delivery, or otherwise arising out of this Agreement after its delivery at the Delivery Point; (ii) the violation of, including without limitation any law, rule, order or regulation by PGE or any of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure to perform any of PGE's obligations under this Agreement; (iv) PGE's breach of any representation, loss, claim, action or warranty set forth in this Agreement; suit, for or (v) PGE's negligence on account of injury, bodily or willful misconduct in connection with this Agreement, except otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PGE, Seller or others, excepting to the extent such Claim is loss, claim, action or suit may be caused by Seller's breach of this Agreement or by the negligence or willful misconduct of Seller, its directors, officers, employees, agents or representatives.~~

#### 6.11 No Dedication.

~~10.3.—Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent Person individual or entity.~~

#### 6.12 Disclaimer of Consequential Damages.

~~10.4.—NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.~~

### SECTION 11: INSURANCE

~~11.1.—Prior to the connection of the Facility to PGE's electric system, provided such Facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, with an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance policies for bodily injury and property damage liability. Such insurance shall include provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder; a cross-liability or severability of insurance interest~~



~~clause; and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days' prior written notice to PGE. Initial limits of liability for all requirements under this section shall be \$1,000,000 million single limit, which limits may be required to be increased or decreased by PGE as PGE determines in its reasonable judgment economic conditions or claims experience may warrant.~~

~~6.13 11.2. Prior to the connection of the Facility to PGE's electric system, provided such facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, in an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance acceptable to PGE against property damage or destruction in an amount not less than the cost of replacement of the Facility. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Certificates of Insurance.~~

~~Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required Seller shall waive its insurers' rights of subrogation against PGE regarding Facility property losses.~~

~~11.3. Prior to the connection of the Facility to PGE's electric system and at all other times such~~ insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion ~~and without limitation of other remedies~~, may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.

#### 6.14 Required Insurance.

Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than "B+" by the A.M. Best Company the insurance coverage specified below:

6.14.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.

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STANDARD RENEWABLE OFF-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT

6.14.2 All Risk Property Insurance providing coverage in an amount at least equal to the full replacement value of the Facility against “all risks” of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk Policy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the Facility is destroyed or substantially destroyed, it may terminate this Agreement. SECTION 12:—Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers’ rights of subrogation against PGE regarding Facility property losses.

#### 6.15 Required Provisions.

6.15.1 The Comprehensive General Liability Policy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

6.15.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days’ prior written notice to PGE.

6.15.3 Insurance coverage provided on a “claims-made” basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

### FORCE MAJEURE

#### 6.16 Definition of “Force Majeure.”

12.1.—As used in this Agreement, “Force Majeure” or “~~an event of~~ Force Majeure Event” means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party’s from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: ~~cause beyond the reasonable control of the Seller or of PGE which, despite the exercise of due diligence, such Party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to~~ acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. ~~Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) which by the exercise of reasonable foresight such Party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome, subject, in~~

~~each case, to the requirements of the first sentence of this paragraph. Force Majeure, however, specifically excludes Transmission Curtailment, the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility's equipment, or (viii) smoke, haze, ash or other obstruction of sunlight (except to the extent such obstruction is caused by fires or volcanic eruptions), and obligations for the payment of money when due.~~

#### 6.17 Effect of Force Majeure.

~~12.2.~~—If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: (i)

~~12.2.1.~~—the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section 14.13 of this Agreement describing the particulars of the occurrence; (ii) and

~~12.2.2.~~—the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the non-performing Party uses commercially reasonable efforts to remedy its inability to perform its obligations under this Agreement.

### ARTICLE 7: GENERAL PROVISIONS

#### 7.1 Relationship of the Parties.

~~12.2.3.~~ the non-performing Party uses its best efforts to remedy its inability to perform its obligations under this Agreement.

~~12.3.~~ No obligations of either Party which arose before the Force Majeure causing the suspension of performance shall be excused as a result of the Force Majeure.

~~12.4.~~ Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.

### SECTION 13: SEVERAL OBLIGATIONS

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such ppparty shall be jointly and severally liable for Seller's obligations under this Agreement.

#### 7.2 No Third Party Beneficiaries.

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This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

### 7.3 Governing Law.

#### SECTION 14: CHOICE OF LAW

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~**which** may direct the application of the laws of another jurisdiction.

Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement**SECTION 15: PARTIAL INVALIDITY AND PURPA REPEAL**

It is subject to~~not~~ the jurisdiction~~intention~~ of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, ~~to violate any laws governing the subject matter of this Agreement. If any~~ complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute.

The public utility's compliance with ~~of~~ the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

### 7.4 Severability.

If any of the terms of this~~the~~ Agreement are finally held or determined to be invalid, illegal or void as being contrary to any Applicable Law~~applicable law~~ or public policy, all other terms of this~~se~~ Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law~~applicable law~~ and the intent of the Parties to this Agreement.

### 7.5 Effect of ~~In the event the Public Utility Regulatory Policies Act (PURPA~~ Repeal.

The repeal of PURPA shall not result in the early termination of) ~~is repealed,~~ this Agreement ~~shall not terminate prior to the Termination Date,~~ unless such termination is mandated by state ~~or~~**of** federal law.

### 7.6 Waiver.

#### SECTION 16: WAIVER

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

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### 7.7 Survival.

Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.

### 7.8 Successors and Assigns.

#### SECTION 17: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

~~This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party or this Agreement. Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide upon request copies of the same to PGE.~~

#### SECTION 18: SUCCESSORS AND ASSIGNS

~~This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. Neither party may assign any of its rights or delegate any of its obligations hereunder. No assignment hereof by either Party shall become effective without the prior written consent of the other party, which Party being first obtained and such consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that, Notwithstanding the foregoing, either Party may assign its rights or delegate its obligations, in whole or in part, this Agreement without such the other Party's consent and upon thirty (30) calendar days' prior written notice to the other party, to an entity that acquires all as part of (a) a sale of all or substantially all of the business or assigning Party's assets of the assigning party to which this Agreement pertains, whether by, or (b) a merger, consolidation or other reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective. Party.~~

### 7.9 Financing Documents.

Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and expense associated with PGE's review and activities reasonably required under this Section 14.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE's sole discretion. No

later than twenty (20) calendar days after receiving an invoice for such cost and expense. Seller shall pay to PGE the amount set forth as due in such invoice.

7.10 Entire Agreement; Amendments; Order of Precedence.

SECTION 19: ENTIRE AGREEMENT

~~19.1.~~ This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding ~~the contents of the Agreement, including PGE's~~ PGE's purchase of ~~energy~~ Net Output from the Facility. No ~~amendment or~~ modification of this Agreement shall be effective unless it is in writing and signed by both ~~parties.~~ Parties. ~~If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail.~~

7.11 Seller Release.

~~19.2.~~ By executing this Agreement, Seller releases PGE from any ~~third party~~ claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

7.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

7.13 Notices.

SECTION 20: NOTICES

~~20.1.~~ All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered ~~if delivered in person or~~ when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.

<u>Notices</u>	<u>PGE</u>	<u>Seller</u>
	<u>Portland General Electric</u> <u>C/O QF Contract Management</u> <u>3WTC-0306</u> <u>121 SW Salmon St</u> <u>Portland, OR 97204</u>	

To Seller: \_\_\_\_\_  
\_\_\_\_\_



\_\_\_\_\_  
\_\_\_\_\_

with a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To PGE: \_\_\_\_\_ Contracts Manager  
\_\_\_\_\_ QF Contracts, 3WTC0306  
\_\_\_\_\_ PGE - 121 SW Salmon St.  
\_\_\_\_\_ Portland, Oregon 97204

~~20.2.~~ The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section ~~14.13.20.~~

*~~Signature Page Follows.+++~~*

~~+++~~

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
(Name Seller)



By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

EXHIBIT A

**FACILITY DESCRIPTION**

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

Seller's Facility consists of generators fueled by \_\_\_\_\_.  
Location of the Facility: The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_,  
with GPS coordinates of \_\_\_\_\_

The location is more particularly described as follows:  
[legal description of parcel]

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section 6.3.2).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating and the Net Available Capacity:

\_\_\_\_\_  
\_\_\_\_\_

Interconnection Rating: \_\_\_\_\_ kW (the Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

\_\_\_\_\_  
\_\_\_\_\_

Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

EXHIBIT B

SELLER'S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

Point of Delivery: \_\_\_\_\_

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Entity with whom the Facility is or will be interconnected: \_\_\_\_\_

Transmission Provider(s): \_\_\_\_\_

**C. The following information shall be provided in the As-built Supplement prior to Commercial Operation:**

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):  
\_\_\_\_\_  
\_\_\_\_\_

Specification of Point of Interconnection: \_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT C**  
**SELLER'S MINIMUM NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output during the Delivery Period, and the resulting Estimated Annual Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output  
(as measured at the Facility meter at the Point of Interconnection)**

<u>Month</u>	<u>Estimated Monthly Average Net Output (kWh)</u>		<u>Percentage of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%)</u>		<u>Estimated Monthly Maximum Net Output (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>						
<u>February</u>						
<u>March</u>						
<u>April</u>						
<u>May</u>						
<u>June</u>						
<u>July</u>						
<u>August</u>						
<u>September</u>						
<u>October</u>						
<u>November</u>						
<u>December</u>						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated Annual Average Net Output: \_\_\_\_\_ kWh  
(sum of Estimated Monthly Average Net Output)  
Estimated Annual Maximum Net Output: \_\_\_\_\_ kWh  
(sum of Estimated Monthly Maximum Net Output)

**C.3. Alternative Minimum Net Output**

~~In this Exhibit,~~ Seller may at its option designate an alternative to the Minimum Net Output value ~~of~~ to seventy-five (75%) percent of the Estimated Annual Average~~annual average~~ Net Output ~~set forth above~~specified in this Exhibit. ~~If designated, such alternative shall be known as the “Section 3.1.9 of the Agreement (“Alternative Minimum Net Output.”Amount”).~~ Such Alternative Minimum Net Output~~Amount~~, if provided, shall exceed zero, and shall be established in accordance with Prudent Electrical Practices, and documentation supporting such a determination shall be provided to PGE upon execution of the Agreement. Such documentation shall be commercially reasonable, and may include, but is not limited to, documents used in financing the project, and data on output of similar projects operated by Sseller, PGE or others.

Annual Alternative Minimum Net Output: \_\_\_\_\_ kWh

<u>Month</u>	<u>Alternative Minimum Net Output (if specified) (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>		
<u>February</u>		
<u>March</u>		
<u>April</u>		
<u>May</u>		
<u>June</u>		
<u>July</u>		
<u>August</u>		
<u>September</u>		
<u>October</u>		
<u>November</u>		
<u>December</u>		

~~EXHIBIT B~~  
~~DESCRIPTION OF SELLER'S FACILITY~~

~~[Seller to Complete]~~

~~EXHIBIT C~~  
~~REQUIRED FACILITY DOCUMENTS~~

~~[Seller list all permits and authorizations required for this project]~~

~~Sellers Generation Interconnection Agreement with interconnecting utility~~

~~Firm Transmission Agreement between Seller and Transmission Provider~~



## EXHIBIT D

### COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

#### (Power Purchase Agreement – \_\_\_\_\_)

This Collateral Assignment and Consent Agreement (the “*Agreement*”) is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY** (“*PGE*” or “*Buyer*”), [INSERT LENDER], a \_\_\_\_\_ company (the “*Lender*”), and [INSERT SELLER], a \_\_\_\_\_ company (the “*Borrower*” or “*Seller*”) (the “*Parties*” or each a “*Party*”).

#### RECITALS

A. \_\_\_\_\_ Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the “*Loan Agreement*”), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.

B. \_\_\_\_\_ Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the “*PPA*” or the “*Assigned Agreement*”), a copy of which is attached as *Exhibit A*, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power from which Seller shall sell and PGE shall purchase Net Output” (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).

C. \_\_\_\_\_ As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the “*Security Agreement*”), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other “Collateral” defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the “*Secured Obligations*”). The Loan Agreement and the Security Agreement are referred to herein as the “*Security Documents*.”

#### AGREEMENTS

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. \_\_\_\_\_ Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower’s right, title and interest in and to the Assigned Agreement.

2. \_\_\_\_\_ Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller’s rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

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tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

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\_\_\_\_\_ With a copy to:

\_\_\_\_\_ If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

\_\_\_\_\_ If to Lender:

\_\_\_\_\_ With a copy to:

\_\_\_\_\_

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

PAGE 3

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

EXHIBIT E  
START-UP TESTING

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing.]

**[Seller identify appropriate tests]**

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

- ~~1.~~ Pressure tests of all steam system equipment;
- ~~2.~~ Calibration of all pressure, level, flow, temperature and monitoring instruments;
- ~~3.~~ Operating tests of all valves, operators, motor starters and motor;
- ~~4.~~ Alarms, signals, and fail-safe or system shutdown control tests;
- ~~5.~~ Insulation resistance and point-to-point continuity tests;
- ~~6.~~ Bench tests of all protective devices;
- ~~7.~~ Tests required by manufacturer of equipment; and
- ~~8.~~ Complete pre-parallel checks with PGE.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

- ~~1.~~ Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
- ~~2.~~ Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
- ~~3.~~ Brake tests;
- ~~4.~~ Energization of transformers;
- ~~5.~~ Synchronizing tests (manual and auto);
- ~~6.~~ Stator windings dielectric test;
- ~~7.~~ Armature and field windings resistance tests;
- ~~8.~~ Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
- ~~9.~~ Heat runs;
- ~~10.~~ Tests required by manufacturer of equipment;
- ~~11.~~ Excitation and voltage regulation operation tests;
- ~~1.~~ ~~12.~~ Open circuit and short circuit;

~~S~~saturation tests;

- ~~13.~~ Governor system steady state stability test;

14. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
15. Auto stop/start sequence;
16. Level control system tests; and
17. Completion of all state and federal environmental testing requirements.

~~EXHIBIT E~~



**EXHIBIT F**

SCHEDULE **201**

[Attach ~~currently in-effect~~ Schedule 201]

**EXHIBIT G**

**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**

**STANDARD RENEWABLE OFF-SYSTEM VARIABLE  
POWER PURCHASE AGREEMENT**

**BETWEEN**

**[COUNTERPARTY NAME]**

**AND**

**PORTLAND GENERAL ELECTRIC COMPANY**

**TABLE OF CONTENTS**

Exhibits

<u>Exhibit A</u>	<u>Description of Facility</u>
<u>Exhibit B</u>	<u>Seller's Interconnection Facilities and Delivery Attributes</u>
<u>Exhibit C</u>	<u>Seller's Net Output Estimates</u>
<u>Exhibit D</u>	<u>Collateral Assignment and Consent Agreement Form</u>
<u>Exhibit E</u>	<u>Start-Up Testing</u>
<u>Exhibit F</u>	<u>Schedule 201</u>
<u>Exhibit G</u>	<u>Illustrative Examples of Payment and Lost Energy Value Calculations</u>
<u>Exhibit H</u>	<u>Negotiated Prices for Option B, Solar Standard Terms and Negotiated Price Agreement (if applicable)</u>

**STANDARD RENEWABLE OFF-SYSTEM VARIABLE  
POWER PURCHASE  
THIS AGREEMENT**

This STANDARD RENEWABLE OFF-SYSTEM VARIABLE POWER PURCHASE AGREEMENT ("Agreement") is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] ("\_\_\_\_\_") ("Seller") and Portland General Electric Company, an Oregon corporation ("PGE") (hereinafter each a "Party" and/or collectively, "Parties"). and is effective upon execution by both Parties ("Effective Date"). The Parties agree this Agreement is a [choose one]:

- ~~Option A: Standard-Renewable Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating ~~nameplate capacity~~ no greater than 3 MW and other qualifying facilities with Facility Nameplate Capacity Rating ~~nameplate capacity~~ no greater than 10 MW; if this option is selected then Option A will apply under Section 1.6, Section 3.1.14, and Section 4.3, and there will be no Exhibit E];~~  
or
- ~~Option B: Solar Standard Terms and Negotiated Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating ~~nameplate capacity~~ above 3 MW but no greater than 10 MW; if this option is selected, then Option B will apply under Section 1.6, Section 3.1.14, and Section 4.3, and there will be an Exhibit HE containing the negotiated prices agreed to by the Parties].~~

~~Eligibility for a Standard Renewable Price Agreement (Option A) or a Solar Standard Terms and Negotiated Price Agreement (Option B) is governed by the Schedule and applicable Commission orders.~~

## RECITALS

A. ~~[New QF]~~ Seller intends to construct, own, operate and maintain a ~~New QF~~ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, ~~with a Nameplate Capacity Rating of \_\_\_\_\_ kilowatt ("kW"), as further described in Exhibit A ("Facility"); and Exhibit B.~~

A. ~~[Existing QF]~~ Seller owns and intends to operate and maintain an Existing QF [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in ~~Exhibit A and Exhibit B.~~

B. Seller intends to operate the Facility as a "Qualifying Facility," as ~~that~~such term is defined in ~~the FERC regulations codified at 18 CFR Part 292~~Section 3.1.3, below.

C. Seller ~~wishes to~~shall sell and PGE ~~is willing to~~shall purchase the ~~entire~~ Net Output, ~~as such term is defined in Section 1.21, below,~~ from the Facility, subject to and in accordance with the terms and conditions of this Agreement, and Seller wishes to provide energy and capacity pursuant to this Agreement.

## AGREEMENT

NOW, THEREFORE, the Parties ~~mutually~~ agree as follows:

### SECTION 1: DEFINITIONS AND CONTRACT INTERPRETATION

#### 1.1 Defined Terms.

~~For all purposes of~~When used in this Agreement, the following terms shall have the following meanings:

"Affiliate" means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

"Agreement" means this Standard Renewable Off-System Variable Power Purchase Agreement (Option A or Option B) and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

"Ancillary Services" means any of the services identified by a Transmission Provider in its transmission tariff as "ancillary services."

"Applicable Law" means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

1.1. "As-built Supplement" means ~~at the~~ supplement to Exhibit A ~~and Exhibit B~~ provided by Seller in accordance with Section 4.3 following completion of construction of the Facility, ~~or modifications to the Facility, which describes~~ ~~describing~~ the Facility as actually built.

~~"Balancing Authority" means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to the Facility.~~

~~"Bankrupt" means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, or (iii) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets.~~

1.2. "Base Hours" ~~means is defined as~~ the total number of hours in each Contract Year (8,760 or 8,784 for leap years), ~~provided, however, that Base Hours for the first Contract Year shall be the number of hours commencing on the first hour of the day after the Commercial Operation Date and ending on the last hour of December 31<sup>st</sup> of the calendar year in which the Commercial Operation Date occurs, and that Base Hours for the last Contract Year shall be the number of hours commencing on January 1 of the calendar year in which the Term ends and ending the last hour of the last day of the Term.~~ ~~year~~

1.3. ~~"Billing Period"~~ means ~~one from the start of the first day of each~~ calendar month, ~~to the end of the last day of each calendar month.~~

~~"Business Day" means any day other than Saturday, Sunday or the following holidays: New Year's Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.~~

1.4. ~~"Cash Escrow" means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller's placement of cash in~~ ~~by two parties to place money into~~ the custody of ~~the escrow agent a third party~~ for delivery to ~~PGE a grantee~~ ~~only~~ after the fulfillment of ~~any of the conditions specified in Section .~~ ~~Amounts in the Cash Escrow shall earn interest.~~

~~1.5.1.4. "Commercial Operation Date" means the date that the Facility is deemed by PGE to be fully operational and reliable. PGE may, at the rate applicable to money market deposits at escrow agent,~~ ~~its discretion, require, among other things, that all of the following events have occurred:~~

~~"Claims" means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.~~

~~"Commercial Operation" has the meaning given to it in Section .~~

~~1.5.1.—“Commercial Operation Date” (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from a Licensed Professional Engineer (“LPE”) acceptable to PGE in its reasonable judgment stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement (certifications required under this Section 1.5 can be provided by one or more LPEs);~~

~~1.5.2.1.4.1. Start-Up Testing of the Facility has the meaning given to it in been completed in accordance with Section 1.36;~~

~~1.5.3.—“Commission (facilities with nameplate under 500 kW exempt from following requirement) After PGE has received notice of completion of Start-Up Testing, PGE has received a certificate addressed to PGE from an LPE stating that the Facility has operated for testing purposes under this Agreement and was continuously mechanically available for operation for a minimum of 120 hours. The Facility must provide ten (10) working days written notice to PGE prior to the start of the initial testing period. If the mechanical availability of the Facility is interrupted during this initial testing period or any subsequent testing period, the Facility shall promptly start a new Test Period and provide PGE forty-eight (48) hours written notice prior to the start of such testing period;~~

~~1.5.4.— (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from an LPE stating that all required interconnection facilities have been constructed and all required interconnection tests have been completed;~~

~~1.5.5.— (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from an LPE stating that Seller has obtained all Required Facility Documents and, if requested by PGE in writing, has provided copies of any or all such requested Required Facility Documents;~~

~~1.5.6.— PGE has received a copy of the executed Generation Interconnection and Transmission Agreements.~~

~~1.6.—“Contract Price” means (see the selection made in the first paragraph of this Agreement to determine whether Option A or Option B applies—only one option applies):~~

~~**Option A:**—“Contract Price” means the Public Utility Commission of Oregon.~~

~~“Contract Price” means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under price, including on-peak and off-peak prices, as specified in the Schedule. For the first 15 years measured from the date in Section 2.2.2, the Contract Price will be the Renewable Fixed Price Option for \_\_\_\_\_ [specify applicable Renewable Fixed Price Option based on resource type, in accordance with Schedule], as published in the under the Schedule and attached as Exhibit F (or in the case of QFs electing Option B, the Solar Standard Terms; thereafter and Negotiated Price Agreement, as set forth in the price matrix attached as Exhibit H, which reflects the negotiated price, including on-peak and off-peak prices), and thereafter, for the remainder of the Term, the Daily Market Contract Price will be equal to the Mid-C Index Price in effect during the interval when the energy is generated.~~

~~**Option B:**—“Contract Price” means: (i) the negotiated price, including on-peak and off-peak prices, as specified in Exhibit E; or (ii) the Mid-C Index Price. For the first 15 years measured from the date in Section 2.2.2, the Contract Price will be the negotiated price specified in Exhibit E; thereafter and for the remainder of the Term, the Contract Price will be equal to the Mid-C Index Price. The negotiated price established in Exhibit E is not necessarily the same as the Standard Fixed Price Option or the Renewable Fixed Price Option established in the Schedule.~~

~~4.7.1.5. **“Contract Year”** means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time (“PPT”) on January 1 and ending at 24:00 hours PPT on December 31; provided, however, that the first Contract Year shall commence on ~~upon~~ the Commercial Operation Date and end on December 31<sup>st</sup> of the calendar year in which the ~~or its anniversary during the Term, except the final Contract Year will be the period from the last anniversary of the~~ Commercial Operation Date ~~occurs, and during the last Contract Year shall end on Term until the last day~~ end of the Term.~~

~~**“Credit Support”** has the meaning given to it in Section .~~

~~**“Creditworthiness Requirements”** has the meaning given to it in Section .~~

~~**“Daily Market Index Price”** means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>. In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Delivery Point.~~

~~**“Delay Damages”** has the meaning given to it in Section .~~

~~**“Delivery Period”** has the meaning given to it in Section .~~

~~**“Delivery Point”** means the point of delivery where Seller delivers energy to the PGE system, as specified in Exhibit B. PGE and Seller may mutually agree to amend the Delivery Point.~~

~~**“e-Tag”** means NERC electronic tag.~~

~~4.8.1.6. **“Effective Date”** has the meaning ~~given to it~~ set forth in Section ~~2.4~~.~~

~~4.9.1.7. **“Environmental Attributes”** shall mean any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), and other greenhouse gasses (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere. Environmental Attributes do not include (i) production tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, or (ii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept~~

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certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits.

“Estimated Annual Average Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Annual Maximum Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Average Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Maximum Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Existing QF” means a QF that (1) is or has been operational before the Effective Date of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party.

4.10.1.8. “Expiration Date” “Facility” has the meaning given to it set forth in Section the Recitals.

“Facility” is the entire facility as specified in Exhibit A and Exhibit B.

“Facility Nameplate Capacity Rating” means the sum of the Nameplate Capacity Ratings for all Generation Units comprising the Facility.

“FERC” means the Federal Energy Regulatory Commission or any successor government agency.

“Firm Energy” means energy scheduled and delivered on a firm basis to the Delivery Point via firm transmission rights.

“Force Majeure” or “Force Majeure Event” has the meaning given to it in Section .

“Generator” means the electrical component within the Facility measured in kW that converts mechanical energy or solar radiation into electrical energy.

“Generation Unit” means a complete electrical generation system within the Facility that is able to generate and deliver energy to the Point of Interconnection independent of other Generation Units within the same Facility. For example, for a solar facility, a Generation Unit is an inverter and the panels associated with such inverter.

“Governmental Authority” means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

“Imbalance Energy” means that portion of Firm Energy, measured in kWh, scheduled and delivered to the Delivery Point that was not Net Output.

4.11.1.9. “Interconnection Agreement” means an agreement governing the interconnection of the Facility with \_\_\_\_\_’s [specify relevant transmission system or distribution system owner] electric system.

“kW” and “kWh” mean kilowatt and kilowatt hour, respectively.

“Lender” means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.

“Letter of Credit” means an irrevocable standby letter of credit from an institution selected by the Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

~~1.12. “Generation Unit” means each separate electrical generator that contributes toward Nameplate Capacity Rating included in Exhibit A. For solar facilities, a generating unit is a complete solar electrical generation system within the Facility that is able to generate and deliver energy to the Point of Delivery independent of other Generation Units within the same Facility.~~

~~1.13. “Letter of Credit” means an engagement by a bank or other person made at the request of a customer that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the letter of credit.~~

~~1.14.1.10. “Licensed Professional Engineer” or “LPE” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in Section, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. ~~Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.~~ Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.~~

“Lost Energy” means (in kWh):

A. In connection with a Facility after the Commercial Operation Date, if the Mechanical Availability Percentage falls below the Minimum Availability ~~“Lost Energy” means ((the Guarantee for a Contract of Mechanical Availability as set forth in 3.1.10 / MAP) X Net Output for a Calendar Year, ((the Minimum Availability Guarantee as determined pursuant to Section / the actual Mechanical Availability Percentage for the applicable Contract) — Net Output for the Calendar Year) X actual Net Output for the applicable Contract Year) - actual Net Output for the applicable Contract Year; or~~

B. In connection with a Facility that does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see Exhibit C) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual Commercial Operation Date or contract termination pursuant to Section 10. The Estimated Monthly Average Net Output shall be pro-rated for any partial months; or

C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 10 of this Agreement because of Seller's default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see **Exhibit C**) for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see **Exhibit C**) for each month from the date of termination through the end of the Term. The Estimated Monthly Average Net Output shall be pro-rated for any partial months.

“Lost Energy Value” means:

A. In connection with ~~–~~ Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly to each calendar month in the Contract Year and then allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in **Exhibit C** (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year *plus* any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly ~~shall be zero unless the result of the~~ calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period); and
- The Off-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period).

If the above calculation of the Lost Energy Value for the Contract Year ~~in this subsection~~ results in a negative value, the Lost Energy Value for the Contract Year shall be deemed zero. See the example calculation in **Exhibit G**.

B. In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during which Seller has failed to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below) *plus* any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

~~4.15.1.11.~~ The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours

for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) shall not exceed the Contract Price for On-Peak Hours for the same period; ~~and number.~~

- ~~The Off-Peak Hours “Lost Energy for Value” means Lost Energy X the applicable calendar month (or partial calendar month) multiplied by the (applicable Replacement excess of the annual time-weighted average Mid-C Index Price for On-Peak Hours and Off-Peak Hours less over the time-weighted average Contract Price for On-Peak and Off-Peak Hours for the same corresponding time period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) (provided that such excess shall not exceed the Contract Price for Off-Peak Hours for the same period.~~

If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be and further provided that Lost Energy is deemed zero. See the example calculation in Exhibit G.

C. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Lost Energy for the applicable calendar month or partial calendar month multiplied by (the Replacement Price for On-Peak Hours for the period less the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month multiplied by (the Replacement Price for Off-Peak Hours for the period less the Contract Price for Off-Peak Hours for the period); and

~~4.16.1.12. Any commercially to be zero prior to reaching the Commercial Operation Date) plus any reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges. replacement power and/or transmission to deliver the replacement power to the Point of Delivery (For Start-Up Lost Energy Value See 1.35).~~

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in Exhibit G.

~~4.17.1.13. “Mechanical Availability Percentage” or “MAP” means shall mean that percentage for any Contract Year for the Facility calculated in accordance with the following formula:~~

$$\text{MAP} = 100 - X \frac{-(\text{Operational Hours})}{(\text{Base Hours} \times \text{Number of Units})}$$

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~~“Mid-C Index Price” means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On Peak Power and Average Off Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity> “Minimum Availability Guarantee” has the meaning given to it in Section .~~

~~“Nameplate Capacity Rating” means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.~~

~~“NERC” means the North American Electric Reliability Corporation.~~

~~“Net Available Capacity” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Point of Interconnection continuously for sixty (60) minutes.~~

~~1.18. “In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Mid-C trading hub.~~

~~1.19. “Nameplate Capacity Rating” means the maximum capacity of the Facility as stated by the manufacturer, expressed in kW, which shall not exceed 10,000 kW.~~

~~1.20. “Net Dependable Capacity” means the maximum capacity the Facility can sustain over a specified period modified for seasonal limitations, if any, and reduced by the capacity required for station service or auxiliaries.~~

~~“Net Output” means all energy, expressed in kWh, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the Point of Interconnection.~~

~~1.21.1.14. “New QF” means any QF that is not an Existing QF, and less transformation and transmission losses.~~

~~1.22.1.15. “Number of Units” means the number of Generation Units in the Facility, as specified in Exhibit A.~~

~~1.23. “Off-Peak Hours” means all hours other than has the meaning provided in the Schedule.~~

~~1.24.1.16. “On-Peak Hours” has the meaning provided in the Schedule.~~

~~“On-Peak Energy Imbalance Accumulation” and “Off-Peak Energy Imbalance Accumulation” have the meanings given to them in Section .~~

~~“On-Peak Hours” means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.~~

~~1.25.1.17. “Operational Hours” for the Facility means the total across all Generation Units of the number of hours each of the Facility’s Generation Units isare potentially capable of producing power at its Nameplate Capacity Rating regardless of~~



actual weather ~~conditions~~, season and ~~the~~ time of day or night, without any mechanical operating constraint or restriction, and potentially capable of delivering such power to the ~~Point of Delivery~~ Point in a Contract Year. ~~For each Contract Year, each Generation Unit is eligible During up to include no, but not more than, two hundred (200) hours as Operational Hours when the Generation Unit is not operational because of Planned Maintenance or during a Contract Year for each Generation Unit and hours during which an event of Force Majeure, exists, a Generation Unit shall be considered potentially capable of delivering such power to the Point of Delivery.~~ For example, ~~if~~ in the Facility consists of two separate Generation Units of 1.5 MW each and Generation Unit 1 is operational for 8,460 hours and is not operational for 300 hours due to absence of any Planned Maintenance or an event beyond 200 hours on any Generation Unit or Event of Force Majeure; and Generation Unit 2 is operational for 8,560 hours and is not operational for 200 hours due to Planned Maintenance or an event of Force Majeure, then, the Operational Hours for the Facility for the ~~wind farm with five (5) separate two (2) MW turbines would be 43,800 for a Contract Year~~ would be calculated as follows: Generation Unit 1 Operational Hours = 8,460 + 200 = 8,660. Generation Unit 2 Operational Hours = 8,560 + 200 = 8,760. Operational Hours of the Facility = 8,760 + 8,660 = 17,420.

“Oregon Renewable Portfolio Standard” means the renewable portfolio standard contemplated by ORS 469A.005 to 469A.200, and the implementing regulations, in each case as in effect on the Effective Date of this Agreement.

“Person” means any individual, corporation, limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.

1.26.1.18. “Planned Maintenance” means outages scheduled ninety (90 calendar) days in advance, with PGE’s prior written notice to PGE, provided however that maintenance during Off-Peak Hours (except Sundays between 6:00 a.m. and 10:00 p.m. PPT) on a Facility comprised of only solar Generators consent, which shall not be considered Planned Maintenance unreasonably withheld.

1.27. “Point of Interconnection” means the point of interconnection between the Facility and the interconnecting Transmission Provider or distribution Delivery” means the PGE system owner, as specified;

1.28.1.19. “Pre-Commercial Operation Date Minimum Net Output” shall mean, unless such MWh is specifically set forth by Seller in Exhibit BA, an amount in MWh equal to seventy-five percent (75%) of Nameplate Capacity Rating X thirty percent (30%) for a wind or other renewable QF or fifty percent (50%) for a solar QF X (whole months since the date selected in Section 2.2.1 / 12) X (8760 hours — 200 hours (assumed Planned Maintenance)) for each month. If Seller has provided specific expected monthly Net Output amounts for the Facility in Exhibit A, “Pre-Commercial Operation Date Minimum Net Output” shall mean seventy-five percent (75%) X expected net output set forth in Exhibit A for each month.

1.29.1.20. “Prime Rate” means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

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“Product” means, each and together, as a single bundled product, Net Output and, if applicable, Imbalance Energy, together with all associated capacity and Transferred RECs.

~~1.30.1.21.~~ “Prudent Electrical Practices” means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the ~~WECC Western Electricity Coordinating Council~~ that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all ~~Applicable Law, applicable laws and regulations.~~ Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

“PURPA” means the Public Utility Regulatory Policies Act of 1978.

“Qualifying Facility” has the meaning set forth in the Recitals.

~~1.31.~~ “REC” means Environmental Attributes and REC Reporting Rights, however commercially transferred or traded under any or other product names, such as “green tags,” “Green-e Certified,” or otherwise. RECs are accumulated on a MWh basis and one REC represents the Environmental Attributes and REC Reporting Rights made available by the generation of one MWh of energy by the Facility, as represented by the actual Net Output on an hourly basis. RECs do not include: (i) “Required Facility Documents” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility including without limitation those set forth in Exhibit B.

~~1.32.1.22.~~ “RPS Attributes” means all attributes related to the Net Output generated by the Facility that are required in order to provide PGE with “qualifying electricity,” as that term is defined in Oregon’s Renewable Portfolio Standard Act, Ore. Rev. Stat. 469A.010, in effect at the time of execution of this Agreement. RPS Attributes do not include Environmental Attributes that are greenhouse gas offsets from methane capture not associated with the generation of electricity and not needed to ensure that there are zero net emissions associated with the generation of electricity; or (ii) thermal renewable energy certificates as defined in ORS 469A.132 and the implementing regulations. All RECs transferred to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.

“REC Reporting Rights” are the rights of a Person to report the ownership of accumulated RECs in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at such Person’s discretion, and include without limitation those REC Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present federal, state, or local law, regulation or bill, and international or foreign emissions trading program.

“Reliability Entity” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to



affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

“Renewable Resource Deficiency Period” means the period beginning January 1, 2025 through the termination or Expiration Date of this Agreement.

“Renewable Resource Sufficiency Period” means the period through 2024.

“Replacement Price” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at the Mid-Columbia trading hub for any Net Output that Seller fails to deliver as required under this Agreement.

When the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Availability Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices shall be calculated as follows for each applicable calendar month (or partial calendar month):

- For Lost Energy During On-Peak Hours: the hourly average of the on-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).
- For Lost Energy During Off-Peak Hours: the hourly average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

When the Replacement Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 10, the Replacement Price shall be the respective On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices during the applicable period.

“Required Facility Documents” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as the Interconnection Agreement and the Transmission Agreement.

~~4.33.1.23.~~ “Schedule” means PGE’s shall mean PGE Schedule 201 filed with the Oregon Public Utilities Commission and (“Commission”) in effect on the date that Seller delivers to PGE an executed copy Effective Date of this Agreement. For ease of reference and informational purposes only, a copy of the Schedule is attached hereto as Exhibit F; however, if there is any difference between Exhibit F and the Schedule D, the terms of the Schedule shall apply and prevail which are hereby incorporated by reference.

“Scheduled Commercial Operation Date” has the meaning given to it in Section .

“Seller-Retained RECs” has the meaning given to it in Section .

~~4.34.1.24.~~ “Senior Lien” means a prior lien that which has precedence as to the property under the lien over another lien or encumbrance.

“Specified Facility Nameplate Capacity Rating” means the Facility Nameplate Capacity Rating set forth in Exhibit A, as it may be amended from time to time in accordance with this Agreement.

~~1.35.—“Start-Up Testing” means the performance of applicable start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in Exhibit E (as it may be updated by Seller) during the Test Period. “Start-Up Lost Energy Value” means for the period after the date specified in Section 2.2.2 but prior to achievement of the Commercial Operation Date: zero, unless the Net Output is less than the pro-rated Pre-Commercial Operation Date Minimum Net Output for the applicable delay period, and the time-weighted average of the delay period’s Mid-C Index Price for On-Peak Hours and Off-Peak Hours is greater than the time-weighted average of the delay period’s Contract Price for On-Peak Hours and Off-Peak Hours, in which case Startup Lost Energy Value equals: (pro-rated Pre-Commercial Operation Date Minimum Net Output for the applicable period – Net Output for the applicable period) X (the lower of: the time-weighted average of the Contract Price for On-Peak hours and Off-Peak Hours during the applicable period; or (the time-weighted average of the Mid-C Index Price for On-Peak Hours and Off-Peak Hours during the applicable period – the time-weighted average of the Contract Price for On-Peak Hours and Off-Peak Hours during the applicable period)). The time-weighted average in this section will reflect the relative proportions of On-Peak Hours and Off-Peak Hours in each day.~~

~~1.36.1.25. “Start-Up Testing” means the completion of applicable required factory and start-up tests as set forth in Exhibit C.~~

~~1.37.1.26. “Step-in Rights” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.~~

~~“Surplus Delivery” has the meaning given to it in Section . By definition, Surplus Delivery shall always be a positive number.~~

~~“Term” has the meaning given to it in Section .~~

~~“Test Energy” means electric energy generated by the Facility during the Test Period.~~

~~“Test Period” means a period during which Start-Up Testing is to be conducted.~~

~~“Transferred RECs” has the meaning given to it in Section .~~

~~1.38. “Term” shall mean the period beginning on the Effective Date and ending on the Termination Date.~~

~~1.39. “Test Period” shall mean a period of sixty (60) days or a commercially reasonable period determined by the Seller.~~

~~1.40.—“Transmission Agreement” means an agreement (or agreements) between executed by the Seller and the Transmission Provider(s) that provide(s) for Transmission Services.~~

~~1.41. “Transmission Curtailment” means a limitation on Seller’s ability to deliver any portion of the scheduled energy to PGE due to the unavailability of transmission to the Point of Delivery (for any reason other than Force Majeure).~~

~~1.42. “Transmission Curtailment Replacement Energy Cost” means the greater of zero or the amount calculated as: ((Mid-C Index Price — Contract Price) X curtailed energy) for periods of Transmission Curtailment.~~

~~1.43. “Transmission Provider(s)” means the signatory (other than the Seller) to the Transmission Agreement.~~

~~1.44.1.27. “Transmission Services” means any and all services (including but not limited to ancillary services and control area services) required for the firm transmission and delivery of Firm Energy from the Facility to the Point-of-Delivery Point, at no for a term not less than the Specified Facility Nameplate Capacity Rating. The Transmission Agreement shall have a term of at least the lesser of (i) five (5) years, with renewal rights, or (ii) until the Expiration Date Term of this Agreement.~~

~~“Transmission Provider(s)” means \_\_\_\_\_, the transmission system operator(s) with whom Seller will enter or has entered into the Transmission Agreement(s) to provide for delivery of Firm Energy from the Facility to the Delivery Point in accordance with this Agreement.~~

~~“WECC” means the Western Electricity Coordinating Council or any successor thereto.~~

~~“WREGIS” means the Western Renewable Energy Generation Information System.~~

## 1.2 Interpretation.

~~In this Agreement, references References to Recitals, Sections, and Exhibits are references to be the recitals, sections and exhibits of this Agreement. The article and section headings in~~

### ~~SECTION 2: TERM; COMMERCIAL OPERATION DATE~~

~~2.1. This Agreement shall become effective upon execution by both Parties (“Effective Date”).~~

~~2.2. Time is of the essence of this Agreement, and Seller's ability to meet certain requirements prior to the Commercial Operation Date and to complete all requirements to establish the Commercial Operation Date is critically important. Therefore,~~

~~2.2.1 By \_\_\_\_\_ [date to be determined by the Seller] Seller shall begin initial deliveries of Net Output; and~~

~~2.2.2 By \_\_\_\_\_ [date to be determined by the Seller subject to Section 2.2.3 below] Seller shall have completed all requirements under Section 1.5 and shall have established the Commercial Operation Date.~~

~~2.2.3 Unless the Parties agree in writing that a later Commercial Operation Date is reasonable and necessary, the Commercial Operation Date shall be no more than three (3) years from the Effective Date. PGE will not unreasonably withhold agreement to a Commercial Operation Date that is more than three (3) years from the Effective date if the Seller has demonstrated that a later Commercial Operation Date is reasonable and necessary.~~

~~2.3. This Agreement shall terminate on \_\_\_\_\_, \_\_\_\_\_ [date to be chosen by Seller but not to exceed 20 years from the date contained in Section 2.2.2], or the date the Agreement is terminated in accordance with Section 8 or 11, whichever is earlier ("Termination Date").~~

### SECTION 3: REPRESENTATIONS AND WARRANTIES

~~3.1. Seller and PGE represent, covenant, and warrant as follows:~~

~~3.1.1. Seller warrants it is a \_\_\_\_\_ duly organized under the laws of \_\_\_\_\_.~~

~~3.1.2. Seller warrants that the execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.~~

~~3.1.3.1.1. Seller warrants that the Facility is and shall for the Term of this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms "includes" or "including" mean "includes but is not limited to" and "including but not limited to," respectively. Words not otherwise continue to be a "Qualifying Facility" ("QF") as that term is defined herein that have well known and generally accepted technical or trade meanings are used in in the version of 18 C.F.R. Part 292 in effect on the Effective Date. Seller has provided the appropriate QF certification, which may include a Federal Energy Regulatory Commission ("FERC") self-certification to PGE prior to PGE's execution of this Agreement. At any time during the Term of this Agreement in accordance with such recognized meanings, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable discretion that the Facility continues to qualify as a QF under all applicable requirements.~~

### ARTICLE 2: TERM; FACILITY; COMMERCIAL OPERATION

2.1 Term.

The term of this Agreement ("Term") commences on the date this Agreement is signed by both Parties ("Effective Date") and ends on the earlier of \_\_\_\_\_ [Seller-selected date or fixed-interval period of time that is no more than 20 years from the Scheduled Commercial Operation Date] ("Expiration Date") or the date on which this Agreement is terminated pursuant to the terms of the Agreement.

2.2 Construction of the Facility.

2.2.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE's system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement. Seller shall, at its sole cost, design and construct the Facility and obtain all transmission and interconnection rights, necessary to enable the delivery of energy from the Facility to the Delivery Point, all in compliance with this Agreement, the Required Facility

Documents, and Prudent Electrical Practices.

2.2.2 Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement may be reviewed by PGE, which review shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE's information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section .

2.3 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with **Exhibit E** (as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility), and shall provide written notice to PGE when the Start-Up Testing has been successfully completed. Seller must provide no less than one (1) business day's written notice to PGE prior to the commencement of Start-Up Testing, and must provide PGE ten (10) business days' written notice prior to commencing sales of Test Energy to PGE. In order to complete Start-Up Testing, Seller may schedule and deliver Test Energy to PGE pursuant to the scheduling procedures set forth in Section , and PGE shall compensate the Seller for delivered Test Energy in accordance with Section . This Section 2.3 does not apply if the Facility is an Existing QF unless the Existing QF elects to conduct Start-Up Testing.

2.4 Commercial Operation.

"**Commercial Operation**" will be achieved when the Facility is fully constructed and determined by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have occurred:

2.4.1 If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with **Exhibit E**, and PGE has received Seller's written certification of completion of Start-Up Testing.

2.4.2 PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that the Facility is interconnected and operational in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.

2.4.3 PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE's reasonable satisfaction, which may include equipment specifications.

2.4.4 PGE has received a letter addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received



a copy of the fully executed Interconnection Agreement and Transmission Agreement(s), and any other Required Facility Documents requested by PGE.

2.4.5 PGE has received the following documents with respect to the Facility: the As-built Supplement, including but not limited to an electrical single-line diagram, a 12x24 estimated net energy profile, a 8760 net energy production estimate, and (for solar QFs) an annual degradation factor.

2.4.6 PGE has received copies of all insurance certificates required under Section .

2.4.7 PGE has received any Credit Support required under Section .

2.4.8 Seller has provided evidence of the registration of the Facility as a generating unit in WREGIS and satisfaction of any other requirements for the recording of RECs in WREGIS.

2.5 Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section , Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, including but not limited to information required in **Exhibit A** and **Exhibit B**. PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, provided that PGE shall not unreasonably withhold such certification. The date of Seller's notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the "**Commercial Operation Date**" for all purposes under this Agreement.

2.6 Scheduled Commercial Operation Date.

By no later than \_\_\_\_\_ ("**Scheduled Commercial Operation Date**"), Seller shall have completed all requirements under Section and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE's negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE's negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date ("**Delay Damages**"). If Commercial Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section .

2.7 Status of the Facility.

2.7.1 Seller shall construct and operate the Facility so as to ensure its status as a Qualifying Facility and in a manner consistent with its FERC Qualifying Facility certification. At any time during the Term, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE's request documentation acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility.

2.7.2 Seller shall not make any changes in its ownership, control or management that would cause the Facility to fail to satisfy the eligibility requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement. Seller shall provide upon request by PGE, not more frequently than every 36 months, any documentation and information as may be reasonably required to establish Seller's continued compliance with the applicable eligibility requirements. PGE shall take reasonable steps to maintain the confidentiality of any such documentation and information that Seller identifies as confidential, provided that PGE may provide all such information to the Commission upon the Commission's request.

### **ARTICLE 3: DELIVERY AND SALE OF ENERGY; SCHEDULING**

#### 3.1 Delivery and Sale of Energy.

Except as otherwise provided in this Agreement, commencing on the Commercial Operation Date and continuing until the end of the Term (the "**Delivery Period**"), Seller shall deliver and sell and PGE shall receive and purchase all of the Net Output delivered as Firm Energy at the Delivery Point. In reliance on Seller's representations and warranties in Section , Seller may also deliver and PGE shall receive and purchase Imbalance Energy delivered at the Delivery Point, subject to Section . Title and risk of loss related to the Product shall transfer from Seller to PGE at the Delivery Point, except that title to Transferred RECs shall transfer to PGE when generated.

#### 3.2 Surplus Delivery.

For purposes of this Agreement, (i) "**On-Peak Energy Imbalance Accumulation**" means total Firm Energy delivered to the Delivery Point during On-Peak Hours during a Billing Period *less* total Net Output during On-Peak Hours during such Billing Period; and (ii) "**Off-Peak Energy Imbalance Accumulation**" means total Firm Energy delivered to the Delivery Point during Off-Peak Hours during a Billing Period *less* total Net Output during Off-Peak Hours during such Billing Period. Any positive On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation shall be deemed "**Surplus Delivery**." PGE shall accept but not pay for Surplus Delivery. Any negative On-Peak Energy Imbalance Accumulation or Off-Peak Energy Imbalance Accumulation during a Billing Period implies that Seller has delivered less than the aggregate Net Output during the applicable hours in the Billing Period. For the avoidance of doubt, the Parties agree that Seller is not entitled to compensation for any portion of total Net Output that exceeds total Firm Energy delivered to the Delivery Point during the applicable Billing Period.

#### 3.3 Estimated Net Output.

Seller's good faith, commercially reasonable estimate of the Facility's monthly and annual average and maximum Net Output during the Delivery Period, and Seller's basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in **Exhibit C**, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes

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modifications to the Facility as provided in Section . Seller acknowledges that PGE will use these estimates in its resource planning.

### 3.4 Minimum Availability Guarantee.

~~3.1.4. Seller hereby guarantees that the Facility will achieve Seller warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and Seller is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

~~3.1.5. Seller warrants that during the Term of this Agreement, all of Seller's right, title and interest in and to the Facility shall be free and clear of all liens and encumbrances other than liens and encumbrances arising from third-party financing of the Facility other than workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.~~

~~3.1.6. Seller warrants that it will design and operate the Facility consistent with Prudent Electrical Practices.~~

~~3.1.7. Seller warrants that the Facility has a Nameplate Capacity Rating not greater than 10,000 kW.~~

~~3.1.8. Seller warrants that Net Dependable Capacity of the Facility is \_\_\_\_\_ kW.~~

~~3.1.9. Seller estimates that the average annual Net Output to be delivered by the Facility to PGE is \_\_\_\_\_ kilowatt-hours ("kWh"), which amount PGE will include in its resource planning.~~

~~3.1.10.3.1.2. Seller represents and warrants that the Facility shall achieve the following Mechanical Availability Percentages that meet or exceed the following ("Minimum("Guarantee of Mechanical Availability Guarantee")):~~

~~3.1.10.13.1.2.1 \_\_\_\_\_ Ninety percent (90%) beginning in the first Contract Year and extending through the Term of this Agreementfor the Facility, if the Facility was operational and sold electricity to PGE or another buyer prior to the Effective Date of this Agreement; or~~

~~3.1.10.23.1.2.2 \_\_\_\_\_ Ninety percent (90%) beginning in Contract Year three and extending throughout the remainder of the Term of this Agreement. .~~

~~3.1.10.33.1.2.3 \_\_\_\_\_ Annually, within 90 calendar days of the end of each Contract Year, Seller shall send to PGE a detailed written report demonstrating and providing evidence of the actual Mechanical Availability PercentageMAP for the previous Contract Year.~~

~~3.1.10.43.1.2.4 \_\_\_\_\_ As a remedy for Seller's failure to satisfymeet the MinimumGuarantee of Mechanical Availability Guarantee in any Contracta Calendar Year, Seller shall owe PGEresult in damages payable to PGE by Seller equal to the Lost Energy Value. PGE shall bill Seller for such damages in accordance with Section 7.~~

3.5 Scheduling Procedures.

~~3.1.11. Seller will deliver from the Facility to PGE at the Point of Delivery Net Output not to exceed a maximum of \_\_\_\_\_ kWh of Net Output during each Contract Year (“Maximum Net Output”). The cost of delivering energy from the Facility to PGE is the sole responsibility of the Seller.~~

~~3.1.12. By the Commercial Operation Date, Seller has entered into a Generation Interconnection Agreement for a term not less than the term of this Agreement.~~

~~3.1.13. PGE warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and PGE is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

~~3.1.14. (See the selection made in the first paragraph of this Agreement to determine whether Option A or Option B applies — only one option applies):~~

~~**Option A:** Seller warrants that (i) the Facility satisfies the eligibility requirements for the Renewable Fixed Price Option specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA” and (ii) Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to not be in compliance with the eligibility requirements for the Renewable Fixed Price Option specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA.” Seller will provide, upon request by PGE not more frequently than every 36 months, such documentation and information as may be reasonably required to establish Seller’s continued compliance with such Definition. PGE agrees to take reasonable steps to maintain the confidentiality of any portion of the above-described documentation and information that the Seller identifies as confidential except PGE will provide all such confidential information to the Public Utility Commission of Oregon upon the Commission’s request.~~

~~**Option B:** Seller warrants that (i) the Facility satisfies the eligibility requirements for a Standard PPA specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA” and (ii) Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to not be in compliance with the eligibility requirements for a Standard PPA specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA.” Seller will provide, upon request by PGE not more frequently than every 36 months, such documentation and information as may be reasonably required to establish Seller’s continued compliance with such Definition. PGE agrees to take reasonable steps to maintain the confidentiality of any portion of the above-described documentation and information that the Seller identifies as confidential except PGE will~~

~~provide all such confidential information to the Public Utility Commission of Oregon upon the Commission's request.~~

~~3.1.15. Seller warrants that it will comply with all requirements necessary for all Transferred RECs (as defined in Section 4.5) associated with Net Output to be issued, monitored, accounted for, and transferred by and through the Western Renewable Energy Generation System consistent with the provisions of OAR 330-160-0005 through OAR 330-160-0050. PGE warrants that it will reasonably cooperate in Seller's efforts to meet such requirements, including, for example serving as the qualified reporting entity for the Facility if the Facility is located in PGE's balancing authority.~~

#### ~~SECTION 4: DELIVERY OF POWER, PRICE AND ENVIRONMENTAL ATTRIBUTES~~

~~4.1. Commencing on the Effective Date and continuing through the Term of this Agreement, Seller shall sell to PGE the entire Net Output delivered from the Facility at the Point of Delivery.~~

~~4.2. PGE shall pay Seller the Contract Price for all delivered Net Output.~~

~~4.3. (See the selection made in the first paragraph of this Agreement to determine whether Option A or Option B applies — only one option applies):~~

~~**Option A:** Upon completion of construction of the Facility, Seller shall provide PGE an As-built Supplement to specify the actual Facility as built. Seller shall not increase the Nameplate Capacity Rating above that specified in Exhibit A or increase the ability of the Facility to deliver Net Output in quantities in excess of the Net Dependable Capacity, or the Maximum Net Output as described in Section 3.1.11 above, through any means including, but not limited to, replacement, modification, or addition of existing equipment, except with prior written notice to PGE. In the event Seller increases the Nameplate Capacity Rating of the Facility pursuant to this section to no more than 3,000 kW (if the Facility produces Net Output through solar generation), or to no more than 10,000 kW (if the Facility does not produce Net Output through solar generation), PGE shall pay the Contract Price for the additional delivered Net Output. In the event Seller increases the Nameplate Capacity Rating of the Facility to greater than 3,000 kW and the Facility produces Net Output through solar generation, then Seller shall be required to enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 3,000 kW. In the event Seller increases the Nameplate Capacity Rating of the Facility to greater than 3,000 kW but no greater than 10,000 kW and the Facility produces Net Output through solar generation, the new power purchase agreement will be (at Seller's choice) either a standard (Schedule 201) power purchase agreement or a negotiated (Schedule 202) power purchase agreement and neither option is eligible for Schedule 201 prices. In the event the Seller increases the Nameplate Capacity Rating to greater than 10,000 kW and the Facility produces Net Output through solar generation, then Seller shall be required to enter into a new negotiated (Schedule 202) power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 3,000 kW. In the event Seller increases the Nameplate Capacity Rating to greater than 10,000 kW and the Facility produces Net Output through means other than solar generation, then Seller shall be required to enter into a new negotiated (Schedule 202) power purchase agreement for~~

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~~all delivered Net Output proportionally related to the increase of Nameplate Capacity above 10,000 kW.~~

~~**Option B:** Upon completion of construction of the Facility, Seller shall provide PGE an As-built Supplement to specify the actual Facility as built. Seller shall not increase the Nameplate Capacity Rating above that specified in Exhibit A or increase the ability of the Facility to deliver Net Output in quantities in excess of the Net Dependable Capacity, or the Maximum Net Output as described in Section 3.1.11 above, through any means including, but not limited to, replacement, modification, or addition of existing equipment, except with prior written notice to PGE. In the event Seller increases the Nameplate Capacity Rating of the Facility to no more than 10,000 kW pursuant to this section, PGE shall pay the Contract Price for the additional delivered Net Output. In the event Seller increases the Nameplate Capacity Rating to greater than 10,000 kW, then Seller shall be required to enter into a new negotiated (Schedule 202) power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 10,000 kW.~~

4.4.4.1. Seller shall provide preschedules for all deliveries of energy hereunder, including identification of receiving and generating control areas, by 9:00:00 PPT on the last business day prior to the scheduled date of delivery. -All energy shall be scheduled according to the most current ~~North America Energy Reliability Corporation (NERC)~~ and ~~Western Electricity Coordinating Council (WECC)~~ scheduling rules and practices.- The Parties' respective representatives shall maintain hourly real-time schedule coordination; provided, however, that in the absence of such coordination, the hourly schedule established by the exchange of preschedules shall be considered final. Seller and PGE shall maintain records of hourly energy schedules for accounting and operating purposes. -The final E-Tag shall be the controlling evidence of the Parties' schedule. -All energy shall be prescheduled according to customary WECC scheduling practices. -Seller shall make commercially reasonable efforts to schedule in any hour an amount equal to its expected Net Output for such hour.- Seller shall maintain a minimum of two years records of Net Output and shall agree to allow PGE to have access to such records and to imbalance information kept by the Transmission Provider. The cost of delivering energy from the Facility to PGE shall be the sole responsibility of the Seller.

### 3.6 Loss of Interconnection and Curtailment.

~~4.5.—PGE shall not be liable to Seller and shall From the start of the Renewable Resource Deficiency Period through the remainder of the Term of this Agreement, Seller shall provide and PGE shall acquire the RPS Attributes for the Contract Years as specified in the Schedule and Seller shall retain ownership of all other Environmental Attributes (if any).— During the Renewable Resource Sufficiency Period, Seller shall retain all Environmental Attributes in accordance with the Schedule. The Contract Price includes full payment for the Net Output and any RPS Attributes transferred to PGE under this Agreement. With respect to Environmental Attributes not transferred to PGE under this Agreement ("Seller-Retained Environmental Attributes") Seller may report under §1605(b) of the Energy Policy Act of 1992 or under any applicable program as belonging to Seller any of the Seller-Retained Environmental Attributes, and PGE shall not report~~

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~~under such program that such Seller Retained Environmental Attributes belong to it. With respect to RPS Attributes transferred to PGE under this Agreement ("Transferred RECs"), PGE may report under §1605(b) of the Energy Policy Act of 1992 or under any applicable program as belonging to it any of the Transferred RECs, and Seller shall not report under such program that such Transferred RECs belong to it.~~

#### SECTION 5: OPERATION AND CONTROL

~~5.1. Seller shall operate and maintain the Facility in a safe manner in accordance with the Generation Interconnection Agreement, and Prudent Electrical Practices. PGE shall have no obligation to purchase the Product Net Output from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, the Facility to the extent that, due to the action of a Reliability Entity, a Force Majeure Event or PGE's construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the ~~the~~ interconnection of the Facility to ~~the~~ PGE's electric system is disconnected, suspended or interrupted, or (ii) ~~in whole or in part, pursuant to the Generation Interconnection Agreement, or to the extent~~ generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller's control.~~

#### ARTICLE 4: PRICE, BILLING AND PAYMENT

##### 4.1 Prices and Payment for Delivered Product.

~~4.1.1 During the Delivery Period, PGE shall pay Seller an amount for Product delivered during a Billing Period calculated as follows: the Contract Price *multiplied by* the lesser of (i) Net Output during the Billing Period or (ii) Firm Energy delivered to the Delivery Point during the Billing Period. PGE shall not pay for Surplus Delivery. An illustrative example is provided in **Exhibit G**. In determining the amount due to Seller for the Product, the amount of Net Output generated in any hour shall be deemed to be zero or greater.~~

~~4.1.2 Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy *multiplied by* the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.~~

~~4.1.3 Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.~~

##### 4.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.

~~By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (and supporting data) ~~as a result of~~ the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice.~~

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Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in **Exhibit G**.

#### 4.3 Invoicing and Payment for Lost Energy Value Related to Minimum Availability Guarantee.

If Seller fails to satisfy the Minimum Availability Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following PGE's receipt of Seller's detailed written report for such Contract Year in accordance with Section , PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, the amount payable by PGE for future deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period of such reduction (not to exceed one year) so as to minimize the risk of Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in **Exhibit G**.

#### 4.4 Form of Payment and Interest on Late Payments.

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.

#### 4.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.

### **ARTICLE 5: METERING**

#### 5.1 Metering.

Metering shall be performed at the location and in a manner consistent ~~Seller's noncompliance~~ with this Agreement, as specified in **Exhibit B**. Seller shall provide to PGE information in hourly increments for all Net Output and any other energy purchased under this Agreement.

#### 5.2 Meter Installation, Inspection and Correction.

Seller shall arrange for the installation, testing, and maintenance of the metering equipment required by Section in accordance with Prudent Electrical Practices. PGE shall have reasonable access to

observe, at its own expense, all inspection, testing, repair and replacement of the metering equipment. Upon request, Seller shall provide documentation regarding all inspection, testing, repair and replacement of the metering equipment.

If the Facility has a revenue grade meter in addition to the meter used to calculate deliveries and payments and the revenue grade meter is installed near the meter used to calculate deliveries and payments, Seller will send an annual report to PGE comparing the readings between the two meters. If the difference between the two meters is more than two percent (2.0%), PGE may request that the meters be recalibrated and that PGE receive the results of the tests. Also, PGE will be notified promptly of any other recalibration or calibration tests on the meter used to calculate deliveries and payments. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter be tested and recalibrated during the term of the ~~the~~ **Generation Interconnection Agreement** and consistent with the terms of this Section. If the Facility does not have a second revenue grade meter that can be used for accurate comparison with the meter used to calculate deliveries and payments, then PGE may request that the project meter be tested and recalibrated 12 months after the Commercial Operation Date, at Seller's expense. If the test demonstrates a variance of more than two percent (2.0%) then PGE may request another test and recalibration twenty-four (24) months after the last test. If the test demonstrates a variance of less than two percent (2.0%), then PGE may not request a test and recalibration at the Seller's expense for thirty-six (36) months. PGE may arrange for testing and recalibration at its own expense, after reasonable notice and opportunity for Seller to have a representative on site.

If any of inspections or tests reveal an error exceeding two percent (2.0%), either fast or slow, appropriate correction, based upon the inaccuracy found, shall be made with respect to previous readings for the period during which the Facility metering equipment rendered inaccurate measurements (such period not to exceed twelve (12) months). If the period of inaccuracy cannot be ascertained, correction shall be made to measurements taken since the metering equipment was last tested, provided that such period shall not exceed three (3) months. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered. Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of the metering inaccuracy.

## **ARTICLE 6: OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES**

### 6.1 Seller's Duty to Operate and Maintain the Facility.

Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices.— Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.—

6.1.1 ~~5.2.~~—Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall ~~agrees to provide~~ copies of the same to PGE upon request.



6.2 Outages.

6.2.1 On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with a schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the Specified Facility Nameplate Capacity Rating for twenty-four (24) or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of Section .

6.2.2 Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable efforts to avoid or mitigate outages during PGE's system emergencies.

6.3 Facility Upgrades.

6.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

6.3.2 At any time after the Commercial Operation Date upon at least six months prior ~~sixty (60) days advance~~ written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in **Exhibit C**, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in **Exhibit C** for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

6.3.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section or Section that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend **Exhibit A** and **Exhibit C** as appropriate to reflect the modifications.

6.3.2.2 So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller will continue to receive the Contract Price for all delivered Net Output.

6.3.3 If Seller increases the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 3,000 kW (solar) or 10,000 kW (all other QFs), consistent with then-current Applicable Law:

6.3.3.1 If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to more than 3,000 kW and no greater than 10,000 kW, then Seller may elect to enter either (a) a standard power purchase agreement with negotiated prices, or (b) a negotiated power purchase agreement with negotiated prices.

6.3.3.2 If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

6.3.3.3 If the Facility produces Net Output through any resource types other than solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

## **ARTICLE 7: ENVIRONMENTAL ATTRIBUTES**

### 7.1 Seller-Retained RECs.

7.1.1 Seller shall retain ownership of all RECs (“Seller-Retained RECs”) and all other Environmental Attributes associated with Net Output of the Facility during the Test Period and during the Renewable Resource Sufficiency Period. PGE shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Seller-Retained RECs belong to any Person other than Seller.

### 7.2 Transferred RECs.

7.2.1 Seller shall transfer to PGE and PGE shall acquire all RECs associated with Net Output from the start of the Renewable Resource Deficiency Period through the remainder of the Term (“Transferred RECs”). PGE’s payments for Product under this Agreement include full payment for all Transferred RECs. Seller shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Transferred RECs belong to any Person other than PGE. PGE shall be entitled to claim all rights associated with the Transferred RECs, including any value in the ownership, use or allocation of RECs created by legislation or regulation after the Effective Date.

7.2.2 Transferred RECs shall be deemed delivered and sold to PGE under this Agreement as they are produced, and title to Transferred RECs shall pass to PGE when generated. The Facility meter at the point of interconnection shall serve as the record source for purposes of calculating, certifying, and auditing Transferred RECs. In the event Seller generates power and associated RECs are transferred but the power is not delivered to PGE by Seller due to a Force Majeure Event, curtailment, or other reason, PGE and Seller will work together in good faith to return such RECs to Seller.

7.2.3 Seller shall comply with all requirements necessary for all Transferred RECs to be issued, monitored, accounted for, and transferred by and through WREGIS, consistent with the provisions of OAR 330-160-0005 through OAR 330-160-0090. Without limiting the generality of the foregoing, Seller shall cause the Facility to implement all necessary generation information

communications in WREGIS, and report generation information to WREGIS pursuant to a WREGIS-approved meter that is dedicated to the Facility and only the Facility. Seller shall cause delivery and transfer of the Transferred RECs to PGE's WREGIS account to be perfected in accordance with WREGIS rules. Seller shall hold the Transferred RECs in trust for PGE until such delivery and transfer is perfected. Each Party shall take such steps and further actions as may be required by WREGIS or Applicable Law in order to effect and confirm the sale and delivery of the Transferred RECs to PGE for all purposes. PGE will reasonably cooperate in Seller's efforts to meet such requirements, including, for example serving as the qualified reporting entity for the Facility if the Facility is located in PGE's Balancing Authority.

7.2.4 All RECs delivered to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.

## **ARTICLE 8: REPRESENTATIONS AND WARRANTIES**

### 8.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

8.1.1 Seller is duly organized and in good standing under the laws of the state of incorporation or formation.

8.1.2 The execution, delivery and performance of this Agreement are within Seller's powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

8.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

8.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

8.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

8.1.6 Either Seller satisfies the requirements set forth in Section through below (the "**Creditworthiness Requirements**"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section .

8.1.6.1 Seller is not and has not been Bankrupt within the past two (2) years, and there are no proceedings pending or being contemplated by Seller or, to Seller's knowledge, threatened against Seller that would result in Seller being or becoming Bankrupt.

8.1.6.2 Seller is not in default under any of its material agreements and is current on all of its financial obligations, including construction-related financial obligations.

8.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

8.1.7 No later than the Commercial Operation Date, Seller will possess a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

8.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

8.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

In connection with Seller's delivery of Firm Energy as required under this Agreement: Seller's delivery of Imbalance Energy, if any, results from Seller's purchase of energy imbalance ancillary service that the Transmission Provider(s) require(s) Seller to procure, as a condition of providing transmission service, in order to correct a mismatch between energy ~~of any scheduled by the Facility and the real-time production~~ maintenance that would require shut down of the Facility, for any period of time.

8.1.10 Seller has the right to sell the Product to PGE free and clear of liens or encumbrances.

~~The Facility generates RECs 5.3. If the Facility ceases operation for unscheduled maintenance, Seller immediately shall notify PGE of the necessity of such unscheduled maintenance, the time when such maintenance has occurred or will occur, and the anticipated duration of such maintenance. Seller shall take all reasonable measures and exercise its best efforts to avoid unscheduled maintenance, to limit the duration of such unscheduled maintenance, and to perform unscheduled maintenance during Off-Peak hours.~~

## SECTION 6: CREDITWORTHINESS

~~8.1.11 In the event Seller: a) is unable to represent or warrant as required by Section 3 that comply with the Oregon Renewable Portfolio Standard.~~

8.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

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8.2.1 It is a corporation duly organized under the laws of Oregon.

8.2.2 This Agreement, and each other document executed and delivered it has not been a debtor in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

8.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order proceeding within the past two (2) years; b) becomes such a debtor during the Term; or the like applicable to it.

8.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its or will not be current on all its financial obligations under this Agreement.

8.2.5 It is not and has not been Bankrupt within the past two (2) years and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

8.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

8.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article 8 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

## **ARTICLE 9: CREDIT SUPPORT**

9.1 Required Credit Support.

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall immediately notify PGE in writing and shall promptly (and in no less than ten (10) business days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) default security in an amount reasonably acceptable to PGE in one of the following forms: Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). In each case, the amount of Credit Support required such default security that shall be calculated as follows: (aggregate number of acceptable to PGE shall be equal to: (annual On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the

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~~weighted average Contract ) x (On Peak Price for On-Peak Hours – the weighted average Contract–  
Off Peak Price for Off-Peak Hours) x) x (Net Available Dependable Capacity). The amount of  
Credit Support required shall be updated annually, on the anniversary of the month Credit Support was first  
required to be provided. The updated amount of Credit Support shall be calculated for each subsequent 12-  
month period, consistent with the calculation described in this Section.~~

~~If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the  
Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written  
request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness  
Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that  
Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business  
days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the  
amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.~~

~~Notwithstanding the foregoing, in the event Seller is not current on construction  
related financial obligations, Seller shall notify PGE of such delinquency and PGE may,  
in its reasonable discretion, grant an exception to the requirements to provide default security  
if the Seller QF has negotiated financial arrangements with the Lender construction loan  
lender that mitigate Seller's financial risk to PGE.~~

#### 9.2 Right to Draw on Credit Support.

~~At any time after the occurrence and during the continuation of an Event of Default, or upon an  
early termination of this Agreement by PGE pursuant to Section , PGE may draw on Seller's Credit Support  
to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the  
Credit Support during the Term, PGE shall inform Seller within fifteen (15) calendar days, and Seller shall  
promptly, and in no more than fifteen (15) calendar days following notice from PGE, restore the Credit  
Support to the amount required under Section . However, for avoidance of doubt, Seller shall have no  
obligation to replenish the Credit Support if PGE has terminated the Agreement.~~

### SECTION 7: BILLINGS, COMPUTATIONS AND PAYMENTS

~~7.1. On or before the thirtieth (30th) day following the end of each Billing Period,  
PGE shall send to Seller payment for Seller's deliveries of Net Output to PGE, together  
with computations supporting such payment. PGE may offset any such payment to reflect  
amounts owing from Seller to PGE pursuant to this Agreement and any other agreement  
related to the Facility between the Parties or otherwise. On or before the thirtieth (30<sup>th</sup>)  
day following the end of each Contract Year, PGE shall bill for any Lost Energy Value  
accrued pursuant to this Agreement.~~

~~7.2. Any amounts owing after the due date thereof shall bear interest at the  
Prime Rate plus two percent (2%) from the date due until paid; provided, however, that  
the interest rate shall at no time exceed the maximum rate allowed by applicable law.~~

### SECTION 8: DEFAULT, REMEDIES AND TERMINATION

#### 9.3 Events of Default.

An “Event of Default” means, with respect to ~~8.1. In addition to any other event that may constitute a Party default under this Agreement, the occurrence of any of the following unless otherwise excused events shall constitute defaults~~ under this Agreement:

~~9.3.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;~~

~~9.3.2 any 8.1.1. Breach by Seller or PGE of a representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;~~

~~the failure of a Party to perform any material covenant or obligation, except for Section 3.1.4, set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party explaining the circumstances supporting the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;-~~

~~with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such 8.1.2. Seller’s failure is not cured to provide default security, if required by Section 6, prior to delivery of any Net Output to PGE or within 30 calendar 10 days of notice.~~

~~9.3.3 8.1.3. Seller’s receipt of written notice from PGE;~~

~~9.3.4 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement or Transmission Agreement(s) within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement or Transmission Agreement(s) at any time during the term of this Agreement;~~

~~9.3.5 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller’s receipt of written notice from PGE;~~

~~9.3.6 with respect to Seller, Seller fails, for any two or more failure to meet the Guarantee of Mechanical Availability established in Section 3.1.10 for two consecutive Contract Years to satisfy the Minimum Availability Guarantee;~~

~~or Seller’s failure to provide any written report required by Section if such failure is not cured within 30 calendar days of Seller’s receipt of written notice from PGE; that section.~~

~~with respect to 8.1.4. If Seller, Seller fails is no longer a Qualifying Facility.~~

~~8.1.5. Failure of PGE to make any required payment pursuant to establish Section 7.1.~~

{00052928.2}



~~8.1.6. Seller's failure to meet the Commercial Operation Date on or before:~~

~~9.3.7 8.2. In the Scheduled Commercial Operation Date, event of a default under Section 8.1.6, PGE may provide Seller with written notice of default. Seller shall have one (1) year in which to cure the default under this Section 10.1.9, during which time the Seller shall pay PGE Delay Damages pursuant to the terms of Section and damages equal to the Lost Energy Value. If Seller is unable to cure the default, PGE may immediately terminate this Agreement as provided in Section .~~

#### 9.4 Lender's Right to Cure a Seller Event of Default.

~~Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under 8.3. PGE's resource sufficiency/deficiency position shall have no bearing on PGE's right to terminate the Agreement under this Section of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement 8.2.~~

#### 9.5 Termination for Default.

~~If an Event 8.3. In the event of Default has occurred and is continuing a default hereunder, except as otherwise provided in this Agreement, the non-defaulting Party may immediately terminate this Agreement at its sole discretion, and without the non-defaulting Party incurring any liability to the defaulting Party, by delivering written notice to the defaulting other Party. In addition, the non-defaulting Party may pursue any and all other legal or equitable remedies available to it, including recovery of damages as set forth below.~~

#### 9.6 Damages.

~~If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value. Amounts owed by Seller pursuant to this Section provided by law or pursuant to this Agreement including damages related to the need to procure replacement power. A termination hereunder shall be due within fifteen (15) business days after any invoice from PGE for the same. Damages owing under effective upon the date of delivery of notice, as provided in Section 20. The rights provided in this Section 10.4 shall be 8 are cumulative and in addition to damages owing pursuant to Sections . , and . An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G such that the exercise of one or more rights shall not constitute a waiver of any other rights.~~

#### 9.7 Payment of Outstanding Obligations.

~~8.4. If this Agreement is terminated pursuant to as provided in this Section , then within thirty (30) calendar days of termination 8, PGE shall make all payments due and owing, within thirty (30) days, that, pursuant to the terms of this Agreement, are owed to Seller as of the time of receipt of notice of termination; provided that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section or otherwise. default. PGE shall not be required to pay Seller for Product any Net Output delivered by Seller after the effective date of any termination such notice of default.~~

9.8 Post-Termination PURPA Status.

~~8.5.~~—In the event (i) PGE terminates this Agreement pursuant to this Article 10 or Seller terminates this Agreement without cause, and (ii) Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, Section 8, and Seller wishes to again sell Net Output to PGE from the Facility following such termination, ~~then~~ PGE ~~in its sole discretion~~ may (but will not be obliged to) require that Seller, its Affiliate, or its successor ~~shall~~ do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to ~~until the t~~ Terms of this Agreement, ~~then (as set forth in Section 2.3)~~ would have run in due course had the Agreement remained in effect. ~~At such time~~ Seller and PGE ~~shall promptly agree to~~ execute a written document ratifying the terms of this Agreement. PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.

~~8.6.~~—Sections ~~8.1, 8.4, 8.5, 10, and 19.2~~ shall survive termination of this Agreement.

SECTION 9: TRANSMISSION CURTAILMENTS

~~9.1.~~—Seller shall give PGE notice as soon as reasonably practicable of any Transmission Curtailment that is likely to affect Seller's ability to deliver any portion of energy scheduled pursuant to Section 4.4 of this Agreement.

~~9.2.~~—If as the result of a Transmission Curtailment, Seller does not deliver any portion of energy (including real-time adjustments), scheduled pursuant to Section 4.4 of this Agreement, Seller shall pay PGE the Transmission Curtailment Replacement Energy Cost for the number of MWh of energy reasonably determined by PGE as the difference between (i) the scheduled energy that would have been delivered to PGE under this Agreement during the period of Transmission Curtailment and (ii) the actual energy, if any, that was delivered to PGE for the period.

SECTION 10: INDEMNIFICATION AND LIABILITY

9.9 Seller's Indemnity.

~~10.1.~~—Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims ~~loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal,~~ resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, Seller's delivery of electric power to PGE or with the facilities at or prior to the Point of Delivery, or otherwise arising out of this Agreement, including the delivery of energy to and at the Delivery Point; (ii) Seller's development, construction, ownership, operation, maintenance ~~without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to,~~ or decommissioning of the Facility; (iii) the violation of any law, rule, order ~~death of, persons,~~ or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, ~~except for damage to, or destruction or economic loss of property belonging to PGE, Seller or others, excepting~~ to the extent such Claim is loss,

~~claim, action or suit may be~~ caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.

9.10 PGE's Indemnity.

~~10.2.~~ PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all ~~Claims, loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal,~~ resulting from, or arising out of or in any way connected with (i) PGE's receipt of energy under electric power from Seller or with the facilities at or after the Point of Delivery, or otherwise arising out of this Agreement after its delivery at the Delivery Point; (ii) the violation of, including without limitation any law, rule, order or regulation by PGE or any of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure to perform any of PGE's obligations under this Agreement; (iv) PGE's breach of any representation, loss, claim, action or warranty set forth in this Agreement; suit, for or (v) PGE's negligence on account of injury, bodily or willful misconduct in connection with this Agreement, except otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PGE, Seller or others, excepting to the extent such Claim is loss, claim, action or suit may be caused by Seller's breach of this Agreement or by the negligence or willful misconduct of Seller, its directors, officers, employees, agents or representatives.

9.11 No Dedication.

~~10.3.~~ Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent Person individual or entity.

9.12 Disclaimer of Consequential Damages.

~~10.4.~~ NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

SECTION 11: INSURANCE

~~11.1.~~ ~~Prior to the connection of the Facility to PGE's electric system, provided such Facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, with an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance policies for bodily injury and property damage liability. Such insurance shall include provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder; a cross-liability or severability of insurance interest clause; and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days' prior written notice to PGE. Initial limits of liability for all~~

{00052928.2}

~~requirements under this section shall be \$1,000,000 million single limit, which limits may be required to be increased or decreased by PGE as PGE determines in its reasonable judgment economic conditions or claims experience may warrant.~~

~~9.13 11.2. Prior to the connection of the Facility to PGE's electric system, provided such facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, in an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance acceptable to PGE against property damage or destruction in an amount not less than the cost of replacement of the Facility. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Certificates of Insurance.~~

~~Seller shall waive its insurers' rights of subrogation against PGE regarding Facility property losses.~~

~~11.3. Prior to the start of deliveries (including Test Energy) under this Agreement, connection of the Facility to PGE's electric system and whenever any required at all other times such insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion ~~and without limitation of other remedies,~~ may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.~~

#### 9.14 Required Insurance.

~~Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than "B+" by the A.M. Best Company the insurance coverage specified below:~~

~~9.14.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.~~

9.14.2 All Risk Property Insurance providing coverage in an amount at least equal to the full replacement value of the Facility against “all risks” of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk Policy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar Facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the facility is destroyed or substantially destroyed, it may terminate this Agreement. SECTION 12: Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers’ rights of subrogation against PGE regarding Facility property losses.

9.15 Required Provisions.

9.15.1 The Comprehensive General Liability Policy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

9.15.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days’ prior written notice to PGE.

9.15.3 Insurance coverage provided on a “claims-made” basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

**FORCE MAJEURE**

9.16 Definition of “Force Majeure.”

12.1.—As used in this Agreement, “Force Majeure” or “~~an event of~~ Force Majeure Event” means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party’s from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: ~~cause beyond the reasonable control of the Seller or of PGE which, despite the exercise of due diligence, such Party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to~~ acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) ~~which by the exercise of reasonable foresight such Party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome, subject, in~~



~~each case, to the requirements of the first sentence of this paragraph. Force Majeure, however, specifically excludes the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility's equipment, or (viii) smoke, haze, ash or other obstruction of sunlight (except to the extent such obstruction is caused by fires or volcanic eruptions), and obligations for the payment of money when due.~~

#### 9.17 Effect of Force Majeure.

~~12.2.~~—If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: (i)

~~12.2.1.~~—the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section of this Agreement describing the particulars of the occurrence; (ii) and

~~12.2.2.~~—the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the non-performing Party uses commercially reasonable efforts to remedy its inability to perform its obligations under this Agreement.

### ARTICLE 10: GENERAL PROVISIONS

#### 10.1 Relationship of the Parties.

~~12.2.3.~~—~~the non-performing Party uses its best efforts to remedy its inability to perform its obligations under this Agreement.~~

~~12.3.~~—~~No obligations of either Party which arose before the Force Majeure causing the suspension of performance shall be excused as a result of the Force Majeure.~~

~~12.4.~~—~~Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.~~

### SECTION 13: SEVERAL OBLIGATIONS

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such party shall be jointly and severally liable for Seller's obligations under this Agreement.

#### 10.2 No Third Party Beneficiaries.

{00052928.2}

STANDARD RENEWABLE OFF-SYSTEM VARIABLE POWER PURCHASE AGREEMENT

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This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

### 10.3 Governing Law.

#### SECTION 14: CHOICE OF LAW

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~**which** may direct the application of the laws of another jurisdiction.

Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement ~~SECTION 15: PARTIAL INVALIDITY AND PURPA REPEAL~~

~~It is subject to~~**not** the ~~jurisdiction~~**intention** of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, ~~to violate any laws governing the subject matter of this Agreement. If any~~ complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute.

The public utility's compliance with ~~of the terms of~~ this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

### 10.4 Severability.

If any of the terms of this~~the~~ Agreement are finally held or determined to be invalid, illegal or void as being contrary to any ~~Applicable Law~~**applicable law** or public policy, all other terms of this~~e~~ Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any ~~Applicable Law~~**applicable law** and the intent of the Parties to this Agreement.

### 10.5 Effect of ~~In the event the Public Utility Regulatory Policies Act (PURPA Repeal.~~

The repeal of PURPA shall not result in the early termination of)~~is repealed~~, this Agreement ~~shall not terminate prior to the Termination Date~~, unless such termination is mandated by state or federal law.

### 10.6 Waiver.

#### SECTION 16: WAIVER

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.



10.7 Survival.

Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.

10.8 Successors and Assigns.

SECTION 17: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

~~This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party or this Agreement. Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide upon request copies of the same to PGE.~~

SECTION 18: SUCCESSORS AND ASSIGNS

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. ~~Neither party may assign any of its rights or delegate any of its obligations hereunder. No assignment hereof by either Party shall become effective without the prior written consent of the other party, which Party being first obtained and such consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that, Notwithstanding the foregoing, either pParty may assign its rights or delegate its obligations, in whole or in part, this Agreement without such the other Party's consent and upon thirty (30) calendar days' prior written notice to the other party, to an entity that acquires all as part of (a) a sale of all or substantially all of the business or assigning Party's assets of the assigning party to which this Agreement pertains, whether by, or (b) a merger, consolidation or other reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective. Party.~~

10.9 Financing Documents.

Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and expense associated with PGE's review and activities reasonably required under this Section 14.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE's sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.

{00052928.2}

10.10 Entire Agreement; Amendments; Order of Precedence.

SECTION 19: ENTIRE AGREEMENT

~~19.1.~~ This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding ~~the contents of the Agreement, including PGE's~~ PGE's purchase of ~~energy~~ Net Output from the Facility. No ~~amendment or~~ modification of this Agreement shall be effective unless it is in writing and signed by both ~~parties.~~ Parties. ~~If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail.~~

10.11 Seller Release.

~~19.2.~~ By executing this Agreement, Seller releases PGE from any ~~third party~~ claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

10.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

10.13 Notices.

SECTION 20: NOTICES

~~20.1.~~ All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered ~~if delivered in person or~~ when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.

<u>Notices</u>	<u>PGE</u>	<u>Seller</u>
	<u>Portland General Electric</u> <u>C/O QF Contract Management</u> <u>3WTC-0306</u> <u>121 SW Salmon St</u> <u>Portland, OR 97204</u>	

To Seller: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

with a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To PGE: \_\_\_\_\_ Contracts Manager  
\_\_\_\_\_ QF Contracts, 3WTC0306  
\_\_\_\_\_ PGE - 121 SW Salmon St.  
\_\_\_\_\_ Portland, Oregon 97204

~~20.2~~—The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section ~~14.13. 20.~~

*Signature Page Follows.*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
(Name Seller)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



EXHIBIT A

FACILITY DESCRIPTION OF SELLER'S FACILITY

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

Seller's Facility consists of generators fueled by \_\_\_\_\_.

Location of the Facility: The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_, with GPS coordinates of \_\_\_\_\_.

The location is more particularly described as follows:  
[legal description of parcel]

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section ).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating and the Net Available Capacity:

\_\_\_\_\_  
\_\_\_\_\_

Interconnection Rating: \_\_\_\_\_ kW (the Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

\_\_\_\_\_

Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

As-built Average Annual Degradation Percentage (applicable only to QFs with solar Generation Units).

**{Seller to Complete}**

~~[Sellers may include reasonable expected monthly Net Output for purposes of Section 1.35 (Start-Up Lost Energy Value). Amounts may vary by month and shall be assumed repeated for each Contract Year, unless amounts for each Contract Year of this Agreement are set forth in this Exhibit A. Such amounts, if provided, shall exceed zero, and shall be established in accordance with Prudent Electrical Practices and documentation supporting such a determination shall be provided to PGE upon execution of this Agreement. Such documentation shall be commercially reasonable, and may include, but is not limited to, documents used in financing the project, and data on output of similar projects operated by seller, PGE or others.]~~

EXHIBIT B

**SELLER’S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES**

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

Point of Delivery: \_\_\_\_\_

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Entity with whom the Facility is or will be interconnected: \_\_\_\_\_

Transmission Provider(s): \_\_\_\_\_

**C. The following information shall be provided in the As-built Supplement prior to Commercial Operation:**

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):  
\_\_\_\_\_  
\_\_\_\_\_

~~Specification of Point of~~ **REQUIRED FACILITY DOCUMENTS**

**~~{Seller list all permits and authorizations required for this project}~~**

~~Sellers-Generation~~ Interconnection:

\_\_\_\_\_  
-Agreement





## EXHIBIT C

**SELLER'S NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output during the Delivery Period, and the resulting Estimated Annual Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output (as measured at the Facility meter at the Point of Interconnection)**

<u>Month</u>	<u>Estimated Monthly Average Net Output (kWh)</u>		<u>Percentage of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%)</u>		<u>Estimated Monthly Maximum Net Output (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>						
<u>February</u>						
<u>March</u>						
<u>April</u>						
<u>May</u>						
<u>June</u>						
<u>July</u>						
<u>August</u>						
<u>September</u>						
<u>October</u>						
<u>November</u>						
<u>December</u>						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated Annual Average Net Output: \_\_\_\_\_ kWh  
(sum of Estimated Monthly Average Net Output)

Estimated Annual Maximum Net Output: \_\_\_\_\_ kWh  
(sum of Estimated Monthly Maximum Net Output)

EXHIBIT DCOLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM(Power Purchase Agreement – )

This Collateral Assignment and Consent Agreement (the “*Agreement*”) is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY** (“*PGE*” or “*Buyer*”), [INSERT LENDER], a \_\_\_\_\_ company (the “*Lender*”), and [INSERT SELLER], a \_\_\_\_\_ company (the “*Borrower*” or “*Seller*”) (the “*Parties*” or each a “*Party*”).

RECITALS

A. \_\_\_\_\_ Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the “*Loan Agreement*”), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.

B. \_\_\_\_\_ Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the “*PPA*” or the “*Assigned Agreement*”), a copy of which is attached as *Exhibit A*, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power from which Seller shall sell and PGE shall purchase Net Output (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).

C. \_\_\_\_\_ As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the “*Security Agreement*”), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other “Collateral” defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the “*Secured Obligations*”). The Loan Agreement and the Security Agreement are referred to herein as the “*Security Documents*.”

AGREEMENTS

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. \_\_\_\_\_ Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower’s right, title and interest in and to the Assigned Agreement.

2. \_\_\_\_\_ Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller’s rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such

tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

With a copy to:

If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

If to Lender:

With a copy to:

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**EXHIBIT E**  
**START-UP TESTING**

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing.]

**[Seller identify appropriate tests]**

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

1. Pressure tests of all steam system equipment;
2. Calibration of all pressure, level, flow, temperature and monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Insulation resistance and point-to-point continuity tests;
6. Bench tests of all protective devices;
7. Tests required by manufacturer of equipment; and
8. Complete pre-parallel checks with PGE.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

1. Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
2. Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Stator windings dielectric test;
7. Armature and field windings resistance tests;
8. Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
9. Heat runs;
10. Tests required by manufacturer of equipment;
11. Excitation and voltage regulation operation tests;
1. 12. Open circuit and short circuit;

Ssaturation tests;

13. Governor system steady state stability test;
14. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;



- ~~15.~~ Auto stop/start sequence;
16. Level control system tests; and
17. Completion of all state and federal environmental testing requirements.

~~EXHIBIT D~~

**EXHIBIT F**

SCHEDULE 201

[Attach ~~currently in-effect~~ Schedule 201]

~~EXHIBIT E~~

**EXHIBIT G**

**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**

**EXHIBIT H**

**NEGOTIATED CONTRACT PRICES**

**[Attach negotiated prices for Option B – Solar Standard Terms and ~~On-Peak and Off-Peak~~  
Negotiated Price ~~Contract Prices if Option B is~~  
~~selected in the first paragraph of the Agreement, otherwise delete Exhibit E]~~**

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EXHIBIT H – NEGOTIATED PRICES FOR OPTION B, SOLAR STANDARD TERMS AND  
NEGOTIATED PRICE AGREEMENT (IF APPLICABLE)

**STANDARD RENEWABLE ~~ON-System~~ NON-VARIABLE  
-POWER PURCHASE AGREEMENT**

**BETWEEN**

**[COUNTERPARTY NAME]**

**AND**

**PORTLAND GENERAL ELECTRIC COMPANY**

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Exhibits

<u>Exhibit A</u>	<u>Description of Facility</u>
<u>Exhibit B</u>	<u>Seller’s Interconnection Facilities and Delivery Attributes</u>
<u>Exhibit C</u>	<u>Seller’s Net Output Estimates</u>
<u>Exhibit D</u>	<u>Collateral Assignment and Consent Agreement Form</u>
<u>Exhibit E</u>	<u>Start-Up Testing</u>
<u>Exhibit F</u>	<u>Schedule 201</u>
<u>Exhibit G</u>	<u>Illustrative Examples of Payment and Lost Energy Value Calculations</u>

**STANDARD RENEWABLE ON-SYSTEM NON-VARIABLE  
POWER PURCHASE THIS AGREEMENT**

This STANDARD RENEWABLE ON-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT (“Agreement”) is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] (“~~\_\_\_\_\_~~” (“Seller”)) and Portland General Electric Company, an Oregon corporation (“PGE”) (hereinafter each a “Party” and/or collectively, “Parties”) and is effective upon execution by both Parties (“Effective Date”).

**RECITALS**

A. [New QF] Seller intends to construct, own, operate and maintain a New QF ~~[identify resource type]~~ facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_ with a Nameplate Capacity Rating of \_\_\_\_\_ kilowatt (“kW”), as further described in Exhibit ~~A~~B (“Facility”); and Exhibit B.

A. [Existing QF] Seller owns and intends to operate and maintain an Existing QF ~~[identify resource type]~~ facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in Exhibit A and Exhibit B.

B. Seller intends to operate the Facility as a “Qualifying Facility,” as ~~that~~such term is defined in the FERC regulations codified at 18 CFR Part 292 ~~Section 3.1.3~~, below.



C. ~~\_\_\_\_\_ Seller wishes to~~**shall** sell and PGE ~~is willing to~~**shall** purchase the ~~entire~~-Net Output, ~~as such term is defined in Section 1.19, below,~~ from the Facility, ~~subject to and~~ in accordance with the terms and conditions of this Agreement, ~~and Seller wishes to provide energy and capacity pursuant to this Agreement.~~

## AGREEMENT

NOW, THEREFORE, the Parties ~~mutually~~ agree as follows:

### SECTION 1: DEFINITIONS AND CONTRACT INTERPRETATION

#### 1.1 Defined Terms.

~~For all purposes of~~When used in this Agreement, the following terms shall have the following meanings:

“Adjusted Delivered Net Output” means, for any given period, Net Output delivered as Firm Energy to the Delivery Point during the period *plus* Net Output that would have been delivered as Firm Energy to the Delivery Point during any period in which Seller was excused from its delivery obligations due to a Force Majeure Event, based on the Estimated Monthly Average Net Output set forth in **Exhibit C** (pro-rated for partial months as applicable).

“Affiliate” means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

“Agreement” means this Standard Renewable On-System Non-Variable Power Purchase Agreement and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

“Alternative Minimum Net Output” has the meaning set forth in **Exhibit C**.

“Ancillary Services” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services.”

“Applicable Law” means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.

1.1. “As-built Supplement” means ~~at~~the supplement to Exhibit A and Exhibit B provided by Seller in accordance with Section 4.4 following completion of construction of the Facility, or modifications to the Facility, which describes~~describing~~ the Facility as actually built.

“Balancing Authority” means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to the Facility.

“Bankrupt” means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against  
2{00052930.2}

STANDARD RENEWABLE ON-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT

it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, or (iii) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets.

“Billing Period” means one calendar month.

“Business Day” means any day other than Saturday, Sunday or the following holidays: New Year’s Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.

~~1.2. “Billing Period” means a period between PGE’s readings of its power purchase billing meter at the Facility in the normal course of PGE’s business. Such periods may vary and may not coincide with calendar months, however, PGE shall use best efforts to read the power purchase billing meter in 12 equally spaced periods per year.~~

~~4.3.1.2. “Cash Escrow” means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller’s placement of cash in by two parties to place money into the custody of the escrow agent a third party for delivery to PGE a grantee only after the fulfillment of any of the conditions specified in Section . Amounts in the Cash Escrow shall earn interest at the rate applicable to money market deposits at escrow agent.~~

“Claims” means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.

“Commercial Operation” has the meaning given to it in Section .

“Commercial Operation Date” has the meaning given to it in Section .

“Commission” means the Public Utility Commission of Oregon.

“Contract Price” means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under the Renewable Fixed Price Option for \_\_\_\_\_ [specify applicable Renewable Fixed Price Option based on resource type, in accordance with Schedule], as published in the Schedule and attached as Exhibit F, and thereafter, for the remainder of the Term, the Daily Market Index Price in effect during the interval when the energy is generated.

~~1.4. “Commercial Operation Date” means the date that the Facility is deemed by PGE to be fully operational and reliable. PGE may, at its discretion, require, among other things, that all of the following events have occurred:~~

~~1.4.1. (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from a Licensed Professional Engineer ("LPE") acceptable to PGE in its reasonable judgment stating that the Facility is able to generate electric power reliably in amounts required by this Agreement and in accordance with all other terms and conditions of this Agreement (certifications required under this Section 1.4 can be provided by one or more LPEs);~~

~~1.4.2. Start-Up Testing of the Facility has been completed in accordance with Section 1.29;~~

~~1.4.3. (facilities with nameplate under 500 kW exempt from following requirement) After PGE has received notice of completion of Start-Up Testing, PGE has received a certificate addressed to PGE from an LPE stating that the Facility has operated for testing purposes under this Agreement uninterrupted for a Test Period at a rate in kW of at least 75 percent of average annual Net Output divided by 8,760 based upon any sixty (60) minute period for the entire testing period. The Facility must provide ten (10) working days written notice to PGE prior to the start of the initial testing period. If the operation of the Facility is interrupted during this initial testing period or any subsequent testing period, the Facility shall promptly start a new Test Period and provide PGE forty-eight (48) hours written notice prior to the start of such testing period;~~

~~1.4.4. (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from an LPE stating that in accordance with the Generation Interconnection Agreement, all required interconnection facilities have been constructed, all required interconnection tests have been completed; and the Facility is physically interconnected with PGE's electric system.~~

~~1.4.5. (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from an LPE stating that Seller has obtained all Required Facility Documents and if requested by PGE in writing, has provided copies of any or all such requested Required Facility Documents;~~

~~1.5. "Contract Price" means the applicable price, including on-peak and off-peak prices, as specified in the Schedule.~~

~~1.6.1.3. "Contract Year" means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time ("PPT") on January 1 and ending at 24:00 hours PPT on December 31; provided, however, that the first Contract Year shall commence on upon the Commercial Operation Date or its anniversary during the Term, except the Commercial Operation Date and end on December 31<sup>st</sup> of the calendar final contract year in which the Commercial Operation Date occurs, and will be the period from the last Contract Year shall end on the last day anniversary of the Commercial Operation Date during the Term, until the end of the Term.~~

~~1.7.1.4. "Credit Support Effective Date" has the meaning given to it set forth in Section 2.1.~~

~~1.8. "Environmental Attributes" shall mean any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance to the air, soil or~~

~~water. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil, or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere.~~

~~1.9. "Facility" has the meaning set forth in the Recitals.~~

~~1.10. "Forward Replacement Price" means the price at which PGE, acting in a commercially reasonable manner, purchases for delivery at the Point of Delivery a replacement for any Net Output that Seller is required to deliver under this Agreement plus (i) costs reasonably incurred by PGE in purchasing such replacement Net Output, and (ii) additional transmission charges, if any, reasonably incurred by PGE in causing replacement energy to be delivered to the Point of Delivery. If PGE elects not to make such a purchase, costs of purchasing replacement Net Output shall be at the Mid-C Index Price for such energy not delivered, plus any additional cost or expense incurred as a result of Seller's failure to deliver, as determined by PGE in a commercially reasonable manner (but not including any penalties, ratcheted demand or similar charges).~~

~~1.11. "Generation Interconnection Agreement" means the generation interconnection agreement to be entered into separately between Seller and PGE, providing for the construction, operation, and maintenance of interconnection facilities required to accommodate deliveries of Seller's Net Output.~~

~~1.12. "Letter of Credit" means an engagement by a bank or other person made at the request of a customer that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the letter of credit.~~

~~"Licensed Professional Engineer" or "LPE" means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.~~ "Creditworthiness Requirements" has the meaning given to it in Section .

~~1.13. "Daily Market~~

~~1.14. "Lost Energy Value" means for a Contract Year: zero plus any reasonable costs incurred by PGE to purchase replacement power and/or transmission to deliver the replacement power to the Point of Delivery, unless the Contract Year's Net Output is less than the Minimum Net Output and the Contract Year's time weighted average of the Mid-C Index Price for On-Peak Hours and Off-Peak Hours is greater than the time weighted average of the Contract Price for On-Peak Hours and Off-Peak Hours for that Contract Year, in which case Lost Energy Value equals: (Minimum Net Output - Net Output for the~~

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STANDARD RENEWABLE ON-SYSTEM NON-VARIABLE POWER PURCHASE AGREEMENT

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~~Contract Year) X (the lower of: the time weighted average of the Contract Price for On-Peak and Off-Peak Hours; or the time weighted average of the Mid-C Index Price for On-Peak Hours and Off-Peak Hours — the time weighted average of the Contract Price for On-Peak Hours and Off-Peak Hours) plus any reasonable costs incurred by PGE to purchase replacement power and/or transmission to deliver the replacement power to the Point of Delivery.~~

~~1.15.1.5.~~ “Mid-C Index Price” means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>~~https://www.theice.com/products/OTC/Physical-Energy/Electricity.~~ In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Point of Interconnection~~Mid-C trading hub~~.

~~“Delay Damages” has “Minimum Net Output” shall have the meaning given to it~~provided in Section .

“Delivery Period” has the meaning given to it in Section .

“Effective Date” has the meaning given to it in Section .

“Environmental Attributes” shall mean any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gasses (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere. Environmental Attributes do not include (i) production tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, or (ii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits.

“Estimated Annual Average Net Output” means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Annual Maximum Net Output” means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Average Net Output” means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Maximum Net Output” means the relevant amount specified in **Exhibit C**, as reasonably updated by Seller when Seller issues an As-built Supplement.

~~1.16.1.6.~~ “Existing QF” means a QF that (1) is or has been operational before the Effective Date~~4.2~~ of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party. -



“Expiration Date” has the meaning given to it in Section .

“Facility” is the entire facility as specified in Exhibit A and Exhibit B.

“Facility Nameplate Capacity Rating” means the ~~sum~~maximum capacity of the Nameplate Capacity Ratings for all Generation Units comprising the Facility.

“FERC” means the Federal Energy Regulatory Commission or any successor government agency.

“Force Majeure” or “Force Majeure Event” has the meaning given to it in Section .

“Generator” means the electrical component within the Facility measured in kW that converts mechanical energy into electrical energy.

“Generation Unit” means a complete electrical generation system within the Facility that is able to generate and deliver energy to the Point of Interconnection independent of other Generation Units within the same Facility.

“Governmental Authority” means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

“Interconnection Agreement” means an agreement between PGE and Seller governing the interconnection of the Facility with PGE’s electric system.

“kW” and “kWh” mean kilowatt and kilowatt hour, respectively.

“Lender” means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.

“Letter of Credit” means an irrevocable standby letter of credit from an institution selected ~~as stated~~ by the Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

“Licensed Professional Engineer” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in , and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.

“Lost Energy” means (~~expressed in~~ kWh):

- A. In connection with a Facility after the Commercial Operation Date, if Seller fails to meet the Minimum Delivery Guarantee, then with respect to a Contract Year, an amount equal to the Minimum Net Output less the Adjusted Delivered Net Output; or
- B. In connection with a Facility that does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see **Exhibit C**) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual Commercial Operation Date or contract termination pursuant to Section 10. The Estimated Monthly Average Net Output shall be pro-rated for any partial months; or
- C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 10 of this Agreement because of Seller’s default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see **Exhibit C**) for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see **Exhibit C**) for each month from the date of termination through the end of the Term. The Estimated Monthly Average Net Output shall be pro-rated for any partial months.

“Lost Energy Value” means:

- A. In connection with Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly to each calendar month in the Contract Year and then allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in **Exhibit C** (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year *plus* any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period); and
- The Off-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period).

If the above calculation of the Lost Energy Value for the Contract Year results in a negative value, the Lost Energy Value for the Contract Year shall be deemed zero. See the example calculation in **Exhibit G**.

- B. In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during ~~kW~~, which Seller has failed to establish the Commercial Operation Date on or

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before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below) *plus* any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

The monthly calculation of Lost Energy Value equals the sum of the following:

~~4.17.1.7.~~ The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for On-Peak Hours *less* the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) **shall not exceed** the Contract Price for On-Peak Hours for the same period; ~~and 10,000 kW.~~

- The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.

If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in **Exhibit G**.

C. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for On-Peak Hours for the period *less* the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for Off-Peak Hours for the period *less* the Contract Price for Off-Peak Hours for the period); and
- Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in **Exhibit G**.

“Minimum Delivery Guarantee” has the meaning given to it in Section .

“Minimum Net Output” means, for a Contract Year, seventy-five percent (75%) of the Estimated Annual Average Net Output from the Facility for the period as set forth in Exhibit C (pro-rated as required for partial Contract Years and partial months, as applicable), unless Seller selects an Alternative Minimum Net Output consistent with the terms of Exhibit C of this Agreement (pro-rated for any period less than 12 calendar months), in which case the Minimum Net Output equals the selected Alternative Minimum Net Output.

“Nameplate Capacity Rating” means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.

“NERC” means the North American Electric Reliability Corporation.

“Net Available Capacity” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Point of Interconnection continuously for sixty (60) minutes.

~~4.18. “Net Output” means all energy, “Net Dependable Capacity” means the maximum capacity the Facility can sustain over a specified period modified for seasonal limitations, if any, and reduced by the capacity required for station service or auxiliaries.~~

~~4.19.1.8. “Net Output” means all energy expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the Point of Interconnection. and less transformation and transmission losses.~~

“New QF” means any QF that is not an Existing QF.

~~4.20. “Off-Peak Hours” means all hours other than has the meaning provided in the Schedule.~~

~~4.21.1.9. “On-Peak Hours” has the meaning provided in the Schedule.~~

“On-Peak Hours” means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.

“Oregon Renewable Portfolio Standard” means the renewable portfolio standard contemplated by ORS 469A.005 to 469A.200, and the implementing regulations, in each case as in effect on the Effective Date of this Agreement.

“Person” means any individual, corporation, limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.

“Planned Maintenance” means outages scheduled 90 calendar days in advance, with prior written notice to PGE.

~~4.22.1.10. "Point of Interconnection" means Delivery" means the high side of the generation step-up transformer(s) located at the point of interconnection between the Facility and PGE's PGE's distribution or transmission system, as specified in Exhibit B, the Generation Interconnection Agreement.~~

~~4.23.1.11. "Prime Rate" means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.~~

~~"Product" means, each and together, as a single bundled product, Net Output together with all associated capacity and Transferred RECs.~~

~~4.24.1.12. "Prudent Electrical Practices" means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the WECC Western Electricity Coordinating Council that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all Applicable Law, applicable laws and regulations. Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.~~

~~"PURPA" means the Public Utility Regulatory Policies Act of 1978.~~

~~"Qualifying Facility" has the meaning set forth in the Recitals.~~

~~4.25. "REC" means Environmental Attributes and REC Reporting Rights, however commercially transferred or traded under any or other product names, such as "green tags," "Green-e Certified," or otherwise. RECs are accumulated on a MWh basis and one REC represents the Environmental Attributes and REC Reporting Rights made available by the generation of one MWh of energy by the Facility, as represented by the actual Net Output on an hourly basis. RECs do not include: (i) "Required Facility Documents" means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility including without limitation those set forth in Exhibit C.~~

~~4.26.1.13. "RPS Attributes" means all attributes related to the Net Output generated by the Facility that are required in order to provide PGE with "qualifying electricity," as that term is defined in Oregon's Renewable Portfolio Standard Act, Ore. Rev. Stat. 469A.010, in effect at the time of execution of this Agreement. RPS Attributes do not include Environmental Attributes that are greenhouse gas offsets from methane~~

capture not associated with the generation of electricity and not needed to ensure that there are zero net emissions associated with the generation of electricity; or (ii) thermal renewable energy certificates as defined in ORS 469A.132 and the implementing regulations. All RECs transferred to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.

“REC Reporting Rights” are the rights of a Person to report the ownership of accumulated RECs in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at such Person’s discretion, and include without limitation those REC Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present federal, state, or local law, regulation or bill, and international or foreign emissions trading program.

“Reliability Entity” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

“Renewable Resource Deficiency Period” means the period beginning January 1, 2025 through the termination or Expiration Date of this Agreement.

“Renewable Resource Sufficiency Period” means the period through 2024.

“Replacement Price” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at the Mid-Columbia trading hub for any Net Output that Seller fails to deliver as required under this Agreement.

When the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Delivery Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices shall be calculated as follows for each applicable calendar month (or partial calendar month):

- For Lost Energy During On-Peak Hours: the hourly average of the on-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).
- For Lost Energy During Off-Peak Hours: the hourly average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

When the Replacement Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 10, the Replacement Price shall be the respective On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices during the applicable period.

“Required Facility Documents” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as the Interconnection Agreement.

4.27.1.14. “Schedule” means PGE’s ~~shall mean PGE~~ Schedule 201 filed with the Oregon Public Utilities Commission ~~and (“Commission”)~~ in effect on the date that Seller delivers to PGE an executed copy ~~Effective Date~~ of this Agreement. For ease of reference and informational

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~~purposes only, a copy of the Schedule is attached hereto as Exhibit F; however, if there is any difference between Exhibit F and the Schedule E, the terms of the Schedule shall apply and prevail, which are hereby incorporated by reference.~~

~~“Scheduled Commercial Operation Date” has the meaning given to it in Section .~~

~~“Seller-Retained RECs” has the meaning given to it in Section .~~

~~1.28.1.15. “Senior Lien” means a prior lien that which has precedence as to the property under the lien over another lien or encumbrance.~~

~~“Specified Facility Nameplate Capacity Rating” means the Facility Nameplate Capacity Rating set forth in Exhibit A, as it may be amended from time to time in accordance with this Agreement.~~

~~1.29.1.16. “Start-Up Testing” means the performance completion of applicable required factory and start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in Exhibit E (as it may be updated by Seller) during the Test Period D.~~

~~1.30.1.17. “Step-in Rights” means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.~~

~~“Term” has the meaning given to it in Section .~~

~~1.31. “Term” shall mean the period beginning on the Effective Date and ending on the Termination Date.~~

~~“Test Energy” means electric energy generated by the Facility during the Test Period.~~

~~“Test Period” means shall mean a period during which Start-Up Testing is to be conducted.~~

~~“Transferred RECs” has the meaning given to it in Section .~~

~~1.32.1.18. “WECC” means the Western Electricity Coordinating Council of sixty (60) days or any successor thereto a commercially reasonable period determined by the Seller.~~

~~“WREGIS” means the Western Renewable Energy Generation Information System.~~

## 1.2 Interpretation.

~~In this Agreement, references to Recitals, Sections, and Exhibits are references to the recitals, sections and exhibits of this Agreement. The article and section headings in this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms “includes” or “including” mean “includes but is not limited to” and “including but not limited to,” respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in this Agreement in accordance with such recognized meanings.~~

~~1.33. References to Recitals, Sections, and Exhibits are to be the recitals, sections and exhibits of this Agreement.~~



SECTION 2: TERM; FACILITY; COMMERCIAL OPERATION DATE1.3 Term.

~~2.1. The term of this Agreement (“Term”) commences on the date this Agreement is signed shall become effective upon execution by both Parties (“Effective Date”).~~

~~2.2. Time is of the essence of this Agreement, and ends on the earlier of [Seller-selected date or fixed-interval period of time that is no more than 20 years from the Scheduled Seller's ability to meet certain requirements prior to the Commercial Operation Date] (“Expiration Date”) or the date on which this Agreement is terminated pursuant to and to complete all requirements to establish the Commercial Operation Date is critically important. Therefore,~~

~~2.2.1. By \_\_\_\_\_ [date to be determined by the Seller] Seller shall begin initial deliveries of Net Output; and~~

~~By \_\_\_\_\_ [date to be determined by the terms of the Agreement.~~

1.4 Construction of the Facility.

~~1.4.1 Development, design, construction, and operation of the Facility and delivery of energy therefrom to PGE’s system, as applicable, is the sole responsibility of Seller and its successors and assigns, as may be managed by Seller in its sole discretion consistent with the terms of this Agreement. subject to Section 2.2.3 below] Seller shall, at its sole cost, design and construct the Facility and obtain all interconnection rights, necessary to enable the delivery of energy from the Facility to the Point of Interconnection, all in compliance with this Agreement, the Required Facility Documents, and Prudent Electrical Practices.~~

~~1.4.2 Prior to Commercial Operation and upon completion of any subsequent construction affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete Facility as built. The As-built Supplement may be reviewed by PGE, which review shall not be unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction, operation or maintenance of the Facility or documents pertaining thereto is solely for PGE’s information, and PGE shall have no responsibility to Seller or any third party in connection with such review. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is intended to authorize modifications to the Facility except as permitted pursuant to Section .~~

1.5 Start-Up Testing.

~~Seller shall perform Start-Up Testing of the Facility in accordance with **Exhibit E** (as may be updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the design of the constructed Facility), and shall provide written notice to PGE when the Start-Up Testing has been successfully completed. Seller must provide no less than one (1) business days’ written notice to PGE prior to the commencement of Start-Up Testing, and must provide PGE ten (10) business day’s written notice prior to commencing sales of Test Energy to PGE. PGE shall compensate the Seller for delivered~~

Test Energy in accordance with Section . This Section 2.3 does not apply if the Facility is an Existing QF unless the Existing QF elects to conduct Start-Up Testing.

## 1.6 Commercial Operation.

“Commercial Operation” will be achieved when the Facility is fully constructed and determined by PGE in its reasonable judgment to be operational and reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have occurred:

1.6.1 If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with Exhibit E, and PGE has received Seller’s written certification of completion of Start-Up Testing.

1.6.2 PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that the Facility is interconnected and operational in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.

1.6.3 PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE’s reasonable satisfaction, which may include equipment specifications.

1.6.4 PGE has received a letter addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement, and any other Required Facility Documents requested by PGE.

1.6.5 PGE has received the following documents with respect to the Facility: the As-built Supplement, including but not limited to an electrical single-line diagram, a 12x24 estimated net energy profile, and a 8760 net energy production estimate.

1.6.6 PGE has received copies of all insurance certificates required ~~all requirements~~ under Section .

1.6.7 PGE has received any Credit Support required under Section .

1.6.8 Seller has provided evidence of the registration of the Facility as a generating unit in WREGIS and satisfaction of any other requirements for the recording of RECs in WREGIS.

## 1.7 Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section , Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, including but not limited to information required in Exhibit A and Exhibit B. PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification

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stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, provided that PGE shall not unreasonably withhold such certification. The date of Seller's notice of Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the "Commercial Operation Date" for all purposes under this Agreement.

#### 1.8 Scheduled Commercial Operation Date.

2.2.2.2.1.1. By no later than **("Scheduled Commercial Operation Date")**, Seller shall have completed all requirements under Section 4.4 and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE's negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE's negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date ("**Delay Damages**"). If Commercial Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section .

2.2.3.—~~Status~~ Unless the Parties agree in writing that a later Commercial Operation Date is reasonable and necessary, the Commercial Operation Date shall be no more than three (3) years from the Effective Date. PGE will not unreasonably withhold agreement to a Commercial Operation Date that is more than three (3) years from the Effective date if the Seller has demonstrated that a later Commercial Operation Date is reasonable and necessary.

2.3.— This Agreement shall terminate on \_\_\_\_\_, \_\_\_\_\_ [date to be chosen by Seller but not to exceed 20 years from the date contained in Section 2.2.2], or the date the Agreement is terminated in accordance with Section 9 or 11.2, whichever is earlier ("**Termination Date**").

### SECTION 3: REPRESENTATIONS AND WARRANTIES

3.1.— Seller and PGE represent, covenant, and warrant as follows:

3.1.1.— Seller warrants it is a \_\_\_\_\_ duly organized under the laws of \_\_\_\_\_.

3.1.2.— Seller warrants that the execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.

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1.9 ~~Seller warrants that the Facility.~~

~~3.1.3.3.1.1. Seller is and shall construct and operate for the Facility so as Term of this Agreement continue to ensure its status as be a "Qualifying Facility and in a manner consistent with its" ("QF") as that term is defined in the version of 18 C.F.R. Part 292 in effect on the Effective Date. Seller has provided the appropriate QF certification, which may include a Federal Energy Regulatory Commission ("FERC Qualifying Facility ") self-certification, to PGE prior to PGE's execution of this Agreement. At any time during the Term of this Agreement, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable judgment discretion that the Facility continues to qualify as a Qualifying Facility. If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE's request documentation acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility. QF under all applicable requirements.~~

~~3.1.4. Seller shall warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and Seller is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

~~3.1.5. Seller warrants that during the Term of this Agreement, all of Seller's right, title and interest in and to the Facility shall be free and clear of all liens and encumbrances other than liens and encumbrances arising from third-party financing of the Facility other than workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.~~

~~3.1.6. Seller warrants that it will design and operate the Facility consistent with Prudent Electrical Practices.~~

~~3.1.7. Seller warrants that the Facility has a Nameplate Capacity Rating not greater than 10,000 kW.~~

~~3.1.8. Seller warrants that Net Dependable Capacity of the Facility is \_\_\_\_\_ kW.~~

~~3.1.9. Seller estimates that the average annual Net Output to be delivered by the Facility to PGE is \_\_\_\_\_ kilowatt-hours ("kWh"), which amount PGE will include in its resource planning.~~

~~3.1.10. Seller will deliver from the Facility to PGE at the Point of Delivery Net Output not to exceed a maximum of \_\_\_\_\_ kWh of Net Output during each Contract Year ("Maximum Net Output").~~

~~3.1.11. By the Commercial Operation Date, Seller has entered into a Generation Interconnection Agreement for a term not less than the term of this Agreement.~~

~~3.1.12. PGE warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and PGE is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

~~3.1.13. Seller warrants that the Facility satisfies the eligibility requirements specified in the Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Renewable Rates and Standard Renewable PPA in PGE's Schedule and Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to not be in compliance with the Definition of a Small Cogeneration Facility to fail or Small Power Production Facility Eligible to satisfy~~ Receive the eligibility requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement. ~~Renewable Rates and Standard Renewable PPA in PGE's Schedule.~~ Seller shall ~~will~~ provide, upon request by PGE, not more frequently than every 36 months, ~~any such~~ documentation and information as may be reasonably required to establish Seller's continued compliance with the applicable eligibility requirements. ~~PGE shall such~~ Definition. ~~PGE agrees to~~ take reasonable steps to maintain the confidentiality of any ~~such portion of the above described~~ documentation and information that the Seller identifies as confidential, ~~provided that except~~ PGE ~~may will~~ provide all such ~~confidential~~ information to the Commission upon the Commission's request.

~~3.1.14. Seller warrants that it will comply with all requirements necessary for all Transferred RECs (as defined in Section 4.6) associated with Net Output to be issued, monitored, accounted for, and transferred by and through the Western Renewable Energy Generation System consistent with the provisions of OAR 330-160-0005 through OAR 330-160-0050. PGE warrants that it will reasonably cooperate in Seller's efforts to meet such requirements, including, for example serving as the qualified reporting entity for the Facility if the Facility is located in PGE's balancing authority.~~

#### SECTION 4: DELIVERY OF POWER, PRICE AND SALE OF ENERGY; SCHEDULING RPS ATTRIBUTES

##### 1.10 Delivery and Sale of Energy.

~~Except as otherwise provided in this Agreement, commencing~~ Commencing on the Commercial Operation ~~Effective~~ Date and continuing ~~until the end of~~ through the Term (the "Delivery Period") of this Agreement, Seller shall ~~deliver and sell and to~~ PGE shall receive and purchase all of the ~~entire~~ Net Output delivered at the Point of Interconnection. Title and risk of loss related to the Product shall transfer from Seller to ~~PGE the Facility at the Point of Interconnection, except that title to Transferred RECs~~ Delivery. ~~PGE shall transfer to PGE when generated.~~

##### 1.11 Estimated pay Seller the Contract Price for all delivered Net Output.

~~Seller's good faith, commercially reasonable estimate of the Facility's monthly and annual average and maximum Net Output during the Delivery Period, and Seller's basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in Exhibit C, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section . Seller acknowledges that PGE will use these estimates in its resource planning For the first 15 years measured from the date in Section 2.2.2, the Contract Price will be the Renewable Fixed Price Option under the Schedule; thereafter and for purposes of~~

determining the Minimum Delivery Guarantee.

#### 1.12 Minimum Delivery Guarantee.

~~4.1. Seller guarantees that it remainder of the Term, the Contract Price will be equal to the Mid-C Index Price.~~

~~4.2.4.1. Seller shall deliver to PGE from the Facility, for each Contract Year, Net Output equal to or greater than the Minimum Net Output, pro-rated for any partial years. This guarantee is referred to in (either (a) if Seller does not select the Alternative Minimum Amount as defined in Exhibit A of this Agreement as the “, seventy five percent (75%) of its average annual Net Output or (b) if selected by Seller, the Alternative Minimum Amount designated for each Contract Year), provided that such Minimum Delivery Guarantee.” Net Output shall be reduced on a pro-rata basis for any periods during a Contract Year that the Facility was prevented from generating electricity for reasons of Force Majeure.~~

~~1.13 Loss Seller agrees that if Seller does not deliver the Minimum Net Output each Contract Year, PGE will suffer losses equal to the Lost Energy Value. As damages for Seller’s failure to deliver the Minimum Net Output (subject to adjustment for reasons of Force Majeure as provided in Section 4.2) in any Contract Year, notwithstanding any other provision of Interconnection and Curtailment.~~

~~PGE shall not be liable to Seller and shall have no obligation to purchase the Product from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the extent that, due to the action of a Reliability Entity, a Force Majeure Event or PGE’s construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility to the electric system is disconnected, suspended or interrupted, or (ii) generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller’s control.~~

## ARTICLE 2: PRICE, BILLING AND PAYMENT

### 2.1 Prices and Payment for Delivered Product.

~~2.1.1 During the Delivery Period, PGE shall pay Seller an amount for Product delivered during a Billing Period calculated as follows: the Contract Price multiplied by Net Output during the Billing Period. An illustrative example is provided in Exhibit G.~~

~~2.1.2 Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy multiplied by the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.~~

2.1.3 Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.

2.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.

By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (and supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount, ~~the purchase price~~ payable by PGE for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in **Exhibit G**.

2.3 Invoicing and Payment for Lost Energy Value Related to Minimum Delivery Guarantee.

4.3.4.2. If Seller fails to satisfy the Minimum Delivery Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following the end of the Contract Year, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, the amount payable by PGE for future deliveries of energy hereunder shall be reduced ~~shall be reduced~~ until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period, ~~in monthly amounts (not more than 24 months)~~, of such reduction (not to exceed one year) so as to minimize the risk of Seller's ~~avoid Seller's~~ default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in **Exhibit G**. ~~For QF Facilities sized at 100 kW or smaller, the provisions of this section shall not apply.~~

2.4 Form of Payment and Interest on Late Payments.

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.

2.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.



~~4.4. Upon completion of construction of the Facility, Seller shall provide PGE an As-built Supplement to specify the actual Facility as built. Seller shall not increase the Nameplate Capacity Rating above that specified in Exhibit B or increase the ability of the Facility to deliver Net Output in quantities in excess of the Net Dependable Capacity, or the Maximum Net Output as described in Section 3.1.10 above, through any means including, but not limited to, replacement, modification, or addition of existing equipment, except with prior written notice to PGE. In the event Seller increases the Nameplate Capacity Rating of the Facility to no more than 10,000 kW pursuant to this section, PGE shall pay the Contract Price for the additional delivered Net Output. In the event Seller increases the Nameplate Capacity Rating to greater than 10,000 kW, then Seller shall be required to enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 10,000 kW.~~

~~4.5. To the extent not otherwise provided in the Generation Interconnection Agreement, all costs associated with the modifications to PGE's interconnection facilities or electric system occasioned by or related to the interconnection of the Facility with PGE's system, or any increase in generating capability of the Facility, or any increase of delivery of Net Dependable Capacity from the Facility, shall be borne by Seller.~~

~~4.6. From the start of the Renewable Resource Deficiency Period through the remainder of the Term of this Agreement, Seller shall provide and PGE shall acquire the RPS Attributes for the Contract Years as specified in the Schedule and Seller shall retain ownership of all other Environmental Attributes (if any). During the Renewable Resource Sufficiency Period, Seller shall retain all Environmental Attributes in accordance with the Schedule. The Contract Price includes full payment for the Net Output and any RPS Attributes transferred to PGE under this Agreement. With respect to Environmental Attributes not transferred to PGE under this Agreement ("Seller-Retained Environmental Attributes") Seller may report under §1605(b) of the Energy Policy Act of 1992 or under any applicable program as belonging to Seller any of the Seller-Retained Environmental Attributes, and PGE shall not report under such program that such Seller-Retained Environmental Attributes belong to it. With respect to RPS Attributes transferred to PGE under this Agreement ("Transferred RECs"), PGE may report under §1605(b) of the Energy Policy Act of 1992 or under any applicable program as belonging to it any of the Transferred RECs, and Seller shall not report under such program that such Transferred RECs belong to it.~~

#### SECTION 5: OPERATION AND CONTROL

~~5.1. Seller shall operate and maintain the Facility in a safe manner in accordance with the Generation Interconnection Agreement, and Prudent Electrical Practices. PGE shall have no obligation to purchase Net Output from the Facility to the extent the interconnection of the Facility to PGE's electric system is disconnected, suspended or interrupted, in whole or in part, pursuant to the Generation Interconnection Agreement, or to the extent generation curtailment is required as a result of Seller's noncompliance with the Generation Interconnection Agreement. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken~~

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~~with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility.~~

~~5.2. Seller agrees to provide sixty (60) days advance written notice of any scheduled maintenance that would require shut down of the Facility for any period of time.~~

~~5.3. If the Facility ceases operation for unscheduled maintenance, Seller immediately shall notify PGE of the necessity of such unscheduled maintenance, the time when such maintenance has occurred or will occur, and the anticipated duration of such maintenance. Seller shall take all reasonable measures and exercise its best efforts to avoid unscheduled maintenance, to limit the duration of such unscheduled maintenance, and to perform unscheduled maintenance during Off-Peak hours.~~

#### SECTION 6: CREDITWORTHINESS

~~In the event Seller: a) is unable to represent or warrant as required by Section 3 that it has not been a debtor in any bankruptcy proceeding within the past two (2) years; b) becomes such a debtor during the Term; or c) is not or will not be current on all its financial obligations, Seller shall immediately notify PGE and shall promptly (and in no less than 10 days after notifying PGE) provide default security in an amount reasonably acceptable to PGE in one of the following forms: Senior Lien, Step-in Rights, a Cash Escrow or Letter of Credit. The amount of such default security that shall be acceptable to PGE shall be equal to: (annual On Peak Hours) X (On Peak Price — Off Peak Price) X (Minimum Net Output / 8760). Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its discretion, grant an exception to the requirements to provide default security if the QF has negotiated financial arrangements with the construction loan lender that mitigate Seller's financial risk to PGE.~~

#### SECTION 7: METERING

##### 2.6 Metering Equipment and Location.

~~7.1. PGE shall design, furnish, install, own, inspect, test, maintain and replace all metering equipment at Seller's cost and as required pursuant to the ~~Generation~~ Interconnection Agreement.~~

~~7.2. Metering shall be performed at the location and in a manner consistent with this Agreement and as specified in the ~~Generation~~ Interconnection Agreement. All Net Output purchased hereunder shall be adjusted to account for electrical losses, if any, between the point of metering and the Point of ~~Interconnection~~ Delivery, so that the purchased amount reflects the net amount of power flowing into PGE's system at the Point of ~~Interconnection~~ Delivery.~~

##### 2.7 Meter Installation, Inspection and Correction.

~~7.3. PGE shall periodically inspect, test, repair and replace the metering equipment as provided in the ~~Generation~~ Interconnection Agreement. If any of the inspections or tests discloses an error exceeding two (2%) percent of the actual energy~~



delivery, either fast or slow, proper correction, based upon the inaccuracy found, shall be made of previous readings for the actual period during which the metering equipment rendered inaccurate measurements if that period can be ascertained. If the actual period cannot be ascertained, the proper correction shall be made to the measurements taken during the time the metering equipment was in service since last tested, but not exceeding three (3) months, in the amount the metering equipment shall have been shown to be in error by such test. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next billing or payment rendered. Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of such inaccuracy of metering equipment.

## 2.8 Metering Costs.

~~7.4.~~—To the extent not otherwise provided in the ~~Generation~~-Interconnection Agreement, all of PGE's costs relating to all metering equipment installed to accommodate Seller's Facility shall be borne by Seller.

## **ARTICLE 3: OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES**

### 3.1 Seller's Duty to Operate and Maintain the Facility.

3.1.1 Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.

3.1.2 Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide copies of the same to PGE upon request.

### 3.2 Outages.

3.2.1 On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with a schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the Specified Facility Nameplate Capacity Rating for twenty-four (24) or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of Section .

3.2.2 Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable efforts to avoid or mitigate outages during PGE's system emergencies.

### 3.3 Facility Upgrades.

3.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

3.3.2 At any time after the Commercial Operation Date upon at least six months prior written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in Exhibit C, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in Exhibit C for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

3.3.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section or Section that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend Exhibit A and Exhibit C as appropriate to reflect the modifications.

3.3.2.2 So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 10,000 kW, then Seller will continue to receive the Contract Price for all delivered Net Output.

3.3.3 If Seller increases the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 10,000 kW, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 10,000 kW, consistent with then-current Applicable Law, provided that the new power purchase agreement must be a negotiated agreement under Schedule 202.

## ARTICLE 4: ENVIRONMENTAL ATTRIBUTES

### 4.1 Seller-Retained RECs.

Seller shall retain ownership of all RECs ("Seller-Retained RECs") and all other Environmental Attributes associated with Net Output of the Facility during the Test Period and during the Renewable Resource Sufficiency Period. PGE shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Seller-Retained RECs belong to any Person other than Seller.

### 4.2 Transferred RECs.

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4.2.1 Seller shall transfer to PGE and PGE shall acquire all RECs associated with Net Output from the start of the Renewable Resource Deficiency Period through the remainder of the Term (“**Transferred RECs**”). PGE’s payments for Product under this Agreement include full payment for all Transferred RECs. Seller shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Transferred RECs belong to any Person other than PGE. PGE shall be entitled to claim all rights associated with the Transferred RECs, including any value in the ownership, use or allocation of RECs created by legislation or regulation after the Effective Date.

4.2.2 Transferred RECs shall be deemed delivered and sold to PGE under this Agreement as they are produced, and title to Transferred RECs shall pass to PGE when generated. The Facility meter at the point of interconnection shall serve as the record source for purposes of calculating, certifying, and auditing Transferred RECs. In the event Seller generates power and associated RECs are transferred but the power is not delivered to PGE by Seller due to a Force Majeure Event, curtailment, or other reason, PGE and Seller will work together in good faith to return such RECs to Seller.

4.2.3 Seller shall comply with all requirements necessary for all Transferred RECs to be issued, monitored, accounted for, and transferred by and through WREGIS, consistent with the provisions of OAR 330-160-0005 through OAR 330-160-0090. Without limiting the generality of the foregoing, Seller shall cause the Facility to implement all necessary generation information communications in WREGIS, and report generation information to WREGIS pursuant to a WREGIS-approved meter that is dedicated to the Facility and only the Facility. Seller shall cause delivery and transfer of the Transferred RECs to PGE’s WREGIS account to be perfected in accordance with WREGIS rules. Seller shall hold the Transferred RECs in trust for PGE until such delivery and transfer is perfected. Each Party shall take such steps and further actions as may be required by WREGIS or Applicable Law in order to effect and confirm the sale and delivery of the Transferred RECs to PGE for all purposes. PGE will reasonably cooperate in Seller’s efforts to meet such requirements, including, for example serving as the qualified reporting entity for the Facility if the Facility is located in PGE’s Balancing Authority.

4.2.4 All RECs delivered to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.

## **ARTICLE 5: REPRESENTATIONS AND WARRANTIES**

### 5.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

5.1.1 Seller is duly organized and in good standing under the laws of the state of incorporation or formation.

5.1.2 The execution, delivery and performance of this Agreement are within Seller’s powers, have been duly authorized by all necessary action, and do not violate any of the terms and

conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

5.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

5.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

5.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

5.1.6 Either Seller satisfies the requirements set forth in Section through below (the "Creditworthiness Requirements"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section .

5.1.6.1 Seller is not and has not been Bankrupt within the past two (2) years, and there are no proceedings pending or being contemplated by Seller or, to Seller's knowledge, threatened against Seller that would result in Seller being or becoming Bankrupt.

5.1.6.2 Seller is not in default under any of its material agreements and is current on all of its financial obligations, including construction-related financial obligations.

5.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

5.1.7 No later than the Commercial Operation Date, Seller will possess a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

5.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

5.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

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5.1.10 Seller has the right to sell the Product to PGE free and clear of liens or encumbrances.

5.1.11 The Facility generates RECs that comply with the Oregon Renewable Portfolio Standard.

5.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

5.2.1 It is a corporation duly organized under the laws of Oregon.

5.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

5.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

5.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

5.2.5 It is not and has not been Bankrupt within the past two (2) years and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

5.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

5.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article 8 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

**ARTICLE 6: CREDIT SUPPORT**

6.1 Required Credit Support.

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall immediately notify PGE in writing and shall promptly (and in no less than ten (10) business

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days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). In each case, the amount of Credit Support required shall be calculated as follows: (aggregate number of On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the weighted average Contract Price for On-Peak Hours – the weighted average Contract Price for Off-Peak Hours) x (Net Available Capacity). The amount of Credit Support required shall be updated annually, on the anniversary of the month Credit Support was first required to be provided. The updated amount of Credit Support shall be calculated for each subsequent 12-month period, consistent with the calculation described in this Section.

If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.

Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its reasonable discretion, grant an exception to the requirements to provide default security if the Seller has negotiated financial arrangements with the Lender that mitigate Seller's financial risk to PGE.

## 6.2 Right to Draw on Credit Support.

At any time after the occurrence and during the continuation of an Event of Default, or upon an early termination of this Agreement by PGE pursuant to Section , PGE may draw on Seller's Credit Support to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the Credit Support during the Term, PGE shall inform Seller within fifteen (15) business days, and Seller shall promptly, and in no more than fifteen (15) business days following notice from PGE, restore the Credit Support to the amount required under Section . However, for avoidance of doubt, Seller shall have no obligation to replenish the Credit Support if PGE has terminated the Agreement.

## ARTICLE 7: DEFAULT, REMEDIES AND TERMINATION

### 7.1 Events of Default.

An "Event of Default" means, with respect to a Party, the occurrence of any of the following unless otherwise excused under this Agreement:

7.1.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;

7.1.2 any representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;



7.1.3 the failure of a Party to perform any material covenant or obligation set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party explaining the circumstances supporting the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;

7.1.4 with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

7.1.5 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement at any time during the term of this Agreement;

7.1.6 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller's receipt of written notice from PGE;

with respect to Seller, Seller fails, for any two or more **SECTION 8: BILLINGS, COMPUTATIONS AND PAYMENTS**

~~8.1.— On or before the thirtieth (30th) day following the end of each Billing Period, PGE shall send to Seller payment for Seller's deliveries of Net Output to PGE, together with computations supporting such payment. PGE may offset any such payment to reflect amounts owing from Seller to PGE pursuant to this Agreement, the Generation Interconnection Agreement, and any other agreement related to the Facility between the Parties or otherwise.~~

~~8.2.— Any amounts owing after the due date thereof shall bear interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by applicable law.~~

#### **SECTION 9: DEFAULT, REMEDIES AND TERMINATION**

~~9.1.— In addition to any other event that may constitute a default under this Agreement, the following events shall constitute defaults under this Agreement:~~

~~9.1.1. Breach by Seller or PGE of a representation or warranty, except for Section 3.1.4, set forth in this Agreement.~~

~~9.1.2. Seller's failure to provide default security, if required by Section 6, prior to delivery of any Net Output to PGE or within 10 days of notice.~~



~~9.1.3. Seller's failure to deliver the Minimum Net Output for two consecutive Contract Years to satisfy the Minimum Delivery Guarantee;-~~

~~with respect to 9.1.4. — If Seller, Seller fails to establish is no longer a Qualifying Facility.~~

~~9.1.5. Failure of PGE to make any required payment pursuant to Section 8.1.~~

~~9.1.6. Seller's failure to meet the Commercial Operation Date on or before the Scheduled Commercial Operation Date. -~~

~~9.2. — In the event of a default under Section 9.1.6, PGE may provide Seller with written notice of default. Seller shall have one (1) year in which to cure the default under this Section 10.1.8, during which time the Seller shall pay PGE Delay Damages pursuant to the terms of Section and damages equal to the Lost Energy Value. If Seller is unable to cure the default, PGE may immediately terminate this Agreement as provided in Section 9.3. PGE's resource sufficiency/deficiency position shall have no bearing on PGE's right to terminate the Agreement under this Section 9.2~~

#### 7.2 Lender's Right to Cure a Seller Event of Default.

~~Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under Section of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement.~~

#### 7.3 Termination for Default.

~~If an Event of Default has occurred and is continuing 9.3. — In the event of a default hereunder, the non-defaulting party may immediately terminate this Agreement at its sole discretion, and without the non-defaulting Party incurring any liability to the defaulting Party, by delivering written notice to the defaulting Party. In addition, the non-defaulting Party other Party, and, except for damages related to a default pursuant to Section 9.1.3 by a QF sized at 100 kW or smaller, may pursue any and all other legal or equitable remedies available to it, including recovery of damages as set forth below. legal or equitable remedies provided by law or pursuant to this Agreement including damages related to the need to procure replacement power. Such termination shall be effective upon the date of delivery of notice, as provided in Section 20.1. The rights provided in this Section 9 are cumulative such that the exercise of one or more rights shall not constitute a waiver of any other rights.~~

#### 7.4 Damages.

~~9.4. — If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value. Amounts owed by Seller pursuant to as provided in this Section shall be due within fifteen (15) business days after any invoice from PGE for the same. Damages owing under this Section 10.4 shall be cumulative and in addition to damages owing pursuant to Sections . , and . An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G.~~

7.5 Payment of Outstanding Obligations.

~~If this Agreement is terminated pursuant to Section , then within thirty (30) calendar days of termination, PGE shall make all payments due and owing , within thirty (30) days, that, pursuant to the terms of this Agreement, are owed to Seller as of the time of receipt of notice of termination; provided that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section or otherwise.~~ ~~default.~~ PGE shall not be required to pay Seller for ~~Product~~any Net Output delivered by Seller after ~~the effective date of any termination~~such notice of default.

7.6 Post-Termination PURPA Status.

~~9.5.— If this Agreement is terminated as a result of Seller's default, Seller shall pay PGE the positive difference, if any, obtained by subtracting the Contract Price from the sum of the Forward Replacement Price for the Minimum Net Output that Seller was otherwise obligated to provide for a period of twenty-four (24) months from the date of termination. Accounts owed by Seller pursuant to this paragraph shall be due within five (5) business days after any invoice from PGE for the same.~~

~~9.6.— In the event (i) PGE terminates this Agreement pursuant to this Article 10 or Seller terminates this Agreement without cause, and (ii) Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, Section 9, and Seller wishes to again sell Net Output to PGE from the Facility following such termination, then PGE in its sole discretion may (but will not be obliged to) require that Seller, its Affiliate, or its successor shall do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to until the Terms of this Agreement, then Seller and PGE shall promptly (as set forth in Section 2.3) would have run in due course had the Agreement remained in effect. At such time Seller and PGE agree to execute a written document ratifying the terms of this Agreement. PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.~~

~~9.7.— Sections 9.1, 9.4, 9.5, 9.6, 10, and 19.2 shall survive termination of this Agreement.~~

SECTION 10: INDEMNIFICATION AND LIABILITY7.7 Seller's Indemnity.

~~10.1.— Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, including the delivery of energy electric power to and PGE or with the facilities at or prior to the Point of Interconnection; (ii) Seller's development, construction, ownership, operation, maintenance, or decommissioning of the Facility; (iii) the violation of any law, rule, order or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is Delivery, or otherwise arising out of this Agreement, including without limitation any loss, claim, action or suit, for or on account of~~

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~~injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PGE, Seller or others, excepting to the extent such loss, claim, action or suit may be caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.~~

#### 7.8 PGE's Indemnity.

~~10.2.—PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all Claims ~~loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal,~~ resulting from, or arising out of or in any way connected with (i) PGE's receipt of energy under electric power from Seller or with the facilities at or after the Point of Delivery, or otherwise arising out of this Agreement after its delivery at the Point of Interconnection; (ii) the violation of, ~~including without limitation any law, rule, order~~ loss, claim, action or regulation by PGE ~~suit, for or any on account of its Affiliates, or their respective employees, or agents in connection with this Agreement;~~ (iii) PGE's ~~failure~~ injury, bodily or otherwise, to perform any, or death of PGE's obligations under this Agreement; (iv) PGE's ~~breach, persons, or for damage to, or destruction or economic loss of~~ any representation or warranty set forth in this Agreement; or (v) PGE's negligence or willful misconduct in connection with this Agreement, except ~~property belonging to PGE, Seller or others, excepting to the extent such Claim is~~ loss, claim, action or suit may be caused by Seller's breach of this Agreement or by the negligence or willful misconduct of Seller, its directors, officers, employees, agents or representatives.~~

#### 7.9 No Dedication.

~~10.3.—Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent Person ~~individual or entity.~~~~

#### 7.10 Disclaimer of Consequential Damages.

~~10.4.—NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.~~

### SECTION 11: INSURANCE

~~11.1.—Prior to the connection of the Facility to PGE's electric system, provided such Facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, with an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance policies for bodily injury and property damage liability. Such insurance shall include provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; provisions that such insurance is primary insurance with respect to the interest of PGE and that any~~

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~~insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder; a cross-liability or severability of insurance interest clause; and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days' prior written notice to PGE. Initial limits of liability for all requirements under this section shall be \$1,000,000 million single limit, which limits may be required to be increased or decreased by PGE as PGE determines in its reasonable judgment economic conditions or claims experience may warrant.~~

~~7.11 11.2. Prior to the connection of the Facility to PGE's electric system, provided such facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, in an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance acceptable to PGE against property damage or destruction in an amount not less than the cost of replacement of the Facility. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Certificates of Insurance.~~

~~Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required Seller shall waive its insurers' rights of subrogation against PGE regarding Facility property losses.~~

~~11.3. Prior to the connection of the Facility to PGE's electric system and at all other times such~~ insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole discretion ~~and without limitation of other remedies~~, may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.

#### 7.12 Required Insurance.

Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than "B+" by the A.M. Best Company the insurance coverage specified below:

7.12.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work

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together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.

All Risk Property Insurance providing coverage in an amount at least equal to the full replacement value of the Facility against "all risks" of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk Policy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the Facility is destroyed or substantially destroyed, it may terminate this Agreement.

7.12.2 SECTION 12: Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers' rights of subrogation against PGE regarding Facility property losses.

### 7.13 Required Provisions.

7.13.1 The Comprehensive General Liability Policy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

7.13.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days' prior written notice to PGE.

7.13.3 Insurance coverage provided on a "claims-made" basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

## FORCE MAJEURE

### 7.14 Definition of "Force Majeure."

12.1.—As used in this Agreement, "Force Majeure" or "~~an event of~~ Force Majeure Event" means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party's from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: ~~cause beyond the reasonable control of the Seller or of PGE which, despite the exercise of due diligence, such Party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to~~ acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. Notwithstanding anything in the foregoing

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~~to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) which by the exercise of reasonable foresight such Party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome, subject, in each case, to the requirements of the first sentence of this paragraph. Force Majeure, however, specifically excludes the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility's equipment, or (viii) smoke, haze, ash or other obstruction of sunlight (except to the extent such obstruction is caused by fires or volcanic eruptions), and obligations for the payment of money when due.~~

#### 7.15 Effect of Force Majeure.

~~12.2.~~—If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: (i)

~~12.2.1.~~—the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section of this Agreement describing the particulars of the occurrence; (ii) and

~~12.2.2.~~—the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the non-performing Party uses commercially reasonable efforts to remedy its inability to perform its obligations under this Agreement.

### ARTICLE 8: GENERAL PROVISIONS

#### 8.1 Relationship of the Parties.

~~12.2.3.~~ ~~the non-performing Party uses its best efforts to remedy its inability to perform its obligations under this Agreement.~~

~~12.3.~~ ~~No obligations of either Party which arose before the Force Majeure causing the suspension of performance shall be excused as a result of the Force Majeure.~~

~~12.4.~~ ~~Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.~~

### SECTION 13: SEVERAL OBLIGATIONS

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each

such party shall be jointly and severally liable for Seller's obligations under this Agreement.

## 8.2 No Third Party Beneficiaries.

This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

## 8.3 Governing Law.

### SECTION 14: CHOICE OF LAW

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~~~which~~ may direct the application of the laws of another jurisdiction.

Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement  
SECTION  
15: PARTIAL INVALIDITY AND PURPA REPEAL

~~It is subject to~~ ~~not~~ ~~the jurisdiction~~ ~~intention~~ of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, to violate any laws governing the subject matter of this Agreement. If any complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute.

The public utility's compliance with ~~of the terms of~~ this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.

## 8.4 Severability.

If any of the terms of this ~~the~~ Agreement are finally held or determined to be invalid, illegal or void as being contrary to any Applicable Law ~~applicable law~~ or public policy, all other terms of ~~this~~ is Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law ~~applicable law~~ and the intent of the Parties to this Agreement.

## 8.5 Effect of ~~In the event the Public Utility Regulatory Policies Act (PURPA~~ Repeal.

The repeal of PURPA shall not result in the early termination of) ~~is repealed,~~ this Agreement ~~shall not terminate prior to the Termination Date,~~ unless such termination is mandated by state or federal law.

## 8.6 Waiver.

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### SECTION 16: WAIVER

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

#### 8.7 Survival.

Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.

#### 8.8 Successors and Assigns.

### SECTION 17: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

~~This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party or this Agreement. Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide upon request copies of the same to PGE.~~

### SECTION 18: SUCCESSORS AND ASSIGNS

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. ~~Neither party may assign any of its rights or delegate any of its obligations hereunder. No assignment hereof by either Party shall become effective without the prior written consent of the other party, which Party being first obtained and such consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that, Notwithstanding the foregoing, either Party may assign its rights or delegate its obligations, in whole or in part, this Agreement without such the other Party's consent and upon thirty (30) calendar days' prior written notice to the other party, to an entity that acquires all as part of (a) a sale of all or substantially all of the business or assigning Party's assets of the assigning party to which this Agreement pertains, whether by, or (b) a merger, consolidation or other reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective. Party.~~

#### 8.9 Financing Documents.

Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the

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construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and expense associated with PGE's review and activities reasonably required under this Section 14.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE's sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.

8.10 Entire Agreement; Amendments; Order of Precedence.

**SECTION 19: ENTIRE AGREEMENT**

~~19.1.~~—This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding ~~the contents of the Agreement, including PGE's~~ ~~PGE's~~ purchase of ~~energy~~ ~~Net Output~~ from the Facility. ~~No amendment or~~ modification of this Agreement shall be effective unless it is in writing and signed by both ~~parties~~. ~~If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail~~ ~~Parties~~.

8.11 Seller Release.

~~19.2.~~—By executing this Agreement, Seller releases PGE from any ~~third party~~ claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.

8.12 Rights and Remedies Cumulative.

Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.

8.13 Notices.

**SECTION 20: NOTICES**

~~20.1.~~—All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered ~~if delivered in person or~~ when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.

<u>Notices</u>	<u>PGE</u>	<u>Seller</u>
	<u>Portland General Electric</u> <u>C/O QF Contract Management</u> <u>3WTC-0306</u> <u>121 SW Salmon St</u> <u>Portland, OR 97204</u>	

To Seller: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

with a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To PGE: \_\_\_\_\_ Contracts Manager  
\_\_\_\_\_ QF Contracts, 3WTC0306  
\_\_\_\_\_ PGE - 121 SW Salmon St.  
\_\_\_\_\_ Portland, Oregon 97204

~~20.2.~~ The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section ~~14.13.20.~~

*Signature Page Follows.*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(Name Seller)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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EXHIBIT A

**FACILITY DESCRIPTION**

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

Seller's Facility consists of generators fueled by \_\_\_\_\_.

Location of the Facility: The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_, with GPS coordinates of \_\_\_\_\_.

The location is more particularly described as follows:

[legal description of parcel]

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section 6.3.2).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating and the Net Available Capacity:

\_\_\_\_\_  
\_\_\_\_\_

Interconnection Rating: \_\_\_\_\_ kW (the Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

\_\_\_\_\_

Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

EXHIBIT B

SELLER'S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

Point of Interconnection (name of distribution feeder or transmission line):

\_\_\_\_\_

**B. The following information shall be provided in the As-built Supplement prior to Commercial Operation:**

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):

\_\_\_\_\_

Specification of Point of Interconnection: \_\_\_\_\_

**EXHIBIT C****SELLER'S MINIMUM NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output during the Delivery Period, and the resulting Estimated Annual Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output  
(as measured at the Facility meter at the Point of Interconnection)**

<u>Month</u>	<u>Estimated Monthly Average Net Output (kWh)</u>		<u>Percentage of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%)</u>		<u>Estimated Monthly Maximum Net Output (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>						
<u>February</u>						
<u>March</u>						
<u>April</u>						
<u>May</u>						
<u>June</u>						
<u>July</u>						
<u>August</u>						
<u>September</u>						
<u>October</u>						
<u>November</u>						
<u>December</u>						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated Annual Average Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Average Net Output)

Estimated Annual Maximum Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Maximum Net Output)



**C.3. Alternative Minimum Net Output**

~~In this Exhibit~~, Seller may at its option designate an alternative to the Minimum Net Output ~~value to the default~~ of seventy-five (75%) percent of the Estimated Annual Average~~annual average~~ Net Output set forth above~~specified~~ in this Exhibit. If designated, such alternative shall be known as the ~~“Section 3.1.9 of the Agreement (“Alternative Minimum Net Output.”)Amount”~~. Such Alternative Minimum ~~Net Output~~Amount, if provided, shall exceed zero, and shall be established in accordance with Prudent Electrical Practices, and documentation supporting such a determination shall be provided to PGE upon execution of the Agreement. Such documentation shall be commercially reasonable, and may include, but is not limited to, documents used in financing the project, and data on output of similar projects operated by ~~S~~seller, PGE or others.

Annual Alternative Minimum Net Output: \_\_\_\_\_ kWh

<u>Month</u>	<u>Alternative Minimum Net Output (if specified) (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>		
<u>February</u>		
<u>March</u>		
<u>April</u>		
<u>May</u>		
<u>June</u>		
<u>July</u>		
<u>August</u>		
<u>September</u>		
<u>October</u>		
<u>November</u>		
<u>December</u>		

~~EXHIBIT B~~  
~~DESCRIPTION OF SELLER'S FACILITY~~

~~[Seller to Complete]~~

~~EXHIBIT C~~  
~~REQUIRED FACILITY DOCUMENTS~~

~~[Seller list all permits and authorizations required for this project]~~

~~Sellers Generation Interconnection Agreement~~

## EXHIBIT D

**COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM**  
**(Power Purchase Agreement – )**

This Collateral Assignment and Consent Agreement (the “*Agreement*”) is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY (“PGE” or “Buyer”)**, **[INSERT LENDER]**, a \_\_\_\_\_ company (the “*Lender*”), and **[INSERT SELLER]**, a \_\_\_\_\_ company (the “*Borrower*” or “*Seller*”) (the “*Parties*” or each a “*Party*”).

**RECITALS**

A. \_\_\_\_\_ Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the “*Loan Agreement*”), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.

B. \_\_\_\_\_ Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the “*PPA*” or the “*Assigned Agreement*”), a copy of which is attached as *Exhibit A*, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power” from which Seller shall sell and PGE shall purchase Net Output (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).

C. \_\_\_\_\_ As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the “*Security Agreement*”), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other “Collateral” defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the “*Secured Obligations*”). The Loan Agreement and the Security Agreement are referred to herein as the “*Security Documents*.”

**AGREEMENTS**

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. \_\_\_\_\_ Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower’s right, title and interest in and to the Assigned Agreement.

2. \_\_\_\_\_ Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller’s rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

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assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

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With a copy to:

If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

If to Lender:

With a copy to:

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



## EXHIBIT E

### START-UP TESTING

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing.]

#### **~~[Seller identify appropriate tests]~~**

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

- ~~1.~~ Pressure tests of all steam system equipment;
- ~~2.~~ Calibration of all pressure, level, flow, temperature and monitoring instruments;
- ~~3.~~ Operating tests of all valves, operators, motor starters and motor;
- ~~4.~~ Alarms, signals, and fail-safe or system shutdown control tests;
- ~~5.~~ Insulation resistance and point-to-point continuity tests;
- ~~6.~~ Bench tests of all protective devices;
- ~~7.~~ Tests required by manufacturer of equipment; and
- ~~8.~~ Complete pre-parallel checks with PGE.

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

- ~~1.~~ Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
- ~~2.~~ Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
- ~~3.~~ Brake tests;
- ~~4.~~ Energization of transformers;
- ~~5.~~ Synchronizing tests (manual and auto);
- ~~6.~~ Stator windings dielectric test;
- ~~7.~~ Armature and field windings resistance tests;
- ~~8.~~ Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
- ~~9.~~ Heat runs;
- ~~10.~~ Tests required by manufacturer of equipment;
- ~~11.~~ Excitation and voltage regulation operation tests;

~~1.~~ ~~12.~~ Open circuit and short circuit;

~~S~~saturation tests;

~~13.~~ Governor system steady state stability test;

14. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
15. Auto stop/start sequence;
16. Level control system tests; and
17. Completion of all state and federal environmental testing requirements.

~~EXHIBIT E~~

**EXHIBIT F**

SCHEDULE 201

[Attach ~~currently in-effect~~ Schedule 201]

**EXHIBIT G**  
**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**

**STANDARD RENEWABLE ~~ON~~-SYSTEM VARIABLE  
POWER PURCHASE AGREEMENT**

**BETWEEN**

**[COUNTERPARTY NAME]**

**AND**

**PORTLAND GENERAL ELECTRIC COMPANY**

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Exhibits

<u>Exhibit A</u>	<u>Description of Facility</u>
<u>Exhibit B</u>	<u>Seller's Interconnection Facilities and Delivery Attributes</u>
<u>Exhibit C</u>	<u>Seller's Net Output Estimates</u>
<u>Exhibit D</u>	<u>Collateral Assignment and Consent Agreement Form</u>
<u>Exhibit E</u>	<u>Start-Up Testing</u>
<u>Exhibit F</u>	<u>Schedule 201</u>
<u>Exhibit G</u>	<u>Illustrative Examples of Payment and Lost Energy Value Calculations</u>
<u>Exhibit H</u>	<u>Negotiated Prices for Option B, Solar Standard Terms and Negotiated Price Agreement (if applicable)</u>

**STANDARD RENEWABLE ON-SYSTEM VARIABLE  
POWER PURCHASE  
THIS AGREEMENT**

This STANDARD RENEWABLE ON-SYSTEM VARIABLE POWER PURCHASE AGREEMENT ("Agreement") is between [COUNTERPARTY NAME], a [STATE OF ORGANIZATION] [ENTITY TYPE] ("\_\_\_\_\_") ("Seller") and Portland General Electric Company, an Oregon corporation ("PGE") (hereinafter each a "Party" and/or collectively, "Parties"). ~~and is effective upon execution by both Parties ("Effective Date"). The Parties agree this Agreement is a [choose one]:~~

- ~~Option A: Standard-Renewable Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating ~~nameplate capacity~~ no greater than 3 MW and other qualifying facilities with Facility Nameplate Capacity Rating ~~nameplate capacity~~ no greater than 10 MW; if this option is selected then Option A will apply under Section 1.6, Section 3.1.14, and Section 4.3, and there will be no Exhibit E];~~  
or
- ~~Option B: Solar Standard Terms and Negotiated Price Agreement [generally available to solar qualifying facilities with Facility Nameplate Capacity Rating ~~nameplate capacity~~ above 3 MW but no greater than 10 MW; if this option is selected, then Option B will apply under Section 1.6, Section 3.1.14, and Section 4.3, and there will be an Exhibit HE containing the negotiated prices agreed to by the Parties].~~

~~Eligibility for a Standard Renewable Price Agreement (Option A) or a Solar Standard Terms and Negotiated Price Agreement (Option B) is governed by the Schedule and applicable Commission orders.~~

## RECITALS

A. [New QF] Seller intends to construct, own, operate and maintain a New QF [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, with a Nameplate Capacity Rating of \_\_\_\_\_ kilowatt (“kW”), as further described in Exhibit A (“Facility”); and Exhibit B.

A. [Existing QF] Seller ~~owns and intends to operate and maintain an Existing QF~~ [identify resource type] facility for the generation of electric power located in \_\_\_\_\_ County, \_\_\_\_\_, as further described in Exhibit A and Exhibit B.

B. Seller intends to operate the Facility as a “Qualifying Facility,” as ~~that~~such term is defined in the FERC Commission regulations codified at 18 CFR Part 292~~Section 3.1.3, below.~~

C. Seller ~~wishes to~~shall sell and PGE ~~is willing to~~shall purchase the ~~entire~~ Net Output, ~~as such term is defined in Section 1.21, below,~~ from the Facility, subject to and in accordance with the terms and conditions of this Agreement, and Seller wishes to provide energy and capacity pursuant to this Agreement.

## AGREEMENT

NOW, THEREFORE, the Parties ~~mutually~~ agree as follows:

### SECTION 1: DEFINITIONS AND CONTRACT INTERPRETATION

#### 1.1 Defined Terms.

~~For all purposes of~~When used in this Agreement, the following terms shall have the following meanings:

“Affiliate” means, with respect to Seller, any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

“Agreement” means this Standard Renewable On-System Variable Power Purchase Agreement (Option A or Option B) and all incorporated exhibits and attachments to this Agreement, as the same may be amended by the Parties from time to time.

“Ancillary Services” means any of the services identified by a Transmission Provider in its transmission tariff as “ancillary services.”

“Applicable Law” means all legally binding constitutions, treaties, statutes, laws, ordinances, rules, regulations, orders, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority, including but not limited to PURPA.



1.1. "As-built Supplement" means ~~at the~~ supplement to Exhibit A ~~and Exhibit B~~ provided by Seller in accordance with Section 4.3 following completion of construction of the Facility, ~~or modifications to the Facility, which describes~~ ~~describing~~ the Facility as actually built.

"Balancing Authority" means an entity responsible for maintaining the load-interchange-generation balance within the balancing authority area applicable to the Facility.

"Bankrupt" means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) calendar days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, or (iii) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets.

1.2. "Base Hours" ~~means is defined as~~ the total number of hours in each Contract Year (8,760 or 8,784 for leap years), ~~provided, however, that Base Hours for the first Contract Year shall be the number of hours commencing on the first hour of the day after the Commercial Operation Date and ending on the last hour of December 31<sup>st</sup> of the calendar year in which the Commercial Operation Date occurs, and that Base Hours for the last Contract Year shall be the number of hours commencing on January 1 of the calendar year in which the Term ends and ending the last hour of the last day of the Term.~~ ~~year).~~

"Billing Period" means one calendar month.

"Business Day" means any day other than Saturday, Sunday or the following holidays: New Year's Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.

~~1.3. "Billing Period" means a period between PGE's readings of its power purchase billing meter at the Facility in the normal course of PGE's business. Such periods may vary and may not coincide with calendar months; however, PGE shall use best efforts to read the power purchase billing meter in 12 equally spaced periods per year.~~

~~1.4. "Cash Escrow" means an agreement among Seller, PGE, and a Seller-selected third-party escrow agent reasonably acceptable to PGE that provides for Seller's placement of cash in ~~by two parties to place money into the custody of the escrow agent a third party~~ for delivery to PGE ~~a grantee only~~ after the fulfillment of ~~any of the conditions specified in Section .~~ Amounts in the Cash Escrow shall earn interest at the rate applicable to money market deposits.~~

~~1.5.1.3. "Commercial Operation Date" means the date that the Facility is deemed by PGE to be fully operational and reliable. PGE may, at ~~escrow agent,~~ its discretion, require, among other things, that all of the following events have occurred:~~

"Claims" means all third party claims or actions, on trial and appeal, that relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, fines, penalties, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Claims include any such claims or actions for or on account of personal injury, bodily or otherwise, death, and damage to, or destruction or economic loss of property.

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STANDARD RENEWABLE ON-SYSTEM VARIABLE POWER PURCHASE AGREEMENT

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“Commercial Operation” has the meaning given to it in Section .

~~1.5.1.—“Commercial Operation Date” (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from a Licensed Professional Engineer (“LPE”) acceptable to PGE in its reasonable judgment stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement (certifications required under this Section 1.5 can be provided by one or more LPEs);~~

~~1.5.2.1.3.1. Start-Up Testing of the Facility has the meaning given to it in been completed in accordance with Section 1.36;~~

~~1.5.3.—“Commission (facilities with nameplate under 500 kW exempt from following requirement) After PGE has received notice of completion of Start-Up Testing, PGE has received a certificate addressed to PGE from an LPE stating that the Facility has operated for testing purposes under this Agreement and was continuously mechanically available for operation for a minimum of 120 hours. The Facility must provide ten (10) working days written notice to PGE prior to the start of the initial testing period. If the mechanical availability of the Facility is interrupted during this initial testing period or any subsequent testing period, the Facility shall promptly start a new Test Period and provide PGE forty-eight (48) hours written notice prior to the start of such testing period;~~

~~1.5.4.— (facilities with nameplate under 500 kW exempt from following requirement) PGE has received a certificate addressed to PGE from an LPE stating that in accordance with the Generation Interconnection Agreement, all required interconnection facilities have been constructed all required interconnection tests have been completed; and the Facility is physically interconnected with PGE's electric system.~~

~~1.5.5.— (facilities with nameplate under 500kW exempt from following requirement) PGE has received a certificate addressed to PGE from an LPE stating that Seller has obtained all Required Facility Documents and, if requested by PGE in writing, has provided copies of any or all such requested Required Facility Documents;~~

~~1.6.— “Contract Price” means (see the selection made in the first paragraph of this Agreement to determine whether Option A or Option B applies — only one option applies):~~

~~**Option A:**—“Contract Price” means the Public Utility Commission of Oregon.~~

~~“Contract Price” means, during the fifteen (15) years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date, the applicable fixed price for On-Peak Hours and Off-Peak Hours under price, including on-peak and off-peak prices, as specified in the Schedule. For the first 15 years measured from the date in Section 2.2.2, the Contract Price will be the Renewable Fixed Price Option for \_\_\_\_\_ [specify applicable Renewable Fixed Price Option based on resource type, in accordance with Schedule], as published in under the Schedule; thereafter and attached as Exhibit F (or in the case of QFs electing Option B, the Solar Standard Terms and Negotiated Price Agreement, as set forth in the price matrix attached as Exhibit H, which reflects the negotiated price, including on-peak and off-peak prices), and thereafter, for the remainder of the Term, the Daily Market Index Price in effect during the interval when the energy is generated for the remainder of the Term, the Contract Price will be equal to the Mid-C Index Price.~~

~~“Contract Option B: “Contract Price” means: (i) the negotiated price, including on-peak and off-peak prices, as specified in Exhibit E; or (ii) the Mid-C Index Price. For the first 15 years measured from the date in Section 2.2.2, the Contract Price will be the negotiated price specified in Exhibit E; thereafter and for the remainder of the Term, the Contract Price will be equal to the Mid-C Index Price. The negotiated price established in Exhibit E is not necessarily the same as the Standard Fixed Price Option or the Renewable Fixed Price Option established in the Schedule.~~

~~4.7.1.4. \_\_\_\_\_ “Contract Year” means each twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time (“PPT”) on January 1 and ending at 24:00 hours PPT on December 31; provided, however, that the first Contract Year shall commence on ~~upon~~ the Commercial Operation Date and end on December 31<sup>st</sup> of ~~or its anniversary during the Term, except the calendar~~ final contract year in which ~~will be the period from the last anniversary of~~ the Commercial Operation Date occurs, and the last Contract Year shall end on the last day of ~~during~~ the Term. ~~until the end of the Term.~~~~

~~“Credit Support” has the meaning given to it in Section .~~

~~“Creditworthiness Requirements” has the meaning given to it in Section .~~

~~“Daily Market Index Price” means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>. In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Point of Interconnection.~~

~~“Delay Damages” has the meaning given to it in Section .~~

~~“Delivery Period” has the meaning given to it in Section .~~

~~4.8.1.5. \_\_\_\_\_ “Effective Date” has the meaning given to it ~~set forth~~ in Section .2.4.~~

~~4.9.1.6. \_\_\_\_\_ “Environmental Attributes” shall mean any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gasses (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere. Environmental Attributes do not include (i) production tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, or (ii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits.~~

~~“Estimated Annual Average Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.~~

~~“Estimated Annual Maximum Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.~~

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“Estimated Monthly Average Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Estimated Monthly Maximum Net Output” means the relevant amount specified in Exhibit C, as reasonably updated by Seller when Seller issues an As-built Supplement.

“Existing QF” means a QF that (1) is or has been operational before the Effective Date of this Agreement, or (2) has ever sold energy or capacity to PGE or a third party.

1.10.1.7. “Expiration Date”-“Facility” has the meaning given to it set forth in Section the Recitals.

“Facility” is the entire facility as specified in Exhibit A and Exhibit B.

“Facility Nameplate Capacity Rating” means the sum of the Nameplate Capacity Ratings for all Generation Units comprising the Facility.

“FERC” means the Federal Energy Regulatory Commission or any successor government agency.

“Force Majeure” or “Force Majeure Event” has the meaning given to it in Section .

“Generator” means the electrical component within the Facility measured in kW that converts mechanical energy or solar radiation into electrical energy.

1.11. \_\_\_\_\_ “Generation Interconnection Agreement” means the generation interconnection agreement to be entered into separately between Seller and PGE, providing for the construction, operation, and maintenance of interconnection facilities required to accommodate deliveries of Seller's Net Output.

1.12.1.8. “Generation Unit” means each separate electrical generator that contributes towards Nameplate Capacity Rating included in Exhibit A. For solar facilities, a generating unit is a complete solar electrical generation system within the Facility that is able to generate and deliver energy to the Point of Interconnection Delivery independent of other Generation Units within the same Facility. For example, for a solar facility, a Generation Unit is an inverter and the panels associated with such inverter.

“Governmental Authority” means federal, national, state, municipal, local, tribal, territorial, or other governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, judicial, legislative or administrative body, domestic or foreign, including, without limitation, FERC and the Commission.

“Interconnection Agreement” means an agreement between PGE and Seller governing the interconnection of the Facility with PGE’s electric system.

“kW” and “kWh” mean kilowatt and kilowatt hour, respectively.

“Lender” means any Person providing capital, money or extending credit to Seller (i) for the construction, term or permanent financing or refinancing of the Facility; (ii) for working capital or other ordinary business requirements of the Facility; (iii) for any development financing, bridge financing or credit support with respect to Seller or the Facility; or (iv) primarily for income tax credits and other income tax benefits.

“Letter of Credit” means an irrevocable standby letter of credit from an institution selected by the Seller that has a long-term senior unsecured debt rating of “A” or greater from S&P or “A2” or greater from Moody’s, in a form reasonably acceptable to PGE, naming PGE as the party entitled to demand payment and present draw requests thereunder.

~~1.13. “Letter of Credit” means an engagement by a bank or other person made at the request of a customer that the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the letter of credit.~~

~~1.14.1.9. “Licensed Professional Engineer” or “LPE” means a person who is licensed to practice engineering in the state where the Facility is located, who has no economic relationship, association, or nexus with the Seller, except for being retained by Seller to perform the duties required in , and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.~~  
Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made and be acceptable to PGE in its reasonable judgment.

“Lost Energy” means (in kWh):

- A. In connection with a Facility after the Commercial Operation Date, if the Mechanical Availability Percentage falls below the Minimum Availability ~~((the Guarantee for a Contract Year, ((the Minimum Availability Guarantee as determined pursuant to Section / the actual~~ of Mechanical Availability Percentage as set forth in 3.1.10 / MAP) X Net Output for a Calendar Year) – Net Output for the applicable Contract Calendar Year) X actual Net Output for the applicable Contract Year) - actual Net Output for the applicable Contract Year; or
- B. In connection with a Facility that does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Estimated Monthly Average Net Output (by On-Peak Hours and Off-Peak Hours – see Exhibit C) for each month during the period from the Scheduled Commercial Operation Date until the earlier of the actual Commercial Operation Date or contract termination pursuant to Section 10. The Estimated Monthly Average Net Output. ~~Lost Energy shall be~~ pro-rated for any partial months; or
- C. In connection with a Facility whose Agreement has been terminated by PGE pursuant to Section 10 of this Agreement because of Seller’s default, the lesser of the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month during the 24 months following termination, or the sum of the Estimated Monthly Average Net Output (by On-Peak and Off-Peak Hours – see Exhibit C) for each month from the date of termination through the end of the Term. The Estimated Monthly Average Net Output shall be pro-rated for any partial months.

“Lost Energy Value” means:



A. In connection with Lost Energy described in subpart (A) of the definition of Lost Energy, the Lost Energy is allocated evenly to each calendar month in the Contract Year and then allocated to On-Peak Hours and Off-Peak Hours (by month) based on the ratio of generation in On-Peak Hours and Off-Peak Hours in Exhibit C (under the Estimated Monthly Average Net Output) during the applicable calendar month or partial calendar month. The Lost Energy Value is the sum of the of the monthly calculations of Lost Energy Value (see below) for the Contract Year plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

4.15.1.10. The monthly ~~zero unless the result of the~~ calculation of Lost Energy Value equals the sum of the following: ~~in this subsection results in a positive number.~~

- The On-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in ~~“Lost Energy Value” means Lost Energy X the Contract Year multiplied by the (applicable Replacement excess of the annual time-weighted average Mid-C Index Price for On-Peak and Off-Peak Hours less over the time-weighted average Contract Price for On-Peak and Off-Peak Hours for the same corresponding time period); and~~
- The Off-Peak Hours Lost Energy for each applicable calendar month (or partial calendar month) in the Contract Year multiplied by the (applicable Replacement Price for Off-Peak Hours less the Contract Price for Off-Peak Hours for the same period).

If the above calculation of the Lost Energy Value for the Contract Year results in a negative value, the Lost Energy Value for the Contract Year shall be ~~(provided that such excess shall not exceed the Contract Price and further provided that Lost Energy is deemed to be zero.~~ See the example calculation in Exhibit G.

4.16.1.11. In connection with Lost Energy described in subpart (B) of the definition of Lost Energy, the Lost Energy Value is calculated individually for each calendar month (or partial calendar month) during which Seller has failed to establish ~~prior to reaching~~ the Commercial Operation Date on or before the Scheduled Commercial Operation Date. The Lost Energy Value for each such calendar month (or partial calendar month) is the monthly calculation of Lost Energy Value (see below) plus any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services ~~power and/or transmission charges, to deliver the replacement power to the Point of Delivery. (For Start-Up Lost Energy Value see Section 1.35).~~

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) multiplied by the (applicable Replacement Price for On-Peak Hours less the Contract Price for On-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for On-Peak Hours) shall not exceed the Contract Price for On-Peak Hours for the same period; and

- The Off-Peak Hours Lost Energy for the applicable calendar month (or partial calendar month) *multiplied by* the (applicable Replacement Price for Off-Peak Hours *less* the Contract Price for Off-Peak Hours for the same period), however any positive difference obtained by subtracting the Contract Price from the Replacement Price (for Off-Peak Hours) shall not exceed the Contract Price for Off-Peak Hours for the same period.

If the above calculation of the Lost Energy Value for the applicable calendar month (or partial calendar month) results in a negative value, the Lost Energy Value for the applicable calendar month or partial calendar month shall be deemed zero. See the example calculation in **Exhibit G**.

- B. In connection with Lost Energy described in subpart (C) of the definition of Lost Energy, with respect to the applicable period (which may be up to 24-months) during which Lost Energy exists, the sum of the following amount calculated for each month or partial month of the applicable period during which Lost Energy exists:

The monthly calculation of Lost Energy Value equals the sum of the following:

- The On-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for On-Peak Hours for the period *less* the Contract Price for On-Peak Hours for the period); and
- The Off-Peak Lost Energy for the applicable calendar month or partial calendar month *multiplied by* (the Replacement Price for Off-Peak Hours for the period *less* the Contract Price for Off-Peak Hours for the period); and
- Any commercially reasonable third-party costs incurred by PGE to purchase a replacement for any Estimated Monthly Average Net Output that Seller is required to deliver under this Agreement during the period, including associated incremental Ancillary Services or transmission charges.

If the above calculation of the Lost Energy Value for the applicable period results in a negative value, the Lost Energy Value for the applicable period shall be deemed zero. See the example calculation in **Exhibit G**.

4.17.1.12. “Mechanical Availability Percentage” or “MAP” ~~means~~shall mean that percentage for any Contract Year for the Facility calculated in accordance with the following formula:

$$\text{MAP} = 100 - X \cdot \frac{(\text{Operational Hours})}{(\text{Base Hours} \times \text{Number of Units})}$$

~~“Mid-C Index Price” means the Day Ahead Intercontinental Exchange (“ICE”) index price for the bilateral OTC market for energy at the Mid-C Physical for Average On Peak Power and Average Off Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>“~~Minimum Availability Guarantee” has the meaning given to it in Section .

“Nameplate Capacity Rating” means the full-load electrical quantities assigned by the designer to a Generator and its prime mover or other piece of electrical equipment, such as transformers and circuit



breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.

“NERC” means the North American Electric Reliability Corporation.

“Net Available Capacity” means the full (maximum) net energy the Facility is capable of delivering to the electric grid, as measured in AC, at the Point of Interconnection continuously for sixty (60) minutes.

~~1.18. “In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Mid-C trading hub.~~

~~1.19. “Nameplate Capacity Rating” means the maximum capacity of the Facility as stated by the manufacturer, expressed in kW, which shall not exceed 10,000 kW.~~

~~1.20. “Net Dependable Capacity” means the maximum capacity the Facility can sustain over a specified period modified for seasonal limitations, if any, and reduced by the capacity required for station service or auxiliaries.~~

~~1.21.1.13. “Net Output” means all energy, expressed in kWhs, produced by the Facility, less station service and other onsite use, as measured at the Facility meter at the Point of Interconnection, and less transformation and transmission losses. Net Output does not include any environmental attributes.~~

“New QF” means any QF that is not an Existing QF.

~~1.22.1.14. “Number of Units” means the number of Generating Units in the Facility, as specified described in Exhibit A.~~

~~1.23. “Off-Peak Hours” means all hours other than has the meaning provided in the Schedule.~~

~~1.24.1.15. “On-Peak Hours” has the meaning provided in the Schedule.~~

“On-Peak Hours” means 6:00 a.m. to 10:00 p.m. PPT Monday through Saturday, excluding NERC holidays.

~~1.25.1.16. “Operational Hours” for the Facility means the total across all Generating Units of the number of hours each of the Facility’s Generating Units is are potentially capable of producing power at its Nameplate Capacity Rating regardless of actual weather, season and time of day or night, without any mechanical operating constraint or restriction, and potentially capable of delivering such power to the Point of Interconnection Delivery in a Contract Year. For each Contract Year, each Generation Unit is eligible During up to include no, but not more than, 200 hours as Operational Hours when the Generation Unit is not operational because of Planned Maintenance or an event of Force Majeure. For example, if the Facility consists of two separate Generation Units of 1.5 MW each and Generation Unit 1 is operational for 8,460 hours and is not operational for 300 hours due to Planned Maintenance or during a Contract Year for each Generation Unit and hours during which an event of Force Majeure; and Generation Unit 2 is operational for 8,560 hours and is not operational for exists, a Generation Unit shall be considered potentially capable of delivering such power to the Point of Delivery. For example, in the~~

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~~absence of any Planned Maintenance beyond 200 hours due to Planned Maintenance or an event on any Generation Unit of Event of Force Majeure, then the Operational Hours for the Facility for the Contract Year a wind farm with five separate two MW turbines would be calculated as follows: Generation Unit 1 Operational Hours = 8,460 + 200 = 8,660. Generation Unit 2 Operational Hours = 8,560 + 200 = 8,760. Operational Hours of the Facility = 8,760 + 8,660 = 17,420~~ **43,800 for a Contract Year.**

**“Oregon Renewable Portfolio Standard”** means the renewable portfolio standard contemplated by ORS 469A.005 to 469A.200, and the implementing regulations, in each case as in effect on the Effective Date of this Agreement.

**“Person”** means any individual, corporation, limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.

~~4.26.1.17.~~ **“Planned Maintenance”** means outages scheduled 90 calendar days in advance, with ~~PGE’s~~ prior written notice to PGE, provided however that maintenance during Off-Peak Hours (except Sundays between 6:00 a.m. and 10:00 p.m. PPT) on a Facility comprised of only solar Generators shall not be considered Planned Maintenance ~~consent, which shall not be unreasonably withheld.~~

~~4.27.~~ **“Point of Interconnection”** ~~means~~ **Delivery”** ~~means the high side of the generation step up transformer(s) located at the point of interconnection between the Facility and PGE’s PGE’s distribution or transmission system, as specified in the Generation Interconnection Agreement.~~

~~4.28.1.18.~~ **“Pre-Commercial Operation Date Minimum Net Output”** shall mean, unless such MWh is specifically set forth by Seller in Exhibit ~~B~~A, an amount in MWh equal to seventy-five percent (75%) of the Nameplate Capacity Rating X thirty percent (30%) for a wind or other renewable QF or fifty percent (50%) for a solar QF X (whole months since the date selected in Section 2.2.1 / 12) X (8760 hours – 200 hours (assumed Planned Maintenance)) for each month. If Seller has provided specific expected monthly Net Output amounts for the Facility in Exhibit A, **“Pre-Commercial Operation Date Minimum Net Output”** shall mean seventy-five (75%) X expected Net Output set forth in Exhibit A for each month.

~~4.29.1.19.~~ **“Prime Rate”** means the publicly announced prime rate or reference rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest based on the prime rate is being paid.

**“Product”** means, each and together, as a single bundled product, Net Output together with all associated capacity and Transferred RECs.

~~4.30.1.20.~~ **“Prudent Electrical Practices”** means those practices, methods, standards and acts engaged in or approved by a significant portion of the electric power industry in the ~~WECC~~ **Western Electricity Coordinating Council** that at the relevant time period, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been {00052931.2}

expected to accomplish the desired result in a manner consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts reflect due regard for operation and maintenance standards recommended by applicable equipment suppliers and manufacturers, operational limits, and all ~~Applicable Law, applicable laws and regulations.~~ Prudent Electrical Practices are not intended to be limited to the optimum practice, method, standard or act to the exclusion of all others, but rather to those practices, methods and acts generally acceptable or approved by a significant portion of the electric power generation industry in the relevant region, during the relevant period, as described in the immediately preceding sentence.

“PURPA” means the Public Utility Regulatory Policies Act of 1978.

“Qualifying Facility” has the meaning set forth in the Recitals.

~~1.31.—“REC” means Environmental Attributes and REC Reporting Rights, however commercially transferred or traded under any or other product names, such as “green tags,” “Green-e Certified,” or otherwise. RECs are accumulated on a MWh basis and one REC represents the Environmental Attributes and REC Reporting Rights made available by the generation of one MWh of energy by the Facility, as represented by the actual Net Output on an hourly basis. RECs do not include: (i) “Required Facility Documents” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility including without limitation those set forth in Exhibit B.~~

~~1.32.1.21. “RPS Attributes” means all attributes related to the Net Output generated by the Facility that are required in order to provide PGE with “qualifying electricity,” as that term is defined in Oregon’s Renewable Portfolio Standard Act, Ore. Rev. Stat. 469A.010, in effect at the time of execution of this Agreement. RPS Attributes do not include Environmental Attributes that are greenhouse gas offsets from methane capture not associated with the generation of electricity and not needed to ensure that there are zero net emissions associated with the generation of electricity; or (ii) thermal renewable energy certificates as defined in ORS 469A.132 and the implementing regulations. All RECs transferred to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.~~

“REC Reporting Rights” are the rights of a Person to report the ownership of accumulated RECs in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at such Person’s discretion, and include without limitation those REC Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present federal, state, or local law, regulation or bill, and international or foreign emissions trading program.

“Reliability Entity” means a Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the Facility or delivery of the Product, including NERC and WECC or any successor thereto.

“Renewable Resource Deficiency Period” means the period beginning January 1, 2025 through the termination or Expiration Date of this Agreement.

“Renewable Resource Sufficiency Period” means the period through 2024.

“Replacement Price” means the positive or negative value equal to the market price (by On-Peak Hours and Off-Peak Hours) at the Mid-Columbia trading hub for any Net Output that Seller fails to deliver as required under this Agreement.

When the Replacement Price is used to calculate the Lost Energy Value associated with (i) the Facility’s failure to meet the Minimum Availability Guarantee or (ii) Seller’s failure to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, the Replacement Prices shall be calculated as follows for each applicable calendar month (or partial calendar month):

- For Lost Energy During On-Peak Hours: the hourly average of the on-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).
- For Lost Energy During Off-Peak Hours: the hourly average of the off-peak Daily Market Index Prices for the applicable calendar month (or partial calendar month).

When the Replacement Price is used to calculate the Lost Energy Value associated with termination of this Agreement under Section 10, the Replacement Price shall be the respective On-Peak Hours and Off-Peak Hours ICE Mid-Columbia fixed price futures or a replacement published market survey regarding future prices during the applicable period.

“Required Facility Documents” means all licenses, permits, authorizations, and agreements necessary for construction, operation, interconnection, and maintenance of the Facility as specified by the Seller, as well as the Interconnection Agreement.

~~1.33.1.22.~~ “Schedule” means PGE’s shall mean PGE Schedule 201 filed with the Oregon Public Utilities Commission and (“Commission”) in effect on the date that Seller delivers to PGE an executed copy Effective Date of this Agreement. For ease of reference and informational purposes only, a copy of the Schedule is attached hereto as Exhibit F; however, if there is any difference between Exhibit F and the Schedule D, the terms of the Schedule shall apply and prevail which are hereby incorporated by reference.

“Scheduled Commercial Operation Date” has the meaning given to it in Section .

“Seller-Retained RECs” has the meaning given to it in Section .

~~1.34.1.23.~~ “Senior Lien” means a prior lien that which has precedence as to the property under the lien over another lien or encumbrance.

“Specified Facility Nameplate Capacity Rating” means the Facility Nameplate Capacity Rating set forth in Exhibit A, as it may be amended from time to time in accordance with this Agreement.

~~1.35.—“Start-Up Testing” means the performance of applicable start-up tests conducted prior to achieving Commercial Operation of the Facility as set forth in Exhibit E (as it may be updated by Seller) during the Test Period. “Start-Up Lost Energy Value” means for the period after the date specified in Section 2.2.2 but prior to achievement of the Commercial Operation Date: zero, unless the Net Output is less than the pro-rated Pre-Commercial Operation Date Minimum Net Output for the applicable delay period, and the time-weighted average of the delay period’s Mid-G Index Price for On-Peak Hours and Off-Peak Hours is greater than the time-weighted average of the delay period’s Contract Price for On-Peak Hours and Off-Peak Hours, in which case Startup Lost Energy Value equals: (pro-rated Pre-Commercial Operation {00052931.2}~~

~~Date Minimum Net Output for the applicable period – Net Output for the applicable period) X (the lower of: the time-weighted average of the Contract Price for On-Peak hours and Off-Peak Hours during the applicable period; or (the time-weighted average of the Mid-C Index Price for On-Peak Hours and Off-Peak Hours during the applicable period – the time-weighted average of the Contract Price for On-Peak Hours and Off-Peak Hours during the applicable period)). The time-weighted average in this section will reflect the relative proportions of On-Peak Hours and Off-Peak Hours in each day.~~

~~1.36.1.24. "Start-Up Testing" means the completion of applicable required factory and start-up tests as set forth in Exhibit C.~~

~~1.37.1.25. "Step-in Rights" means the right of one party to assume an intervening position to satisfy all terms of an agreement in the event the other party fails to perform its obligations under the agreement.~~

~~"Term" has the meaning given to it in Section .~~

~~1.38. "Term" shall mean the period beginning on the Effective Date and ending on the Termination Date.~~

~~"Test Energy" means electric energy generated by the Facility during the Test Period.~~

~~"Test Period" means" shall mean a period during which Start-Up Testing is to be conducted.~~

~~"Transferred RECs" has the meaning given to it in Section .~~

~~1.39.1.26. "WECC" means the Western Electricity Coordinating Council of sixty (60) days or any successor thereto a commercially reasonable period determined by the Seller.~~

~~"WREGIS" means the Western Renewable Energy Generation Information System.~~

## 1.2 Interpretation.

~~In this Agreement, references to Recitals, Sections, and Exhibits are references to the recitals, sections and exhibits of this Agreement. The article and section headings in this Agreement are inserted only as an aid in identifying subject matter and should not be considered an interpretation of the meaning of the article or section. As used in this Agreement, the terms "includes" or "including" mean "includes but is not limited to" and "including but not limited to," respectively. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in this Agreement in accordance with such recognized meanings.~~

~~References to Recitals, Sections, and Exhibits are to be the recitals, sections and exhibits of this Agreement.~~

## ~~SECTION 2: TERM; FACILITY; COMMERCIAL OPERATION DATE~~

### 1.3 Term.

~~2.1.—The term of this Agreement ("Term") commences on the date this Agreement is signed. This Agreement shall become effective upon execution by both Parties ("Effective Date").~~

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~~2.2.2.1. \_\_\_\_\_ Time is of the essence of this Agreement, and ends on the earlier of  
[Seller-selected date or fixed-interval period of time that is no  
more than 20 years from the Scheduled Seller's ability to meet certain requirements prior to  
the Commercial Operation Date] (“Expiration Date”) or the date on which this Agreement is  
terminated pursuant to the terms of the Agreement, and to complete all requirements to  
establish the Commercial Operation Date is critically important. Therefore,~~

1.4 Construction of the Facility.

1.4.1 Development, design, construction, and operation of the Facility and delivery of energy  
therefrom to PGE’s system, as applicable, is the sole responsibility of Seller and its successors and  
assigns, as may be managed by Seller in its sole discretion consistent with the terms of this  
Agreement. Seller shall, at its sole cost, design and construct the Facility and obtain all  
interconnection rights, necessary to enable the delivery of energy from the Facility to the Point of  
Interconnection, all in compliance with this Agreement, the Required Facility Documents, and  
Prudent Electrical Practices.

1.4.2 Prior to Commercial Operation and upon completion of any subsequent construction  
affecting the Facility, Seller shall provide to PGE an As-built Supplement specifying the complete  
Facility as built. The As-built Supplement may be reviewed by PGE, which review shall not be  
unreasonably withheld, conditioned or delayed. Any review by PGE of the design, construction,  
operation or maintenance of the Facility or documents pertaining thereto is solely for PGE’s  
information, and PGE shall have no responsibility to Seller or any third party in connection with  
such review. Seller is solely responsible for the economic and technical feasibility, operational  
capability and reliability of the Facility. For avoidance of doubt, nothing in this Section is  
intended to authorize modifications to the Facility except as permitted pursuant to Section .

1.5 Start-Up Testing.

Seller shall perform Start-Up Testing of the Facility in accordance with Exhibit E (as may be  
updated by Seller after the Effective Date as reasonably determined by Seller to be consistent with the  
design of the constructed Facility), and shall provide written notice to PGE when the Start-Up Testing has  
been successfully completed. Seller must provide no less than one (1) business days’ written notice to PGE  
prior to the commencement of Start-Up Testing, and must provide PGE ten (10) business day’s written  
notice prior to commencing sales of Test Energy to PGE. PGE shall compensate the Seller for delivered  
Test Energy in accordance with Section . This Section 2.3 does not apply if the Facility is an Existing QF  
unless the Existing QF elects to conduct Start-Up Testing.

1.6 Commercial Operation.

2.2.1—“Commercial Operation” will be achieved when the Facility is fully  
constructed and By \_\_\_\_\_ [date to be determined by the Seller] Seller shall begin initial  
deliveries of Net Output; and

By \_\_\_\_\_ [date to be determined by PGE in its reasonable judgment to be operational and  
reliable. Without limiting the foregoing, Commercial Operation requires all of the following events to have

occurred:

1.6.1 If the Facility is a New QF, Start-Up Testing of the Facility has been completed in accordance with Exhibit E, and PGE has received Seller's written certification of completion of Start-Up Testing.

1.6.2 PGE has received a certificate addressed to PGE from one or more Licensed Professional Engineers (i) identifying the Facility Nameplate Capacity Rating of the Facility; (ii) stating that the Facility is able to generate electric power reliably in accordance with the terms and conditions of this Agreement; (iii) stating that the Facility is interconnected and operational in accordance with the Interconnection Agreement; and (iv) stating that the Facility has operated for testing purposes and was continuously mechanically available for operation for a minimum of 120 hours.

1.6.3 PGE has received documentation reasonably requested by PGE that establishes the Facility Nameplate Capacity Rating to PGE's reasonable satisfaction, which may include equipment specifications.

1.6.4 PGE has received a letter addressed to PGE from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents, and PGE has received a copy of the fully executed Interconnection Agreement, and any other Required Facility Documents requested by PGE.

1.6.5 PGE has received the following documents with respect to the Facility: the As-built Supplement, including but not limited to an electrical single-line diagram, a 12x24 estimated net energy profile, a 8760 net energy production estimate, and (for solar QFs) an annual degradation factor.

1.6.6 PGE has received copies of all insurance certificates required ~~the Seller subject to Section 2.2.3 below~~ Seller shall have completed all requirements under Section .

1.6.7 PGE has received any Credit Support required under Section .

1.6.8 Seller has provided evidence of the registration of the Facility as a generating unit in WREGIS and satisfaction of any other requirements for the recording of RECs in WREGIS.

1.7 Establishment of Commercial Operation Date.

When Seller determines that it has met the requirements for Commercial Operation under Section , Seller shall deliver to PGE written notice thereof, together with all required supporting documentation, including but not limited to information required in Exhibit A and Exhibit B. PGE shall, within ten (10) business days following receipt of such notice and documentation, deliver either a written certification stating that Commercial Operation has been achieved, or a notice identifying in reasonable detail any requirements for Commercial Operation that have not been achieved. If PGE sends a notice that one or more requirements of Commercial Operation have not been achieved, Seller shall take such action as necessary to satisfy such requirements and issue to PGE another notice of Commercial Operation. This process shall be repeated until PGE certifies completion of the requirements for Commercial Operation, provided that PGE shall not unreasonably withhold such certification. The date of Seller's notice of

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Commercial Operation that is accepted by PGE in a written certification pursuant to this Section shall be considered the “Commercial Operation Date” for all purposes under this Agreement.

1.8 Scheduled Commercial Operation Date.

2.2.22.1.1 By no later than \_\_\_\_\_ (“Scheduled Commercial Operation Date”), Seller shall have completed all requirements under Section 4.5 and shall have established the Commercial Operation Date. After the Effective Date, Seller may request and PGE shall agree to amend this Agreement to revise the Scheduled Commercial Operation Date if Seller fails to establish the Commercial Operation Date by the Scheduled Commercial Operation Date and such delay was caused by PGE’s negligence or willful misconduct. If the Agreement is amended to revise the Scheduled Commercial Operation Date, the extension shall be as long as the delays caused by PGE’s negligence or willful misconduct. If Seller does not establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date, then Seller will owe PGE an amount equal to the Lost Energy Value calculated over each calendar month during such delay period commencing on the Scheduled Commercial Operation Date and ending on (but not including) the Commercial Operation Date (“Delay Damages”). If Commercial Operation does not occur by the first anniversary of the Scheduled Commercial Operation Date then PGE will have the right to terminate this Agreement in accordance with Section .

~~2.2.3 — Status Unless the Parties agree in writing that a later Commercial Operation Date is reasonable and necessary, the Commercial Operation Date shall be no more than three (3) years from the Effective Date. PGE will not unreasonably withhold agreement to a Commercial Operation Date that is more than three (3) years from the Effective date if the Seller has demonstrated that a later Commercial Operation Date is reasonable and necessary.~~

~~2.3. — This Agreement shall terminate on \_\_\_\_\_, \_\_\_\_\_ [date to be chosen by Seller but not to exceed 20 years from the date contained in Section 2.2.2], or the date the Agreement is terminated in accordance with Section 9 or 11, whichever is earlier (“Termination Date”).~~

~~SECTION 3: REPRESENTATIONS AND WARRANTIES~~

~~3.1. — Seller and PGE represent, covenant, and warrant as follows:~~

~~3.1.1. Seller warrants it is a \_\_\_\_\_ duly organized under the laws of \_\_\_\_\_.~~

~~3.1.2. — Seller warrants that the execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.~~

1.9 Seller warrants that the Facility.

~~3.1.3.3.1.1. Seller is and shall construct and operate for the Facility so as Term of this Agreement continue to ensure its status as be a “Qualifying Facility and” (“QF”) as that term is defined in a manner consistent with its FERC Qualifying Facility the version of 18 C.F.R. Part 292 in effect on the Effective Date. Seller has provided the appropriate QF certification, which~~

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STANDARD RENEWABLE ON-SYSTEM VARIABLE POWER PURCHASE AGREEMENT

~~may include a Federal Energy Regulatory Commission (“FERC”) self-certification to PGE prior to PGE’s execution of this Agreement.~~ At any time during the Term ~~of this Agreement~~, PGE may require Seller to provide PGE with evidence satisfactory to PGE in its reasonable ~~judgment~~~~discretion~~ that the Facility continues to qualify as a Qualifying Facility. ~~If PGE is not reasonably satisfied that the Facility is a Qualifying Facility, Seller shall provide upon PGE’s request documentation acceptable to PGE in its reasonable judgment demonstrating that the Facility is a Qualifying Facility. QF under all applicable requirements.~~

1.9.1 Seller shall not make any changes in its ownership, control or management that would cause the Facility to fail to satisfy the eligibility requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement. Seller shall provide upon request by PGE, not more frequently than every 36 months, any documentation and information as may be reasonably required to establish Seller’s continued compliance with the applicable eligibility requirements. PGE shall take reasonable steps to maintain the confidentiality of any such documentation and information that Seller identifies as confidential, provided that PGE may provide all such information to the Commission upon the Commission’s request.

## ARTICLE 2: DELIVERY AND SALE OF ENERGY; SCHEDULING

### 2.1 Delivery and Sale of Energy.

Except as otherwise provided in this Agreement, commencing on the Commercial Operation Date and continuing until the end of the Term (the “Delivery Period”), Seller shall deliver and sell and PGE shall receive and purchase all of the Net Output delivered at the Point of Interconnection. Title and risk of loss related to the Product shall transfer from Seller to PGE at the Point of Interconnection, except that title to Transferred RECs shall transfer to PGE when generated.

### 2.2 Estimated Net Output.

Seller’s good faith, commercially reasonable estimate of the Facility’s monthly and annual average and maximum Net Output during the Delivery Period, and Seller’s basis for determining such amounts, consistent with Prudent Electrical Practices, are set forth in **Exhibit C**, which amounts may be updated by Seller when Seller issues an As-built Supplement prior to Commercial Operation or after Seller makes modifications to the Facility as provided in Section . Seller acknowledges that PGE will use these estimates in its resource planning.

### 2.3 Minimum Availability Guarantee.

~~3.1.4.—Seller hereby guarantees that the Facility will achieve Seller warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and Seller is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

~~3.1.5.—Seller warrants that during the Term of this Agreement, all of Seller’s right, title and interest in and to the Facility shall be free and clear of all liens and encumbrances other than liens and encumbrances arising from third-party financing of the Facility other than workers’, mechanics’, suppliers’ or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been~~

~~released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.~~

~~3.1.6. Seller warrants that it will design and operate the Facility consistent with Prudent Electrical Practices.~~

~~3.1.7. Seller warrants that the Facility has a Nameplate Capacity Rating not greater than 10,000 kW.~~

~~3.1.8. Seller warrants that Net Dependable Capacity of the Facility is \_\_\_\_\_ kW.~~

~~3.1.9. Seller estimates that the average annual Net Output to be delivered by the Facility to PGE is \_\_\_\_\_ kilowatt-hours ("kWh"), which amount PGE will include in its resource planning.~~

~~3.1.10.3.1.2. Seller represents and warrants that the Facility shall achieve the following Mechanical Availability Percentages that meet or exceed the following ("Minimum Guarantee of Mechanical Availability Guarantee"):~~

~~3.1.10.13.1.2.1 Ninety percent (90%) beginning in the first Contract Year and extending through the Term of this Agreement for the Facility, if the Facility was operational and sold electricity to PGE or another buyer prior to the Effective Date of this Agreement; or~~

~~3.1.10.23.1.2.2 Ninety percent (90%) beginning in Contract Year three and extending throughout the remainder of the Term of this Agreement. .7~~

~~3.1.10.33.1.2.3 Annually, within 90 calendar days of the end of each Contract Year, Seller shall send to PGE a detailed written report demonstrating and providing evidence of the actual Mechanical Availability Percentage MAP for the previous Contract Year.~~

~~2.3.1 As a remedy for Seller's failure to satisfy meet the Minimum Guarantee of Mechanical Availability Guarantee in any Contract Calendar Year, Seller shall owe PGE result in damages equal to the Lost Energy Value.~~

## 2.4 Loss of Interconnection and Curtailment.

~~PGE shall not be liable to Seller and shall have no obligation to purchase the Product from Seller, and Seller shall have no obligation to generate, sell or deliver the Product to PGE, to the extent that, due to the action of a Reliability Entity, a Force Majeure Event or PGE's construction and maintenance activities conducted consistent with Prudent Electrical Practices, (i) the interconnection of the Facility to the electric system is disconnected, suspended or interrupted, or (ii) generation or transmission curtailment is required. If Seller delivers Product to PGE during a transmission curtailment event, PGE shall purchase such Product. Notwithstanding the foregoing, Seller may be liable under this Agreement or otherwise if the disconnection, suspension, interruption, or curtailment results from action or inaction within Seller's control.~~

## **ARTICLE 3: PRICE, BILLING AND PAYMENT**

### 3.1 Prices and Payment for Delivered Product.

3.1.1 During the Delivery Period, PGE shall pay Seller an amount for Product delivered during  
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a Billing Period calculated as follows: the Contract Price *multiplied by* Net Output during the Billing Period. An illustrative example is provided in **Exhibit G**.

3.1.2 Prior to the Commercial Operation Date, for a period of up to ninety (90) consecutive days after Seller first delivers Test Energy to PGE, PGE shall pay the Seller for Test Energy delivered to PGE, in the amount of the quantity of Test Energy *multiplied by* the applicable Contract Price for Off-Peak Hours. After the expiration of the 90-day period, PGE will not pay Seller for Test Energy.

3.1.3 Payment under this Section will be due on or before the thirtieth (30th) calendar day following the end of each Billing Period. PGE shall send Seller a computation supporting its payment calculation, including any offsets for amounts owing to PGE by Seller.

### 3.2 Invoicing and Payment for Lost Energy Value Related to Delay Damages.

By the thirtieth (30th) calendar day following the end of any calendar month in which Delay Damages accrue, PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (and supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Alternatively, PGE may by written notice to Seller elect to reduce the amount payable by PGE for future deliveries of energy hereunder until the amount of such Delay Damages is recovered. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the calendar month in which such Lost Energy Value accrued. An illustrative example showing the method for calculating Delay Damages is set forth in **Exhibit G**.

### 3.3 Invoicing and Payment for Lost Energy Value Related to Minimum Availability Guarantee.

~~3.4.10.43.1.2.4~~ If Seller fails to satisfy the Minimum Availability Guarantee during any Contract Year, on or before the forty-fifth (45th) calendar day following PGE's receipt of Seller's detailed written report for such Contract Year in accordance with Section , PGE will in the ordinary course deliver to Seller an invoice showing PGE's computation (including supporting data) of the Lost Energy Value, if any. No later than twenty (20) calendar days after receiving such invoice, Seller shall pay to PGE the amount set forth as due in such invoice. Thereafter, if applicable, the amount payable by PGE for future deliveries of energy hereunder shall be reduced until the Lost Energy Value is recovered. PGE and Seller shall work together in good faith to establish the period of such reduction (not to exceed one year) so as to minimize the risk of Seller's default on its commercial or financing agreements necessary for its continued operation of the Facility. Seller shall not owe PGE for any Lost Energy Value pursuant to this Section that is not invoiced within one year of the end of the Contract Year in which such Lost Energy Value accrued. An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in **Exhibit G** to PGE by Seller equal to the Lost Energy Value. PGE shall bill Seller for such damages in accordance with Section 8.

### 3.4 Form of Payment and Interest on Late Payments.

The Party owing payment under this Agreement will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the receiving Party. Any amounts owing after the due date and not disputed in good faith shall bear annual interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by Applicable Law, and if a court awards damages to a Party under this Agreement, this Section does not limit the interest that may be awarded under Applicable Law.

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3.5 Right to Offset.

PGE may offset any payment due to Seller by amounts owing from Seller to PGE pursuant to this Agreement and any other agreement between the Parties related to the Facility.

~~3.1.11. Seller will deliver from the Facility to PGE at the Point of Delivery Net Output not to exceed a maximum of \_\_\_\_\_ kWh of Net Output during each Contract Year (“Maximum Net Output”).~~

~~3.1.12. By the Commercial Operation Date, Seller has entered into a Generation Interconnection Agreement for a term not less than the term of this Agreement.~~

~~3.1.13. PGE warrants that it has not within the past two (2) years been the debtor in any bankruptcy proceeding, and PGE is and will continue to be for the Term of this Agreement current on all of its financial obligations.~~

~~3.1.14. (See the selection made in the first paragraph of this Agreement to determine whether Option A or Option B applies — only one option applies):~~

~~**Option A:**— Seller warrants that (i) the Facility satisfies the eligibility requirements for the Renewable Fixed Price Option specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA” and (ii) Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to not be in compliance with the eligibility requirements for the Renewable Fixed Price Option specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA.” Seller will provide, upon request by PGE not more frequently than every 36 months, such documentation and information as may be reasonably required to establish Seller’s continued compliance with such Definition. PGE agrees to take reasonable steps to maintain the confidentiality of any portion of the above-described documentation and information that the Seller identifies as confidential except PGE will provide all such confidential information to the Public Utility Commission of Oregon upon the Commission’s request.~~

~~**Option B:**— Seller warrants that (i) the Facility satisfies the eligibility requirements for a Standard PPA specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA” and (ii) Seller will not make any changes in its ownership, control or management during the term of this Agreement that would cause it to not be in compliance with the eligibility requirements for a Standard PPA specified in the section of PGE’s Schedule entitled “Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option under the Standard PPA.” Seller will provide, upon request by PGE not more frequently than every 36 months, such documentation and information as may be reasonably required to establish Seller’s continued compliance with such Definition. PGE agrees to take reasonable steps to maintain the confidentiality of any portion of the above-described~~

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~~documentation and information that the Seller identifies as confidential except PGE will provide all such confidential information to the Public Utility Commission of Oregon upon the Commission's request.~~

~~3.1.15. Seller warrants that it will comply with all requirements necessary for all Transferred RECs (as defined in Section 4.5) associated with Net Output to be issued, monitored, accounted for, and transferred by and through the Western Renewable Energy Generation System consistent with the provisions of OAR 330-160-0005 through OAR 330-160-0050. PGE warrants that it will reasonably cooperate in Seller's efforts to meet such requirements, including, for example serving as the qualified reporting entity for the Facility if the Facility is located in PGE's balancing authority.~~

~~SECTION 4: DELIVERY OF POWER, PRICE AND ENVIRONMENTAL ATTRIBUTES~~

~~4.1. Commencing on the Effective Date and continuing through the Term of this Agreement, Seller shall sell to PGE the entire Net Output delivered from the Facility at the Point of Delivery.~~

~~4.2. PGE shall pay Seller the Contract Price for all delivered Net Output.~~

~~4.3. (See the selection made in the first paragraph of this Agreement to determine whether Option A or Option B applies — only one option applies):~~

~~**Option A:** Upon completion of construction of the Facility, Seller shall provide PGE an As-built Supplement to specify the actual Facility as built. Seller shall not increase the Nameplate Capacity Rating above that specified in Exhibit A or increase the ability of the Facility to deliver Net Output in quantities in excess of the Net Dependable Capacity, or the Maximum Net Output as described in Section 3.1.11 above, through any means including, but not limited to, replacement, modification, or addition of existing equipment, except with prior written notice to PGE. In the event Seller increases the Nameplate Capacity Rating of the Facility pursuant to this section to no more than 3,000 kW (if the Facility produces Net Output through solar generation), or to no more than 10,000 kW (if the Facility does not produce Net Output through solar generation), PGE shall pay the Contract Price for the additional delivered Net Output. In the event Seller increases the Nameplate Capacity Rating of the Facility to greater than 3,000 kW and the Facility produces Net Output through solar generation, then Seller shall be required to enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 3,000 kW. In the event Seller increases the Nameplate Capacity Rating of the Facility to greater than 3,000 kW but no greater than 10,000 kW and the Facility produces Net Output through solar generation, the new power purchase agreement will be (at Seller's choice) either a standard (Schedule 201) power purchase agreement or a negotiated (Schedule 202) power purchase agreement and neither option is eligible for Schedule 201 prices. In the event the Seller increases the Nameplate Capacity Rating to greater than 10,000 kW and the Facility produces Net Output through solar generation, then Seller shall be required to enter into a new negotiated (Schedule 202) power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 3,000 kW. In the event Seller increases the Nameplate Capacity Rating to greater than 10,000 kW and the Facility produces Net Output through means other than solar generation, then Seller shall~~

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~~be required to enter into a new negotiated (Schedule 202) power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 10,000 kW.~~

~~**Option B:** Upon completion of construction of the Facility, Seller shall provide PGE an As-built Supplement to specify the actual Facility as built. Seller shall not increase the Nameplate Capacity Rating above that specified in Exhibit A or increase the ability of the Facility to deliver Net Output in quantities in excess of the Net Dependable Capacity, or the Maximum Net Output as described in Section 3.1.11 above, through any means including, but not limited to, replacement, modification, or addition of existing equipment, except with prior written notice to PGE. In the event Seller increases the Nameplate Capacity Rating of the Facility to no more than 10,000 kW pursuant to this section, PGE shall pay the Contract Price for the additional delivered Net Output. In the event Seller increases the Nameplate Capacity Rating to greater than 10,000 kW, then Seller shall be required to enter into a new negotiated (Schedule 202) power purchase agreement for all delivered Net Output proportionally related to the increase of Nameplate Capacity above 10,000 kW.~~

~~4.4. To the extent not otherwise provided in the Generation Interconnection Agreement, all costs associated with the modifications to PGE's interconnection facilities or electric system occasioned by or related to the interconnection of the Facility with PGE's system, or any increase in generating capability of the Facility, or any increase of delivery of Net Dependable Capacity from the Facility, shall be borne by Seller.~~

~~4.5. From the start of the Renewable Resource Deficiency Period through the remainder of the Term of this Agreement, Seller shall provide and PGE shall acquire the RPS Attributes for the Contract Years as specified in the Schedule and Seller shall retain ownership of all other Environmental Attributes (if any). During the Renewable Resource Sufficiency Period, Seller shall retain all Environmental Attributes in accordance with the Schedule. The Contract Price includes full payment for the Net Output and any RPS Attributes transferred to PGE under this Agreement. With respect to Environmental Attributes not transferred to PGE under this Agreement ("Seller-Retained Environmental Attributes") Seller may report under §1605(b) of the Energy Policy Act of 1992 or under any applicable program as belonging to Seller any of the Seller-Retained Environmental Attributes, and PGE shall not report under such program that such Seller-Retained Environmental Attributes belong to it. With respect to RPS Attributes transferred to PGE under this Agreement ("Transferred RECs"), PGE may report under §1605(b) of the Energy Policy Act of 1992 or under any applicable program as belonging to it any of the Transferred RECs, and Seller shall not report under such program that such Transferred RECs belong to it.~~

#### SECTION 5: OPERATION AND CONTROL

~~5.1. Seller shall operate and maintain the Facility in a safe manner in accordance with the Generation Interconnection Agreement, and Prudent Electrical Practices. PGE shall have no obligation to purchase Net Output from the Facility to the extent the interconnection of the Facility to PGE's electric system is disconnected, suspended or interrupted, in whole or in part, pursuant to the Generation Interconnection~~



~~Agreement, or to the extent generation curtailment is required as a result of Seller's noncompliance with the Generation Interconnection Agreement. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility.~~

~~5.2. Seller agrees to provide sixty (60) days advance written notice of any scheduled maintenance that would require shut down of the Facility for any period of time.~~

~~5.3. If the Facility ceases operation for unscheduled maintenance, Seller immediately shall notify PGE of the necessity of such unscheduled maintenance, the time when such maintenance has occurred or will occur, and the anticipated duration of such maintenance. Seller shall take all reasonable measures and exercise its best efforts to avoid unscheduled maintenance, to limit the duration of such unscheduled maintenance, and to perform unscheduled maintenance during Off-Peak hours.~~

#### SECTION 6: CREDITWORTHINESS

~~In the event Seller: a) is unable to represent or warrant as required by Section 3 that it has not been a debtor in any bankruptcy proceeding within the past two (2) years; b) becomes such a debtor during the Term; or c) is not or will not be current on all its financial obligations, Seller shall immediately notify PGE and shall promptly (and in no less than 10 days after notifying PGE) provide default security in an amount reasonably acceptable to PGE in one of the following forms: Senior Lien, Step-in Rights, a Cash Escrow or Letter of Credit. The amount of such default security that shall be acceptable to PGE shall be equal to: (annual On Peak Hours) X (On Peak Price – Off Peak Price) X (Net Dependable Capacity). Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its discretion, grant an exception to the requirements to provide default security if the QF has negotiated financial arrangements with the construction loan lender that mitigate Seller's financial risk to PGE.~~

#### SECTION 7: METERING

##### 3.6 Metering Equipment and Location.

~~7.1. PGE shall design, furnish, install, own, inspect, test, maintain and replace all metering equipment at Seller's cost and as required pursuant to the ~~Generation Interconnection Agreement.~~~~

~~7.2. Metering shall be performed at the location and in a manner consistent with this Agreement and as specified in the ~~Generation Interconnection Agreement.~~ All Net Output purchased hereunder shall be adjusted to account for electrical losses, if any, between the point of metering and the Point of Interconnection Delivery, so that the purchased amount reflects the net amount of power flowing into PGE's system at the Point of Interconnection Delivery.~~

##### 3.7 Meter Installation, Inspection and Correction.

~~7.3.~~—PGE shall periodically inspect, test, repair and replace the metering equipment as provided in the ~~Generation~~-Interconnection Agreement. If any of the inspections or tests discloses an error exceeding two (2%) percent of the actual energy delivery, either fast or slow, proper correction, based upon the inaccuracy found, shall be made of previous readings for the actual period during which the metering equipment rendered inaccurate measurements if that -period can be ascertained. If the actual period cannot be ascertained, the proper correction shall be made to the measurements taken during the time the metering equipment was in service since last tested, but not exceeding three (3) months, in the amount the metering equipment shall have been shown to be in error by such test. ~~Any~~ correction in billings or payments resulting from a correction in the meter records shall be made in the next ~~monthly~~-billing or payment rendered. Such correction, when made, shall constitute full adjustment of any claim between Seller and PGE arising out of such inaccuracy of metering equipment.

### 3.8 Metering Costs.

~~7.4.~~—To the extent not otherwise provided in the ~~Generation~~-Interconnection Agreement, all of PGE's costs relating to all metering equipment installed to accommodate Seller's Facility shall be borne by Seller.

## **ARTICLE 4: OPERATION AND MAINTENANCE; OUTAGES; FACILITY UPGRADES**

### 4.1 Seller's Duty to Operate and Maintain the Facility.

4.1.1 Seller shall operate and maintain the Facility, including the Facility's metering equipment and interconnection facilities, in a safe manner in accordance with the Required Facility Documents and Prudent Electrical Practices. Seller is solely responsible for the operation and maintenance of the Facility. PGE shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility, except to the extent that PGE's negligence or willful misconduct during PGE's inspection of the Facility damages the Facility.

4.1.2 Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide copies of the same to PGE upon request.

### 4.2 Outages.

4.2.1 On or before September 1 of the calendar year prior to the Commercial Operation Date, and thereafter on or before each September 1 during the Delivery Period, Seller shall provide PGE with a schedule of all planned outages for maintenance, construction, inspection, testing or other planned activities at the Facility for the upcoming calendar year that are expected to result in an outage of more than twenty-five percent (25%) of the Specified Facility Nameplate Capacity Rating for twenty-four (24) or more consecutive hours. Such notice shall be provided in accordance with the notice requirements of Section .

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4.2.2 Seller shall use commercially reasonable efforts to avoid or mitigate outages during the Delivery Period, and Seller shall use commercially reasonable efforts to avoid or mitigate outages during PGE's system emergencies.

4.3 Facility Upgrades.

4.3.1 Prior to the Commercial Operation Date, Seller may not materially change the Specified Facility Nameplate Capacity Rating.

4.3.2 At any time after the Commercial Operation Date upon at least six months prior written notice, Seller may increase the Facility Nameplate Capacity Rating beyond the Specified Facility Nameplate Capacity Rating or increase the expected Net Output of the Facility as set forth in Exhibit C, but only to the extent any such increase to the Facility Nameplate Capacity Rating or the expected Net Output is due to operational efficiency improvements or the replacement of damaged or defective equipment. Seller may not increase the Facility Nameplate Capacity Rating or the expected Net Output of the Facility as set forth in Exhibit C for any other reason, including by installing additional generating units or replacement equipment that results in an increase in Net Output due to reasons other than operational efficiency improvements, or by modifying inverter settings.

4.3.2.1 If any upgrades or other modifications are made to the Facility in accordance with Section or Section that result in a Facility Nameplate Capacity Rating other than the Specified Facility Nameplate Capacity Rating, the Parties shall amend Exhibit A and Exhibit C as appropriate to reflect the modifications.

4.3.2.2 So long as Seller does not increase the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller will continue to receive the Contract Price for all delivered Net Output.

4.3.3 If Seller increases the Facility Nameplate Capacity Rating pursuant to Section or Section to greater than 3,000 kW if the Facility produces Net Output through solar generation, or 10,000 kW if the Facility produces Net Output through any other resource types, then Seller and PGE shall enter into a new power purchase agreement for all delivered Net Output proportionally related to the increase in Facility Nameplate Capacity Rating above 3,000 kW (solar) or 10,000 kW (all other QFs), consistent with then-current Applicable Law:

4.3.3.1 If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to more than 3,000 kW and no greater than 10,000 kW, then Seller may elect to enter either (a) a standard power purchase agreement with negotiated prices, or (b) a negotiated power purchase agreement with negotiated prices.

4.3.3.2 If the Facility produces Net Output through solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

4.3.3.3 If the Facility produces Net Output through any resource types other than solar generation and increases the Facility Nameplate Capacity Rating to greater than 10,000 kW, then the new power purchase agreement must be a negotiated agreement.

## **ARTICLE 5: ENVIRONMENTAL ATTRIBUTES**

### 5.1 Seller-Retained RECs.

Seller shall retain ownership of all RECs (“Seller-Retained RECs”) and all other Environmental Attributes associated with Net Output of the Facility during the Test Period and during the Renewable Resource Sufficiency Period. PGE shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Seller-Retained RECs belong to any Person other than Seller.

### 5.2 Transferred RECs.

5.2.1 Seller shall transfer to PGE and PGE shall acquire all RECs associated with Net Output from the start of the Renewable Resource Deficiency Period through the remainder of the Term (“Transferred RECs”). PGE’s payments for Product under this Agreement include full payment for all Transferred RECs. Seller shall not report under §1605(b) of the Energy Policy Act of 1992 or any other applicable program that any Transferred RECs belong to any Person other than PGE. PGE shall be entitled to claim all rights associated with the Transferred RECs, including any value in the ownership, use or allocation of RECs created by legislation or regulation after the Effective Date.

5.2.2 Transferred RECs shall be deemed delivered and sold to PGE under this Agreement as they are produced, and title to Transferred RECs shall pass to PGE when generated. The Facility meter at the point of interconnection shall serve as the record source for purposes of calculating, certifying, and auditing Transferred RECs. In the event Seller generates power and associated RECs are transferred but the power is not delivered to PGE by Seller due to a Force Majeure Event, curtailment, or other reason, PGE and Seller will work together in good faith to return such RECs to Seller.

5.2.3 Seller shall comply with all requirements necessary for all Transferred RECs to be issued, monitored, accounted for, and transferred by and through WREGIS, consistent with the provisions of OAR 330-160-0005 through OAR 330-160-0090. Without limiting the generality of the foregoing, Seller shall cause the Facility to implement all necessary generation information communications in WREGIS, and report generation information to WREGIS pursuant to a WREGIS-approved meter that is dedicated to the Facility and only the Facility. Seller shall cause delivery and transfer of the Transferred RECs to PGE’s WREGIS account to be perfected in accordance with WREGIS rules. Seller shall hold the Transferred RECs in trust for PGE until such delivery and transfer is perfected. Each Party shall take such steps and further actions as may be required by WREGIS or Applicable Law in order to effect and confirm the sale and delivery of the Transferred RECs to PGE for all purposes. PGE will reasonably cooperate in Seller’s efforts to meet such requirements, including, for example serving as the qualified reporting entity for the Facility if the Facility is located in PGE’s Balancing Authority.

5.2.4 All RECs delivered to PGE under this Agreement must comply with the Oregon Renewable Portfolio Standard.

## **ARTICLE 6: REPRESENTATIONS AND WARRANTIES**

### 6.1 Representations and Warranties of Seller.

On the Effective Date and throughout the Term, Seller represents and warrants to PGE as follows:

6.1.1 Seller is duly organized and in good standing under the laws of the state of incorporation or formation.

6.1.2 The execution, delivery and performance of this Agreement are within Seller's powers, have been duly authorized by all necessary action, and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

6.1.3 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

6.1.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

6.1.5 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.

6.1.6 Either Seller satisfies the requirements set forth in Section through below (the "**Creditworthiness Requirements**"), or Seller has provided and is maintaining, for as long as Seller fails to satisfy the Creditworthiness Requirements, Credit Support as required pursuant to Section .

6.1.6.1 Seller is not and has not been Bankrupt within the past two (2) years, and there are no proceedings pending or being contemplated by Seller or, to Seller's knowledge, threatened against Seller that would result in Seller being or becoming Bankrupt.

6.1.6.2 Seller is not in default under any of its material agreements and is current on all of its financial obligations, including construction-related financial obligations.

6.1.6.3 Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility, workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that

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are either not yet due and payable or that have been released by means of a performance bond acceptable to PGE posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

6.1.7 No later than the Commercial Operation Date, Seller will possess a valid hydropower license or exemption from licensing from FERC for the Facility, if required.

6.1.8 The Facility, as described in this Agreement and constructed, owned and operated by Seller following Commercial Operation, satisfies the requirements specified in the Schedule for entering into the form of Standard PPA and pricing reflected in this Agreement.

6.1.9 Seller meets the Eligibility Requirements for entering into a Standard PPA, as such terms are defined in the Schedule.

6.1.10 Seller has the right to sell the Product to PGE free and clear of liens or encumbrances.

6.1.11 The Facility generates RECs that comply with the Oregon Renewable Portfolio Standard.

6.2 Representations and Warranties of PGE.

On the Effective Date and throughout the Term, PGE represents and warrants to Seller as follows:

6.2.1 It is a corporation duly organized under the laws of Oregon.

6.2.2 This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms (subject only to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending).

6.2.3 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

6.2.4 There is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement.

6.2.5 It is not and has not been Bankrupt within the past two (2) years and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

6.2.6 No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement.



6.3 Duty to Notify.

If a Party gains knowledge of any event or circumstance that renders any representation and warranty of such Party set forth in this Article 8 false or misleading, such Party shall promptly provide the other Party with written notice of the event or information, the representation or warranty affected, and the remedial action, if any, which such Party intends to take to make the representations and warranties true and correct.

**ARTICLE 7: CREDIT SUPPORT**

7.1 Required Credit Support.

In the event that Seller does not satisfy any one or more of the Creditworthiness Requirements, Seller shall immediately notify PGE in writing and shall promptly (and in no less than ten (10) business days after notifying PGE) provide credit support in the form of, at the Seller's election: (i) Senior Lien, (ii) Step-in Rights, (iii) a Cash Escrow or (iv) Letter of Credit (the "Credit Support"). In each case, the amount of Credit Support required shall be calculated as follows: (aggregate number of On-Peak Hours in the 12-month period starting on the month Credit Support is required to be provided) x (for the 12-month period starting on the month Credit Support is required to be provided, the weighted average Contract Price for On-Peak Hours – the weighted average Contract Price for Off-Peak Hours) x (Net Available Capacity). The amount of Credit Support required shall be updated annually, on the anniversary of the month Credit Support was first required to be provided. The updated amount of Credit Support shall be calculated for each subsequent 12-month period, consistent with the calculation described in this Section.

If PGE has a reasonable ground for questioning whether Seller satisfies any one or more of the Creditworthiness Requirements, Seller shall provide, within ten (10) business days from receipt of a written request from PGE, all reasonable records necessary for PGE to confirm Seller satisfies the Creditworthiness Requirements. PGE shall be permitted to provide written notice to Seller if PGE reasonably believes that Seller does not satisfy any one or more of the Creditworthiness Requirements. Within ten (10) business days of receiving such written notice from PGE, Seller shall provide credit support in the form and in the amount specified above in this Section. The costs of providing Credit Support shall be borne by Seller.

Notwithstanding the foregoing, in the event Seller is not current on construction related financial obligations, Seller shall notify PGE of such delinquency and PGE may, in its reasonable discretion, grant an exception to the requirements to provide default security if the Seller has negotiated financial arrangements with the Lender that mitigate Seller's financial risk to PGE.

7.2 Right to Draw on Credit Support.

At any time after the occurrence and during the continuation of an Event of Default, or upon an early termination of this Agreement by PGE pursuant to Section , PGE may draw on Seller's Credit Support to satisfy any amounts that Seller owes PGE under this Agreement. In the event that PGE draws on the Credit Support during the Term, PGE shall inform Seller within fifteen (15) business days, and Seller shall promptly, and in no more than fifteen (15) business days following notice from PGE, restore the Credit Support to the amount required under Section . However, for avoidance of doubt, Seller shall have no



obligation to replenish the Credit Support if PGE has terminated the Agreement.

## **ARTICLE 8: DEFAULT, REMEDIES AND TERMINATION**

### **8.1 Events of Default.**

An “Event of Default” means, with respect to a Party, the occurrence of any of the following unless otherwise excused under this Agreement:

8.1.1 the failure of such Party to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) business days after receipt of written notice;

8.1.2 any representation or warranty made by such Party in this Agreement is false or misleading in any material respect if such inaccuracy is not cured within thirty (30) calendar days after the non-defaulting Party gives the defaulting Party a notice of default;

8.1.3 the failure of a Party to perform any material covenant or obligation set forth in this Agreement for which an exclusive remedy is not provided in this Agreement and not excused by Force Majeure, if the failure is not cured within thirty (30) calendar days after receipt of written notice from the other Party explaining the circumstances supporting the notice of default; provided that if such default is not reasonably capable of being cured within the thirty (30) calendar day cure period but is reasonably capable of being cured within a sixty (60) calendar day cure period, the defaulting Party will have such additional time (not exceeding an additional thirty (30) calendar days) as is reasonably necessary to cure, if, prior to the end of the thirty (30) calendar day cure period, (i) the defaulting Party provides the non-defaulting Party a remediation plan, (ii) the non-defaulting Party approves such remediation plan in its reasonable discretion, and (iii) the Defaulting Party promptly commences and diligently pursues the remediation plan;

8.1.4 with respect to Seller, at any time after the Commercial Operation Date, the Facility is not a Qualifying Facility if such failure is not cured within 30 calendar days of Seller’s receipt of written notice from PGE;

8.1.5 with respect to Seller, Seller fails to cure a default by Seller under the Interconnection Agreement within the cure period provided under such Agreement or fails to maintain or renew its Interconnection Agreement at any time during the term of this Agreement;

8.1.6 with respect to Seller, Seller fails to establish, maintain, or increase Credit Support when required pursuant to this Agreement, if such failure is not cured within 30 calendar days of Seller’s receipt of written notice from PGE;

8.1.7 with respect to Seller, Seller fails, for any two or more consecutive Contract Years to satisfy the Minimum Availability Guarantee;

8.1.8 Seller’s failure to provide any written report required by Section if such failure is not cured within 30 calendar days of Seller’s receipt of written notice from PGE;

8.1.9 with respect to Seller, Seller fails to establish the Commercial Operation Date on or before the Scheduled Commercial Operation Date. Seller shall have one (1) year to cure default under this Section 10.1.9, during which time Seller shall pay PGE Delay Damages pursuant to the terms of Section and Section .

8.2 Lender's Right to Cure a Seller Event of Default.

Seller may provide PGE with written notice identifying Seller's Lender, including contact information, and add the Lender as a representative to receive notices under Section of this Agreement. PGE agrees to accept a cure of a Seller's Event of Default performed by the Lender, provided the cure is accomplished in accordance with this Agreement, including but not limited to within the applicable cure period set forth in this Agreement.

8.3 Termination for Default.

If an Event of Default has occurred and is continuing, the non-defaulting Party~~SECTION 8: BILLINGS, COMPUTATIONS AND PAYMENTS~~

~~8.1.— On or before the thirtieth (30<sup>th</sup>) day following the end of each Billing Period, PGE shall send to Seller payment for Seller's deliveries of Net Output to PGE, together with computations supporting such payment. PGE may offset any such payment to reflect amounts owing from Seller to PGE pursuant to this Agreement, the Generation Interconnection Agreement, and any other agreement related to the Facility between the Parties or otherwise. On or before the thirtieth (30<sup>th</sup>) day following the end of each Contract Year, PGE shall bill for any Lost Energy Value accrued pursuant to this Agreement.~~

~~8.2.— Any amounts owing after the due date thereof shall bear interest at the Prime Rate plus two percent (2%) from the date due until paid; provided, however, that the interest rate shall at no time exceed the maximum rate allowed by applicable law.~~

SECTION 9: DEFAULT, REMEDIES AND TERMINATION

~~9.1.— In addition to any other event that may constitute a default under this Agreement, the following events shall constitute defaults under this Agreement:~~

~~9.1.1.— Breach by Seller or PGE of a representation or warranty, except for Section 3.1.4, set forth in this Agreement.~~

~~9.1.2.— Seller's failure to provide default security, if required by Section 6, prior to delivery of any Net Output to PGE or within 10 days of notice.~~

~~9.1.3.— Seller's failure to meet the Guarantee of Mechanical Availability established in Section 3.1.10 for two consecutive Contract Years or Seller's failure to provide any written report required by that section.~~

~~9.1.4.— If Seller is no longer a Qualifying Facility.~~

~~9.1.5.— Failure of PGE to make any required payment pursuant to Section 8.1.~~

~~9.1.6.— Seller's failure to meet the Commercial Operation Date.~~

~~9.2. In the event of a default under Section 9.1.6, PGE may provide Seller with written notice of default. Seller shall have one year in which to cure the default during which time the Seller shall pay PGE damages equal to the Lost Energy Value. If Seller is unable to cure the default, PGE may immediately terminate this Agreement as provided in Section 9.3. PGE's resource sufficiency/deficiency position shall have no bearing on PGE's right to terminate the Agreement under this Section 9.2.~~

~~9.3. In the event of a default under this Agreement, except as otherwise provided in this Agreement, the non-defaulting party may immediately terminate this Agreement at its sole discretion, and without the non-defaulting Party incurring any liability to the defaulting Party, by delivering written notice to the defaulting other Party. In addition, the non-defaulting Party may pursue any and all other legal or equitable remedies available provided by law or pursuant to it, this Agreement including recovery of damages as set forth below.~~

#### 8.4 Damages.

~~If this Agreement is terminated by PGE as a result of Seller's default, then Seller shall owe PGE the Lost Energy Value. Amounts owed by Seller pursuant to this Section shall be due within fifteen (15) business days after any invoice from PGE for the same. Damages owing under this Section 10.4 shall be related to the need to procure replacement power. A termination hereunder shall be effective upon the date of delivery of notice, as provided in Section 20. The rights provided in this Section 9 are cumulative and in addition to damages owing pursuant to Sections . . and . An illustrative example showing the method for calculating the Lost Energy Value under this Section is set forth in Exhibit G. such that the exercise of one or more rights shall not constitute a waiver of any other rights.~~

#### 8.5 Payment of Outstanding Obligations.

~~9.4. If this Agreement is terminated pursuant to as provided in this Section , then within thirty (30) calendar days of termination, PGE shall make all payments due and owing, within thirty (30) days, that, pursuant to the terms of this Agreement, are owed to Seller as of the time of receipt of notice of termination; provided that any such amounts may be set off against any amounts Seller owes PGE pursuant to Section or otherwise. default. PGE shall not be required to pay Seller for Product any Net Output delivered by Seller after the effective date of any termination such notice of default.~~

#### 8.6 Post-Termination PURPA Status.

~~9.5. In the event (i) PGE terminates this Agreement pursuant to this Article 10 or Seller terminates this Agreement without cause, and (ii) Seller or any Affiliate of Seller, or any successor to Seller with respect to the ownership of the Facility, Section 9, and Seller wishes to again sell Net Output to PGE from the Facility following such termination, then PGE in its sole discretion may (but will not be obliged to) require that Seller, its Affiliate, or its successor shall do so subject to the terms and conditions of this Agreement, including but not limited to the Contract Price. If PGE elects to require Seller to sell Net Output pursuant to until the Terms of this Agreement, then Seller and PGE shall promptly (as set forth in Section 2.3) would have run in due course had the Agreement remained in effect. At such time Seller and PGE agree to execute a written document ratifying the terms of this Agreement. PGE's option to require Seller to sell Net Output pursuant to the terms of this Agreement will expire when a new agreement is executed for purchasing Net Output from the Facility.~~

~~9.6. Sections 9.1, 9.4, 9.5, 10, and 19.2 shall survive termination of this Agreement.~~

SECTION 10: INDEMNIFICATION AND LIABILITY

8.7 Seller's Indemnity.

~~10.1. Seller agrees to defend, indemnify and hold harmless PGE, its directors, officers, employees, agents, and representatives against and from any and all Claims, loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (i) Seller's performance hereunder, including the delivery of energy electric power to and PGE or with the facilities at or prior to the Point of Interconnection; (ii) Seller's development, construction, ownership, operation, maintenance, or decommissioning of the Facility; (iii) the violation of any law, rule, order or regulation by Seller or any of its Affiliates, or their respective employees, contractors or agents in connection with this Agreement; (iv) Seller's failure to perform any of Seller's obligations under this Agreement or the Required Facility Documents; (v) Seller's breach of any representation or warranty set forth in this Agreement; or (vi) Seller's negligence or willful misconduct in connection with this Agreement, except to the extent such Claim is Delivery, or otherwise arising out of this Agreement, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PGE, Seller or others, excepting to the extent such loss, claim, action or suit may be caused by breach of this Agreement or by the negligence or willful misconduct of PGE, its directors, officers, employees, agents or representatives.~~

8.8 PGE's Indemnity.

~~10.2. PGE agrees to defend, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all Claims, loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (i) PGE's receipt of energy under electric power from Seller or with the facilities at or after the Point of Delivery, or otherwise arising out of this Agreement after its delivery at the Point of Interconnection; (ii) the violation of, including without limitation any law, rule, order, loss, claim, action or regulation by PGE, suit, for or any on account of its Affiliates, or their respective employees, or agents in connection with this Agreement; (iii) PGE's failure injury, bodily or otherwise, to perform any, or death of PGE's obligations under this Agreement; (iv) PGE's breach, persons, or for damage to, or destruction or economic loss of any representation or warranty set forth in this Agreement; or (v) PGE's negligence or willful misconduct in connection with this Agreement, except property belonging to PGE, Seller or others, excepting to the extent such Claim is loss, claim, action or suit may be caused by Seller's breach of this Agreement or by the negligence or willful misconduct of Seller, its directors, officers, employees, agents or representatives.~~

8.9 No Dedication.

~~10.3. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to~~

the other Party or to the public, nor affect the status of PGE as an independent public utility corporation or Seller as an independent ~~Person~~individual or entity.

8.10 Disclaimer of Consequential Damages.

~~10.4.~~ NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR SPECIAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER ARISING FROM CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

SECTION 11: INSURANCE

8.11 Certificates of Insurance.

~~Prior to the start of deliveries (including Test Energy) under this Agreement, and whenever any required~~  
~~11.1.~~ Prior to the connection of the Facility to PGE's electric system, provided such Facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, with an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance policies for bodily injury and property damage liability. Such insurance shall include provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder; a cross-liability or severability of insurance interest clause; and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days' prior written notice to PGE. Initial limits of liability for all requirements under this section shall be \$1,000,000 million single limit, which limits may be required to be increased or decreased by PGE as PGE determines in its reasonable judgment economic conditions or claims experience may warrant.

~~11.2.~~ Prior to the connection of the Facility to PGE's electric system, provided such facility has a design capacity of 200 kW or more, Seller shall secure and continuously carry for the Term hereof, in an insurance company or companies rated not lower than "B+" by the A. M. Best Company, insurance acceptable to PGE against property damage or destruction in an amount not less than the cost of replacement of the Facility. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers' rights of subrogation against PGE regarding Facility property losses.

~~11.3.~~ Prior to the connection of the Facility to PGE's electric system and at all other times such insurance policies are renewed or changed, Seller shall provide PGE with a copy of each insurance policy required under this Section, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of PGE, in lieu thereof, a certificate in a form satisfactory to PGE, including the endorsements required herein, certifying the issuance of such insurance. If Seller fails to provide PGE with copies of such currently effective insurance policies or certificates of insurance, PGE at its sole



discretion ~~and without limitation of other remedies~~, may upon ten (10) calendar days advance written notice by certified or registered mail to Seller either withhold payments due Seller until PGE has received such documents, or purchase the satisfactory insurance and offset the cost of obtaining such insurance from subsequent power purchase payments under this Agreement.

#### 8.12 Required Insurance.

Without limiting any liabilities or any other obligations of Seller under this Agreement, provided that the Facility has a Specified Facility Nameplate Capacity Rating of 200 kW or more, Seller shall secure and continuously carry for the Term, with an insurance company or companies rated no lower than "B+" by the A.M. Best Company the insurance coverage specified below:

8.12.1 Comprehensive General Liability Insurance, to include contractual liability, with a minimum single limit of \$1,000,000, to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement. If circumstances arise that warrant an increase in insurance requirements, the Parties shall work together in good faith to amend this Agreement to reflect any commercially reasonable increases in insurance requirements.

8.12.2 All Risk Property Insurance providing coverage in an amount at least equal to the full replacement value of the Facility against "all risks" of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The All Risk Policy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The All Risk Policy will be maintained in accordance with terms available in the insurance market for similar facilities. Seller promptly shall notify PGE of any loss or damage to the Facility. Unless the Parties agree otherwise, Seller shall repair or replace the damaged or destroyed Facility, or if the Facility is destroyed or substantially destroyed, it may terminate this Agreement. Such termination shall be effective upon receipt by PGE of written notice from Seller. Seller shall waive its insurers' rights of subrogation against PGE regarding Facility property losses.

#### 8.13 Required Provisions.

8.13.1 The Comprehensive General Liability Policy required herein shall include (i) provisions or endorsements naming PGE, its directors, officers and employees as additional insureds; (ii) a cross-liability or severability of insurance interest clause.

8.13.2 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interest of PGE and that any insurance or self-insurance maintained by PGE is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) calendar days' prior written notice to PGE.

8.13.3 Insurance coverage provided on a "claims-made" basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such length of time necessary to cover liabilities arising out of the activities under this Agreement.

## SECTION 12: FORCE MAJEURE

### 8.14 Definition of “Force Majeure.”

~~12.1.~~ As used in this Agreement, “Force Majeure” or “~~an event of~~ Force Majeure **Event**” means any event or circumstance, or combination of events or circumstances, that was not caused by the Party claiming the Force Majeure Event; is unforeseeable; cannot be prevented or overcome by the reasonable efforts and due diligence of the Party claiming the Force Majeure Event; and has an impact that will demonstrably prevent such Party’s from performing its obligations (other than payment obligations) under this Agreement. Provided they meet all of the criteria described above, events of Force Majeure may include the following: ~~cause beyond the reasonable control of the Seller or of PGE which, despite the exercise of due diligence, such Party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to~~ acts of God, fire, flood, significant storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority. Notwithstanding anything in the foregoing to the contrary, in no event shall any of the following constitute a Force Majeure Event: (i) ~~which by the exercise of reasonable foresight such Party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome, subject, in each case, to the requirements of the first sentence of this paragraph.~~ Force Majeure, however, specifically excludes the cost or availability of resources (including labor, fuel, materials and equipment) to operate the Facility, (ii) changes in market conditions, including but not limited to changes in renewable energy laws and climate change laws, that affect the price of energy or transmission, (iii) wind or water droughts, (iv) strikes and other labor disputes of the labor force under the control of the Party claiming the Force Majeure Event unless the strike is part of a more widespread or general strike extending beyond the Party, (v) economic hardship or financial inability to perform, (vi) normal climatic conditions, (vii) normal wear and tear or failure of the Facility’s equipment, or (viii) smoke, haze, ash or other obstruction of sunlight (except to the extent such obstruction is caused by fires or volcanic eruptions).~~and obligations for the payment of money when due.~~

### 8.15 Effect of Force Majeure.

~~12.2.~~ If either Party is rendered wholly or in part unable to perform any of its obligations under this Agreement (other than payment obligations) because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall re-commence performance of such obligation, provided that: (i)

~~12.2.1.~~ the non-performing Party, shall, promptly, but in any case within one (1) week after the occurrence of the Force Majeure, give the other Party written notice pursuant to Section of this Agreement describing the particulars of the occurrence; (ii) and

~~12.2.2.~~ the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the non-performing Party uses commercially reasonable efforts to remedy its inability to perform its obligations under this Agreement.

## ARTICLE 9: GENERAL PROVISIONS

### 9.1 Relationship of the Parties.

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~~12.2.3. the non-performing Party uses its best efforts to remedy its inability to perform its obligations under this Agreement.~~

~~12.3. No obligations of either Party which arose before the Force Majeure causing the suspension of performance shall be excused as a result of the Force Majeure.~~

~~12.4. Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.~~

### SECTION 13: SEVERAL OBLIGATIONS

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such party shall be jointly and severally liable for Seller's obligations under this Agreement.

#### 9.2 No Third Party Beneficiaries.

This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement), it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

#### 9.3 Governing Law.

### SECTION 14: CHOICE OF LAW

This Agreement shall be interpreted and enforced in accordance with the laws of the state of Oregon, excluding any choice of law rules ~~that~~ which may direct the application of the laws of another jurisdiction.

~~Each Party hereby acknowledges that this Agreement and any dispute that arises under this Agreement~~ SECTION 15: PARTIAL INVALIDITY AND PURPA REPEAL

~~It is subject to not the jurisdiction intention of the Commission. If a dispute related to this Agreement arises between the Parties, the Parties' representatives shall first attempt to resolve the dispute informally through negotiation and consultation. If the Parties are unable to resolve their differences through such negotiation and consultation, to violate any laws governing the subject matter of this Agreement. If any complaint, claim or action to resolve such dispute may be brought in a court in the state of Oregon or governmental agency with jurisdiction over the dispute.~~

~~The public utility's compliance with of the terms of this contract is conditioned on the qualifying facility submitting to the public utility and to the Public Utility Commission of Oregon, before the date of initial operation, certified copies of all local, state, and federal licenses, permits, and other approvals required by law.~~

#### 9.4 Severability.

~~If any of the terms of this the Agreement are finally held or determined to be invalid, illegal or void as being contrary to any Applicable Law applicable law or public policy, all other terms~~

of this Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any ~~Applicable Law~~ ~~applicable law~~ and the intent of the Parties to this Agreement.

9.5 Effect of ~~In the event the Public Utility Regulatory Policies Act (PURPA Repeal.~~

~~The repeal of PURPA shall not result in the early termination of)~~ ~~is repealed~~, this Agreement ~~shall not terminate prior to the Termination Date~~, unless such termination is mandated by state or federal law.

9.6 Waiver.

SECTION 16: WAIVER

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

9.7 Survival.

~~Notwithstanding termination of this Agreement, PGE and Seller shall continue to be bound by the provisions of this Agreement which by their terms or by their nature shall survive such completion or termination.~~

9.8 Successors and Assigns.

SECTION 17: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

~~This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party or this Agreement. Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide upon request copies of the same to PGE.~~

SECTION 18: SUCCESSORS AND ASSIGNS

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. ~~Neither party may assign any of its rights or delegate any of its obligations hereunder~~ ~~No assignment hereof by either Party shall become effective~~ without the ~~prior~~ written consent of the other ~~party, which Party being first obtained and such~~ consent shall not be unreasonably withheld, ~~conditioned or delayed; provided, however, that,~~ ~~Notwithstanding the foregoing,~~ either ~~p~~Party may assign its rights or delegate its obligations, ~~in whole or in part,~~ ~~this Agreement~~ without ~~such~~ ~~the other Party's~~ consent ~~and upon thirty (30) calendar days' prior written notice to the other party, to an entity that acquires all as part of (a) a sale of all or substantially all of the~~ ~~business or~~ ~~assigning Party's~~ assets ~~of the assigning party to which this Agreement pertains, whether by,~~ ~~or (b) a merger, consolidation or other~~ reorganization, acquisition, sale, or otherwise. ~~Any purported assignment or delegation in violation of this Section shall be null and void.~~ No

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~~assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder unless the non-assigning or non-delegating party enters into a novation releasing the assigning or delegating party of its obligation under the Agreement. Without PGE's consent, Seller may, upon notice to PGE, collaterally assign, transfer, pledge or encumber this Agreement or any of its rights or obligations hereunder to any Lender as collateral for financing with respect to the development, construction and/or operation of the Facility without the assignee being required to execute an agreement in the form of this Agreement in order to make such collateral assignment, transfer, pledge or encumbrance legally effective. Party.~~

#### 9.9 Financing Documents.

~~Upon receiving a request by Seller, PGE will execute a collateral assignment and consent agreement substantially similar to Exhibit D, which form PGE may change, in its sole discretion, from time to time. If Lender or Seller requests that PGE make changes to PGE's collateral assignment and consent agreement form or review any other proposed agreement or documents related to financing of the construction or operation of the Facility, PGE will take commercially reasonable efforts to review and respond to such proposed changes and requests. Seller shall be responsible for all reasonable cost and expense associated with PGE's review and activities reasonably required under this Section 14.9, including but not limited to the use of outside counsel, and excluding the execution of documents that are unchanged from the form contained in Exhibit D, as revised by PGE from time to time in PGE's sole discretion. No later than twenty (20) calendar days after receiving an invoice for such cost and expense, Seller shall pay to PGE the amount set forth as due in such invoice.~~

#### 9.10 Entire Agreement; Amendments; Order of Precedence.

### ~~SECTION 19: ENTIRE AGREEMENT~~

~~19.1.—This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding the contents of the Agreement, including PGE's PGE's purchase of energy Net Output from the Facility. No amendment or modification of this Agreement shall be effective unless it is in writing and signed by both parties. If there is a conflict between the terms of the Schedule and this Agreement, the terms of this Agreement shall apply and prevail Parties.~~

#### 9.11 Seller Release.

~~19.2.—By executing this Agreement, Seller releases PGE from any third party claims related to the Facility, known or unknown, which may have arisen prior to the Effective Date.~~

#### 9.12 Rights and Remedies Cumulative.

~~Except as expressly set forth in this Agreement, the rights and remedies of the Parties provided in this Agreement and otherwise available at law or in equity are cumulative, such that the exercise of one or more rights or remedies shall not constitute a waiver of any other rights or remedies.~~

#### 9.13 Notices.

### ~~SECTION 20: NOTICES~~

~~20.1.—All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered if delivered in~~

Standard Renewable On-System Variable Power Purchase Agreement  
Form Effective \_\_\_\_\_

~~person or~~ when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested. Each Party may designate up to three contacts to receive notices under this Agreement.

<u>Notices</u>	<u>PGE</u>	<u>Seller</u>
	<u>Portland General Electric</u> <u>C/O QF Contract Management</u> <u>3WTC-0306</u> <u>121 SW Salmon St</u> <u>Portland, OR 97204</u>	

To Seller: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

with a copy to: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

To PGE: \_\_\_\_\_ Contracts Manager  
 \_\_\_\_\_ QF Contracts, 3WTC0306  
 \_\_\_\_\_ PGE - 121 SW Salmon St.  
 \_\_\_\_\_ Portland, Oregon 97204

20.2—The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section 14.13. 20.

Signature Page Follows.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the Effective Date.

PGE

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

\_\_\_\_\_  
 (Name Seller)

{00052931.2}

STANDARD RENEWABLE ON-SYSTEM VARIABLE POWER PURCHASE AGREEMENT

Standard Renewable On-System Variable Power Purchase Agreement  
Form Effective \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



EXHIBIT A  
FACILITY DESCRIPTION OF SELLER'S FACILITY

**A. The following information shall be provided prior to the Effective Date and may not be modified by an As-built Supplement:**

Seller's Facility consists of generators fueled by \_\_\_\_\_.  
Location of the Facility: The Facility is to be constructed in \_\_\_\_\_ County, \_\_\_\_\_,  
with GPS coordinates of \_\_\_\_\_

The location is more particularly described as follows:  
[legal description of parcel]

**B. The following information shall be provided prior to the Effective Date and updated when Seller provides an As-built Supplement:**

Specified Facility Nameplate Capacity Rating \_\_\_\_\_ kW (Equivalent to Facility Nameplate Rating or revised value as modified per section 6.3.2).

Number of Generation Units: \_\_\_\_\_

Manufacturer's Nameplate Capacity Rating of Generation Unit(s): \_\_\_\_\_ kW

Net Available Capacity: \_\_\_\_\_ kW

Identify and describe any differences between the Specified Facility Nameplate Capacity Rating and the Net Available Capacity:

\_\_\_\_\_  
\_\_\_\_\_

Interconnection Rating: \_\_\_\_\_ kW (the Facility capacity rating specified in the Interconnection Agreement)

Station service requirements, and other loads served by the Facility, if any, are described as follows:

\_\_\_\_\_

Single line diagram of Facility, including station use meter, Facility output meter(s), interconnection facilities, points of interconnection, ratings of generators, and balance of plant equipment.

As-built Operating 12x24 Generation Profile.

As-built 8760 Net Energy Production Profile.

As-built Average Annual Degradation Percentage (applicable only to QFs with solar Generation Units).

**[Seller to Complete]**

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EXHIBIT A – DESCRIPTION OF SELLER'S FACILITY

PAGE



~~[Sellers may include reasonable expected monthly Net Output for purposes of Section 1.35 (Start-Up Lost Energy Value). Amounts may vary by month and shall be assumed repeated for each Contract Year, unless amounts for each Contract Year of this Agreement are set forth in this Exhibit A. Such amounts, if provided, shall exceed zero, and shall be established in accordance with Prudent Electrical Practices and documentation supporting such a determination shall be provided to PGE upon execution of this Agreement. Such documentation shall be commercially reasonable, and may include, but is not limited to, documents used in financing the project, and data on output of similar projects operated by seller, PGE or others.]~~

{00052931.2}

EXHIBIT A – DESCRIPTION OF SELLER’S FACILITY

PAGE

EXHIBIT B

**SELLER’S INTERCONNECTION FACILITIES AND DELIVERY ATTRIBUTES**

**A. The following information shall be provided prior to the Effective Date and may not be modified by Seller thereafter:**

Point of ~~REQUIRED FACILITY DOCUMENTS~~

~~{Seller list all permits and authorizations required for this project}~~

~~Sellers Generation~~ Interconnection (name of distribution feeder or transmission line):

\_\_\_\_\_ Agreement

**B. The following information shall be provided in the As-built Supplement prior to Commercial Operation:**

Point(s) of metering, including the type of meter(s) and the owner of the meter(s):

\_\_\_\_\_

Specification of Point of Interconnection: \_\_\_\_\_



## EXHIBIT C

**SELLER'S NET OUTPUT ESTIMATES**

Seller to provide commercially reasonable estimate of Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output during the Delivery Period, and the resulting Estimated Annual Average Net Output and Estimated Annual Maximum Net Output. Seller to provide explanation for the basis for the estimates:

**C.1. Estimated Monthly Average Net Output and Estimated Monthly Maximum Net Output  
(as measured at the Facility meter at the Point of Interconnection)**

<u>Month</u>	<u>Estimated Monthly Average Net Output (kWh)</u>		<u>Percentage of Estimated Monthly Average Net Output That is On-Peak and Off-Peak (Total = 100%)</u>		<u>Estimated Monthly Maximum Net Output (kWh)</u>	
	<u>On-Peak</u>	<u>Off-Peak</u>	<u>On-Peak %</u>	<u>Off-Peak %</u>	<u>On-Peak</u>	<u>Off-Peak</u>
<u>January</u>						
<u>February</u>						
<u>March</u>						
<u>April</u>						
<u>May</u>						
<u>June</u>						
<u>July</u>						
<u>August</u>						
<u>September</u>						
<u>October</u>						
<u>November</u>						
<u>December</u>						

**C.2. Estimated Annual Average Net Output and Estimated Annual Maximum Net Output**

Estimated Annual Average Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Average Net Output)

Estimated Annual Maximum Net Output: \_\_\_\_\_ kWh

(sum of Estimated Monthly Maximum Net Output)

**EXHIBIT D**  
**COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM**  
**(Power Purchase Agreement – )**

This Collateral Assignment and Consent Agreement (the “*Agreement*”) is made and entered into as of \_\_\_\_\_, 2019, by and among **PORTLAND GENERAL ELECTRIC COMPANY (“PGE” or “Buyer”)**, **[INSERT LENDER]**, a \_\_\_\_\_ company (the “*Lender*”), and **[INSERT SELLER]**, a \_\_\_\_\_ company (the “*Borrower*” or “*Seller*”) (the “*Parties*” or each a “*Party*”).

**RECITALS**

A. \_\_\_\_\_ Borrower and Lender have entered (or will be entering) into a construction loan agreement (as amended, restated, supplemented, or otherwise modified from time to time, the “*Loan Agreement*”), together with certain other Loan Documents (as defined therein), in order to finance a portion of the costs of the construction of an approximately \_\_\_\_\_ MW energy generating facility by Borrower in \_\_\_\_\_ County, \_\_\_\_\_.

B. \_\_\_\_\_ Borrower, as seller, and PGE, as buyer, are parties to that certain Standard \_\_\_\_\_ Power Purchase Agreement, dated as of \_\_\_\_\_ (as amended, restated, supplemented or otherwise modified from time to time, the “*PPA*” or the “*Assigned Agreement*”), a copy of which is attached as *Exhibit A*, under which Seller intends to construct, own, operate, and maintain a facility for generation of electric power” from which Seller shall sell and PGE shall purchase Net Output (capitalized terms in this sentence not otherwise defined herein being as defined in Assigned Agreement).

C. \_\_\_\_\_ As part of the transactions contemplated by the Loan Agreement and the PPA, Borrower has executed (or will upon the execution of the Loan Agreement) in favor of the Lender a security agreement (the “*Security Agreement*”), pursuant to which Borrower collaterally assigns and grants a security interest to Lender in, among other things, all right, title and interest of Borrower in, to and under the Assigned Agreement and certain other “Collateral” defined therein as collateral security for its obligations under the Loan Agreement and the other Loan Documents (the “*Secured Obligations*”). The Loan Agreement and the Security Agreement are referred to herein as the “*Security Documents*.”

**AGREEMENTS**

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. \_\_\_\_\_ Consent to Assignment. PGE hereby consents to Borrower granting a collateral assignment of and security interest in all of Borrower’s right, title and interest in and to the Assigned Agreement.

2. \_\_\_\_\_ Limitations on Assignment. Lender acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Security Documents executed by Seller, Lender shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured, (b) executes and delivers to Buyer a written assumption of all of Seller’s rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to Buyer, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, and (d) provides such tax and enforceability assurance as Buyer may reasonably require. Lender further acknowledges that the

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

PAGE 1

assignment of the Assigned Agreement is for security purposes only and that Lender has no rights under the Assigned Agreement to enforce the provisions of the Assigned Agreement unless and until an event of default has occurred and is continuing under the Security Documents between Seller and Lender (a "Financing Default"), in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Lender were an original party to the Assigned Agreement.

3. No Representations and Warranties/Release. Seller and Lender each recognizes and acknowledges that Buyer makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement. Lender is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement. Lender hereby releases Buyer from any liability to Lender related to this Agreement.

4. Seller Indemnity. Seller shall indemnify, defend and hold harmless PGE and its directors, officers, employees and agents (hereinafter collectively "Indemnitees") from any and all claims, demands, suits, losses, costs, expenses (including attorneys' fees), liens, encumbrances, liabilities, governmental fines and penalties and damages of every kind and description, whether incurred at the trial or appellate level against any of the Indemnitees resulting from, any act, omission, fault or negligence of Seller and its employees, agents, representatives or subcontractors in the performance or nonperformance of Seller's obligations under the Assigned Agreement, the Security Documents, the Agreement, or any other agreement between Lender and Seller that relates in any way to the Assigned Agreement.

5. Limitation on Damages. No Party will be liable to any other Party for any indirect, consequential, special, punitive, exemplary or incidental damages of any kind, however caused, arising out of or related to this Agreement. This limitation will apply regardless of whether the legal theory of liability for damages arises under contract, tort (including negligence and strict liability), or any other theory whatsoever.

6. Amendment to Assigned Agreement. Lender acknowledges and agrees that Buyer may agree with Seller to modify or amend the Assigned Agreement, and that Buyer is not obligated to notify Lender of any such amendment or modification to the Assigned Agreement. Lender hereby releases Buyer from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

7. No Modifications or Agreement to Future Assignments. Nothing in this Agreement shall (i) be construed to modify, waive or affect any of the terms, covenants, conditions, provisions or agreements of the Assigned Contracts, or to waive any breach thereof, or any of PGE's rights thereunder, or to enlarge or increase PGE's obligations thereunder; or (ii) be construed as a consent by PGE to any further assignment, it being clearly understood that any such further assignment shall require the consent of PGE to the extent required pursuant to the Assigned Contracts.

8. Notices. All notices given under this Agreement and the PPA shall be in accordance with Section \_\_\_\_\_ of the PPA, and this Agreement (as permitted under Section \_\_\_\_\_) serves as notice by Seller to Buyer to update with notices address information in the Assigned Agreement as follows:

\_\_\_\_\_ If to Seller:

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM

PAGE 2

With a copy to:

If to PGE:

Portland General Electric Company  
Attention: Contracts Manager  
QF Contracts, 3WTC0306  
121 S.W. Salmon Street  
Portland, Oregon 97204

If to Lender:

With a copy to:

9. Successors and Assigns. This Agreement shall be (i) binding upon and shall inure to the benefit of the successors and assigns of Buyer, (ii) binding upon and inure to the benefit of the Lender and its successors and permitted transferees and assigns under the Security Documents, and (iii) binding upon and inure to the benefit of Seller and its permitted successors and assigns.

10. Termination. This Agreement shall terminate upon the satisfaction in full of the Secured Obligations, and the parties hereto agree to execute, deliver and, if necessary, record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be a condition to the termination of this Agreement which shall immediately be effective upon notice from Lender to PGE.

11. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to principles of conflicts of law which would result in the application of the laws of another jurisdiction. The exclusive jurisdiction for any complaint, claim or action related to this Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County, Oregon.

12. Severability. If any provision of this Agreement or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party.

13. Counterparts; Rules of Construction; Definitions. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same agreement. All references made (a) in the neuter, masculine, or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Any capitalized term used but not defined herein shall have the meaning ascribed to such term in the Assigned Agreement.

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EXHIBIT D – COLLATERAL ASSIGNMENT AND CONSENT AGREEMENT FORM



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

**PGE:**

**PORTLAND GENERAL ELECTRIC COMPANY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**LENDER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**BORROWER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title \_\_\_\_\_

**EXHIBIT E**  
**START-UP TESTING**

[Seller to identify all appropriate tests applicable to the Facility in accordance with final design before Start-Up Testing and/or supplement to the list below. This Exhibit is applicable to New QFs and to Existing QFs that elect to perform Start-Up Testing.]

**[Seller identify appropriate tests]**

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable):

1. ~~Pressure tests of all steam system equipment;~~
2. ~~Calibration of all pressure, level, flow, temperature and monitoring instruments;~~
3. ~~Operating tests of all valves, operators, motor starters and motor;~~
4. ~~Alarms, signals, and fail-safe or system shutdown control tests;~~
5. ~~Insulation resistance and point-to-point continuity tests;~~
6. ~~Bench tests of all protective devices;~~
7. ~~Tests required by manufacturer of equipment; and~~
8. ~~Complete pre-parallel checks with PGE.~~

Required start-up test are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PGE's electrical system, which may include but are not limited to (as applicable):

1. ~~Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;~~
2. ~~Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;~~
3. ~~Brake tests;~~
4. ~~Energization of transformers;~~
5. ~~Synchronizing tests (manual and auto);~~
6. ~~Stator windings dielectric test;~~
7. ~~Armature and field windings resistance tests;~~
8. ~~Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;~~
9. ~~Heat runs;~~
10. ~~Tests required by manufacturer of equipment;~~
11. ~~Excitation and voltage regulation operation tests;~~
1. ~~12. Open circuit and short circuit;~~

~~Saturation tests;~~

13. ~~Governor system steady state stability test;~~

- ~~14.~~ Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
- ~~15.~~ Auto stop/start sequence;
16. Level control system tests; and
- ~~17.~~ Completion of all state and federal environmental testing requirements

~~EXHIBIT D~~

2.

Schedule 201

Standard Renewable ~~On~~-System Variable Power Purchase Agreement  
Form Effective ~~February 1, 2019~~

**EXHIBIT F**

SCHEDULE 201

[Attach ~~currently in-effect~~ Schedule 201]

Standard Renewable ~~On~~-System Variable Power Purchase Agreement  
Form Effective February 1, 2019

~~EXHIBIT E~~

**EXHIBIT G**

**ILLUSTRATIVE EXAMPLES OF PAYMENT AND LOST ENERGY VALUE CALCULATIONS**



**EXHIBIT H**

**NEGOTIATED CONTRACT PRICES**

**[Attach negotiated prices for Option B – Solar Standard Terms and ~~On-Peak and Off-Peak~~  
Negotiated Price ~~Contract Prices if Option B is~~  
selected in the first paragraph of the Agreement, otherwise delete Exhibit E]**

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EXHIBIT H – NEGOTIATED PRICES FOR OPTION B, SOLAR STANDARD TERMS AND NEGOTIATED PRICE  
AGREEMENT (IF APPLICABLE)

PAGE E-4

**SCHEDULE 201  
QUALIFYING FACILITY 10 MW or LESS  
AVOIDED COST POWER PURCHASE INFORMATION**

**PURPOSE**

To provide information about ~~Standard Avoided Costs and Renewable Avoided Costs, Standard Power Purchase Agreements (PPA) and Negotiated PPAs,~~ power purchase prices, standard contract and price options, and the process for obtaining a standard contract for power delivered to the Company by a Qualifying Facility (QF) ~~to the Company~~ with a nameplate capacity of 10,000 kW (10 MW~~40MW~~) or less.

**AVAILABLE**

~~To owners of QFs making sales of electricity to the Company in the State of Oregon (Seller).~~

**APPLICABLE**

~~For power purchased from small power production or cogeneration facilities that are QFs as defined in 18 Code of Federal Regulations (CFR) Section 292, that meet the eligibility requirements described herein and where the energy is delivered to the Company's system and made available for Company purchase pursuant to a Standard PPA.~~

**ESTABLISHING CREDITWORTHINESS**

~~The Seller must establish creditworthiness prior to service under this schedule. For a Standard PPA, a Seller may establish creditworthiness with a written acknowledgment that it is current on all existing debt obligations and that it was not a debtor in a bankruptcy proceeding within the preceding 24 months. If the Seller is not able to establish creditworthiness, the Seller must provide security deemed sufficient by the Company as set forth in the Standard PPA.~~

**POWER PURCHASE INFORMATION**

~~A Seller may call the Power Production Coordinator at (503) 464-8000 to obtain more information about being a Seller or how to apply for service under this schedule.~~

**PPA**

~~In accordance with terms set forth in this schedule and the Commission's Rules as applicable, the Company will purchase any Energy in excess of station service (power necessary to produce generation) and amounts attributable to conversion losses, which are made available from the Seller.~~

~~A Seller must execute a PPA with the Company prior to delivery of power to the Company. The agreement will have a term of up to 20 years as selected by the QF and memorialized in the PPA.~~

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~~A QF with a nameplate capacity rating of 10 MW or less as defined herein may elect the option of a Standard PPA.~~

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Effective for service  
on and after \_\_\_\_\_, ~~2018~~ April 24, 2019

**SCHEDULE 201 (Continued)**

## PPA (Continued)

~~Any Seller may elect to negotiate a PPA with the Company. Such negotiation will comply with the requirements of the Federal Energy Regulatory Commission (FERC), and the Commission including the guidelines in Order No. 07-360, and Schedule 202. Negotiations for power purchase pricing will be based on either the filed Standard Avoided Costs or Renewable Avoided Costs in effect at that time.~~

**STANDARD PPA (Nameplate capacity of 10 MW or less)**

~~A Seller choosing a Standard PPA will complete all informational and price option selection requirements in the applicable Standard PPA and submit the executed Agreement to the Company prior to service under this schedule. The Standard PPA is available at [www.portlandgeneral.com](http://www.portlandgeneral.com). The available Standard PPAs are:~~

- ~~• Standard In-System Non-Variable Power Purchase Agreement~~
- ~~• Standard Off-System Non-Variable Power Purchase Agreement~~
- ~~• Standard In-System Variable Power Purchase Agreement~~
- ~~• Standard Off-System Variable Power Purchase Agreement~~
- ~~• Standard Renewable In-System Non-Variable Power Purchase Agreement~~
- ~~• Standard Renewable Off-System Non-Variable Power Purchase Agreement~~
- ~~• Standard Renewable In-System Variable Power Purchase Agreement~~
- ~~• Standard Renewable Off-System Variable Power Purchase Agreement~~

~~The Standard PPAs applicable to variable resources are available only to QFs utilizing wind, solar or run-of-river hydro as the primary motive force.~~

**GUIDELINES FOR 10 MW OR LESS FACILITIES ELECTING STANDARD PPA**

~~To execute the Standard PPA the Seller must complete all of the general project information requested in the applicable Standard PPA.~~

~~When all information required in the Standard PPA has been received in writing from the Seller, the Company will respond within 15 business days with a draft Standard PPA.~~

~~The Seller may request in writing that the Company prepare a final draft Standard PPA. The Company will respond to this request within 15 business days. In connection with such request, the QF must provide the Company with any additional or clarified project information that the Company reasonably determines to be necessary for the preparation of a final draft Standard PPA.~~

~~When both parties are in full agreement as to all terms and conditions of the draft Standard PPA, the Company will prepare and forward to the Seller a final executable version of the agreement within 15 business days. Following the Company's execution, an executed copy will be returned~~

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~~to the Seller. Prices and other terms and conditions in the PPA will not be final and binding until the Standard PPA has been executed by both parties.~~

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~~Effective for service~~  
~~on and after \_\_\_\_\_, 2018~~ **April 24, 2019**

**SCHEDULE 201 (Continued)**

**OFF-SYSTEM PPA**

A Seller with a facility that interconnects with an electric system other than the Company's electric system may enter into a PPA with the Company after following the applicable Standard or Negotiated PPA guidelines and making the arrangements necessary for transmission of power to the Company's system.

**BASIS FOR POWER PURCHASE PRICE**

**AVOIDED COST SUMMARY**

The power purchase prices are based on either the Company's Standard Avoided Costs or Renewable Avoided Costs in effect at the time the agreement is executed. Avoided Costs are defined in 18 CFR 292.101(6) as "the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source."

Monthly On-Peak prices are included in both the Standard Avoided Costs as listed in Tables 1a, 2a, and 3a and Renewable Avoided Costs as listed in Tables 4a, 5a, and 6a. Monthly Off-Peak prices are included in both the Standard Avoided Costs as listed in Tables 1b, 2b, and 3b and Renewable Avoided Costs as listed in Tables 4b, 5b, and 6b.

**ON-PEAK PERIOD**

The On-Peak period is 6:00 a.m. until 10:00 p.m., Monday through Saturday.

**OFF-PEAK PERIOD**

The Off-Peak period is 10:00 p.m. until 6:00 a.m., Monday through Saturday, and all day on Sunday.

Standard Avoided Costs are based on forward market price estimates through the Resource Sufficiency Period, the period of time during which the Company's Standard Avoided Costs are associated with incremental purchases of Energy and capacity from the market. For the Resource Deficiency Period, the Standard Avoided Costs reflect the fully allocated costs of a natural gas fueled combined cycle combustion turbine (CCCT) including fuel and capital costs. The CCCT Avoided Costs are based on the variable cost of Energy plus capitalized Energy costs at a 93% capacity factor based on a natural gas price forecast, with prices modified for shrinkage and transportation costs.

Renewable Avoided Costs are based on forward market price estimates through the Renewable Resource Sufficiency Period, the period of time during which the Company's Renewable Avoided Costs are associated with incremental purchases of energy and

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capacity from the market. For the Renewable Resource Deficiency Period, the Renewable Avoided Costs reflect the fully allocated costs of a wind plant including capital costs.

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Effective for service on and after \_\_\_\_\_, 2018 April 24, 2019



**SCHEDULE 201 (Continued)**

**PRICING FOR STANDARD PPA**

Pricing represents the purchase price per MWh the Company will pay for electricity delivered to a Point of Delivery (POD) within the Company's service territory pursuant to a Standard PPA up to the nameplate rating of the QF in any hour. Any Energy delivered in excess of the nameplate rating will be purchased at the applicable Off-Peak Prices for the selected pricing option.

**ELIGIBILITY REQUIREMENTS TO RECEIVE THE STANDARD FIXED PRICE OPTION OR THE RENEWABLE FIXED PRICE OPTION**

The Standard PPA pricing will be based on either the Standard or Renewable Avoided Costs in effect at the time the agreement is executed. A QF will be eligible to receive either the Standard Fixed Price Option or the Renewable Fixed Price Option described below only if the nameplate capacity of the QF does not exceed 3 MW for solar QF projects or 10 MW for all other types of QF projects. A QF that does not meet these eligibility requirements must negotiate prices pursuant to the terms of Schedule 202. Solar QF projects with nameplate capacity that exceed 3 MW but do not exceed 10 MW are eligible for a Standard PPA containing negotiated prices under Schedule 202. Eligibility for the Standard Fixed Price Option or the Renewable Fixed Price Option may also be affected by the Definition of a Small Cogeneration Facility or Small Power Production Facility Eligible to Receive the Standard Fixed Price Option or the Renewable Fixed Price Option Under the Standard PPA stated below.

The Company will pay the Seller either the Off-Peak Standard Avoided Cost pursuant to Tables 1b, 2b, or 3b or the Off-Peak Renewable Avoided Costs pursuant to Tables 4b, 5b, or 6b for: (a) all Net Output delivered prior to the Commercial Operation Date; (b) all Net Output deliveries greater than Maximum Net Output in any PPA year; (c) any generation subject to and as adjusted by the provisions of Section 4.3 of the Standard PPA; (d) Net Output delivered in the Off-Peak Period; and (e) deliveries above the nameplate capacity in any hour. The Company will pay the Seller either the On-Peak Standard Avoided Cost pursuant to Tables 1a, 2a, or 3a or the On-Peak Renewable Avoided Costs pursuant to Tables 4a, 5a, or 6a for all other Net Output. (See the PPA for defined terms.)

**1) Standard Fixed Price Option**

The Standard Fixed Price Option is based on Standard Avoided Costs including forecasted natural gas prices. It is available to all QFs that meet the eligibility requirements identified above.

This option is available for a maximum term of 15 years. Prices will be as established at the time the Standard PPA is executed and will be equal to the Standard Avoided Costs in Tables 1a and 1b, 2a and 2b, or 3a and 3c, depending on the type of QF, effective at execution. QFs using any resource type other than

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~~wind and solar are assumed to be Base Load QFs.~~

~~Prices paid to the Seller under the Standard Fixed Price Option include adjustments for the capacity contribution of the QF resource type relative to that of~~

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\_\_\_\_\_ Effective for service  
\_\_\_\_\_ on and after \_\_\_\_\_, ~~2018~~ April 24, 2019

**SCHEDULE 201 (Continued)**

~~PRICING OPTIONS FOR STANDARD PPA (Continued)~~

~~Standard Fixed Price Option (Continued)~~

~~the avoided proxy resource. Both the Base Load QF resources (Tables 1a and 1b) and the avoided proxy resource, the basis used to determine Standard Avoided Costs for the Standard Fixed Price Option, are assumed to have a capacity contribution to peak of 100%. The capacity contribution for Wind QF resources (Tables 2a and 2b) is assumed to be 18.59%. The capacity contribution for Solar QF resources (Tables 3a and 3b) is assumed to be 15.33%.~~

~~Prices paid to the Seller under the Standard Fixed Price Option for Wind QFs (Tables 2a and 2b) include a reduction for the wind integration costs in Table 7. However, if the Wind QF is outside of PGE's Balancing Authority Area as contemplated in the Commission's Order No. 14-058, the Seller is paid the wind integration charges in Table 7, in addition to the prices listed in Tables 2a and 2b, for a net-zero effect.~~

~~Sellers with terms exceeding 15 years from the commercial operation date will receive pricing equal to the Mid-C Index Price for all years up to five in excess of the initial 15 years after the commercial operation date selected by the Seller and memorialized in the PPA.~~

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**SCHEDULE 201 (Continued)**

~~PRICING OPTIONS FOR STANDARD PPA (Continued)~~  
~~Standard Fixed Price Option (Continued)~~

TABLE 1a												
Avoided Costs												
Fixed Price Option for Base Load QF												
On-Peak Forecast (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	41.24	39.20	29.26	25.44	22.13	31.81	58.31	72.84	41.24	30.28	30.54	41.49
2020	38.74	35.53	26.79	22.36	21.63	27.26	51.38	60.63	42.57	29.58	30.04	36.10
2021	43.58	43.21	42.22	40.60	40.42	40.67	40.93	41.03	41.00	41.17	42.90	44.05
2022	45.57	45.21	44.58	42.19	42.04	42.23	42.44	42.52	42.46	42.63	44.38	45.38
2023	46.97	46.64	46.09	44.53	44.45	44.69	44.94	45.07	45.11	45.31	46.13	47.13
2024	47.27	47.33	47.39	46.87	46.96	47.03	47.09	47.16	47.22	47.29	48.27	48.34
2025	49.62	49.69	49.76	48.88	48.95	48.96	49.03	49.10	49.17	49.24	50.15	50.23
2026	51.33	51.10	51.14	50.26	50.33	50.41	50.48	50.55	50.63	50.71	51.77	51.85
2027	52.98	52.97	52.14	51.21	51.29	51.20	51.27	51.35	51.42	51.59	52.51	52.59
2028	53.70	53.16	52.93	51.99	52.06	52.14	52.22	52.30	52.37	52.48	53.56	53.64
<del>2029</del>	<del>54.88</del>	<del>54.96</del>	<del>55.00</del>	<del>54.06</del>	<del>54.14</del>	<del>54.23</del>	<del>55.33</del>	<del>55.43</del>	<del>55.52</del>	<del>55.77</del>	<del>56.91</del>	<del>57.01</del>
2030	58.38	58.48	58.37	57.33	57.42	57.52	57.62	57.72	57.82	57.98	59.24	59.34
2031	60.68	60.79	60.58	59.33	59.44	59.54	59.64	59.75	59.86	60.22	61.57	61.68
2032	62.84	62.96	62.73	61.59	61.70	61.82	61.93	62.05	62.17	62.64	64.05	64.17
2033	65.86	65.99	66.03	64.83	64.95	65.08	65.20	65.33	65.46	65.82	68.07	68.20
2034	69.86	70.00	70.14	68.86	69.00	69.14	69.28	69.43	69.58	70.34	73.32	73.92
2035	75.49	75.66	75.81	74.40	74.57	74.75	74.92	75.09	75.27	76.14	77.63	77.81
2036	79.47	79.64	78.43	76.97	77.15	77.33	77.51	77.70	77.89	78.93	80.75	80.94
2037	82.93	83.14	82.18	80.64	80.84	81.04	81.23	81.43	81.64	82.97	85.00	85.21
2038	87.18	87.41	86.53	84.90	85.11	85.33	85.55	85.77	85.99	87.13	89.20	89.43
2039	91.50	91.73	89.28	87.60	87.82	88.05	88.28	88.51	88.75	89.97	92.08	92.33
2040	95.48	94.47	93.00	91.26	91.49	91.73	91.97	92.21	92.45	93.37	94.96	95.21
2041	97.47	96.43	94.93	93.16	93.40	93.64	93.88	94.13	94.38	95.32	96.94	97.19
2042	99.48	98.43	96.90	95.09	95.33	95.58	95.83	96.08	96.33	97.29	98.95	99.21
2043	101.54	100.47	98.91	97.06	97.31	97.56	97.81	98.07	98.33	99.31	101.00	101.26
2044	103.52	102.42	100.82	98.94	99.19	99.45	99.71	99.97	100.24	101.23	102.96	103.23

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Effective for service  
 on and after \_\_\_\_\_, 2018 April 24, 2019

**SCHEDULE 201 (Continued)**

~~PRICING OPTIONS FOR STANDARD PPA (Continued)~~  
~~Standard Fixed Price Option (Continued)~~

TABLE 1b												
Avoided Costs												
Fixed Price Option for Base Load QF												
Off-Peak Forecast (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	37.67	33.34	24.17	20.09	14.74	16.77	28.75	35.89	31.56	26.20	26.97	33.34
2020	34.59	29.73	23.75	15.03	12.98	13.43	25.93	32.27	30.63	26.02	26.58	30.11
2021	17.16	16.80	15.80	14.18	14.00	14.25	14.51	14.61	14.59	14.75	16.48	17.63
2022	18.62	18.26	17.64	15.25	15.10	15.29	15.50	15.57	15.52	15.69	17.43	18.43
2023	19.40	19.07	18.51	16.96	16.88	17.12	17.37	17.50	17.54	17.74	18.56	19.56
2024	19.33	19.39	19.45	18.93	19.02	19.08	19.15	19.21	19.28	19.35	20.33	20.40
2025	21.03	21.10	21.16	20.29	20.35	20.37	20.44	20.51	20.58	20.65	21.56	21.63
2026	22.17	21.94	21.97	21.10	21.17	21.24	21.31	21.39	21.47	21.54	22.61	22.69
2027	23.23	23.22	22.39	21.47	21.54	21.45	21.52	21.60	21.68	21.84	22.77	22.84
2028	23.36	22.82	22.59	21.65	21.72	21.80	21.88	21.95	22.03	22.14	23.22	23.30
<del>2029</del>	<del>23.93</del>	<del>24.01</del>	<del>24.06</del>	<del>23.11</del>	<del>23.19</del>	<del>23.28</del>	<del>24.39</del>	<del>24.48</del>	<del>24.57</del>	<del>24.82</del>	<del>25.97</del>	<del>26.06</del>
2030	26.81	26.91	26.81	25.76	25.86	25.96	26.05	26.15	26.25	26.42	27.67	27.78
2031	28.48	28.59	28.38	27.14	27.24	27.34	27.45	27.55	27.66	28.02	29.37	29.48
2032	30.21	30.33	30.10	28.96	29.07	29.19	29.30	29.42	29.53	30.01	31.42	31.54
2033	32.36	32.49	32.53	31.33	31.46	31.58	31.71	31.84	31.97	32.32	34.57	34.71
2034	35.58	35.73	35.86	34.58	34.72	34.87	35.01	35.16	35.31	36.06	39.05	39.65
2035	40.64	40.82	40.96	39.55	39.72	39.90	40.07	40.24	40.42	41.29	42.78	42.96
2036	44.04	44.21	43.00	41.54	41.72	41.90	42.08	42.27	42.46	43.49	45.32	45.51
2037	46.68	46.88	45.92	44.39	44.58	44.78	44.98	45.18	45.38	46.72	48.74	48.95
2038	50.20	50.43	49.55	47.92	48.13	48.35	48.57	48.79	49.01	50.15	52.22	52.45
2039	53.78	54.01	51.56	49.88	50.11	50.34	50.56	50.79	51.03	52.25	54.37	54.61
2040	57.01	55.99	54.52	52.79	53.02	53.26	53.49	53.74	53.98	54.90	56.49	56.74
2041	58.22	57.19	55.69	53.92	54.16	54.40	54.64	54.89	55.14	56.08	57.70	57.95
2042	59.46	58.40	56.87	55.07	55.31	55.56	55.80	56.05	56.31	57.27	58.92	59.18
2043	60.72	59.64	58.08	56.24	56.48	56.74	56.99	57.25	57.50	58.48	60.17	60.44
2044	62.01	60.91	59.31	57.44	57.69	57.95	58.20	58.46	58.73	59.73	61.45	61.72

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Effective for service  
 on and after \_\_\_\_\_, 2018 April 24, 2019

**SCHEDULE 201 (Continued)**

~~PRICING OPTIONS FOR STANDARD PPA (Continued)~~  
~~Standard Fixed Price Option (Continued)~~

TABLE 2a												
Avoided Costs												
Fixed Price Option for Wind QF												
On-Peak Forecast (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	40.36	38.32	28.38	24.56	21.25	30.93	57.43	71.96	40.36	29.40	29.66	40.61
2020	37.84	34.63	25.89	21.46	20.73	26.36	50.48	59.73	41.67	28.68	29.14	35.20
2021	27.58	27.22	26.23	24.60	24.43	24.68	24.93	25.04	25.01	25.18	26.91	28.06
2022	29.25	28.89	28.27	25.88	25.73	25.92	26.13	26.20	26.15	26.32	28.06	29.06
2023	30.28	29.95	29.39	27.84	27.76	28.00	28.25	28.38	28.42	28.62	29.44	30.44
2024	30.35	30.41	30.47	29.95	30.04	30.10	30.17	30.23	30.30	30.36	31.35	31.41
2025	32.31	32.38	32.44	31.57	31.63	31.65	31.72	31.79	31.86	31.93	32.84	32.91
2026	33.67	33.44	33.48	32.60	32.67	32.74	32.82	32.89	32.97	33.05	34.11	34.19
2027	34.96	34.95	34.12	33.20	33.27	33.18	33.26	33.33	33.41	33.57	34.50	34.58
2028	35.33	34.79	34.56	33.62	33.69	33.77	33.85	33.92	34.00	34.11	35.19	35.27
<del>2029</del>	<del>36.14</del>	<del>36.22</del>	<del>36.27</del>	<del>35.32</del>	<del>35.40</del>	<del>35.49</del>	<del>36.59</del>	<del>36.69</del>	<del>36.76</del>	<del>37.03</del>	<del>38.18</del>	<del>38.27</del>
2030	39.27	39.37	39.26	38.22	38.31	38.41	38.51	38.61	38.71	38.87	40.13	40.23
2031	41.19	41.29	41.09	39.84	39.94	40.05	40.15	40.26	40.37	40.73	42.08	42.19
2032	43.08	43.20	42.97	41.83	41.94	42.06	42.17	42.29	42.41	42.88	44.29	44.41
2033	45.58	45.71	45.74	44.55	44.67	44.80	44.92	45.05	45.18	45.54	47.78	47.92
2034	49.11	49.26	49.39	48.11	48.25	48.40	48.54	48.69	48.83	49.59	52.57	53.17
2035	54.39	54.57	54.71	53.31	53.48	53.65	53.82	54.00	54.17	55.05	56.53	56.71
2036	58.01	58.19	56.97	55.51	55.69	55.88	56.06	56.24	56.43	57.47	59.29	59.49
2037	60.98	61.19	60.23	58.70	58.89	59.09	59.28	59.49	59.69	61.02	63.05	63.26
2038	64.79	65.02	64.14	62.51	62.72	62.94	63.16	63.38	63.60	64.74	66.81	67.04
2039	68.67	68.90	66.45	64.77	64.99	65.22	65.45	65.68	65.91	67.14	69.25	69.50
2040	72.19	71.17	69.70	67.97	68.20	68.44	68.67	68.92	69.16	70.08	71.67	71.92
2041	73.70	72.67	71.17	69.40	69.64	69.88	70.12	70.37	70.62	71.56	73.18	73.43
2042	75.26	74.20	72.67	70.87	71.11	71.36	71.60	71.85	72.11	73.06	74.72	74.98
2043	76.83	75.75	74.19	72.35	72.60	72.85	73.10	73.36	73.62	74.59	76.28	76.55
2044	78.38	77.28	75.69	73.81	74.06	74.32	74.57	74.84	75.10	76.10	77.82	78.09

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Effective for service  
on and after \_\_\_\_\_, ~~2018~~ **April 24, 2019**



**SCHEDULE 201 (Continued)**

~~PRICING OPTIONS FOR STANDARD PPA (Continued)~~  
~~Standard Fixed Price Option (Continued)~~

TABLE 2b												
Avoided Costs												
Fixed Price Option for Wind QF												
Off-Peak Forecast (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	36.79	32.46	23.29	19.21	13.86	15.89	27.87	35.01	30.68	25.32	26.09	32.46
2020	33.69	28.83	22.85	14.13	12.08	12.53	25.03	31.37	29.73	25.12	25.68	29.21
2021	16.24	15.88	14.88	13.26	13.08	13.33	13.59	13.69	13.67	13.83	15.56	16.71
2022	17.68	17.32	16.70	14.31	14.16	14.35	14.56	14.63	14.58	14.75	16.49	17.49
2023	18.44	18.11	17.55	16.00	15.92	16.16	16.41	16.54	16.58	16.78	17.60	18.60
2024	18.35	18.41	18.47	17.95	18.04	18.10	18.17	18.23	18.30	18.37	19.35	19.42
2025	20.03	20.10	20.16	19.29	19.35	19.37	19.44	19.51	19.58	19.65	20.56	20.63
2026	21.15	20.92	20.95	20.08	20.15	20.22	20.29	20.37	20.45	20.52	21.59	21.67
2027	22.19	22.18	21.35	20.43	20.50	20.41	20.48	20.56	20.64	20.80	21.73	21.80
2028	22.30	21.76	21.53	20.59	20.66	20.74	20.82	20.89	20.97	21.08	22.16	22.24
<del>2029</del>	<del>22.85</del>	<del>22.93</del>	<del>22.98</del>	<del>22.03</del>	<del>22.11</del>	<del>22.20</del>	<del>23.31</del>	<del>23.40</del>	<del>23.49</del>	<del>23.74</del>	<del>24.89</del>	<del>24.96</del>
2030	25.71	25.81	25.71	24.66	24.76	24.86	24.95	25.05	25.15	25.32	26.57	26.68
2031	27.36	27.47	27.26	26.02	26.12	26.22	26.33	26.43	26.54	26.90	28.25	28.36
2032	29.07	29.19	28.96	27.82	27.93	28.05	28.16	28.28	28.39	28.87	30.28	30.40
2033	31.19	31.32	31.36	30.16	30.29	30.41	30.54	30.67	30.80	31.15	33.40	33.54
2034	34.39	34.54	34.67	33.39	33.53	33.68	33.82	33.97	34.12	34.87	37.86	38.46
2035	39.43	39.61	39.75	38.34	38.51	38.69	38.86	39.03	39.21	40.08	41.57	41.75
2036	42.80	42.97	41.76	40.30	40.48	40.66	40.84	41.03	41.22	42.25	44.08	44.27
2037	45.42	45.62	44.66	43.13	43.32	43.52	43.72	43.92	44.12	45.46	47.48	47.69
2038	48.91	49.14	48.26	46.63	46.84	47.06	47.28	47.50	47.72	48.86	50.93	51.16
2039	52.47	52.70	50.25	48.57	48.80	49.03	49.25	49.48	49.72	50.94	53.06	53.30
2040	55.67	54.65	53.18	51.45	51.68	51.92	52.15	52.40	52.64	53.56	55.15	55.40
2041	56.85	55.82	54.32	52.55	52.79	53.03	53.27	53.52	53.77	54.71	56.33	56.58
2042	58.07	57.01	55.48	53.68	53.92	54.17	54.41	54.66	54.92	55.88	57.53	57.79
2043	59.30	58.22	56.66	54.82	55.06	55.32	55.57	55.83	56.08	57.06	58.75	59.02
2044	60.56	59.46	57.86	55.99	56.24	56.50	56.75	57.01	57.28	58.28	60.00	60.27

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Effective for service  
on and after \_\_\_\_\_, 2018 ~~April 24, 2019~~

**SCHEDULE 201 (Continued)**

~~PRICING OPTIONS FOR STANDARD PPA (Continued)~~  
~~Standard Fixed Price Option (Continued)~~

TABLE 3a												
Avoided Costs												
Fixed Price Option for Solar QF												
On-Peak Forecast (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	41.24	39.20	29.26	25.44	22.13	31.81	58.31	72.84	41.24	30.28	30.54	41.49
2020	38.74	35.53	26.79	22.36	21.63	27.26	51.38	60.63	42.57	29.58	30.04	36.10
2021	24.67	24.31	23.32	21.69	21.52	21.77	22.02	22.13	22.10	22.27	24.00	25.15
2022	26.29	25.92	25.30	22.91	22.76	22.95	23.16	23.24	23.18	23.35	25.10	26.10
2023	27.24	26.92	26.36	24.80	24.72	24.96	25.21	25.34	25.38	25.58	26.40	27.40
2024	27.27	27.34	27.40	26.88	26.97	27.03	27.09	27.16	27.23	27.29	28.28	28.34
2025	29.16	29.23	29.30	28.42	28.49	28.50	28.57	28.64	28.71	28.78	29.69	29.77
2026	30.46	30.23	30.27	29.39	29.46	29.54	29.61	29.68	29.76	29.84	30.90	30.98
2027	31.69	31.68	30.85	29.93	30.00	29.91	29.98	30.06	30.14	30.30	31.23	31.30
2028	31.99	31.45	31.22	30.28	30.35	30.43	30.51	30.58	30.66	30.77	31.85	31.93
<del>2029</del>	<del>32.73</del>	<del>32.82</del>	<del>32.88</del>	<del>31.91</del>	<del>32.00</del>	<del>32.08</del>	<del>33.19</del>	<del>33.28</del>	<del>33.37</del>	<del>33.62</del>	<del>34.77</del>	<del>34.86</del>
2030	35.79	35.89	35.79	34.74	34.84	34.93	35.03	35.13	35.23	35.40	36.65	36.75
2031	37.64	37.75	37.54	36.30	36.40	36.50	36.60	36.71	36.82	37.18	38.53	38.64
2032	39.49	39.61	39.38	38.24	38.35	38.47	38.58	38.70	38.82	39.29	40.70	40.82
2033	41.89	42.02	42.06	40.86	40.98	41.11	41.24	41.36	41.49	41.85	44.10	44.23
2034	45.33	45.48	45.61	44.33	44.47	44.62	44.76	44.91	45.05	45.81	48.79	49.39
2035	50.55	50.73	50.87	49.47	49.63	49.81	49.98	50.15	50.33	51.21	52.69	52.87
2036	54.11	54.29	53.08	51.62	51.79	51.98	52.16	52.35	52.53	53.57	55.39	55.59
2037	56.99	57.19	56.23	54.70	54.89	55.09	55.29	55.49	55.69	57.03	59.05	59.27
2038	60.72	60.94	60.06	58.44	58.65	58.87	59.08	59.31	59.53	60.67	62.74	62.97
2039	64.51	64.74	62.29	60.61	60.83	61.06	61.29	61.52	61.76	62.98	65.09	65.34
2040	67.95	66.94	65.47	63.73	63.96	64.20	64.44	64.68	64.92	65.84	67.43	67.68
2041	69.39	68.35	66.85	65.08	65.32	65.56	65.80	66.05	66.30	67.24	68.86	69.11
2042	70.84	69.79	68.26	66.45	66.69	66.94	67.19	67.44	67.69	68.65	70.31	70.56
2043	72.33	71.26	69.69	67.85	68.10	68.35	68.60	68.86	69.12	70.09	71.78	72.05
2044	73.81	72.72	71.12	69.24	69.49	69.75	70.00	70.27	70.53	71.53	73.26	73.52

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Effective for service  
on and after \_\_\_\_\_, 2018 April 24, 2019

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Effective for service  
on and after \_\_\_\_\_, ~~2018~~ **April 24, 2019**

**SCHEDULE 201 (Continued)**

~~PRICING OPTIONS FOR STANDARD PPA (Continued)~~  
~~Standard Fixed Price Option (Continued)~~

TABLE 3b												
Avoided Costs												
Fixed Price Option for Solar QF												
Off-Peak Forecast (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	37.67	33.34	24.17	20.09	14.74	16.77	28.75	35.89	31.56	26.20	26.97	33.34
2020	34.59	29.73	23.75	15.03	12.98	13.43	25.93	32.27	30.63	26.02	26.58	30.11
2021	17.16	16.80	15.80	14.18	14.00	14.25	14.51	14.61	14.59	14.75	16.48	17.63
2022	18.62	18.26	17.64	15.25	15.10	15.29	15.50	15.57	15.52	15.69	17.43	18.43
2023	19.40	19.07	18.51	16.96	16.88	17.12	17.37	17.50	17.54	17.74	18.56	19.56
2024	19.33	19.39	19.45	18.93	19.02	19.08	19.15	19.21	19.28	19.35	20.33	20.40
2025	21.03	21.10	21.16	20.29	20.35	20.37	20.44	20.51	20.58	20.65	21.56	21.63
2026	22.17	21.94	21.97	21.10	21.17	21.24	21.31	21.39	21.47	21.54	22.61	22.69
2027	23.23	23.22	22.39	21.47	21.54	21.45	21.52	21.60	21.68	21.84	22.77	22.84
2028	23.36	22.82	22.59	21.65	21.72	21.80	21.88	21.95	22.03	22.14	23.22	23.30
<del>2029</del>	<del>23.93</del>	<del>24.01</del>	<del>24.06</del>	<del>23.11</del>	<del>23.19</del>	<del>23.28</del>	<del>24.39</del>	<del>24.48</del>	<del>24.57</del>	<del>24.82</del>	<del>25.97</del>	<del>26.06</del>
2030	26.81	26.91	26.81	25.76	25.86	25.96	26.05	26.15	26.25	26.42	27.67	27.78
2031	28.48	28.59	28.38	27.14	27.24	27.34	27.45	27.55	27.66	28.02	29.37	29.48
2032	30.21	30.33	30.10	28.96	29.07	29.19	29.30	29.42	29.53	30.01	31.42	31.54
2033	32.36	32.49	32.53	31.33	31.46	31.58	31.71	31.84	31.97	32.32	34.57	34.71
2034	35.58	35.73	35.86	34.58	34.72	34.87	35.01	35.16	35.31	36.06	39.05	39.65
2035	40.64	40.82	40.96	39.55	39.72	39.90	40.07	40.24	40.42	41.29	42.78	42.96
2036	44.04	44.21	43.00	41.54	41.72	41.90	42.08	42.27	42.46	43.49	45.32	45.51
2037	46.68	46.88	45.92	44.39	44.58	44.78	44.98	45.18	45.38	46.72	48.74	48.95
2038	50.20	50.43	49.55	47.92	48.13	48.35	48.57	48.79	49.01	50.15	52.22	52.45
2039	53.78	54.01	51.56	49.88	50.11	50.34	50.56	50.79	51.03	52.25	54.37	54.61
2040	57.01	55.99	54.52	52.79	53.02	53.26	53.49	53.74	53.98	54.90	56.49	56.74
2041	58.22	57.19	55.69	53.92	54.16	54.40	54.64	54.89	55.14	56.08	57.70	57.95
2042	59.46	58.40	56.87	55.07	55.31	55.56	55.80	56.05	56.31	57.27	58.92	59.18
2043	60.72	59.64	58.08	56.24	56.48	56.74	56.99	57.25	57.50	58.48	60.17	60.44
2044	62.01	60.91	59.31	57.44	57.69	57.95	58.20	58.46	58.73	59.73	61.45	61.72

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Effective for service  
on and after \_\_\_\_\_, 2018 April 24, 2019

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Effective for service  
on and after \_\_\_\_\_, ~~2018~~ **April 24, 2019**

**SCHEDULE 201 (Continued)**

~~PRICING OPTIONS FOR STANDARD PPA (Continued)~~

~~**2)1) Renewable Fixed Price Option**~~

~~The Renewable Fixed Price Option is based on Renewable Avoided Costs. It is available only to Renewable QFs that generate electricity from a renewable energy source that may be used by the Company to comply with the Oregon Renewable Portfolio Standard as set forth in ORS 469A.005 to 469A.210 and that satisfy the eligibility requirements identified above.~~

~~This option is available for a maximum term of 15 years. Prices will be as established at the time the Standard PPA is executed and will be equal to the Renewable Avoided Costs in Tables 4a and 4b, 5a and 5b, or 6a and 6b, depending on the type of QF, effective at execution. QFs using any resource type other than wind and solar are assumed to be Base Load QFs.~~

~~Sellers will retain all Environmental Attributes generated by the facility during the Renewable Resource Sufficiency Period. A Renewable QF choosing the Renewable Fixed Price Option must cede all RPS Attributes generated by the facility to the Company from the start of the Renewable Resource Deficiency Period through the remainder of the PPA term.~~

~~Prices paid to the Seller under the Renewable Fixed Price Option include adjustments for the capacity contribution of the QF resource type relative to that of the avoided proxy resource. Both Wind QF resources (Tables 5a and 5b) and the avoided proxy resource, the basis used to determine Renewable Avoided Costs for the Renewable Fixed Price Option, are assumed to have a capacity contribution to peak of 18.59%. The capacity contribution for Solar QF resources (Tables 6a and 6b) is assumed to be 15.33%. The capacity contribution for Base Load QF resources (Tables 4a and 4b) is assumed to be 100%.~~

~~The Renewable Avoided Costs during the Renewable Resource Deficiency Period reflect an increase for avoided wind integration costs, shown in Table 7.~~

~~Prices paid to the Seller under the Renewable Fixed Price Option for Wind QFs (Tables 5a and 5b) include a reduction for the wind integration costs in Table 7, which cancels out wind integration costs included in the Renewable Avoided Costs during the Renewable Resource Deficiency Period. However, if the Wind QF is outside of PGE's Balancing Authority Area as contemplated in the Commission's Order No. 14-058, the Seller is paid the wind integration charges in Table 7, in addition to the prices listed in Tables 5a and 5b.~~

~~Sellers with terms exceeding 15 years from the commercial operation date will~~

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receive pricing equal to the Mid-C Index Price for all years up to five in excess of the initial 15 years following the commercial operation date selected by the Seller and memorialized in the PPA.

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Effective for service on and after \_\_\_\_\_, 2018 April 24, 2019

**SCHEDULE 201 (Continued)**

~~PRICING OPTIONS FOR STANDARD PPA (Continued)~~  
 Renewable Fixed Price Option (Continued)

TABLE 4a												
Renewable Avoided Costs												
Renewable Fixed Price Option for Base Load QF												
On-Peak Forecast (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	41.24	39.20	29.26	25.44	22.13	31.81	58.31	72.84	41.24	30.28	30.54	41.49
2020	38.74	35.53	26.79	22.36	21.63	27.26	51.38	60.63	42.57	29.58	30.04	36.10
2021	40.91	38.88	29.06	25.25	22.00	31.53	57.66	71.95	40.89	30.07	30.33	40.86
2022	41.56	39.50	29.54	25.68	22.39	32.05	58.55	73.05	41.54	30.57	30.83	41.51
2023	45.83	43.54	32.48	28.20	24.54	35.27	64.68	80.76	45.80	33.63	33.91	45.76
2024	49.08	46.62	34.76	30.16	26.24	37.75	69.31	86.57	49.05	35.99	36.30	49.01
2025	94.32	90.05	86.22	74.65	68.71	53.60	79.32	86.27	92.22	92.28	93.51	97.39
2026	96.21	91.85	87.94	76.15	70.08	54.67	80.90	88.00	94.07	94.12	95.38	99.34
2027	98.13	93.68	89.70	77.67	71.48	55.76	82.52	89.76	95.95	96.00	97.29	101.32
2028	99.90	95.37	91.32	79.09	72.80	56.81	84.02	91.38	97.68	97.74	99.04	103.15
<del>2029</del>	<del>102.09</del>	<del>97.46</del>	<del>93.32</del>	<del>80.80</del>	<del>74.37</del>	<del>58.01</del>	<del>85.85</del>	<del>93.38</del>	<del>99.82</del>	<del>99.88</del>	<del>101.22</del>	<del>105.41</del>
2030	104.13	99.41	95.18	82.42	75.86	59.17	87.57	95.25	101.82	101.87	103.24	107.52
2031	106.22	101.40	97.08	84.07	77.37	60.36	89.32	97.15	103.85	103.91	105.30	109.67
2032	107.92	103.02	98.63	85.39	78.58	61.28	90.73	98.70	105.52	105.58	106.99	111.43
2033	110.50	105.49	101.00	87.46	80.50	62.79	92.92	101.07	108.04	108.10	109.55	114.09
2034	112.82	107.71	103.13	89.32	82.21	64.16	94.89	103.20	110.31	110.37	111.85	116.48
2035	114.96	109.75	105.08	90.99	83.74	65.33	96.67	105.15	112.40	112.47	113.97	118.70
2036	116.93	111.62	106.87	92.54	85.17	66.44	98.32	106.94	114.32	114.39	115.92	120.73
2037	119.61	114.18	109.32	94.66	87.13	67.96	100.58	109.40	116.94	117.01	118.58	123.49
2038	122.00	116.46	111.51	96.55	88.87	69.32	102.59	111.58	119.28	119.35	120.95	125.96
2039	124.43	118.79	113.74	98.48	90.64	70.71	104.64	113.81	121.66	121.73	123.36	128.48
2040	126.68	120.94	115.80	100.28	92.31	72.03	106.54	115.88	123.86	123.93	125.59	130.79
2041	129.46	123.58	118.33	102.46	94.30	73.56	108.86	118.41	126.57	126.64	128.34	133.66
2042	132.04	126.05	120.69	104.51	96.19	75.03	111.04	120.77	129.10	129.18	130.91	136.34
2043	134.68	128.57	123.10	106.60	98.11	76.53	113.26	123.19	131.68	131.76	133.52	139.06
2044	136.98	130.76	125.20	108.41	99.78	77.83	115.18	125.29	133.93	134.00	135.80	141.43

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Effective for service  
 on and after \_\_\_\_\_, 2018 April 24, 2019

**SCHEDULE 201 (Continued)**

**PRICING OPTIONS FOR STANDARD PPA (Continued)  
Renewable Fixed Price Option (Continued)**

TABLE 4b												
Renewable Avoided Costs												
Renewable Fixed Price Option for Base Load QF												
Off-Peak Forecast (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	37.67	33.34	24.17	20.09	14.74	16.77	28.75	35.89	31.56	26.20	26.97	33.34
2020	34.59	29.73	23.75	15.03	12.98	13.43	25.93	32.27	30.63	26.02	26.58	30.11
2021	37.66	33.33	24.21	20.10	14.80	16.81	28.76	35.86	31.57	26.26	27.02	37.62
2022	39.53	34.99	25.41	21.09	15.52	17.64	30.18	37.65	33.14	27.56	28.36	39.49
2023	42.17	37.30	27.04	22.40	16.44	18.71	32.15	40.15	35.32	29.34	30.20	42.13
2024	44.93	39.73	28.78	23.83	17.46	19.88	34.23	42.77	37.62	31.24	32.15	44.88
2025	58.19	53.34	52.60	43.71	37.09	21.11	44.24	52.02	56.40	57.61	60.55	62.65
2026	59.35	54.40	53.65	44.59	37.83	21.53	45.13	53.06	57.52	58.76	61.76	63.90
2027	60.53	55.49	54.72	45.48	38.59	21.96	46.03	54.12	58.67	59.94	62.99	65.18
2028	61.58	56.45	55.67	46.26	39.25	22.34	46.82	55.05	59.68	60.97	64.07	66.30
2029	62.98	57.73	56.93	47.31	40.14	22.85	47.89	56.31	61.04	62.36	65.53	67.81
2030	64.24	58.89	58.07	48.26	40.95	23.31	48.85	57.43	62.26	63.60	66.84	69.17
2031	65.52	60.06	59.23	49.22	41.76	23.77	49.82	58.58	63.51	64.87	68.18	70.55
2032	66.65	61.10	60.25	50.07	42.48	24.18	50.68	59.59	64.60	65.99	69.35	71.76
2033	68.17	62.49	61.62	51.21	43.45	24.73	51.83	60.95	66.07	67.49	70.93	73.40
2034	69.53	63.74	62.85	52.23	44.32	25.23	52.87	62.16	67.39	68.84	72.35	74.87
2035	70.92	65.01	64.11	53.28	45.20	25.73	53.92	63.41	68.74	70.22	73.80	76.36
2036	72.14	66.13	65.21	54.19	45.98	26.17	54.85	64.50	69.92	71.42	75.06	77.67
2037	73.78	67.63	66.70	55.43	47.03	26.77	56.10	65.97	71.51	73.05	76.77	79.44
2038	75.25	68.99	68.03	56.54	47.97	27.30	57.22	67.28	72.94	74.51	78.31	81.03
2039	76.76	70.36	69.39	57.66	48.93	27.85	58.37	68.63	74.40	76.00	79.87	82.65
2040	78.08	71.57	70.59	58.66	49.77	28.33	59.37	69.81	75.68	77.31	81.25	84.07
2041	79.86	73.20	72.19	59.99	50.90	28.97	60.72	71.40	77.40	79.07	83.10	85.99
2042	81.45	74.67	73.64	61.19	51.92	29.55	61.94	72.83	78.95	80.65	84.76	87.71
2043	83.08	76.16	75.11	62.41	52.96	30.14	63.17	74.28	80.53	82.26	86.45	89.46
2044	84.51	77.47	76.40	63.49	53.87	30.66	64.26	75.56	81.91	83.67	87.94	91.00

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Effective for service  
on and after \_\_\_\_\_, 2018 April 24, 2019

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Effective for service  
on and after \_\_\_\_\_, ~~2018~~ **April 24, 2019**

**SCHEDULE 201 (Continued)**

**PRICING OPTIONS FOR STANDARD PPA (Continued)**  
**Renewable Fixed Price Option (Continued)**

TABLE 5a												
Renewable Avoided Costs												
Renewable Fixed Price Option for Wind QF												
On-Peak Forecast (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	40.36	38.32	28.38	24.56	21.25	30.93	57.43	71.96	40.36	29.40	29.66	40.61
2020	37.84	34.63	25.89	21.46	20.73	26.36	50.48	59.73	41.67	28.68	29.14	35.20
2021	39.99	37.96	28.14	24.33	21.08	30.61	56.74	71.03	39.97	29.15	29.41	39.94
2022	40.62	38.56	28.60	24.74	21.45	31.11	57.61	72.11	40.60	29.63	29.89	40.57
2023	44.87	42.58	31.52	27.24	23.58	34.31	63.72	79.80	44.84	32.67	32.95	44.80
2024	48.10	45.64	33.78	29.18	25.26	36.77	68.33	85.59	48.07	35.01	35.32	48.03
2025	77.01	72.73	68.90	57.34	51.40	36.29	62.00	68.96	74.91	74.96	76.20	80.08
2026	78.55	74.18	70.28	58.49	52.42	37.01	63.24	70.34	76.41	76.46	77.72	81.68
2027	80.12	75.67	71.68	59.65	53.47	37.75	64.51	71.74	77.93	77.99	79.27	83.31
2028	81.53	77.00	72.95	60.71	54.42	38.43	65.65	73.01	79.31	79.36	80.67	84.77
<del>2029</del>	<del>83.36</del>	<del>78.72</del>	<del>74.58</del>	<del>62.07</del>	<del>55.63</del>	<del>39.28</del>	<del>67.11</del>	<del>74.64</del>	<del>81.08</del>	<del>81.14</del>	<del>82.48</del>	<del>86.67</del>
2030	85.02	80.30	76.07	63.31	56.74	40.06	68.46	76.14	82.70	82.76	84.13	88.41
2031	86.72	81.91	77.59	64.57	57.88	40.87	69.83	77.66	84.36	84.42	85.81	90.18
2032	88.16	83.26	78.88	65.63	58.82	41.52	70.98	78.94	85.76	85.82	87.23	91.68
2033	90.22	85.21	80.72	67.18	60.21	42.51	72.64	80.79	87.76	87.82	89.27	93.81
2034	92.07	86.96	82.38	68.57	61.47	43.41	74.14	82.45	89.56	89.63	91.10	95.74
2035	93.87	88.65	83.99	69.90	62.65	44.23	75.58	84.06	91.31	91.37	92.88	97.61
2036	95.47	90.16	85.41	71.08	63.71	44.98	76.86	85.49	92.86	92.93	94.46	99.27
2037	97.66	92.23	87.38	72.72	65.18	46.02	78.63	87.45	94.99	95.06	96.63	101.55
2038	99.60	94.07	89.12	74.16	66.48	46.93	80.20	89.19	96.89	96.96	98.55	103.57
2039	101.60	95.96	90.90	75.65	67.81	47.88	81.80	90.98	98.83	98.90	100.53	105.65
2040	103.39	97.64	92.50	76.99	69.01	48.74	83.25	92.58	100.57	100.64	102.30	107.50
2041	105.70	99.82	94.57	78.70	70.54	49.80	85.10	94.65	102.81	102.88	104.58	109.90
2042	107.82	101.83	96.46	80.28	71.96	50.80	86.81	96.55	104.87	104.95	106.68	112.11
2043	109.97	103.86	98.39	81.88	73.39	51.82	88.54	98.47	106.97	107.04	108.81	114.34
2044	111.85	105.63	100.07	83.28	74.64	52.70	90.05	100.15	108.79	108.87	110.67	116.30

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**SCHEDULE 201 (Continued)**

**PRICING OPTIONS FOR STANDARD PPA (Continued)**  
**Renewable Fixed Price Option (Continued)**

TABLE 5b												
Renewable Avoided Costs												
Renewable Fixed Price Option for Wind QF												
Off-Peak Forecast (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	36.79	32.46	23.29	19.21	13.86	15.89	27.87	35.01	30.68	25.32	26.09	32.46
2020	33.69	28.83	22.85	14.13	12.08	12.53	25.03	31.37	29.73	25.12	25.68	29.21
2021	36.74	32.41	23.29	19.18	13.88	15.89	27.84	34.94	30.65	25.34	26.10	36.70
2022	38.59	34.05	24.47	20.15	14.58	16.70	29.24	36.71	32.20	26.62	27.42	38.55
2023	41.21	36.34	26.08	21.44	15.48	17.75	31.19	39.19	34.36	28.38	29.24	41.17
2024	43.95	38.75	27.80	22.85	16.48	18.90	33.25	41.79	36.64	30.26	31.17	43.90
2025	57.19	52.34	51.60	42.71	36.09	20.11	43.24	51.02	55.40	56.61	59.55	61.65
2026	58.33	53.38	52.63	43.57	36.81	20.51	44.11	52.04	56.50	57.74	60.74	62.88
2027	59.49	54.45	53.68	44.44	37.55	20.92	44.99	53.08	57.63	58.90	61.95	64.14
2028	60.52	55.39	54.61	45.20	38.19	21.28	45.76	53.99	58.62	59.91	63.01	65.24
2029	61.90	56.65	55.85	46.23	39.06	21.77	46.81	55.23	59.96	61.28	64.45	66.73
2030	63.14	57.79	56.97	47.16	39.85	22.21	47.75	56.33	61.16	62.50	65.74	68.07
2031	64.40	58.94	58.11	48.10	40.64	22.65	48.70	57.46	62.39	63.75	67.06	69.43
2032	65.51	59.96	59.11	48.93	41.34	23.04	49.54	58.45	63.46	64.85	68.21	70.62
2033	67.00	61.32	60.45	50.04	42.28	23.56	50.66	59.78	64.90	66.32	69.76	72.23
2034	68.34	62.55	61.66	51.04	43.13	24.04	51.68	60.97	66.20	67.65	71.16	73.68
2035	69.71	63.80	62.90	52.07	43.99	24.52	52.71	62.20	67.53	69.01	72.59	75.15
2036	70.90	64.89	63.97	52.95	44.74	24.93	53.61	63.26	68.68	70.18	73.82	76.43
2037	72.52	66.37	65.44	54.17	45.77	25.51	54.84	64.71	70.25	71.79	75.51	78.18
2038	73.96	67.70	66.74	55.25	46.68	26.01	55.93	65.99	71.65	73.22	77.02	79.74
2039	75.45	69.05	68.08	56.35	47.62	26.54	57.06	67.32	73.09	74.69	78.56	81.34
2040	76.74	70.23	69.25	57.32	48.43	26.99	58.03	68.47	74.34	75.97	79.91	82.73
2041	78.49	71.83	70.82	58.62	49.53	27.60	59.35	70.03	76.03	77.70	81.73	84.62
2042	80.06	73.28	72.25	59.80	50.53	28.16	60.55	71.44	77.56	79.26	83.37	86.32
2043	81.66	74.74	73.69	60.99	51.54	28.72	61.75	72.86	79.11	80.84	85.03	88.04
2044	83.06	76.02	74.95	62.04	52.42	29.21	62.81	74.11	80.46	82.22	86.49	89.55

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 on and after \_\_\_\_\_, 2018 April 24, 2019

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**SCHEDULE 201 (Continued)**

**PRICING OPTIONS FOR STANDARD PPA (Continued)**  
**Renewable Fixed Price Option (Continued)**

TABLE 6a												
Renewable Avoided Costs												
Renewable Fixed Price Option for Solar QF												
On-Peak Forecast (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	41.24	39.20	29.26	25.44	22.13	31.81	58.31	72.84	41.24	30.28	30.54	41.49
2020	38.74	35.53	26.79	22.36	21.63	27.26	51.38	60.63	42.57	29.58	30.04	36.10
2021	40.91	38.88	29.06	25.25	22.00	31.53	57.66	71.95	40.89	30.07	30.33	40.86
2022	41.56	39.50	29.54	25.68	22.39	32.05	58.55	73.05	41.54	30.57	30.83	41.51
2023	45.83	43.54	32.48	28.20	24.54	35.27	64.68	80.76	45.80	33.63	33.91	45.76
2024	49.08	46.62	34.76	30.16	26.24	37.75	69.31	86.57	49.05	35.99	36.30	49.01
2025	73.86	69.59	65.76	54.19	48.25	33.14	58.86	65.81	71.76	71.82	73.05	76.93
2026	75.34	70.98	67.07	55.28	49.21	33.80	60.03	67.13	73.20	73.25	74.51	78.47
2027	76.85	72.39	68.41	56.38	50.20	34.48	61.23	68.47	74.66	74.72	76.00	80.04
2028	78.19	73.66	69.61	57.38	51.08	35.09	62.31	69.67	75.97	76.02	77.33	81.44
<del>2029</del>	<del>79.95</del>	<del>75.32</del>	<del>71.17</del>	<del>58.66</del>	<del>52.22</del>	<del>35.87</del>	<del>63.71</del>	<del>71.23</del>	<del>77.68</del>	<del>77.73</del>	<del>79.07</del>	<del>83.27</del>
2030	81.55	76.82	72.59	59.83	53.27	36.59	64.98	72.66	79.23	79.28	80.65	84.93
2031	83.18	78.36	74.04	61.03	54.33	37.32	66.28	74.11	80.81	80.87	82.26	86.63
2032	84.57	79.67	75.28	62.04	55.23	37.93	67.38	75.35	82.17	82.23	83.64	88.08
2033	86.53	81.52	77.03	63.49	56.53	38.82	68.95	77.10	84.07	84.13	85.58	90.13
2034	88.29	83.18	78.60	64.79	57.69	39.63	70.36	78.67	85.78	85.85	87.32	91.96
2035	90.03	84.81	80.14	66.05	58.81	40.39	71.74	80.21	87.47	87.53	89.04	93.76
2036	91.57	86.27	81.52	67.18	59.81	41.08	72.97	81.59	88.97	89.03	90.56	95.37
2037	93.66	88.24	83.38	68.72	61.18	42.02	74.63	83.45	91.00	91.06	92.63	97.55
2038	95.53	90.00	85.05	70.09	62.40	42.86	76.12	85.12	92.82	92.88	94.48	99.50
2039	97.44	91.80	86.74	71.49	63.65	43.72	77.65	86.82	94.67	94.74	96.37	101.49
2040	99.15	93.41	88.27	72.75	64.78	44.50	79.01	88.34	96.33	96.40	98.06	103.26
2041	101.38	95.50	90.25	74.38	66.22	45.48	80.78	90.33	98.49	98.56	100.26	105.58
2042	103.40	97.41	92.05	75.87	67.54	46.39	82.39	92.13	100.46	100.53	102.27	107.69
2043	105.47	99.36	93.89	77.38	68.89	47.32	84.04	93.97	102.47	102.54	104.31	109.85
2044	107.28	101.06	95.50	78.71	70.07	48.13	85.48	95.58	104.23	104.30	106.10	111.73

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**SCHEDULE 201 (Continued)****PRICING OPTIONS FOR STANDARD PPA (Continued)****Renewable Fixed Price Option (Continued)**

TABLE 6b												
Renewable Avoided Costs												
Renewable Fixed Price Option for Solar QF												
Off-Peak Forecast (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	37.67	33.34	24.17	20.09	14.74	16.77	28.75	35.89	31.56	26.20	26.97	33.34
2020	34.59	29.73	23.75	15.03	12.98	13.43	25.93	32.27	30.63	26.02	26.58	30.11
2021	37.66	33.33	24.21	20.10	14.80	16.81	28.76	35.86	31.57	26.26	27.02	37.62
2022	39.53	34.99	25.41	21.09	15.52	17.64	30.18	37.65	33.14	27.56	28.36	39.49
2023	42.17	37.30	27.04	22.40	16.44	18.71	32.15	40.15	35.32	29.34	30.20	42.13
2024	44.93	39.73	28.78	23.83	17.46	19.88	34.23	42.77	37.62	31.24	32.15	44.88
2025	58.19	53.34	52.60	43.71	37.09	21.11	44.24	52.02	56.40	57.61	60.55	62.65
2026	59.35	54.40	53.65	44.59	37.83	21.53	45.13	53.06	57.52	58.76	61.76	63.90
2027	60.53	55.49	54.72	45.48	38.59	21.96	46.03	54.12	58.67	59.94	62.99	65.18
2028	61.58	56.45	55.67	46.26	39.25	22.34	46.82	55.05	59.68	60.97	64.07	66.30
2029	62.98	57.73	56.93	47.31	40.14	22.85	47.89	56.31	61.04	62.36	65.53	67.81
2030	64.24	58.89	58.07	48.26	40.95	23.31	48.85	57.43	62.26	63.60	66.84	69.17
2031	65.52	60.06	59.23	49.22	41.76	23.77	49.82	58.58	63.51	64.87	68.18	70.55
2032	66.65	61.10	60.25	50.07	42.48	24.18	50.68	59.59	64.60	65.99	69.35	71.76
2033	68.17	62.49	61.62	51.21	43.45	24.73	51.83	60.95	66.07	67.49	70.93	73.40
2034	69.53	63.74	62.85	52.23	44.32	25.23	52.87	62.16	67.39	68.84	72.35	74.87
2035	70.92	65.01	64.11	53.28	45.20	25.73	53.92	63.41	68.74	70.22	73.80	76.36
2036	72.14	66.13	65.21	54.19	45.98	26.17	54.85	64.50	69.92	71.42	75.06	77.67
2037	73.78	67.63	66.70	55.43	47.03	26.77	56.10	65.97	71.51	73.05	76.77	79.44
2038	75.25	68.99	68.03	56.54	47.97	27.30	57.22	67.28	72.94	74.51	78.31	81.03
2039	76.76	70.36	69.39	57.66	48.93	27.85	58.37	68.63	74.40	76.00	79.87	82.65
2040	78.08	71.57	70.59	58.66	49.77	28.33	59.37	69.81	75.68	77.31	81.25	84.07
2041	79.86	73.20	72.19	59.99	50.90	28.97	60.72	71.40	77.40	79.07	83.10	85.99
2042	81.45	74.67	73.64	61.19	51.92	29.55	61.94	72.83	78.95	80.65	84.76	87.71
2043	83.08	76.16	75.11	62.41	52.96	30.14	63.17	74.28	80.53	82.26	86.45	89.46
2044	84.51	77.47	76.40	63.49	53.87	30.66	64.26	75.56	81.91	83.67	87.94	91.00

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## SCHEDULE 201 (Continued)

**WIND INTEGRATION**

To owners of Qualifying Facilities making sales of  
electricity to

TABLE 7		
Integration Costs		
Year	Wind	Solar
2019	0.88	0.00
2020	0.90	0.00
2021	0.92	0.00
2022	0.94	0.00
2023	0.96	0.00
2024	0.98	0.00
2025	1.00	0.00
2026	1.02	0.00
2027	1.04	0.00
2028	1.06	0.00
2029	1.08	0.00
<del>2030</del>	<del>1.10</del>	<del>0.00</del>
2031	1.12	0.00
2032	1.14	0.00
2033	1.17	0.00
2034	1.19	0.00
2035	1.21	0.00
2036	1.24	0.00
2037	1.26	0.00
2038	1.29	0.00
2039	1.31	0.00
2040	1.34	0.00
2041	1.37	0.00
2042	1.39	0.00
2043	1.42	0.00
2044	1.45	0.00

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Portland General Electric Company (PGE or the Company) in the State of Oregon (Sellers). Sheet No. 201-20

**SCHEDULE 201 (Continued)**

**~~MONTHLY SERVICE CHARGE~~**

~~Each separately metered QF not associated with a retail Customer account will be charged \$10.00 per month.~~

**~~INSURANCE REQUIREMENTS~~**

~~The following insurance requirements are applicable to Sellers with a Standard PPA:~~

- ~~1) QFs with nameplate capacity ratings greater than 200 kW are required to secure and maintain a prudent amount of general liability insurance. The Seller must certify to the Company that it is maintaining general liability insurance coverage for each QF at prudent amounts. A prudent amount will be deemed to mean liability insurance coverage for both bodily injury and property damage liability in the amount of not less than \$1,000,000 each occurrence combined single limit, which limits may be required to be increased or decreased by the Company as the Company determines in its reasonable judgment, that economic conditions or claims experience may warrant.~~
- ~~2) Such insurance will include an endorsement naming the Company as an additional insured insofar as liability arising out of operations under this schedule and a provision that such liability policies will not be canceled or their limits reduced without 30 days' written notice to the Company. The Seller will furnish the Company with certificates of insurance together with the endorsements required herein. The Company will have the right to inspect the original policies of such insurance.~~
- ~~3) QFs with a design capacity of 200 kW or less are encouraged to pursue liability insurance on their own. The Oregon Public Utility Commission in Order No. 05-584 determined that it is inappropriate to require QFs that have a design capacity of 200 kW or less to obtain general liability insurance.~~

**~~TRANSMISSION AGREEMENTS~~**

~~If the QF is located outside the Company's service territory, the Seller is responsible for the transmission of power at its cost to the Company's service territory.~~

**~~INTERCONNECTION REQUIREMENTS~~**

**I. COMMUNICATIONS**

Sellers may call PGE's Qualifying Facility Administrator at (503) 464-7523 or email at [Qualifying.Facility@pgn.com](mailto:Qualifying.Facility@pgn.com) to obtain more information about being a Seller.

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## II. DEFINITIONS

Capitalized terms not defined here have the meanings given to them in Rule B of PGE's Tariff. To the extent the definitions below are inconsistent with the definitions provided in Rule B of the Tariff, the definitions below will apply.

1. **Affiliated Person:** Any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, Seller or that shares management or that acts jointly or in concert with or exercises influence over the policies or actions of Seller. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.
2. **Ancillary Services:** Any of the services identified by a Transmission Provider in its transmission tariff as "ancillary services" including energy imbalance services, generation imbalance services, regulation and frequency response services, reactive supply services, voltage control services, inadvertent energy flow services, control area services, system integration services, operating spinning reserve services, and operating supplemental reserve services.
3. **Balancing Authority (BA):** An entity responsible for maintaining the load-interchange-generation balance within the Balancing Authority Area in which the QF is located.
4. **Balancing Authority Area:** The collection of generation, transmission, and loads within the metered boundaries of the BA. The BA maintains load-resource balance within this area.
5. **Bankrupt:** With respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not dismissed within ninety (90) days of such filing or commencement, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they become due.
6. **Billing Period:** A calendar month, or such other period (not to exceed three months) as PGE may establish in accordance with the Standard PPA.
7. **Business Day:** Any day other than Saturday, Sunday or the following holidays: New Year's Day, January 1; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day and the day after Thanksgiving, fourth Thursday and Friday in November; Christmas Day, December 25.
8. **Capacity Attributes:** Any current or future attribute, as may be currently defined

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or otherwise defined in the future, including but not limited to a characteristic, certificate, tag, credit, Ancillary Service or attribute thereof, or accounting construct, associated with the electric generation capability and capacity of the QF or the QF's capability and ability to produce or curtail energy, including any attribute counted towards any current or future resource adequacy or reserve requirements. Capacity Attributes do not include: (i) tax credits, deductions, or tax benefits associated with the QF, (ii) any state, federal, local, or private cash payments or grants relating in any way to the QF or the Net Output, or (iii) Environmental Attributes.

**9. Commercial Operation Date:** The date when the QF is fully constructed and deemed by the Company in its reasonable judgment to be operational and reliable, and all other requirements pertaining to the achievement of the Commercial Operation Date described in the applicable Standard PPA have been satisfied.

**10. Community-Based QF:** A QF that satisfies the following requirements:

The QF has

~~Except as otherwise provided in a generation Interconnection Agreement between the Company and Seller, if the QF is located within the Company's service territory, switching equipment capable of isolating the QF from the Company's system will be accessible to the Company at all times. At the Company's option, the Company may operate the switching equipment described above if, in the sole opinion of the Company, continued operation of the QF in connection with the utility's system may create or contribute to a system emergency.~~

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**SCHEDULE 201 (Continued)****INTERCONNECTION REQUIREMENTS (Continued)**

The QF owner interconnecting with the Company's distribution system must comply with all requirements for interconnection as established pursuant to Commission rule, in the Company's Rules and Regulations (Rule C) or the Company's Interconnection Procedures contained in its FERC Open Access Transmission Tariff (OATT), as applicable. The Seller will bear full responsibility for the installation and safe operation of the interconnection facilities.

**DEFINITION OF A SMALL COGENERATION FACILITY OR SMALL POWER PRODUCTION FACILITY ELIGIBLE TO RECEIVE THE STANDARD FIXED PRICE OPTION OR THE RENEWABLE FIXED PRICE OPTION UNDER THE STANDARD PPA**

A QF will be eligible to receive the Standard Fixed Price Option or the Renewable Fixed Price Option (as appropriate) under the Standard PPA if the nameplate capacity of the QF, together with any other electric generating facility using the same motive force, owned or controlled by the Same Person(s) or Affiliated Person(s), and located at the Same Site, does not exceed 3 MW for solar QF projects or 10 MW for all other types of QF projects. Solar QF projects with nameplate capacity (as calculated in this paragraph) that exceed 3 MW but do not exceed 10 MW are eligible for a Standard PPA containing negotiated prices under Schedule 202. A Community-Based or Family-Owned QF is exempt from these restrictions.

**Definition of Community-Based**

- a. A community project (or a community sponsored project) must have a recognized and established organization located within the county of the QF project or within 50 miles of the QF project that (i) has a genuine role in helping the QF project be developed and (ii) ~~has~~ must have some not insignificant continuing role with or interest in the QF project after it is completed and placed in service. (Such an organization hereinafter referred to as a "sponsoring organization.")
- b. After excluding the passive investor(s) whose ownership interests are primarily related to green tag values and tax benefits as the primary ownership benefit, 80 percent or more of the equity (ownership) interests in the entity that owns the QF ~~are held~~ community sponsored project must be owned in substantial percentage (80 percent or more) by the following Persons: persons (individuals and entities): (i) the sponsoring organization, or its controlled affiliates; (ii) members of the sponsoring organization (if it is a membership organization) or owners of the sponsor~~ship~~ organization (if it is privately owned); (iii) Persons who live in the county in which the QF project is located or who live in a county adjoining the county in which the QF project is located; or (iv) units of local government, charities, or other established nonprofit organizations active either in the county in which the QF project is located or active in a county adjoining the county in which the QF project is

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located.

- 11. Delivery Point:** For Off-System QFs, the Delivery Point is the point of delivery on the Company side of the interface with the applicable Balancing Authority, where the Company and the Seller have agreed that Seller will deliver energy to the Company from the QF. For On-System QFs, the Delivery Point is the high side of the generation step up transformer(s) located at the point of interconnection between the QF and the Company's distribution or transmission system, where the Company and the Seller have agreed for the Seller to deliver energy to the Company.
- 12. Eligibility Requirements:** The requirements that QFs must satisfy to be eligible to enter into a Standard PPA, which are set forth in Section V.1 below.
- 13. Environmental Attributes:** Any and all claims, credits, benefits, emissions reductions, offsets, and allowances, however named, resulting from the avoidance of the emission of any gas, chemical or other substance to the air, soil or water or otherwise arising as a result of the generation of electricity from the QF, regardless of whether or not (i) such environmental attributes have been verified or certified, (ii) such environmental attributes are creditable under any applicable legislative or regulatory program, or (iii) such environmental attributes are recognized as of the effective date of the Standard PPA or at any time during the Term. Environmental Attributes include: (1) any avoided emissions of pollutants to the air, soil or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; (2) any credit, allowance or instrument issued or issuable pursuant to a state implementation plan under the Clean Power Plan promulgated by the Environmental Protection Agency under the Clean Air Act; (3) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gasses (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (4) the reporting rights to these avoided emissions, such as the carbon content of the energy generated by the QF and REC Reporting Rights. Environmental Attributes do not include (i) production tax credits associated with the construction or operation of the QF and other financial incentives in the form of credits, reductions, or allowances associated with the QF that are applicable to a state or federal income taxation obligation, (ii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits.
- 14. Existing QF:** Means a QF that (1) is or has been operational before the effective date of the Standard PPA to which it is a party, or (2) has ever sold energy or capacity to PGE or a third party before the effective date of the Standard PPA to which it is a party.
- 15. Facility Nameplate Capacity Rating:** Means the sum of the Nameplate Capacity Ratings for all Generators comprising the Facility.

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Family-Owned QF: A QF that satisfies the following requirement:

**Definition of Family-Owned**

**16.** After excluding the ownership interest of the passive investor whose ownership interests are primarily related to green tag values and tax benefits as the primary ownership benefit, either (i) five or fewer natural persons~~individuals~~ own 50 percent or more of the equity of the project entity that owns the QF, or (ii) fifteen or fewer individuals own 90 percent or more of the project entity that owns the QF. For purposes of this definition, the following principles apply:

—A "look through" rule applies to closely held entities that hold the project entity, so that equity held by LLCs, trusts, estates, corporations, partnerships or other similar entities is considered held by the equity owners of the look through entity.

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In determining whether Portland General Electric Company Sheet No. 201-22

**SCHEDULE 201 (Continued)**

~~DEFINITION OF A SMALL COGENERATION FACILITY OR SMALL POWER PRODUCTION FACILITY ELIGIBLE TO RECEIVE THE STANDARD FIXED PRICE OPTION OR THE RENEWABLE FIXED PRICE OPTION UNDER THE STANDARD PPA (Continued)~~

~~held by the thresholds in (i) equity owners of the look through entity. An individual is a natural person. In counting to five or (ii) above have been met fifteen, spouses and/or children of an equity owner of the QF project owner who also have an equity interest are aggregated and counted as a single individual.~~

- 17. Firm Energy:** Energy scheduled and delivered hourly by an Off-System QF to the Delivery Point on an uninterruptible basis via firm transmission rights in accordance with the Transmission Agreement(s) and the Standard PPA.
- 18. Generator:** The electrical component within the Facility measured in kW that converts mechanical energy or solar radiation into electrical energy.
- 19. Imbalance Energy:** That portion of Firm Energy, measured in kWh, scheduled and delivered to the Delivery Point that was not generated by the QF but is delivered to PGE as a result of Ancillary Services provided by a Balancing Authority, Transmission Provider, or other Reliability Entity.
- 20. Initial Information Request:** A form that the Company provides to Sellers, which requests written information necessary for the Company to understand the QF project and prepare a draft Standard PPA. The Company may from time to time update or modify its Initial Information Request as deemed advisable by the Company to obtain information necessary for the Company to understand the QF project and prepare a draft Standard PPA.
- 21. Market Index Price:** The applicable Powerdex hourly Mid-Columbia Index price for firm energy, at the time the energy is delivered. In the event Powerdex no longer publishes this index or PGE elects to use nodal pricing, PGE will select an alternative successor index or other published pricing representative of the Delivery Point.
- 22. Nameplate Capacity Rating:** The full-load electrical quantities assigned by the designer to a generator and its prime mover or other piece of electrical equipment, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts or other appropriate units. Nameplate Capacity Rating is usually indicated on a nameplate attached to the individual machine or device.
- 23. Net Output:** All energy, expressed in kWhs, produced by the QF, less station service and other onsite uses.
- 24. New QF:** Any QF that is not an Existing QF.

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25. **Off-System QF:** A QF that is not directly interconnected to PGE's transmission or distribution system.
26. **On-System QF:** A QF that is directly interconnected to PGE's transmission or distribution system.
27. **Oregon Renewable Portfolio Standard:** The renewable portfolio standard contemplated by ORS 469A.005 to ORS 469A.200, and the implementing regulations, in each case as amended from time to time.
28. **Oregon RPS-Qualified RECs:** RECs that can be used by PGE to comply with the requirements of the Oregon Renewable Portfolio Standard as set forth in ORS 469A.005 to 469A.200 and the implementing regulations.
29. **Person(s):** Any individual, corporation, limited liability company, firm, partnership, joint venture, association, trust, unincorporated organization or government authority, or any similar entity or organization.
30. **Product:** Each and together, as a single bundled product, Net Output and Imbalance Energy, together with all associated Capacity Attributes and RECs transferred to the Company under the Standard PPA.
31. **Qualifying Facility (QF):** A qualifying cogeneration facility or a qualifying small power production facility or facilities within the meaning of sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 796 and 824a-3.
32. **REC:** Environmental Attributes and REC Reporting Rights, however commercially transferred or traded under any or other product names, such as "green tags," "Green-e Certified," or otherwise. RECs are accumulated on a MWh basis and one REC represents the Environmental Attributes and REC Reporting Rights made available by the generation of one MWh of energy by a QF, as represented by the lesser of the final e-Tag or the actual Net Output on an hourly basis. All RECs delivered to PGE must comply with the Oregon Renewable Portfolio Standard.
33. **REC Reporting Rights:** The right of a Person to report the ownership of accumulated RECs in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at such Person's discretion, including without limitation those REC Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present federal, state, or local law, regulation or bill, and international or foreign emissions trading program.
34. **Reliability Entity:** A Balancing Authority, Transmission Provider, regional transmission organization, independent system operator, reliability coordinator or any other entity that has responsibility over the reliability of the bulk power system and, by virtue of such responsibility, the legal authority to affect the operations of the QF or delivery of the Product, including the North American Electric Reliability Corporation and the Western Electricity Coordinating Council or any successor thereto.

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Effective for service  
on and after \_\_\_\_\_, 2018 **April 24, 2019**

- 35. Renewable Standard PPA:** A Standard PPA that provides for the transfer of Oregon RPS-Qualified RECs to PGE during the Renewable Resource Deficiency Period.
- 36. Renewable Resource Deficiency Period:** The period beginning in 2025.
- 37. Renewable Resource Sufficiency Period:** The period from the current year through 2024.
- 38. Same Site:** Generating facilities are considered to be located at the same site as the QF for which qualification for a Standard PPA is sought if they are located within a five-mile radius of any generating facilities or equipment providing fuel or motive force associated with the QF for which qualification for the Standard PPA is sought.
- 39. Scheduled Commercial Operation Date:** The date memorialized in the Standard PPA by which Seller represents that commercial operation of the facility will be achieved.

Sellers developing a New QF may select a Scheduled Commercial Operation Date anytime within three years from the date the Standard PPA is executed, or anytime later than three years after the date the Standard PPA is executed if the Seller establishes to the Company that a later Scheduled Commercial Operation Date is reasonable and necessary and the Company agrees.

**Definition of Person(s) or Affiliated Person(s)**

~~As used above, the term "Same Person(s)" or "Affiliated Person(s)" means a natural person or persons or any legal entity or entities sharing common ownership, management or acting jointly or in concert with or exercising influence over the policies or actions of another person or entity. However, two facilities~~

- a. Sellers with an Existing QF seeking a new Standard PPA from PGE may select a Scheduled Commercial Operation Date anytime within one year from the date the Standard PPA is executed, or anytime later than one year after the date the Standard PPA is executed if the Seller establishes to the Company that a later Scheduled Commercial Operation Date is reasonable and necessary and the Company agrees.
- 40. Seller:** The entity selling or proposing to sell the Net Output of the QF to PGE pursuant to the terms and conditions of a Standard PPA.
- 41. Solar QF:** A QF that generates energy using the sun as its motive force.
- 42. Standard Power Purchase Agreement (Standard PPA):** A standard pro forma Power Purchase Agreement approved by the Commission for the Company to execute with QFs meeting the Eligibility Requirements.
- 43. Transmission Agreement(s):** Agreement(s) between the Seller and the Transmission Provider(s) that provide(s) for long-term, firm, point-to-point transmission and delivery of energy, at no less than the Facility Nameplate Capacity Rating, from the QF to the Delivery Point for a term not less than five (5) years, with

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renewal rights, together with any and all other services (including Ancillary Services) required for transmission and delivery of energy to the Delivery Point, as scheduled in accordance with this Agreement.

- 44. Transmission Provider:** The transmission system operator(s) with whom the Seller will enter or has entered into the Transmission Agreement(s) to provide for delivery of Firm Energy from the QF to the Delivery Point.

Wind QF: A QF that generates energy using wind as its motive force.

### **III. ELIGIBILITY REQUIREMENTS**

- 1. A Seller is eligible to enter into a Standard PPA if the QF meets the following eligibility requirements:**

- a. The Facility Nameplate Capacity Rating of the QF, together with that of any other electric generating facility using the same motive force, owned or controlled by the Same Person(s) or Affiliated Person(s), and located at the Same Site, does not exceed 10 MW. For purposes of applying this requirement, the following principles apply:**

Two QFs will not be held to be owned or controlled by the Same Person(s) or Affiliated Person(s) solely because they are developed by a single entity.

**Two Community-Based QFs or Family-Owned QFs**

Furthermore, ~~two facilities~~ will not be held to be owned or controlled by the ~~s~~Same Person(s) or Affiliated Person(s) if such common ~~P~~person or ~~P~~persons is a “passive investor” whose ownership interest in the QF is primarily related to utilizing production tax credits, green tag values and MACRS depreciation as the primary ownership benefit and the facilities at issue are independent ~~Family-Owned~~~~family-owned~~ or ~~Community-Based~~~~community-based~~ projects. A unit of Oregon local government may also be a “passive investor” in a ~~Community-Based~~~~community-based~~ project if the local governmental unit demonstrates that it will not have an equity ownership interest in or exercise any control over the management of the QF and that its only interest is a share of the cash flow from the QF, which share will not exceed 20%. The 20% cash flow share limit may only be exceeded for good cause shown and only with the prior approval of the Commission.

The QF satisfies

**Definition of Same Site**

- b. For purposes of the credit and insurance requirements set forth in foregoing, generating facilities are considered to be located at the Standard PPA.**

- 2. A QF that does not meet same site as the Eligibility Requirements in Section V.1 is not eligible QF for a Standard PPA but may seek a negotiated power purchase agreement pursuant to the terms of Schedule 202.**

Solar QF projects that meet the Eligibility Requirements in Section V.1 and that have Facility Nameplate Capacity Ratings (as calculated in Section V.1.a that exceed 3 MW but do not exceed 10 MW are eligible~~which qualification~~ for a Standard PPA

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~~containing prices negotiated under Schedule 202 and are ineligible for the standard pricing options described in Sections XI and XV below. All QF projects or negotiated pricing under the Standard PPA is sought if they are located within a five-mile radius of any generating facilities or equipment providing fuel or motive force associated with Facility Nameplate Capacity Ratings (as calculated in Section V.1) that exceed 10 MW are ineligible the QF for which qualification for a Standard PPA and the standard pricing options described in Section XI and Section XV below. or negotiated pricing under the Standard PPA is sought.~~

**Definition of Shared Interconnection and Infrastructure**

~~QFs otherwise meeting the above-described separate-ownership requirements set forth in Section V.1 of this Schedule and eligible test and thereby qualified for entitlement to standard pricing or negotiated pricing under the Standard PPA will not be disqualified by utilizing an interconnection or other infrastructure not providing motive force or fuel that is shared with other QFs eligible qualifying for standard pricing or negotiated pricing under the Standard PPA, so long as the use of the shared interconnection complies with the interconnecting utility’s safety and reliability standards, interconnection contract agreement requirements and Prudent Electrical Practices as that term is defined in the interconnecting utility’s approved standard contract. Standard PPA.~~

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SCHEDULE 201 (Continued)

OTHER DEFINITIONS

Mid-C Index Price

IV. ~~As used in this schedule, the daily Mid-C Index Price shall be the Day Ahead Intercontinental Exchange (“ICE”) for the bilateral OTC market for energy at the Mid-C Physical for Average On-Peak Power and Average Off-Peak Power found on the following website: <https://www.theice.com/products/OTC/Physical-Energy/Electricity>~~ **STANDARD PPA OPTIONS**

PGE offers eight Standard PPAs. The following chart shows the available Standard PPAs and the criteria for determining which Standard PPA applies. The term of each PPA will be specified in the PPA and will expire or terminate no more than twenty years from the Scheduled Commercial Operation Date or on the date the PPA is terminated if earlier.

Available pricing under the Standard PPAs is addressed separately in Section X below:

<u>Form of Standard PPA</u>	<u>Eligible and Electing to Transfer Oregon RPS-Qualified RECs to PGE*</u>	<u>On-System QF</u>	<u>Wind QF or Solar QF</u>
Standard On-System Non-Variable PPA	<u>no</u>	<u>yes</u>	<u>no</u>
Standard Off-System Non-Variable PPA	<u>no</u>	<u>no</u>	<u>no</u>
Standard On-System Variable PPA**	<u>no</u>	<u>yes</u>	<u>yes</u>
Standard Off-System Variable PPA**	<u>no</u>	<u>no</u>	<u>yes</u>
Renewable Standard On-System Non-Variable PPA	<u>yes</u>	<u>yes</u>	<u>no</u>
Renewable Standard Off-System Non-Variable PPA	<u>yes</u>	<u>no</u>	<u>no</u>
Renewable Standard On-System Variable PPA**	<u>yes</u>	<u>yes</u>	<u>yes</u>
Renewable Standard Off-System Variable PPA**	<u>yes</u>	<u>no</u>	<u>yes</u>

\*QFs that generate electricity from a source capable of producing Oregon RPS-Qualified RECs may elect to enter into a Renewable Standard PPA providing for the transfer of RECs to PGE but are not required to do so. Under the terms of a Renewable Standard PPA, a QF retains ownership of all RECs associated with Net Output during the

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Renewable Resource Sufficiency Period, and transfers to PGE all RECs associated with Net Output from the start of the Renewable Resource Deficiency Period through the remainder of the term of the Renewable Standard PPA.

\*\*In addition to Wind QFs or Solar QFs, QFs utilizing run of river hydro as the primary motive force are eligible for Standard Variable PPAs.

## V. PROCESS FOR OBTAINING A STANDARD PPA

### 1. Communications

The QF application process will be conducted by electronic mail and all communications by the Seller should be directed to [Qualifying.Facility@pgn.com](mailto:Qualifying.Facility@pgn.com). The Company will respond to all such communications in a timely manner. If the Company is not able to comply with a request by the Seller on the basis of incomplete or missing information from the Seller, the Company will notify the Seller of the additional information it requires.

### 2. Process

- a. The Seller must submit a written request to the Company for a Standard PPA. In order to obtain a project-specific draft Standard PPA from the Company, the Seller must provide in writing to the Company general project information, including but not limited to information sufficient to allow the Company to (i) understand the existing or proposed QF project, (ii) determine whether the QF project is eligible for a Standard PPA and (iii) complete a draft Standard PPA.
- b. To meet the requirements of Section VII.2.a above, Seller must complete an Initial Information Request that is available from the Company's website () and appropriate for the type of QF for which the Seller seeks a Standard PPA. The Seller must submit the completed Initial Information Request to the Company in electronic format as an Excel workbook or in such other reasonable format as may be required by the Company.
- c. After receiving a completed Initial Information Request from the Seller, the Company may request that the Seller provide additional or clarifying information if necessary for the Company to fully understand the Seller's proposal or if necessary for the Company to complete a draft Standard PPA. If the Company requires additional or clarifying information, it will request such information from the Seller in writing within 15 business days of receiving a completed Initial Information Request from the Seller. If necessary, the Company may repeat this process until it has obtained all necessary additional or clarifying information.
- d. The Company will provide the Seller with a draft Standard PPA within 15 business days following receipt of all information in the Initial Information Request and any additional clarifying information requested by the Company. The Company may re-issue a draft Standard PPA if there are any material

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changes to the information provided by the Seller to the Company, including but not limited to changes to the Facility Nameplate Capacity Rating, the applicable minimum, maximum, or estimated average Net Output delivered to the point of interconnection, the location, the motive force, OR the Scheduled Commercial Operation Date.

- e. If the Seller desires to proceed with the Standard PPA after reviewing the Company's draft Standard PPA, it must request in writing that the Company prepare a final draft Standard PPA. In connection with such request, the Seller must provide the Company with an update on the generation interconnection and transmission arrangements for the QF. After reviewing the draft Standard PPA provided by PGE, the Seller may either prepare a set of written comments and proposals (including without limitation a request for any changes or modifications to information previously provided by the Seller to the Company) or the Seller can approve the draft Standard PPA in writing without requesting any changes or modifications.
- f. If the Seller provides PGE with a set of written comments and proposals for any changes or modifications to the draft Standard PPA, the Company will have 15 business days from the receipt of such written comments and proposals within which to: (i) request additional or clarifying information from the Seller; (ii) provide the Seller with a revised draft Standard PPA (if the Seller has requested a material change to the prior draft Standard PPA and PGE has all of the information it requires to understand the project and prepare a revised draft Standard PPA); or (iii) provide the Seller with a final draft Standard PPA (if the Seller has not requested a material change to the prior draft Standard PPA and PGE has all of the information it requires to understand the project and prepare a final draft Standard PPA). If the Seller provides PGE with a written request for a final draft Standard PPA and does not submit any written comments or proposals to materially modify any of the terms and conditions of the last draft Standard PPA provided by PGE, then PGE will provide the Seller with a final draft Standard PPA within 15 business days of such a written request.
- g. After reviewing the final draft Standard PPA, the Seller may either provide the Company with written comments and proposals regarding the final draft Standard PPA (including without limitation, a request for any changes or modifications to information previously provided by the Seller to the Company) or the Seller may approve the final draft Standard PPA in writing without requesting any changes. If the Seller prepares written comments and proposals the Company will respond in 15 business days to those comments and proposals. If the Seller proposes any material changes to the final draft Standard PPA and the Company accepts such changes, the Company will either: (i) request any additional or clarifying information required by the Company to understand the project proposal; or (ii) issue a revised draft Standard PPA. After receiving written approval of a final draft Standard PPA without requesting any material changes or modifications, the Company will prepare and forward to the Seller a final executable version of the Standard PPA within 15 business days.
- h. Once the Seller executes the final executable version of the Standard PPA

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and returns all copies to the Company, the Company will execute the Standard PPA. Following the Company’s execution, a fully executed copy will be returned to the Seller. The Standard PPA will not be final and binding until the Standard PPA has been executed by both parties. The prices paid to the Seller will be those approved by the Commission at the time PGE receives the final executable version of the Standard PPA executed by the Seller.

~~– In the event ICE no longer publishes this index, PGE and the Seller agree to select an alternative successor index representative of the Mid-C trading hub.~~

**Definition of RPS Attributes**

~~As used in this schedule, RPS Attributes means all attributes related to the Net Output generated by the Facility that are required in order to provide PGE with “qualifying electricity,” as that term is defined in Oregon’s Renewable Portfolio Standard Act, Ore. Rev. Stat. 469A.010, in effect at the time of execution of this Agreement. RPS Attributes do not include Environmental Attributes that are greenhouse gas offsets from methane capture not associated with the generation of electricity and not needed to ensure that there are zero-net emissions associated with the generation of electricity.~~

**Definition of Environmental Attributes**

~~As used in this schedule, Environmental Attributes shall mean any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil, or water such as (subject to the foregoing) sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO), and other pollutants; and (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere.~~

**Definition of Resource Sufficiency Period**

~~This is the period from the current year through 2020.~~

**Definition of Resource Deficiency Period**

~~This is the period from 2021.~~

**Definition of Renewable Resource Sufficiency Period**

~~This is the period from the current year through 2024.~~

**Definition of Renewable Resource Deficiency Period**

~~This is the period from 2025.~~

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**SCHEDULE 201 (Concluded)****INTERCONNECTION REQUIREMENTS**

In addition to executing a PPA, QFs connecting directly to the Company's electrical system are required to enter into an interconnection agreement with the Company that governs the physical interconnection of the project at its Nameplate Capacity Rating to the Company's electrical system. QFs must contact the Company's Transmission and Reliability Services Department to arrange for interconnection. The Company's interconnection process can take up to 36 months, depending on the complexity of the project and the length of time necessary for interconnection studies. QFs interconnecting directly to transmission or distribution systems owned by entities other than the Company must contact the owner of such systems to determine the interconnection requirements and wheeling arrangements necessary to move the power to the Delivery Point.

**VI. UPGRADES FOR OFF-SYSTEM QFs**

The Company will evaluate available delivery capability on the Company's system between the Delivery Point and the Company's designated sink point that is required to enable the Company to accept delivery of the QF's Net Output at the Delivery Point and to effectuate delivery from the Delivery Point to the Company's designated sink point. If the Company determines that sufficient delivery capability exists on the Company's transmission system, the Company will arrange, be responsible for, and make available transmission service on the Company's transmission system from the Delivery Point to the designated sink point. If the Company determines that insufficient delivery capability exists on the Company's system: (i) the Seller will be responsible for obtaining and paying for necessary studies and paying for any upgrades necessary to enable the Company to accept deliveries of Net Output from the QF and to effectuate delivery from the Delivery Point to the Company's designated sink point; or (ii) the Seller will be responsible for acquiring and paying for any necessary transmission service from third-party Transmission Providers necessary to effectuate delivery from the Delivery Point to the Company's designated sink point. If any upgrades to the Company's system are identified pursuant to part (i), the Company and the Seller shall enter into an agreement to establish the terms under which PGE shall arrange for and Seller will pay for such upgrades provided that Seller may terminate the Standard PPA if the cost of such upgrades is reasonably projected to exceed One Hundred Thousand Dollars (\$100,000). After all necessary upgrades have been completed, PGE will arrange, be responsible for, and make available transmission service from the Delivery Point to the designated sink point.

**VII. UPGRADES FOR ON-SYSTEM QFs**

Any upgrades required to enable the Company to effectuate delivery of the QF's Net Output to the Company's designated sink {00043049.7}



point will be identified and addressed in the interconnection process. Seller is responsible for paying for any identified upgrades, pursuant to Oregon Administrative Rules Chapter 860, Division 82. If an On-System QF's interconnection is not subject to OAR 860-082, then any upgrades necessary for delivery will be identified and assessed to the Seller through a separate process similar to the process described in Section IX.

## **VIII. PRICING OPTIONS**

The Company offers two categories of pricing options for QFs: (1) Non-Renewable Fixed Price Options, which are available to all QFs meeting the Eligibility Requirements and not entering into a Renewable Standard PPA except for Solar QFs sized at more than 3 MW (calculated as described in Section V above); and (2) Renewable Fixed Price Options, which are available to QFs meeting the Eligibility Requirements that are eligible and elect to enter into a Renewable Standard PPA except for Solar QFs sized at more than 3 MW (calculated as described in Section V above). (See Section VI above for a description of eligibility requirements to enter into Renewable Standard PPAs.) Prices will be those in effect at the time the Seller delivers to PGE a signed Standard PPA that is in final executable form pursuant to the procedures described in Article VII above. Additional details about pricing options are provided below.

### **1. Non-Renewable Fixed Price Options**

Non-Renewable Fixed Price Options are available to all QFs meeting the Eligibility Requirements and that are ineligible for, or do not elect to enter into, a Renewable Standard PPA, provided that, Solar QFs sized at more than 3 MW (calculated as described in Section V above) are ineligible to receive the Non-Renewable Fixed Price Option and are required to negotiate prices pursuant to the terms of Schedule 202. This fixed price option is available for a maximum period of 15 years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date. Prices will be equal to the Non-Renewable prices in Tables 1a and 1b, 2a and 2b, or 3a and 3c, depending on the type of QF.

If the QF is an Off-System Wind QF, the Seller is paid the wind integration costs in Table 7, in addition to the prices listed in Tables 2a and 2b.

A Seller with a PPA term that expires or is terminated more than 15 years from the earlier of Commercial Operation Date or Scheduled Commercial Operation Date will receive pricing equal to the Market Index Price based on the interval that the energy is generated and

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delivered for the remainder of the term after the 15-year fixed price option period expires.

**2. Renewable Fixed Price Options**

Renewable Fixed Price Options are available to QFs that meet the Eligibility Requirements and that are eligible for and elect to enter into a Renewable Standard PPA; provided that, Solar QFs sized at more than 3 MW (calculated as described in Section V above) are ineligible to receive the Renewable Fixed Price Option and are required to negotiate prices pursuant to the terms of Schedule 202. These fixed price options are available for a maximum period of 15 years commencing on the earlier of the Scheduled Commercial Operation Date or the Commercial Operation Date.

If the QF is an Off-System Wind QF, the Seller is paid the wind integration costs in Table 7, in addition to the prices listed in Tables 5a and 5b.

A Seller with a PPA term that expires or is terminated more than 15 years from the earlier of the Commercial Operation Date or Scheduled Commercial Operation Date will receive pricing equal to the Market Index Price based on the interval the energy is generated for the remainder of the term after the 15-year fixed price option period expires.

**3. Pricing Tables**

The prices paid to QFs under a Standard PPA are set forth in the tables provided in Section XV. The chart provided below describes which QFs are eligible for the available pricing options.

<u>PRICING TABLES</u>	<u>ELIGIBLE QFs (in all cases must be eligible for a Standard PPA)</u>
<u>Tables 1a, 1b: Non-Renewable Fixed Price Option for QF that is neither Wind QF nor Solar QF</u>	<u>All QFs, other than Wind QFs and Solar QFs, that are either ineligible for or elect not to enter into a Renewable Standard PPA.</u>
<u>Tables 2a, 2b: Non-Renewable Fixed Price</u>	<u>All Wind QFs that elect not to enter into a Renewable Standard PPA.</u>

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<u>Option for Wind QF</u>	
<u>Tables 3a, 3b: Non-Renewable Fixed Price Option for Solar QF</u>	<u>All Solar QFs sized at or below 3 MW (calculated as described in Section V above) that elect not to enter into a Renewable Standard PPA.</u>
<u>Tables 4a, 4b: Renewable Fixed Price Option for QF that is neither Wind QF nor Solar QF</u>	<u>All QFs, other than Wind QFs and Solar QFs, that are eligible for and elect to enter into a Renewable Standard PPA.</u>
<u>Tables 5a, 5b: Renewable Fixed Price Option for Wind QF</u>	<u>Wind QFs that are eligible for and elect to enter into a Renewable Standard PPA.</u>
<u>Tables 6a, 6b: Renewable Fixed Price Option for Solar QF</u>	<u>Solar QFs sized at or below 3 MW (calculated as described in Section V above) that are eligible for and elect to enter into a Renewable Standard PPA.</u>
<u>Table 7: Wind Integration Costs</u>	<u>Wind QFs not directly interconnected to PGE's transmission or distribution system.</u>

**MONTHLY SERVICE CHARGE**

Each separately metered QF not associated with a retail customer account will be charged the basic meter charge set forth in Schedule 300 of PGE's Retail Tariff.

**DISPUTE RESOLUTION**

In the event that any dispute arises between ~~Upon request, the QF will provide the~~ Company and the owner of a QF in connection ~~purchasing utility with~~ the provisions of this Schedule, the Company and the owner ~~documentation verifying the ownership, management and financial structure of the QF~~ will promptly meet and use all reasonable efforts ~~in reasonably sufficient detail to negotiate in good faith a resolution allow the utility to~~ the matter. If the Company and the owner of ~~make an initial determination of whether or not the~~ QF cannot resolve the dispute within five business days after the dispute arose, then either party ~~meets the above-described criteria for entitlement to standard pricing or negotiated pricing under the Standard PPA.~~

~~The QF may present disputes to the Commission for resolution using the following process:~~

~~The QF may file a complaint asking the Commission to adjudicate the~~

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~~dispute. Disputes arising in connection with an executed Standard PPA will be resolved in accordance with disputes regarding the formation of the standard contract. The QF may not file such a complaint during any 15-day period in which the utility has the obligation to respond, but must wait until the terms 15-day period has passed.~~

~~The utility may respond to the complaint within ten days of service.~~

~~The Commission will limit its review to the issues identified in the complaint and response, and utilize a process similar to the arbitration process adopted to facilitate the execution of the Standard PPA interconnection agreements among telecommunications carriers. See OAR 860, Division 016. The administrative law judge will not act as an arbitrator.~~

**SPECIAL CONDITIONS**

1. Delivery of energy by Seller will be at a voltage, phase, frequency, and power factor as specified by the Company.
2. If the Seller also receives retail Electricity Service from the Company at the same location, any payments under this schedule will be credited to the Seller’s retail Electricity Service bill. At the option of the Customer, any net credit over \$10.00 will be paid by check to the Customer.
3. Unless required by state or federal law, if the ~~1978~~ Public Utility Regulatory Policies Act ~~of 1978~~ (PURPA) is repealed, PPAs entered into pursuant to this schedule will not terminate prior to the Standard ~~or Negotiated~~ PPA’s termination date.

**IX. PRICING OPTIONS**

The following tables set forth the pricing approved by the Commission for use in the Standard PPAs. The following tables will not apply to Solar QFs with a Facility Nameplate Capacity Rating (calculated as described in Section V above) exceeding 3 MW.

For purposes of the following tables, “On-Peak Hours” are defined as 6:00 a.m. to 10:00 p.m. Pacific Prevailing Time Monday through Saturday, excluding NERC holidays, and “Off-Peak Hours” are all hours other than On-Peak Hours. These time periods will begin and end one hour later for the period between the second Sunday in March and the first Sunday in April and for the period between the last Sunday in October and the first Sunday in November.

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Schedule 201TERM OF AGREEMENT

Not less than one year and not to exceed 20 years from the commercial operation date selected by the Seller and memorialized in the PPA.

PRICING OPTIONS FOR STANDARD PPA  
Non-Renewable Fixed Price Option

Table 1a

<u>TABLE 1a</u>												
<u>Avoided Costs</u>												
<u>Non-Renewable Fixed Price Option for QFs that are neither Wind QFs nor Solar QFs</u>												
<u>On-Peak Hours (\$/MWH)</u>												
<u>Year</u>	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>
<u>2018</u>					15.25	17.28	29.26	34.87	30.79	24.93	24.93	31.05
<u>2019</u>	27.84	26.24	21.48	18.19	17.76	18.19	29.34	32.67	30.37	24.48	26.41	30.78
<u>2020</u>	31.72	30.00	24.32	19.61	18.98	19.91	30.66	35.05	31.96	27.38	29.43	34.92
<u>2021</u>	53.16	53.01	52.61	50.38	50.26	50.41	50.57	50.64	50.61	50.78	51.95	52.88
<u>2022</u>	54.48	54.34	53.95	51.85	51.74	51.90	52.08	52.20	52.21	52.38	53.73	54.66
<u>2023</u>	56.37	56.22	55.84	53.95	53.82	53.99	54.16	54.32	54.33	54.50	55.07	56.02
<u>2024</u>	57.14	57.22	57.27	56.39	56.47	56.55	56.63	56.70	56.79	56.86	57.95	58.04
<u>2025</u>	59.42	59.50	59.22	58.30	58.35	58.38	58.47	58.55	58.64	58.76	59.85	59.94
<u>2026</u>	61.26	61.34	60.96	59.99	60.00	60.09	60.18	60.28	60.36	60.45	61.62	61.71
<u>2027</u>	63.05	63.15	63.21	62.23	62.32	62.42	62.51	62.61	62.71	62.81	64.05	64.15
<u>2028</u>	65.50	65.60	65.71	64.78	64.88	64.99	65.09	65.20	65.31	65.57	66.73	66.84
<u>2029</u>	68.38	68.50	68.61	67.74	67.99	68.31	68.43	68.55	68.68	68.83	70.20	70.32
<u>2030</u>	72.05	73.56	73.70	72.63	72.78	72.93	73.06	73.21	73.35	73.60	75.04	75.19
<u>2031</u>	76.89	77.04	77.19	75.90	76.04	76.20	76.35	76.51	76.67	76.89	78.46	78.63
<u>2032</u>	80.15	80.31	80.32	78.82	78.98	79.15	79.31	79.49	79.65	79.83	81.57	81.74
<u>2033</u>	83.87	84.06	83.65	82.24	82.40	82.36	82.54	82.72	82.89	83.08	84.89	85.08
<u>2034</u>	87.14	87.33	85.15	83.71	83.90	83.97	84.15	84.33	84.53	84.70	86.54	86.74
<u>2035</u>	88.57	88.77	86.55	84.34	84.53	83.66	83.83	84.01	84.17	84.53	86.09	86.28
<u>2036</u>	90.60	90.80	88.52	86.23	86.42	85.54	85.71	85.89	86.07	86.41	88.05	88.24
<u>2037</u>	92.98	93.19	90.82	88.49	88.67	87.76	87.94	88.13	88.31	88.67	90.35	90.55
<u>2038</u>	95.27	95.48	93.05	90.63	90.82	89.89	90.08	90.27	90.45	90.83	92.55	92.76
<u>2039</u>	97.63	97.85	95.34	92.86	93.04	92.07	92.26	92.46	92.67	93.04	94.82	95.04
<u>2040</u>	100.01	100.24	97.64	95.08	95.29	94.29	94.50	94.68	94.89	95.29	97.13	97.33
<u>2041</u>	102.51	102.74	100.07	97.43	97.64	96.62	96.81	97.02	97.24	97.64	99.54	99.75
<u>2042</u>	105.06	105.30	102.54	99.81	100.03	98.97	99.17	99.40	99.63	100.03	101.97	102.21
<u>2043</u>	107.67	107.92	105.08	102.27	102.48	101.39	101.60	101.84	102.07	102.48	104.49	104.74

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Effective for service  
on and after \_\_\_\_\_, **2018 April 24, 2019**

Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
Non-Renewable Fixed Price Option

Table 1b

TABLE 1b												
Avoided Costs												
Non-Renewable Fixed Price Option for QFs that are neither Wind QFs nor Solar QFs												
On-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>2018</u>					6.58	6.58	15.9 1	23.9 1	24.4 2	21.36	21.3 6	25.6 9
<u>2019</u>	23.3 4	22.6 8	18.0 7	11.6 6	9.45	8.57	18.7 7	23.2 1	23.6 4	21.48	22.6 0	26.1 2
<u>2020</u>	25.4 8	25.6 8	20.1 4	14.0 7	10.90	10.53	19.9 9	26.1 4	26.6 3	24.34	25.9 6	30.6 5
<u>2021</u>	23.5 5	23.4 1	23.0 1	20.7 7	20.65	20.80	20.9 7	21.0 3	21.0 0	21.17	22.3 5	23.2 7
<u>2022</u>	24.2 8	24.1 4	23.7 6	21.6 5	21.54	21.70	21.8 8	22.0 0	22.0 1	22.18	23.5 3	24.4 7
<u>2023</u>	25.4 7	25.3 2	24.9 4	23.0 5	22.92	23.09	23.2 6	23.4 2	23.4 3	23.60	24.1 6	25.1 2
<u>2024</u>	25.8 2	25.9 1	25.9 5	25.0 7	25.15	25.23	25.3 1	25.3 9	25.4 7	25.55	26.6 4	26.7 2
<u>2025</u>	27.3 7	27.4 8	27.1 8	26.2 6	26.30	26.33	26.4 2	26.5 1	26.5 9	26.71	27.8 0	27.8 9
<u>2026</u>	28.5 7	28.6 6	28.2 7	27.3 0	27.31	27.40	27.4 9	27.5 9	27.6 8	27.77	28.9 3	29.0 2
<u>2027</u>	29.7 1	29.8 1	29.8 7	28.8 9	28.98	29.08	29.1 7	29.2 7	29.3 7	29.47	30.7 1	30.8 1
<u>2028</u>	31.5 0	31.6 0	31.7 0	30.7 7	30.88	30.98	31.0 8	31.2 0	31.3 0	31.56	32.7 2	32.8 4
<u>2029</u>	33.7 0	33.8 2	33.9 2	33.0 6	33.30	33.63	33.7 4	33.8 6	33.9 9	34.14	35.5 1	35.6 4
<u>2030</u>	36.6 7	38.1 9	38.3 2	37.2 6	37.40	37.55	37.6 9	37.8 3	37.9 7	38.22	39.6 7	39.8 1
<u>2031</u>	40.8 0	40.9 5	41.1 1	39.8 2	39.95	40.11	40.2 7	40.4 3	40.5 9	40.80	42.3 7	42.5 4
<u>2032</u>	43.5 8	43.7 4	43.7 5	42.2 5	42.41	42.57	42.7 3	42.9 2	43.0 8	43.26	44.9 9	45.1 7
<u>2033</u>	46.3 3	46.5 2	46.1 1	44.6 9	44.86	44.82	45.0 0	45.1 7	45.3 5	45.54	47.3 5	47.5 4
<u>2034</u>	48.7 2	48.9 1	46.7 3	45.3 0	45.48	45.56	45.7 4	45.9 2	46.1 1	46.28	48.1 3	48.3 2
<u>2035</u>	49.5 1	49.7 1	47.5 0	45.2 8	45.47	44.60	44.7 7	44.9 6	45.1 1	45.47	47.0 4	47.2 2
<u>2036</u>	50.8 9	51.0 9	48.8 1	46.5 2	46.71	45.83	46.0 0	46.1 7	46.3 6	46.70	48.3 4	48.5 3
<u>2037</u>	52.3 5	52.5 6	50.1 9	47.8 6	48.03	47.13	47.3 1	47.5 0	47.6 8	48.03	49.7 2	49.9 1
<u>2038</u>	53.8 3	54.0 4	51.6 1	49.1 9	49.37	48.45	48.6 3	48.8 2	49.0 1	49.38	51.1 0	51.3 1
<u>2039</u>	55.3 6	55.5 7	53.0 6	50.5 8	50.77	49.80	49.9 8	50.1 8	50.4 0	50.77	52.5 5	52.7 6
<u>2040</u>	56.8 9	57.1 2	54.5 2	51.9 6	52.18	51.17	51.3 8	51.5 6	51.7 7	52.18	54.0 1	54.2 1

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Effective for service  
on and after \_\_\_\_\_, 2018 April 24, 2019

<u>2041</u>	<u>58.5</u> 2	<u>58.7</u> 6	<u>56.0</u> 9	<u>53.4</u> 5	<u>53.66</u>	<u>52.64</u>	<u>52.8</u> 3	<u>53.0</u> 4	<u>53.2</u> 6	<u>53.66</u>	<u>55.5</u> 6	<u>55.7</u> 7
<u>2042</u>	<u>60.2</u> 0	<u>60.4</u> 4	<u>57.6</u> 8	<u>54.9</u> 5	<u>55.17</u>	<u>54.11</u>	<u>54.3</u> 1	<u>54.5</u> 4	<u>54.7</u> 6	<u>55.17</u>	<u>57.1</u> 1	<u>57.3</u> 5
<u>2043</u>	<u>61.9</u> 1	<u>62.1</u> 6	<u>59.3</u> 2	<u>56.5</u> 1	<u>56.73</u>	<u>55.63</u>	<u>55.8</u> 5	<u>56.0</u> 8	<u>56.3</u> 1	<u>56.73</u>	<u>58.7</u> 3	<u>58.9</u> 8

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Effective for service  
on and after \_\_\_\_\_, 2018 April 24, 2019



Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
Non-Renewable Fixed Price Option

Table 2a

TABLE 2a												
Avoided Costs												
Non-Renewable Fixed Price Option for Wind QF												
On-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>2018</u>					<u>14.3</u> 8	<u>16.4</u> 1	<u>28.3</u> 9	<u>34.0</u> 0	<u>29.9</u> 2	<u>24.06</u>	<u>24.0</u> 6	<u>30.1</u> 8
<u>2019</u>	<u>26.9</u> 6	<u>25.3</u> 6	<u>20.6</u> 0	<u>17.3</u> 1	<u>16.8</u> 8	<u>17.3</u> 1	<u>28.4</u> 6	<u>31.7</u> 9	<u>29.4</u> 9	<u>23.60</u>	<u>25.5</u> 3	<u>29.9</u> 0
<u>2020</u>	<u>30.8</u> 2	<u>29.1</u> 0	<u>23.4</u> 2	<u>18.7</u> 1	<u>18.0</u> 8	<u>19.0</u> 1	<u>29.7</u> 6	<u>34.1</u> 5	<u>31.0</u> 6	<u>26.48</u>	<u>28.5</u> 3	<u>34.0</u> 2
<u>2021</u>	<u>35.3</u> 4	<u>35.2</u> 0	<u>34.8</u> 0	<u>32.5</u> 6	<u>32.4</u> 4	<u>32.6</u> 0	<u>32.7</u> 6	<u>32.8</u> 3	<u>32.7</u> 9	<u>32.96</u>	<u>34.1</u> 4	<u>35.0</u> 6
<u>2022</u>	<u>36.3</u> 1	<u>36.1</u> 6	<u>35.7</u> 8	<u>33.6</u> 8	<u>33.5</u> 7	<u>33.7</u> 3	<u>33.9</u> 1	<u>34.0</u> 3	<u>34.0</u> 3	<u>34.21</u>	<u>35.5</u> 6	<u>36.4</u> 9
<u>2023</u>	<u>37.7</u> 8	<u>37.6</u> 3	<u>37.2</u> 5	<u>35.3</u> 6	<u>35.2</u> 3	<u>35.4</u> 0	<u>35.5</u> 7	<u>35.7</u> 2	<u>35.7</u> 4	<u>35.91</u>	<u>36.4</u> 7	<u>37.4</u> 3
<u>2024</u>	<u>38.2</u> 9	<u>38.3</u> 7	<u>38.4</u> 2	<u>37.5</u> 4	<u>37.6</u> 2	<u>37.7</u> 0	<u>37.7</u> 8	<u>37.8</u> 5	<u>37.9</u> 4	<u>38.01</u>	<u>39.1</u> 0	<u>39.1</u> 9
<u>2025</u>	<u>40.1</u> 3	<u>40.2</u> 2	<u>39.9</u> 4	<u>39.0</u> 2	<u>39.0</u> 6	<u>39.0</u> 9	<u>39.1</u> 8	<u>39.2</u> 7	<u>39.3</u> 5	<u>39.47</u>	<u>40.5</u> 6	<u>40.6</u> 5
<u>2026</u>	<u>41.5</u> 9	<u>41.6</u> 7	<u>41.2</u> 9	<u>40.3</u> 2	<u>40.3</u> 3	<u>40.4</u> 2	<u>40.5</u> 1	<u>40.6</u> 1	<u>40.6</u> 9	<u>40.78</u>	<u>41.9</u> 5	<u>42.0</u> 4
<u>2027</u>	<u>42.9</u> 9	<u>43.0</u> 9	<u>43.1</u> 4	<u>42.1</u> 6	<u>42.2</u> 5	<u>42.3</u> 6	<u>42.4</u> 5	<u>42.5</u> 5	<u>42.6</u> 5	<u>42.75</u>	<u>43.9</u> 9	<u>44.0</u> 9
<u>2028</u>	<u>45.0</u> 4	<u>45.1</u> 4	<u>45.2</u> 4	<u>44.3</u> 2	<u>44.4</u> 2	<u>44.5</u> 2	<u>44.6</u> 3	<u>44.7</u> 4	<u>44.8</u> 4	<u>45.11</u>	<u>46.2</u> 6	<u>46.3</u> 8
<u>2029</u>	<u>47.5</u> 1	<u>47.6</u> 3	<u>47.7</u> 3	<u>46.8</u> 7	<u>47.1</u> 1	<u>47.4</u> 4	<u>47.5</u> 6	<u>47.6</u> 8	<u>47.8</u> 0	<u>47.96</u>	<u>49.3</u> 2	<u>49.4</u> 5
<u>2030</u>	<u>50.7</u> 6	<u>52.2</u> 8	<u>52.4</u> 1	<u>51.3</u> 5	<u>51.4</u> 9	<u>51.6</u> 5	<u>51.7</u> 8	<u>51.9</u> 2	<u>52.0</u> 6	<u>52.31</u>	<u>53.7</u> 6	<u>53.9</u> 0
<u>2031</u>	<u>55.1</u> 8	<u>55.3</u> 3	<u>55.4</u> 8	<u>54.1</u> 9	<u>54.3</u> 3	<u>54.4</u> 9	<u>54.6</u> 4	<u>54.8</u> 0	<u>54.9</u> 6	<u>55.18</u>	<u>56.7</u> 5	<u>56.9</u> 2
<u>2032</u>	<u>58.1</u> 4	<u>58.3</u> 0	<u>58.3</u> 2	<u>56.8</u> 2	<u>56.9</u> 8	<u>57.1</u> 4	<u>57.3</u> 0	<u>57.4</u> 9	<u>57.6</u> 5	<u>57.82</u>	<u>59.5</u> 6	<u>59.7</u> 3
<u>2033</u>	<u>61.2</u> 8	<u>61.4</u> 7	<u>61.0</u> 6	<u>59.6</u> 4	<u>59.8</u> 1	<u>59.7</u> 7	<u>59.9</u> 5	<u>60.1</u> 3	<u>60.3</u> 0	<u>60.49</u>	<u>62.3</u> 0	<u>62.4</u> 9
<u>2034</u>	<u>64.0</u> 3	<u>64.2</u> 2	<u>62.0</u> 4	<u>60.6</u> 1	<u>60.7</u> 9	<u>60.8</u> 6	<u>61.0</u> 4	<u>61.2</u> 3	<u>61.4</u> 2	<u>61.59</u>	<u>63.4</u> 3	<u>63.6</u> 3
<u>2035</u>	<u>65.0</u> 7	<u>65.2</u> 7	<u>63.0</u> 6	<u>60.8</u> 5	<u>61.0</u> 3	<u>60.1</u> 6	<u>60.3</u> 3	<u>60.5</u> 2	<u>60.6</u> 8	<u>61.03</u>	<u>62.6</u> 0	<u>62.7</u> 8
<u>2036</u>	<u>66.7</u> 0	<u>66.9</u> 0	<u>64.6</u> 2	<u>62.3</u> 4	<u>62.5</u> 2	<u>61.6</u> 4	<u>61.8</u> 1	<u>61.9</u> 9	<u>62.1</u> 7	<u>62.51</u>	<u>64.1</u> 5	<u>64.3</u> 4
<u>2037</u>	<u>68.5</u> 4	<u>68.7</u> 4	<u>66.3</u> 7	<u>64.0</u> 5	<u>64.2</u> 2	<u>63.3</u> 2	<u>63.5</u> 0	<u>63.6</u> 9	<u>63.8</u> 7	<u>64.22</u>	<u>65.9</u> 1	<u>66.1</u> 0
<u>2038</u>	<u>70.3</u> 4	<u>70.5</u> 4	<u>68.1</u> 1	<u>65.7</u> 0	<u>65.8</u> 8	<u>64.9</u> 5	<u>65.1</u> 4	<u>65.3</u> 3	<u>65.5</u> 1	<u>65.89</u>	<u>67.6</u> 1	<u>67.8</u> 2
<u>2039</u>	<u>72.2</u> 0	<u>72.4</u> 1	<u>69.9</u> 1	<u>67.4</u> 3	<u>67.6</u> 1	<u>66.6</u> 4	<u>66.8</u> 3	<u>67.0</u> 3	<u>67.2</u> 4	<u>67.61</u>	<u>69.3</u> 9	<u>69.6</u> 1
<u>2040</u>	<u>74.0</u>	<u>74.2</u>	<u>71.6</u>	<u>69.1</u>	<u>69.3</u>	<u>68.3</u>	<u>68.5</u>	<u>68.7</u>	<u>68.9</u>	<u>69.35</u>	<u>71.1</u>	<u>71.3</u>

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Effective for service  
on and after \_\_\_\_\_, 2018 April 24, 2019

	<u>6</u>	<u>9</u>	<u>9</u>	<u>3</u>	<u>5</u>	<u>5</u>	<u>5</u>	<u>4</u>	<u>4</u>		<u>8</u>	<u>9</u>
<u>2041</u>	$\frac{76.0}{4}$	$\frac{76.2}{8}$	$\frac{73.6}{1}$	$\frac{70.9}{7}$	$\frac{71.1}{8}$	$\frac{70.1}{5}$	$\frac{70.3}{5}$	$\frac{70.5}{5}$	$\frac{70.7}{8}$	71.18	$\frac{73.0}{7}$	$\frac{73.2}{8}$
<u>2042</u>	$\frac{78.0}{7}$	$\frac{78.3}{1}$	$\frac{75.5}{6}$	$\frac{72.8}{2}$	$\frac{73.0}{5}$	$\frac{71.9}{9}$	$\frac{72.1}{8}$	$\frac{72.4}{1}$	$\frac{72.6}{4}$	73.05	$\frac{74.9}{8}$	$\frac{75.2}{3}$
<u>2043</u>	$\frac{80.1}{4}$	$\frac{80.3}{9}$	$\frac{77.5}{5}$	$\frac{74.7}{4}$	$\frac{74.9}{6}$	$\frac{73.8}{6}$	$\frac{74.0}{8}$	$\frac{74.3}{1}$	$\frac{74.5}{4}$	74.96	$\frac{76.9}{6}$	$\frac{77.2}{1}$

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Effective for service  
on and after \_\_\_\_\_, 2018 April 24, 2019

Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
Non-Renewable Fixed Price Option

Table 2b

TABLE 2b												
Avoided Costs												
Non-Renewable Fixed Price Option for Wind QF												
Off-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>2018</u>					5.71	5.71	15.0 4	23.0 4	23.5 5	20.49	20.4 9	24.8 2
<u>2019</u>	22.4 6	21.8 0	17.1 9	10.7 8	8.57	7.69	17.8 9	22.3 3	22.7 6	20.60	21.7 2	25.2 4
<u>2020</u>	24.5 8	24.7 8	19.2 4	13.1 7	10.00	9.63	19.0 9	25.2 4	25.7 3	23.44	25.0 6	29.7 5
<u>2021</u>	22.6 3	22.4 9	22.0 9	19.8 5	19.73	19.88	20.0 5	20.1 1	20.0 8	20.25	21.4 3	22.3 5
<u>2022</u>	23.3 4	23.2 0	22.8 2	20.7 1	20.60	20.76	20.9 4	21.0 6	21.0 7	21.24	22.5 9	23.5 3
<u>2023</u>	24.5 1	24.3 6	23.9 8	22.0 9	21.96	22.13	22.3 0	22.4 6	22.4 7	22.64	23.2 0	24.1 6
<u>2024</u>	24.8 4	24.9 3	24.9 7	24.0 9	24.17	24.25	24.3 3	24.4 1	24.4 9	24.57	25.6 6	25.7 4
<u>2025</u>	26.3 7	26.4 6	26.1 8	25.2 6	25.30	25.33	25.4 2	25.5 1	25.5 9	25.71	26.8 0	26.8 9
<u>2026</u>	27.5 5	27.6 4	27.2 5	26.2 8	26.29	26.38	26.4 7	26.5 7	26.6 6	26.75	27.9 1	28.0 0
<u>2027</u>	28.6 7	28.7 7	28.8 3	27.8 5	27.94	28.04	28.1 3	28.2 3	28.3 3	28.43	29.6 7	29.7 7
<u>2028</u>	30.4 4	30.5 4	30.6 4	29.7 1	29.82	29.92	30.0 2	30.1 4	30.2 4	30.50	31.6 6	31.7 8
<u>2029</u>	32.6 2	32.7 4	32.8 4	31.9 8	32.22	32.55	32.6 6	32.7 8	32.9 1	33.06	34.4 3	34.5 6
<u>2030</u>	35.5 7	37.0 9	37.2 2	36.1 6	36.30	36.45	36.5 9	36.7 3	36.8 7	37.12	38.5 7	38.7 1
<u>2031</u>	39.6 8	39.8 3	39.9 9	38.7 0	38.83	38.99	39.1 5	39.3 1	39.4 7	39.68	41.2 5	41.4 2
<u>2032</u>	42.4 4	42.6 0	42.6 1	41.1 1	41.27	41.43	41.5 9	41.7 8	41.9 4	42.12	43.8 5	44.0 3
<u>2033</u>	45.1 6	45.3 5	44.9 4	43.5 2	43.69	43.65	43.8 3	44.0 0	44.1 8	44.37	46.1 8	46.3 7
<u>2034</u>	47.5 3	47.7 2	45.5 4	44.1 1	44.29	44.37	44.5 5	44.7 3	44.9 2	45.09	46.9 4	47.1 3
<u>2035</u>	48.3 0	48.5 0	46.2 9	44.0 7	44.26	43.39	43.5 6	43.7 5	43.9 0	44.26	45.8 3	46.0 1
<u>2036</u>	49.6 5	49.8 5	47.5 7	45.2 8	45.47	44.59	44.7 6	44.9 3	45.1 2	45.46	47.1 0	47.2 9
<u>2037</u>	51.0 9	51.3 0	48.9 3	46.6 0	46.77	45.87	46.0 5	46.2 4	46.4 2	46.77	48.4 6	48.6 5
<u>2038</u>	52.5 4	52.7 5	50.3 2	47.9 0	48.08	47.16	47.3 4	47.5 3	47.7 2	48.09	49.8 1	50.0 2
<u>2039</u>	54.0 5	54.2 6	51.7 5	49.2 7	49.46	48.49	48.6 7	48.8 7	49.0 9	49.46	51.2 4	51.4 5
<u>2040</u>	55.5	55.7	53.1	50.6	50.84	49.83	50.0	50.2	50.4	50.84	52.6	52.8

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Effective for service  
on and after \_\_\_\_\_, 2018 April 24, 2019

	<u>5</u>	<u>8</u>	<u>8</u>	<u>2</u>			<u>4</u>	<u>2</u>	<u>3</u>		<u>7</u>	<u>7</u>
<u>2041</u>	<u>57.1</u> <u>5</u>	<u>57.3</u> <u>9</u>	<u>54.7</u> <u>2</u>	<u>52.0</u> <u>8</u>	<u>52.29</u>	<u>51.27</u>	<u>51.4</u> <u>6</u>	<u>51.6</u> <u>7</u>	<u>51.8</u> <u>9</u>	<u>52.29</u>	<u>54.1</u> <u>9</u>	<u>54.4</u> <u>0</u>
<u>2042</u>	<u>58.8</u> <u>1</u>	<u>59.0</u> <u>5</u>	<u>56.2</u> <u>9</u>	<u>53.5</u> <u>6</u>	<u>53.78</u>	<u>52.72</u>	<u>52.9</u> <u>2</u>	<u>53.1</u> <u>5</u>	<u>53.3</u> <u>7</u>	<u>53.78</u>	<u>55.7</u> <u>2</u>	<u>55.9</u> <u>6</u>
<u>2043</u>	<u>60.4</u> <u>9</u>	<u>60.7</u> <u>4</u>	<u>57.9</u> <u>0</u>	<u>55.0</u> <u>9</u>	<u>55.31</u>	<u>54.21</u>	<u>54.4</u> <u>3</u>	<u>54.6</u> <u>6</u>	<u>54.8</u> <u>9</u>	<u>55.31</u>	<u>57.3</u> <u>1</u>	<u>57.5</u> <u>6</u>

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Effective for service  
on and after \_\_\_\_\_, 2018 ~~April 24, 2019~~

Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
Non-Renewable Fixed Price Option

Table 3a

TABLE 3a												
Avoided Costs												
Non-Renewable Fixed Price Option for Solar QF (less than or equal to 3MW)												
On-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>2018</u>					15.2 5	17.2 8	29.2 6	34.8 7	30.7 9	24.93	24.9 3	31.0 5
<u>2019</u>	27.8 4	26.2 4	21.4 8	18.1 9	17.7 6	18.1 9	29.3 4	32.6 7	30.3 7	24.48	26.4 1	30.7 8
<u>2020</u>	31.7 2	30.0 0	24.3 2	19.6 1	18.9 8	19.9 1	30.6 6	35.0 5	31.9 6	27.38	29.4 3	34.9 2
<u>2021</u>	34.3 8	34.2 3	33.8 3	31.6 0	31.4 8	31.6 3	31.7 9	31.8 6	31.8 3	32.00	33.1 7	34.0 9
<u>2022</u>	35.3 2	35.1 8	34.8 0	32.6 9	32.5 8	32.7 5	32.9 2	33.0 4	33.0 5	33.22	34.5 7	35.5 1
<u>2023</u>	36.7 7	36.6 2	36.2 4	34.3 5	34.2 2	34.3 9	34.5 6	34.7 1	34.7 3	34.90	35.4 6	36.4 2
<u>2024</u>	37.2 7	37.3 6	37.4 0	36.5 2	36.6 1	36.6 8	36.7 6	36.8 4	36.9 2	37.00	38.0 9	38.1 7
<u>2025</u>	39.0 9	39.1 8	38.8 9	37.9 8	38.0 2	38.0 5	38.1 4	38.2 2	38.3 1	38.43	39.5 2	39.6 1
<u>2026</u>	40.5 2	40.6 1	40.2 2	39.2 6	39.2 7	39.3 5	39.4 4	39.5 4	39.6 3	39.72	40.8 9	40.9 7
<u>2027</u>	41.9 0	42.0 0	42.0 6	41.0 8	41.1 7	41.2 7	41.3 6	41.4 6	41.5 6	41.66	42.9 0	43.0 0
<u>2028</u>	43.9 3	44.0 3	44.1 4	43.2 1	43.3 1	43.4 1	43.5 2	43.6 3	43.7 4	44.00	45.1 6	45.2 7
<u>2029</u>	46.3 8	46.5 0	46.6 0	45.7 4	45.9 8	46.3 1	46.4 3	46.5 4	46.6 7	46.83	48.1 9	48.3 2
<u>2030</u>	49.6 1	51.1 2	51.2 5	50.1 9	50.3 4	50.4 9	50.6 2	50.7 6	50.9 1	51.16	52.6 0	52.7 4
<u>2031</u>	54.0 0	54.1 4	54.3 0	53.0 1	53.1 5	53.3 1	53.4 6	53.6 2	53.7 8	54.00	55.5 7	55.7 4
<u>2032</u>	56.9 5	57.1 1	57.1 3	55.6 2	55.7 8	55.9 5	56.1 1	56.2 9	56.4 6	56.63	58.3 7	58.5 4
<u>2033</u>	60.0 5	60.2 4	59.8 4	58.4 2	58.5 9	58.5 5	58.7 3	58.9 0	59.0 8	59.27	61.0 8	61.2 7
<u>2034</u>	62.7 7	62.9 6	60.7 8	59.3 5	59.5 3	59.6 0	59.7 9	59.9 7	60.1 6	60.33	62.1 7	62.3 7
<u>2035</u>	63.7 9	63.9 9	61.7 8	59.5 7	59.7 5	58.8 8	59.0 5	59.2 4	59.4 0	59.75	61.3 2	61.5 0
<u>2036</u>	65.4 1	65.6 1	63.3 3	61.0 4	61.2 3	60.3 5	60.5 2	60.7 0	60.8 8	61.22	62.8 6	63.0 5
<u>2037</u>	67.2 1	67.4 1	65.0 4	62.7 1	62.8 9	61.9 9	62.1 7	62.3 6	62.5 4	62.89	64.5 8	64.7 7
<u>2038</u>	68.9 8	69.1 9	66.7 6	64.3 4	64.5 2	63.6 0	63.7 8	63.9 8	64.1 6	64.54	66.2 6	66.4 7
<u>2039</u>	70.8 2	71.0 3	68.5 2	66.0 4	66.2 3	65.2 6	65.4 4	65.6 4	65.8 5	66.23	68.0 1	68.2 2
<u>2040</u>	72.6	72.8	70.2	67.7	67.9	66.9	67.1	67.3	67.5	67.94	69.7	69.9

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Effective for service  
on and after \_\_\_\_\_, 2018 April 24, 2019

	<u>5</u>	<u>9</u>	<u>8</u>	<u>2</u>	<u>4</u>	<u>4</u>	<u>4</u>	<u>3</u>	<u>4</u>		<u>7</u>	<u>8</u>
<u>2041</u>	$\frac{74.6}{1}$	$\frac{74.8}{4}$	$\frac{72.1}{7}$	$\frac{69.5}{3}$	$\frac{69.7}{4}$	$\frac{68.7}{2}$	$\frac{68.9}{1}$	$\frac{69.1}{2}$	$\frac{69.3}{4}$	69.74	$\frac{71.6}{4}$	$\frac{71.8}{5}$
<u>2042</u>	$\frac{76.6}{0}$	$\frac{76.8}{4}$	$\frac{74.0}{9}$	$\frac{71.3}{5}$	$\frac{71.5}{8}$	$\frac{70.5}{2}$	$\frac{70.7}{1}$	$\frac{70.9}{4}$	$\frac{71.1}{7}$	71.58	$\frac{73.5}{1}$	$\frac{73.7}{6}$
<u>2043</u>	$\frac{78.6}{4}$	$\frac{78.8}{9}$	$\frac{76.0}{5}$	$\frac{73.2}{4}$	$\frac{73.4}{6}$	$\frac{72.3}{6}$	$\frac{72.5}{8}$	$\frac{72.8}{1}$	$\frac{73.0}{4}$	73.46	$\frac{75.4}{6}$	$\frac{75.7}{1}$

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Effective for service  
 on and after \_\_\_\_\_, 2018 ~~April 24, 2019~~

Schedule 201

PRICING OPTIONS FOR STANDARD PPA

1) Non-Renewable Fixed Price Option

Table 3b

TABLE 3b												
Avoided Costs												
Non-Renewable Fixed Price Option for Solar QF (less than or equal to 3 MW)												
Off-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>2018</u>					<u>6.58</u>	<u>6.58</u>	<u>15.9</u> <u>1</u>	<u>23.9</u> <u>1</u>	<u>24.4</u> <u>2</u>	<u>21.36</u>	<u>21.3</u> <u>6</u>	<u>25.6</u> <u>9</u>
<u>2019</u>	<u>23.3</u> <u>4</u>	<u>22.6</u> <u>8</u>	<u>18.0</u> <u>7</u>	<u>11.6</u> <u>6</u>	<u>9.45</u>	<u>8.57</u>	<u>18.7</u> <u>7</u>	<u>23.2</u> <u>1</u>	<u>23.6</u> <u>4</u>	<u>21.48</u>	<u>22.6</u> <u>0</u>	<u>26.1</u> <u>2</u>
<u>2020</u>	<u>25.4</u> <u>8</u>	<u>25.6</u> <u>8</u>	<u>20.1</u> <u>4</u>	<u>14.0</u> <u>7</u>	<u>10.90</u>	<u>10.53</u>	<u>19.9</u> <u>9</u>	<u>26.1</u> <u>4</u>	<u>26.6</u> <u>3</u>	<u>24.34</u>	<u>25.9</u> <u>6</u>	<u>30.6</u> <u>5</u>
<u>2021</u>	<u>23.5</u> <u>5</u>	<u>23.4</u> <u>1</u>	<u>23.0</u> <u>1</u>	<u>20.7</u> <u>7</u>	<u>20.65</u>	<u>20.80</u>	<u>20.9</u> <u>7</u>	<u>21.0</u> <u>3</u>	<u>21.0</u> <u>0</u>	<u>21.17</u>	<u>22.3</u> <u>5</u>	<u>23.2</u> <u>7</u>
<u>2022</u>	<u>24.2</u> <u>8</u>	<u>24.1</u> <u>4</u>	<u>23.7</u> <u>6</u>	<u>21.6</u> <u>5</u>	<u>21.54</u>	<u>21.70</u>	<u>21.8</u> <u>8</u>	<u>22.0</u> <u>0</u>	<u>22.0</u> <u>1</u>	<u>22.18</u>	<u>23.5</u> <u>3</u>	<u>24.4</u> <u>7</u>
<u>2023</u>	<u>25.4</u> <u>7</u>	<u>25.3</u> <u>2</u>	<u>24.9</u> <u>4</u>	<u>23.0</u> <u>5</u>	<u>22.92</u>	<u>23.09</u>	<u>23.2</u> <u>6</u>	<u>23.4</u> <u>2</u>	<u>23.4</u> <u>3</u>	<u>23.60</u>	<u>24.1</u> <u>6</u>	<u>25.1</u> <u>2</u>
<u>2024</u>	<u>25.8</u> <u>2</u>	<u>25.9</u> <u>1</u>	<u>25.9</u> <u>5</u>	<u>25.0</u> <u>7</u>	<u>25.15</u>	<u>25.23</u>	<u>25.3</u> <u>1</u>	<u>25.3</u> <u>9</u>	<u>25.4</u> <u>7</u>	<u>25.55</u>	<u>26.6</u> <u>4</u>	<u>26.7</u> <u>2</u>
<u>2025</u>	<u>27.3</u> <u>7</u>	<u>27.4</u> <u>6</u>	<u>27.1</u> <u>8</u>	<u>26.2</u> <u>6</u>	<u>26.30</u>	<u>26.33</u>	<u>26.4</u> <u>2</u>	<u>26.5</u> <u>1</u>	<u>26.5</u> <u>9</u>	<u>26.71</u>	<u>27.8</u> <u>0</u>	<u>27.8</u> <u>9</u>
<u>2026</u>	<u>28.5</u> <u>7</u>	<u>28.6</u> <u>6</u>	<u>28.2</u> <u>7</u>	<u>27.3</u> <u>0</u>	<u>27.31</u>	<u>27.40</u>	<u>27.4</u> <u>9</u>	<u>27.5</u> <u>9</u>	<u>27.6</u> <u>8</u>	<u>27.77</u>	<u>28.9</u> <u>3</u>	<u>29.0</u> <u>2</u>
<u>2027</u>	<u>29.7</u> <u>1</u>	<u>29.8</u> <u>1</u>	<u>29.8</u> <u>7</u>	<u>28.8</u> <u>9</u>	<u>28.98</u>	<u>29.08</u>	<u>29.1</u> <u>7</u>	<u>29.2</u> <u>7</u>	<u>29.3</u> <u>7</u>	<u>29.47</u>	<u>30.7</u> <u>1</u>	<u>30.8</u> <u>1</u>
<u>2028</u>	<u>31.5</u> <u>0</u>	<u>31.6</u> <u>0</u>	<u>31.7</u> <u>0</u>	<u>30.7</u> <u>7</u>	<u>30.88</u>	<u>30.98</u>	<u>31.0</u> <u>8</u>	<u>31.2</u> <u>0</u>	<u>31.3</u> <u>0</u>	<u>31.56</u>	<u>32.7</u> <u>2</u>	<u>32.8</u> <u>4</u>
<u>2029</u>	<u>33.7</u> <u>0</u>	<u>33.8</u> <u>2</u>	<u>33.9</u> <u>2</u>	<u>33.0</u> <u>6</u>	<u>33.30</u>	<u>33.63</u>	<u>33.7</u> <u>4</u>	<u>33.8</u> <u>6</u>	<u>33.9</u> <u>9</u>	<u>34.14</u>	<u>35.5</u> <u>1</u>	<u>35.6</u> <u>4</u>
<u>2030</u>	<u>36.6</u> <u>7</u>	<u>38.1</u> <u>9</u>	<u>38.3</u> <u>2</u>	<u>37.2</u> <u>6</u>	<u>37.40</u>	<u>37.55</u>	<u>37.6</u> <u>9</u>	<u>37.8</u> <u>3</u>	<u>37.9</u> <u>7</u>	<u>38.22</u>	<u>39.6</u> <u>7</u>	<u>39.8</u> <u>1</u>
<u>2031</u>	<u>40.8</u> <u>0</u>	<u>40.9</u> <u>5</u>	<u>41.1</u> <u>1</u>	<u>39.8</u> <u>2</u>	<u>39.95</u>	<u>40.11</u>	<u>40.2</u> <u>7</u>	<u>40.4</u> <u>3</u>	<u>40.5</u> <u>9</u>	<u>40.80</u>	<u>42.3</u> <u>7</u>	<u>42.5</u> <u>4</u>
<u>2032</u>	<u>43.5</u> <u>8</u>	<u>43.7</u> <u>4</u>	<u>43.7</u> <u>5</u>	<u>42.2</u> <u>5</u>	<u>42.41</u>	<u>42.57</u>	<u>42.7</u> <u>3</u>	<u>42.9</u> <u>2</u>	<u>43.0</u> <u>8</u>	<u>43.26</u>	<u>44.9</u> <u>9</u>	<u>45.1</u> <u>7</u>
<u>2033</u>	<u>46.3</u> <u>3</u>	<u>46.5</u> <u>2</u>	<u>46.1</u> <u>1</u>	<u>44.6</u> <u>9</u>	<u>44.86</u>	<u>44.82</u>	<u>45.0</u> <u>0</u>	<u>45.1</u> <u>7</u>	<u>45.3</u> <u>5</u>	<u>45.54</u>	<u>47.3</u> <u>5</u>	<u>47.5</u> <u>4</u>
<u>2034</u>	<u>48.7</u> <u>2</u>	<u>48.9</u> <u>1</u>	<u>46.7</u> <u>3</u>	<u>45.3</u> <u>0</u>	<u>45.48</u>	<u>45.56</u>	<u>45.7</u> <u>4</u>	<u>45.9</u> <u>2</u>	<u>46.1</u> <u>1</u>	<u>46.28</u>	<u>48.1</u> <u>3</u>	<u>48.3</u> <u>2</u>
<u>2035</u>	<u>49.5</u> <u>1</u>	<u>49.7</u> <u>1</u>	<u>47.5</u> <u>0</u>	<u>45.2</u> <u>8</u>	<u>45.47</u>	<u>44.60</u>	<u>44.7</u> <u>7</u>	<u>44.9</u> <u>6</u>	<u>45.1</u> <u>1</u>	<u>45.47</u>	<u>47.0</u> <u>4</u>	<u>47.2</u> <u>2</u>
<u>2036</u>	<u>50.8</u> <u>9</u>	<u>51.0</u> <u>9</u>	<u>48.8</u> <u>1</u>	<u>46.5</u> <u>2</u>	<u>46.71</u>	<u>45.83</u>	<u>46.0</u> <u>0</u>	<u>46.1</u> <u>7</u>	<u>46.3</u> <u>6</u>	<u>46.70</u>	<u>48.3</u> <u>4</u>	<u>48.5</u> <u>3</u>
<u>2037</u>	<u>52.3</u> <u>5</u>	<u>52.5</u> <u>6</u>	<u>50.1</u> <u>9</u>	<u>47.8</u> <u>6</u>	<u>48.03</u>	<u>47.13</u>	<u>47.3</u> <u>1</u>	<u>47.5</u> <u>0</u>	<u>47.6</u> <u>8</u>	<u>48.03</u>	<u>49.7</u> <u>2</u>	<u>49.9</u> <u>1</u>
<u>2038</u>	<u>53.8</u> <u>3</u>	<u>54.0</u> <u>4</u>	<u>51.6</u> <u>1</u>	<u>49.1</u> <u>9</u>	<u>49.37</u>	<u>48.45</u>	<u>48.6</u> <u>3</u>	<u>48.8</u> <u>2</u>	<u>49.0</u> <u>1</u>	<u>49.38</u>	<u>51.1</u> <u>0</u>	<u>51.3</u> <u>1</u>
<u>2039</u>	<u>55.3</u> <u>6</u>	<u>55.5</u> <u>7</u>	<u>53.0</u> <u>6</u>	<u>50.5</u> <u>8</u>	<u>50.77</u>	<u>49.80</u>	<u>49.9</u> <u>8</u>	<u>50.1</u> <u>8</u>	<u>50.4</u> <u>0</u>	<u>50.77</u>	<u>52.5</u> <u>5</u>	<u>52.7</u> <u>6</u>

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<u>2040</u>	<u>56.8</u> 9	<u>57.1</u> 2	<u>54.5</u> 2	<u>51.9</u> 6	<u>52.18</u>	<u>51.17</u>	<u>51.3</u> 8	<u>51.5</u> 6	<u>51.7</u> 7	<u>52.18</u>	<u>54.0</u> 1	<u>54.2</u> 1
<u>2041</u>	<u>58.5</u> 2	<u>58.7</u> 6	<u>56.0</u> 9	<u>53.4</u> 5	<u>53.66</u>	<u>52.64</u>	<u>52.8</u> 3	<u>53.0</u> 4	<u>53.2</u> 6	<u>53.66</u>	<u>55.5</u> 6	<u>55.7</u> 7
<u>2042</u>	<u>60.2</u> 0	<u>60.4</u> 4	<u>57.6</u> 8	<u>54.9</u> 5	<u>55.17</u>	<u>54.11</u>	<u>54.3</u> 1	<u>54.5</u> 4	<u>54.7</u> 6	<u>55.17</u>	<u>57.1</u> 1	<u>57.3</u> 5
<u>2043</u>	<u>61.9</u> 1	<u>62.1</u> 6	<u>59.3</u> 2	<u>56.5</u> 1	<u>56.73</u>	<u>55.63</u>	<u>55.8</u> 5	<u>56.0</u> 8	<u>56.3</u> 1	<u>56.73</u>	<u>58.7</u> 3	<u>58.9</u> 8

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Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
Renewable Fixed Price Option

Table 4a

TABLE 4a												
Renewable Avoided Costs												
Renewable Fixed Price Option for QFs that are neither Wind QFs nor Solar QFs												
On-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>2018</u>					15.25	17.2 8	29.26	34.87	30.79	24.93	24.93	31.05
<u>2019</u>	27.84	26.24	21.48	18.19	17.76	18.1 9	29.34	32.67	30.37	24.48	26.41	30.78
<u>2020</u>	31.72	30.00	24.32	19.61	18.98	19.9 1	30.66	35.05	31.96	27.38	29.43	34.92
<u>2021</u>	35.25	33.33	26.96	21.68	20.97	22.0 2	34.07	38.99	35.53	30.39	32.69	38.84
<u>2022</u>	37.42	35.37	28.60	22.99	22.23	23.3 4	36.16	41.39	37.71	32.25	34.69	41.23
<u>2023</u>	37.44	35.39	28.62	23.01	22.25	23.3 6	36.18	41.41	37.73	32.26	34.71	41.25
<u>2024</u>	33.46	31.46	29.68	24.29	21.51	14.4 7	26.46	29.70	32.48	32.50	33.08	34.88
<u>2025</u>	109.78	104.72	100.19	86.52	79.49	61.6 2	92.04	100.26	107.30	107.36	108.82	113.41
<u>2026</u>	111.98	106.82	102.20	88.25	81.08	62.8 5	93.88	102.27	109.44	109.51	111.00	115.68
<u>2027</u>	114.22	108.95	104.24	90.01	82.70	64.1 1	95.75	104.31	111.63	111.70	113.22	117.99
<u>2028</u>	116.27	110.92	106.12	91.65	84.21	65.3 0	97.49	106.20	113.64	113.71	115.26	120.11
<u>2029</u>	118.83	113.35	108.45	93.65	86.04	66.7 0	99.62	108.52	116.14	116.20	117.79	122.75
<u>2030</u>	121.20	115.61	110.61	95.52	87.76	68.0 3	101.61	110.69	118.46	118.53	120.14	125.20
<u>2031</u>	123.62	117.92	112.82	97.43	89.51	69.3 9	103.64	112.90	120.83	120.90	122.54	127.71
<u>2032</u>	125.62	119.82	114.63	98.97	90.92	70.4 5	105.29	114.71	122.77	122.84	124.52	129.77
<u>2033</u>	128.61	122.69	117.38	101.36	93.12	72.1 9	107.82	117.46	125.70	125.78	127.49	132.86
<u>2034</u>	131.31	125.26	119.85	103.51	95.11	73.7 5	110.10	119.93	128.34	128.41	130.16	135.64
<u>2035</u>	133.81	127.64	122.12	105.45	96.88	75.1 0	112.18	122.20	130.78	130.85	132.64	138.22
<u>2036</u>	136.09	129.81	124.20	107.25	98.53	76.3 8	114.09	124.28	133.01	133.09	134.90	140.58
<u>2037</u>	139.21	132.79	127.05	109.71	100.80	78.1 4	116.70	127.13	136.06	136.14	137.99	143.80
<u>2038</u>	141.99	135.44	129.59	111.90	102.81	79.7 0	119.04	129.68	138.78	138.86	140.75	146.68
<u>2039</u>	144.83	138.15	132.18	114.14	104.86	81.2 9	121.41	132.27	141.55	141.63	143.56	149.61
<u>2040</u>	147.44	140.64	134.57	116.22	106.79	82.8	123.62	134.66	144.10	144.18	146.15	152.30

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Effective for service  
on and after \_\_\_\_\_, 2018 April 24, 2019

						<u>1</u>						
<u>2041</u>	<u>150.67</u>	<u>143.73</u>	<u>137.51</u>	<u>118.75</u>	<u>109.10</u>	<u>84.5</u> <u>7</u>	<u>126.32</u>	<u>137.61</u>	<u>147.26</u>	<u>147.35</u>	<u>149.36</u>	<u>155.65</u>
<u>2042</u>	<u>153.68</u>	<u>146.60</u>	<u>140.26</u>	<u>121.12</u>	<u>111.28</u>	<u>86.2</u> <u>6</u>	<u>128.84</u>	<u>140.36</u>	<u>150.21</u>	<u>150.29</u>	<u>152.34</u>	<u>158.76</u>
<u>2043</u>	<u>156.76</u>	<u>149.53</u>	<u>143.06</u>	<u>123.54</u>	<u>113.50</u>	<u>87.9</u> <u>9</u>	<u>131.42</u>	<u>143.16</u>	<u>153.21</u>	<u>153.30</u>	<u>155.38</u>	<u>161.93</u>

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Effective for service  
on and after \_\_\_\_\_, 2018 ~~April 24, 2019~~

Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
Renewable Fixed Price Option

Table 4b

TABLE 4b												
Renewable Avoided Costs												
Renewable Fixed Price Option for QFs that are neither Wind QFs nor Solar QFs												
Off-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>2018</u>					6.58	6.58	15.9 1	23.9 1	24.4 2	21.36	21.36	25.69
<u>2019</u>	23.3 4	22.6 8	18.0 7	11.6 6	9.45	8.57	18.7 7	23.2 1	23.6 4	21.48	22.60	26.12
<u>2020</u>	25.4 8	25.6 8	20.1 4	14.0 7	10.90	10.53	19.9 9	26.1 4	26.6 3	24.34	25.96	30.65
<u>2021</u>	29.1 5	29.3 8	22.9 6	15.9 1	12.23	11.81	22.7 9	29.9 2	30.4 9	27.83	29.70	35.15
<u>2022</u>	31.0 9	31.3 3	24.4 7	16.9 3	13.00	12.55	24.2 8	31.9 1	32.5 2	29.67	31.68	37.50
<u>2023</u>	31.4 1	31.6 5	24.7 1	17.0 9	13.12	12.66	24.5 3	32.2 4	32.8 5	29.98	32.00	37.89
<u>2024</u>	29.9 4	27.6 8	27.3 3	23.1 9	20.10	12.65	23.4 4	27.0 6	29.1 0	29.67	31.04	32.02
<u>2025</u>	68.8 1	63.0 8	62.2 1	51.7 0	43.86	24.97	52.3 2	61.5 2	66.7 0	68.13	71.61	74.10
<u>2026</u>	70.1 9	64.3 4	63.4 5	52.7 3	44.74	25.47	53.3 7	62.7 5	68.0 3	69.49	73.04	75.58
<u>2027</u>	71.5 9	65.6 3	64.7 2	53.7 8	45.63	25.97	54.4 4	64.0 1	69.3 9	70.88	74.50	77.09
<u>2028</u>	72.8 2	66.7 6	65.8 3	54.7 1	46.42	26.42	55.3 7	65.1 1	70.5 8	72.10	75.78	78.41
<u>2029</u>	74.4 8	68.2 8	67.3 3	55.9 5	47.47	27.02	56.6 3	66.5 9	72.1 9	73.74	77.50	80.20
<u>2030</u>	75.9 7	69.6 4	68.6 8	57.0 7	48.42	27.56	57.7 7	67.9 2	73.6 3	75.22	79.05	81.80
<u>2031</u>	77.4 9	71.0 3	70.0 5	58.2 1	49.39	28.11	58.9 2	69.2 8	75.1 0	76.72	80.63	83.44
<u>2032</u>	78.8 2	72.2 5	71.2 6	59.2 1	50.24	28.60	59.9 3	70.4 7	76.4 0	78.04	82.02	84.87
<u>2033</u>	80.6 1	73.9 0	72.8 8	60.5 6	51.38	29.25	61.3 0	72.0 8	78.1 4	79.82	83.89	86.80
<u>2034</u>	82.2 3	75.3 8	74.3 3	61.7 7	52.41	29.83	62.5 2	73.5 2	79.7 0	81.41	85.56	88.54
<u>2035</u>	83.8 7	76.8 8	75.8 2	63.0 1	53.46	30.43	63.7 7	74.9 9	81.2 9	83.04	87.27	90.31
<u>2036</u>	85.3 1	78.2 1	77.1 2	64.0 9	54.38	30.95	64.8 7	76.2 8	82.6 9	84.47	88.77	91.86
<u>2037</u>	87.2 5	79.9 9	78.8 8	65.5 5	55.62	31.66	66.3 5	78.0 1	84.5 7	86.39	90.80	93.95
<u>2038</u>	89.0 0	81.5 9	80.4 6	66.8 6	56.73	32.29	67.6 7	79.5 7	86.2 6	88.12	92.61	95.83
<u>2039</u>	90.7 8	83.2 2	82.0 7	68.2 0	57.86	32.94	69.0 3	81.1 6	87.9 9	89.88	94.46	97.75
<u>2040</u>	92.3	84.6	83.4	69.3	58.86	33.50	70.2	82.5	89.5	91.43	96.09	99.43

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Effective for service  
on and after \_\_\_\_\_, 2018 April 24, 2019

	<u>4</u>	<u>5</u>	<u>8</u>	<u>7</u>			<u>1</u>	<u>6</u>	<u>0</u>			
<u>2041</u>	<u>94.4</u> 4	<u>86.5</u> 7	<u>85.3</u> 8	<u>70.9</u> 5	<u>60.20</u>	<u>34.27</u>	<u>71.8</u> 1	<u>84.4</u> 4	<u>91.5</u> 4	<u>93.51</u>	<u>98.28</u>	<u>101.69</u>
<u>2042</u>	<u>96.3</u> 3	<u>88.3</u> 1	<u>87.0</u> 8	<u>72.3</u> 7	<u>61.40</u>	<u>34.95</u>	<u>73.2</u> 5	<u>86.1</u> 3	<u>93.3</u> 7	<u>95.38</u>	<u>100.24</u>	<u>103.73</u>
<u>2043</u>	<u>98.2</u> 5	<u>90.0</u> 7	<u>88.8</u> 3	<u>73.8</u> 1	<u>62.63</u>	<u>35.65</u>	<u>74.7</u> 1	<u>87.8</u> 5	<u>95.2</u> 3	<u>97.28</u>	<u>102.24</u>	<u>105.80</u>

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Effective for service on and after \_\_\_\_\_, 2018 April 24, 2019

Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
Renewable Fixed Price Option

Table 5a

TABLE 5a												
Renewable Avoided Costs												
Renewable Fixed Price Option for Wind QF												
On-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>2018</u>					<u>14.3</u> <u>8</u>	<u>16.4</u> <u>1</u>	<u>28.39</u>	<u>34.00</u>	<u>29.92</u>	<u>24.06</u>	<u>24.06</u>	<u>30.18</u>
<u>2019</u>	<u>26.96</u>	<u>25.36</u>	<u>20.60</u>	<u>17.3</u> <u>1</u>	<u>16.8</u> <u>8</u>	<u>17.3</u> <u>1</u>	<u>28.46</u>	<u>31.79</u>	<u>29.49</u>	<u>23.60</u>	<u>25.53</u>	<u>29.90</u>
<u>2020</u>	<u>30.82</u>	<u>29.10</u>	<u>23.42</u>	<u>18.7</u> <u>1</u>	<u>18.0</u> <u>8</u>	<u>19.0</u> <u>1</u>	<u>29.76</u>	<u>34.15</u>	<u>31.06</u>	<u>26.48</u>	<u>28.53</u>	<u>34.02</u>
<u>2021</u>	<u>34.33</u>	<u>32.41</u>	<u>26.04</u>	<u>20.7</u> <u>6</u>	<u>20.0</u> <u>5</u>	<u>21.1</u> <u>0</u>	<u>33.15</u>	<u>38.07</u>	<u>34.61</u>	<u>29.47</u>	<u>31.77</u>	<u>37.92</u>
<u>2022</u>	<u>36.48</u>	<u>34.43</u>	<u>27.66</u>	<u>22.0</u> <u>5</u>	<u>21.2</u> <u>9</u>	<u>22.4</u> <u>0</u>	<u>35.22</u>	<u>40.45</u>	<u>36.77</u>	<u>31.31</u>	<u>33.75</u>	<u>40.29</u>
<u>2023</u>	<u>36.48</u>	<u>34.43</u>	<u>27.66</u>	<u>22.0</u> <u>5</u>	<u>21.2</u> <u>9</u>	<u>22.4</u> <u>0</u>	<u>35.22</u>	<u>40.45</u>	<u>36.77</u>	<u>31.30</u>	<u>33.75</u>	<u>40.29</u>
<u>2024</u>	<u>32.48</u>	<u>30.48</u>	<u>28.70</u>	<u>23.3</u> <u>1</u>	<u>20.5</u> <u>3</u>	<u>13.4</u> <u>9</u>	<u>25.48</u>	<u>28.72</u>	<u>31.50</u>	<u>31.52</u>	<u>32.10</u>	<u>33.90</u>
<u>2025</u>	<u>90.50</u>	<u>85.44</u>	<u>80.91</u>	<u>67.2</u> <u>4</u>	<u>60.2</u> <u>1</u>	<u>42.3</u> <u>4</u>	<u>72.75</u>	<u>80.98</u>	<u>88.01</u>	<u>88.08</u>	<u>89.54</u>	<u>94.12</u>
<u>2026</u>	<u>92.31</u>	<u>87.15</u>	<u>82.53</u>	<u>68.5</u> <u>8</u>	<u>61.4</u> <u>1</u>	<u>43.1</u> <u>8</u>	<u>74.21</u>	<u>82.60</u>	<u>89.77</u>	<u>89.84</u>	<u>91.33</u>	<u>96.01</u>
<u>2027</u>	<u>94.15</u>	<u>88.89</u>	<u>84.18</u>	<u>69.9</u> <u>5</u>	<u>62.6</u> <u>4</u>	<u>44.0</u> <u>4</u>	<u>75.69</u>	<u>84.25</u>	<u>91.57</u>	<u>91.63</u>	<u>93.15</u>	<u>97.92</u>
<u>2028</u>	<u>95.81</u>	<u>90.45</u>	<u>85.66</u>	<u>71.1</u> <u>9</u>	<u>63.7</u> <u>5</u>	<u>44.8</u> <u>4</u>	<u>77.03</u>	<u>85.73</u>	<u>93.18</u>	<u>93.25</u>	<u>94.79</u>	<u>99.65</u>
<u>2029</u>	<u>97.96</u>	<u>92.48</u>	<u>87.58</u>	<u>72.7</u> <u>8</u>	<u>65.1</u> <u>7</u>	<u>45.8</u> <u>2</u>	<u>78.75</u>	<u>87.65</u>	<u>95.27</u>	<u>95.33</u>	<u>96.92</u>	<u>101.88</u>
<u>2030</u>	<u>99.91</u>	<u>94.33</u>	<u>89.33</u>	<u>74.2</u> <u>3</u>	<u>66.4</u> <u>7</u>	<u>46.7</u> <u>4</u>	<u>80.32</u>	<u>89.40</u>	<u>97.17</u>	<u>97.24</u>	<u>98.85</u>	<u>103.92</u>
<u>2031</u>	<u>101.91</u>	<u>96.21</u>	<u>91.11</u>	<u>75.7</u> <u>2</u>	<u>67.8</u> <u>0</u>	<u>47.6</u> <u>8</u>	<u>81.93</u>	<u>91.19</u>	<u>99.12</u>	<u>99.18</u>	<u>100.83</u>	<u>106.00</u>
<u>2032</u>	<u>103.61</u>	<u>97.81</u>	<u>92.62</u>	<u>76.9</u> <u>6</u>	<u>68.9</u> <u>1</u>	<u>48.4</u> <u>4</u>	<u>83.28</u>	<u>92.70</u>	<u>100.76</u>	<u>100.83</u>	<u>102.51</u>	<u>107.76</u>
<u>2033</u>	<u>106.02</u>	<u>100.09</u>	<u>94.79</u>	<u>78.7</u> <u>7</u>	<u>70.5</u> <u>3</u>	<u>49.6</u> <u>0</u>	<u>85.23</u>	<u>94.87</u>	<u>103.11</u>	<u>103.18</u>	<u>104.90</u>	<u>110.27</u>
<u>2034</u>	<u>108.20</u>	<u>102.15</u>	<u>96.74</u>	<u>80.4</u> <u>0</u>	<u>72.0</u> <u>0</u>	<u>50.6</u> <u>5</u>	<u>86.99</u>	<u>96.82</u>	<u>105.23</u>	<u>105.30</u>	<u>107.05</u>	<u>112.53</u>
<u>2035</u>	<u>110.31</u>	<u>104.14</u>	<u>98.62</u>	<u>81.9</u> <u>6</u>	<u>73.3</u> <u>9</u>	<u>51.6</u> <u>1</u>	<u>88.68</u>	<u>98.71</u>	<u>107.28</u>	<u>107.36</u>	<u>109.14</u>	<u>114.73</u>
<u>2036</u>	<u>112.19</u>	<u>105.92</u>	<u>100.30</u>	<u>83.3</u> <u>5</u>	<u>74.6</u> <u>3</u>	<u>52.4</u> <u>8</u>	<u>90.19</u>	<u>100.39</u>	<u>109.11</u>	<u>109.19</u>	<u>111.00</u>	<u>116.68</u>
<u>2037</u>	<u>114.76</u>	<u>108.34</u>	<u>102.60</u>	<u>85.2</u> <u>6</u>	<u>76.3</u> <u>5</u>	<u>53.6</u> <u>9</u>	<u>92.26</u>	<u>102.69</u>	<u>111.61</u>	<u>111.69</u>	<u>113.54</u>	<u>119.36</u>
<u>2038</u>	<u>117.05</u>	<u>110.51</u>	<u>104.65</u>	<u>86.9</u> <u>6</u>	<u>77.8</u> <u>7</u>	<u>54.7</u> <u>6</u>	<u>94.10</u>	<u>104.74</u>	<u>113.84</u>	<u>113.92</u>	<u>115.81</u>	<u>121.74</u>
<u>2039</u>	<u>119.40</u>	<u>112.72</u>	<u>106.74</u>	<u>88.7</u> <u>1</u>	<u>79.4</u> <u>3</u>	<u>55.8</u> <u>6</u>	<u>95.98</u>	<u>106.83</u>	<u>116.12</u>	<u>116.20</u>	<u>118.13</u>	<u>124.18</u>
<u>2040</u>	<u>121.49</u>	<u>114.70</u>	<u>108.62</u>	<u>90.2</u>	<u>80.8</u>	<u>56.8</u>	<u>97.68</u>	<u>108.72</u>	<u>118.16</u>	<u>118.24</u>	<u>120.20</u>	<u>126.36</u>

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Effective for service  
on and after \_\_\_\_\_, 2018 April 24, 2019

				<u>8</u>	<u>4</u>	<u>6</u>						
<u>2041</u>	<u>124.21</u>	<u>117.26</u>	<u>111.05</u>	<u>92.2</u> <u>8</u>	<u>82.6</u> <u>3</u>	<u>58.1</u> <u>1</u>	<u>99.85</u>	<u>111.14</u>	<u>120.80</u>	<u>120.88</u>	<u>122.89</u>	<u>129.18</u>
<u>2042</u>	<u>126.70</u>	<u>119.61</u>	<u>113.27</u>	<u>94.1</u> <u>3</u>	<u>84.2</u> <u>9</u>	<u>59.2</u> <u>7</u>	<u>101.85</u>	<u>113.37</u>	<u>123.22</u>	<u>123.31</u>	<u>125.35</u>	<u>131.77</u>
<u>2043</u>	<u>129.23</u>	<u>122.00</u>	<u>115.53</u>	<u>96.0</u> <u>1</u>	<u>85.9</u> <u>7</u>	<u>60.4</u> <u>6</u>	<u>103.89</u>	<u>115.63</u>	<u>125.68</u>	<u>125.77</u>	<u>127.86</u>	<u>134.40</u>

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Effective for service  
 on and after \_\_\_\_\_, 2018 ~~April 24, 2019~~



Schedule 201PRICING OPTIONS FOR STANDARD PPA  
Renewable Fixed Price OptionTable 5b

<u>TABLE 5b</u>												
<u>Renewable Avoided Costs</u>												
<u>Renewable Fixed Price Option for Wind QF</u>												
<u>Off-Peak Hours (\$/MWH)</u>												
<u>Year</u>	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>
<u>2018</u>					<u>5.71</u>	<u>5.71</u>	<u>15.0</u> <u>4</u>	<u>23.0</u> <u>4</u>	<u>23.5</u> <u>5</u>	<u>20.49</u>	<u>20.49</u>	<u>24.82</u>
<u>2019</u>	<u>22.4</u> <u>6</u>	<u>21.8</u> <u>0</u>	<u>17.1</u> <u>9</u>	<u>10.7</u> <u>8</u>	<u>8.57</u>	<u>7.69</u>	<u>17.8</u> <u>9</u>	<u>22.3</u> <u>3</u>	<u>22.7</u> <u>6</u>	<u>20.60</u>	<u>21.72</u>	<u>25.24</u>
<u>2020</u>	<u>24.5</u> <u>8</u>	<u>24.7</u> <u>8</u>	<u>19.2</u> <u>4</u>	<u>13.1</u> <u>7</u>	<u>10.00</u>	<u>9.63</u>	<u>19.0</u> <u>9</u>	<u>25.2</u> <u>4</u>	<u>25.7</u> <u>3</u>	<u>23.44</u>	<u>25.06</u>	<u>29.75</u>
<u>2021</u>	<u>28.2</u> <u>3</u>	<u>28.4</u> <u>6</u>	<u>22.0</u> <u>4</u>	<u>14.9</u> <u>9</u>	<u>11.31</u>	<u>10.89</u>	<u>21.8</u> <u>7</u>	<u>29.0</u> <u>0</u>	<u>29.5</u> <u>7</u>	<u>26.91</u>	<u>28.78</u>	<u>34.23</u>
<u>2022</u>	<u>30.1</u> <u>5</u>	<u>30.3</u> <u>9</u>	<u>23.5</u> <u>3</u>	<u>15.9</u> <u>9</u>	<u>12.06</u>	<u>11.61</u>	<u>23.3</u> <u>4</u>	<u>30.9</u> <u>7</u>	<u>31.5</u> <u>8</u>	<u>28.73</u>	<u>30.74</u>	<u>36.56</u>
<u>2023</u>	<u>30.4</u> <u>5</u>	<u>30.6</u> <u>9</u>	<u>23.7</u> <u>5</u>	<u>16.1</u> <u>3</u>	<u>12.16</u>	<u>11.70</u>	<u>23.5</u> <u>7</u>	<u>31.2</u> <u>8</u>	<u>31.8</u> <u>9</u>	<u>29.02</u>	<u>31.04</u>	<u>36.93</u>
<u>2024</u>	<u>28.9</u> <u>6</u>	<u>26.7</u> <u>0</u>	<u>26.3</u> <u>5</u>	<u>22.2</u> <u>1</u>	<u>19.12</u>	<u>11.67</u>	<u>22.4</u> <u>6</u>	<u>26.0</u> <u>8</u>	<u>28.1</u> <u>2</u>	<u>28.69</u>	<u>30.06</u>	<u>31.04</u>
<u>2025</u>	<u>67.8</u> <u>1</u>	<u>62.0</u> <u>8</u>	<u>61.2</u> <u>1</u>	<u>50.7</u> <u>0</u>	<u>42.86</u>	<u>23.97</u>	<u>51.3</u> <u>2</u>	<u>60.5</u> <u>2</u>	<u>65.7</u> <u>0</u>	<u>67.13</u>	<u>70.61</u>	<u>73.10</u>
<u>2026</u>	<u>69.1</u> <u>7</u>	<u>63.3</u> <u>2</u>	<u>62.4</u> <u>3</u>	<u>51.7</u> <u>1</u>	<u>43.72</u>	<u>24.45</u>	<u>52.3</u> <u>5</u>	<u>61.7</u> <u>3</u>	<u>67.0</u> <u>1</u>	<u>68.47</u>	<u>72.02</u>	<u>74.56</u>
<u>2027</u>	<u>70.5</u> <u>5</u>	<u>64.5</u> <u>9</u>	<u>63.6</u> <u>8</u>	<u>52.7</u> <u>4</u>	<u>44.59</u>	<u>24.93</u>	<u>53.4</u> <u>0</u>	<u>62.9</u> <u>7</u>	<u>68.3</u> <u>5</u>	<u>69.84</u>	<u>73.46</u>	<u>76.05</u>
<u>2028</u>	<u>71.7</u> <u>6</u>	<u>65.7</u> <u>0</u>	<u>64.7</u> <u>7</u>	<u>53.6</u> <u>5</u>	<u>45.36</u>	<u>25.36</u>	<u>54.3</u> <u>1</u>	<u>64.0</u> <u>5</u>	<u>69.5</u> <u>2</u>	<u>71.04</u>	<u>74.72</u>	<u>77.35</u>
<u>2029</u>	<u>73.4</u> <u>0</u>	<u>67.2</u> <u>0</u>	<u>66.2</u> <u>5</u>	<u>54.8</u> <u>7</u>	<u>46.39</u>	<u>25.94</u>	<u>55.5</u> <u>5</u>	<u>65.5</u> <u>1</u>	<u>71.1</u> <u>1</u>	<u>72.66</u>	<u>76.42</u>	<u>79.12</u>
<u>2030</u>	<u>74.8</u> <u>7</u>	<u>68.5</u> <u>4</u>	<u>67.5</u> <u>8</u>	<u>55.9</u> <u>7</u>	<u>47.32</u>	<u>26.46</u>	<u>56.6</u> <u>7</u>	<u>66.8</u> <u>2</u>	<u>72.5</u> <u>3</u>	<u>74.12</u>	<u>77.95</u>	<u>80.70</u>
<u>2031</u>	<u>76.3</u> <u>7</u>	<u>69.9</u> <u>1</u>	<u>68.9</u> <u>3</u>	<u>57.0</u> <u>9</u>	<u>48.27</u>	<u>26.99</u>	<u>57.8</u> <u>0</u>	<u>68.1</u> <u>6</u>	<u>73.9</u> <u>8</u>	<u>75.60</u>	<u>79.51</u>	<u>82.32</u>
<u>2032</u>	<u>77.6</u> <u>8</u>	<u>71.1</u> <u>1</u>	<u>70.1</u> <u>2</u>	<u>58.0</u> <u>7</u>	<u>49.10</u>	<u>27.46</u>	<u>58.7</u> <u>9</u>	<u>69.3</u> <u>3</u>	<u>75.2</u> <u>6</u>	<u>76.90</u>	<u>80.88</u>	<u>83.73</u>
<u>2033</u>	<u>79.4</u> <u>4</u>	<u>72.7</u> <u>3</u>	<u>71.7</u> <u>1</u>	<u>59.3</u> <u>9</u>	<u>50.21</u>	<u>28.08</u>	<u>60.1</u> <u>3</u>	<u>70.9</u> <u>1</u>	<u>76.9</u> <u>7</u>	<u>78.65</u>	<u>82.72</u>	<u>85.63</u>
<u>2034</u>	<u>81.0</u> <u>4</u>	<u>74.1</u> <u>9</u>	<u>73.1</u> <u>4</u>	<u>60.5</u> <u>8</u>	<u>51.22</u>	<u>28.64</u>	<u>61.3</u> <u>3</u>	<u>72.3</u> <u>3</u>	<u>78.5</u> <u>1</u>	<u>80.22</u>	<u>84.37</u>	<u>87.35</u>
<u>2035</u>	<u>82.6</u> <u>6</u>	<u>75.6</u> <u>7</u>	<u>74.6</u> <u>1</u>	<u>61.8</u> <u>0</u>	<u>52.25</u>	<u>29.22</u>	<u>62.5</u> <u>6</u>	<u>73.7</u> <u>8</u>	<u>80.0</u> <u>8</u>	<u>81.83</u>	<u>86.06</u>	<u>89.10</u>
<u>2036</u>	<u>84.0</u> <u>7</u>	<u>76.9</u> <u>7</u>	<u>75.8</u> <u>8</u>	<u>62.8</u> <u>5</u>	<u>53.14</u>	<u>29.71</u>	<u>63.6</u> <u>3</u>	<u>75.0</u> <u>4</u>	<u>81.4</u> <u>5</u>	<u>83.23</u>	<u>87.53</u>	<u>90.62</u>
<u>2037</u>	<u>85.9</u> <u>9</u>	<u>78.7</u> <u>3</u>	<u>77.6</u> <u>2</u>	<u>64.2</u> <u>9</u>	<u>54.36</u>	<u>30.40</u>	<u>65.0</u> <u>9</u>	<u>76.7</u> <u>5</u>	<u>83.3</u> <u>1</u>	<u>85.13</u>	<u>89.54</u>	<u>92.69</u>
<u>2038</u>	<u>87.7</u> <u>1</u>	<u>80.3</u> <u>0</u>	<u>79.1</u> <u>7</u>	<u>65.5</u> <u>7</u>	<u>55.44</u>	<u>31.00</u>	<u>66.3</u> <u>8</u>	<u>78.2</u> <u>8</u>	<u>84.9</u> <u>7</u>	<u>86.83</u>	<u>91.32</u>	<u>94.54</u>
<u>2039</u>	<u>89.4</u> <u>7</u>	<u>81.9</u> <u>1</u>	<u>80.7</u> <u>6</u>	<u>66.8</u> <u>9</u>	<u>56.55</u>	<u>31.63</u>	<u>67.7</u> <u>2</u>	<u>79.8</u> <u>5</u>	<u>86.6</u> <u>8</u>	<u>88.57</u>	<u>93.15</u>	<u>96.44</u>
<u>2040</u>	<u>91.0</u>	<u>83.3</u>	<u>82.1</u>	<u>68.0</u>	<u>57.52</u>	<u>32.16</u>	<u>68.8</u>	<u>81.2</u>	<u>88.1</u>	<u>90.09</u>	<u>94.75</u>	<u>98.09</u>

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	<u>0</u>	<u>1</u>	<u>4</u>	<u>3</u>			<u>7</u>	<u>2</u>	<u>6</u>			
<u>2041</u>	<u>93.0</u> <u>7</u>	<u>85.2</u> <u>0</u>	<u>84.0</u> <u>1</u>	<u>69.5</u> <u>8</u>	<u>58.83</u>	<u>32.90</u>	<u>70.4</u> <u>4</u>	<u>83.0</u> <u>7</u>	<u>90.1</u> <u>7</u>	<u>92.14</u>	<u>96.91</u>	<u>100.32</u>
<u>2042</u>	<u>94.9</u> <u>4</u>	<u>86.9</u> <u>2</u>	<u>85.6</u> <u>9</u>	<u>70.9</u> <u>8</u>	<u>60.01</u>	<u>33.56</u>	<u>71.8</u> <u>6</u>	<u>84.7</u> <u>4</u>	<u>91.9</u> <u>8</u>	<u>93.99</u>	<u>98.85</u>	<u>102.34</u>
<u>2043</u>	<u>96.8</u> <u>3</u>	<u>88.6</u> <u>5</u>	<u>87.4</u> <u>1</u>	<u>72.3</u> <u>9</u>	<u>61.21</u>	<u>34.23</u>	<u>73.2</u> <u>9</u>	<u>86.4</u> <u>3</u>	<u>93.8</u> <u>1</u>	<u>95.86</u>	<u>100.82</u>	<u>104.38</u>

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Effective for service  
on and after \_\_\_\_\_, 2018 April 24, 2019

Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
Renewable Fixed Price Option

Table 6a

TABLE 6a												
Renewable Avoided Costs												
Renewable Fixed Price Option for Solar QF (less than or equal to 3 MW)												
On-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>2018</u>					15.2 5	17.2 8	29.26	34.87	30.79	24.93	24.93	31.05
<u>2019</u>	27.84	26.24	21.48	18.1 9	17.7 6	18.1 9	29.34	32.67	30.37	24.48	26.41	30.78
<u>2020</u>	31.72	30.00	24.32	19.6 1	18.9 8	19.9 1	30.66	35.05	31.96	27.38	29.43	34.92
<u>2021</u>	35.25	33.33	26.96	21.6 8	20.9 7	22.0 2	34.07	38.99	35.53	30.39	32.69	38.84
<u>2022</u>	37.42	35.37	28.60	22.9 9	22.2 3	23.3 4	36.16	41.39	37.71	32.25	34.69	41.23
<u>2023</u>	37.44	35.39	28.62	23.0 1	22.2 5	23.3 6	36.18	41.41	37.73	32.26	34.71	41.25
<u>2024</u>	33.46	31.46	29.68	24.2 9	21.5 1	14.4 7	26.46	29.70	32.48	32.50	33.08	34.88
<u>2025</u>	89.46	84.40	79.87	66.1 9	59.1 6	41.2 9	71.71	79.93	86.97	87.03	88.50	93.08
<u>2026</u>	91.24	86.08	81.46	67.5 2	60.3 5	42.1 2	73.14	81.53	88.71	88.77	90.26	94.94
<u>2027</u>	93.07	87.80	83.09	68.8 6	61.5 5	42.9 6	74.60	83.16	90.48	90.55	92.07	96.84
<u>2028</u>	94.70	89.35	84.55	70.0 8	62.6 4	43.7 3	75.92	84.63	92.07	92.14	93.69	98.54
<u>2029</u>	96.82	91.35	86.44	71.6 4	64.0 4	44.6 9	77.62	86.52	94.14	94.20	95.78	100.75
<u>2030</u>	98.76	93.17	88.17	73.0 8	65.3 2	45.5 9	79.17	88.25	96.02	96.08	97.70	102.76
<u>2031</u>	100.73	95.03	89.93	74.5 4	66.6 2	46.5 0	80.75	90.01	97.94	98.00	99.65	104.82
<u>2032</u>	102.42	96.62	91.43	75.7 7	67.7 2	47.2 5	82.09	91.51	99.57	99.64	101.32	106.57
<u>2033</u>	104.80	98.87	93.56	77.5 5	69.3 1	48.3 7	84.01	93.64	101.89	101.96	103.67	109.05
<u>2034</u>	106.94	100.89	95.48	79.1 4	70.7 4	49.3 9	85.73	95.56	103.97	104.04	105.79	111.27
<u>2035</u>	109.03	102.86	97.34	80.6 8	72.1 1	50.3 3	87.40	97.43	106.00	106.08	107.86	113.45
<u>2036</u>	110.90	104.62	99.01	82.0 6	73.3 4	51.1 9	88.90	99.09	107.82	107.89	109.71	115.39
<u>2037</u>	113.43	107.01	101.27	83.9 3	75.0 2	52.3 6	90.93	101.36	110.28	110.36	112.21	118.03
<u>2038</u>	115.70	109.15	103.29	85.6 1	76.5 2	53.4 1	92.74	103.38	112.49	112.56	114.46	120.39
<u>2039</u>	118.01	111.33	105.36	87.3 2	78.0 5	54.4 7	94.60	105.45	114.73	114.81	116.74	122.79
<u>2040</u>	120.08	113.29	107.21	88.8	79.4	55.4	96.27	107.31	116.75	116.83	118.79	124.95

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				<u>7</u>	<u>3</u>	<u>5</u>						
<u>2041</u>	<u>122.77</u>	<u>115.83</u>	<u>109.61</u>	<u>90.8</u> <u>5</u>	<u>81.2</u> <u>0</u>	<u>56.6</u> <u>7</u>	<u>98.42</u>	<u>109.71</u>	<u>119.36</u>	<u>119.45</u>	<u>121.46</u>	<u>127.75</u>
<u>2042</u>	<u>125.23</u>	<u>118.14</u>	<u>111.80</u>	<u>92.6</u> <u>6</u>	<u>82.8</u> <u>2</u>	<u>57.8</u> <u>0</u>	<u>100.38</u>	<u>111.90</u>	<u>121.75</u>	<u>121.84</u>	<u>123.88</u>	<u>130.30</u>
<u>2043</u>	<u>127.73</u>	<u>120.50</u>	<u>114.04</u>	<u>94.5</u> <u>1</u>	<u>84.4</u> <u>8</u>	<u>58.9</u> <u>6</u>	<u>102.39</u>	<u>114.14</u>	<u>124.18</u>	<u>124.27</u>	<u>126.36</u>	<u>132.91</u>

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Effective for service  
 on and after \_\_\_\_\_, 2018 ~~April 24, 2019~~

Schedule 201

PRICING OPTIONS FOR STANDARD PPA  
Renewable Fixed Price Option

Table 6b

TABLE 6b												
Renewable Avoided Costs												
Renewable Fixed Price Option for Solar QF (less than or equal to 3 MW)												
Off-Peak Hours (\$/MWH)												
Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>2018</u>					6.58	6.58	15.9 1	23.9 1	24.4 2	21.36	21.36	25.69
<u>2019</u>	23.3 4	22.6 8	18.0 7	11.6 6	9.45	8.57	18.7 7	23.2 1	23.6 4	21.48	22.60	26.12
<u>2020</u>	25.4 8	25.6 8	20.1 4	14.0 7	10.90	10.53	19.9 9	26.1 4	26.6 3	24.34	25.96	30.65
<u>2021</u>	29.1 5	29.3 8	22.9 6	15.9 1	12.23	11.81	22.7 9	29.9 2	30.4 9	27.83	29.70	35.15
<u>2022</u>	31.0 9	31.3 3	24.4 7	16.9 3	13.00	12.55	24.2 8	31.9 1	32.5 2	29.67	31.68	37.50
<u>2023</u>	31.4 1	31.6 5	24.7 1	17.0 9	13.12	12.66	24.5 3	32.2 4	32.8 5	29.98	32.00	37.89
<u>2024</u>	29.9 4	27.6 8	27.3 3	23.1 9	20.10	12.65	23.4 4	27.0 6	29.1 0	29.67	31.04	32.02
<u>2025</u>	68.8 1	63.0 8	62.2 1	51.7 0	43.86	24.97	52.3 2	61.5 2	66.7 0	68.13	71.61	74.10
<u>2026</u>	70.1 9	64.3 4	63.4 5	52.7 3	44.74	25.47	53.3 7	62.7 5	68.0 3	69.49	73.04	75.58
<u>2027</u>	71.5 9	65.6 3	64.7 2	53.7 8	45.63	25.97	54.4 4	64.0 1	69.3 9	70.88	74.50	77.09
<u>2028</u>	72.8 2	66.7 6	65.8 3	54.7 1	46.42	26.42	55.3 7	65.1 1	70.5 8	72.10	75.78	78.41
<u>2029</u>	74.4 8	68.2 8	67.3 3	55.9 5	47.47	27.02	56.6 3	66.5 9	72.1 9	73.74	77.50	80.20
<u>2030</u>	75.9 7	69.6 4	68.6 8	57.0 7	48.42	27.56	57.7 7	67.9 2	73.6 3	75.22	79.05	81.80
<u>2031</u>	77.4 9	71.0 3	70.0 5	58.2 1	49.39	28.11	58.9 2	69.2 8	75.1 0	76.72	80.63	83.44
<u>2032</u>	78.8 2	72.2 5	71.2 6	59.2 1	50.24	28.60	59.9 3	70.4 7	76.4 0	78.04	82.02	84.87
<u>2033</u>	80.6 1	73.9 0	72.8 8	60.5 6	51.38	29.25	61.3 0	72.0 8	78.1 4	79.82	83.89	86.80
<u>2034</u>	82.2 3	75.3 8	74.3 3	61.7 7	52.41	29.83	62.5 2	73.5 2	79.7 0	81.41	85.56	88.54
<u>2035</u>	83.8 7	76.8 8	75.8 2	63.0 1	53.46	30.43	63.7 7	74.9 9	81.2 9	83.04	87.27	90.31
<u>2036</u>	85.3 1	78.2 1	77.1 2	64.0 9	54.38	30.95	64.8 7	76.2 8	82.6 9	84.47	88.77	91.86
<u>2037</u>	87.2 5	79.9 9	78.8 8	65.5 5	55.62	31.66	66.3 5	78.0 1	84.5 7	86.39	90.80	93.95
<u>2038</u>	89.0 0	81.5 9	80.4 6	66.8 6	56.73	32.29	67.6 7	79.5 7	86.2 6	88.12	92.61	95.83
<u>2039</u>	90.7 8	83.2 2	82.0 7	68.2 0	57.86	32.94	69.0 3	81.1 6	87.9 9	89.88	94.46	97.75
<u>2040</u>	92.3	84.6	83.4	69.3	58.86	33.50	70.2	82.5	89.5	91.43	96.09	99.43

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Effective for service  
on and after \_\_\_\_\_, 2018 April 24, 2019

	<u>4</u>	<u>5</u>	<u>8</u>	<u>7</u>			<u>1</u>	<u>6</u>	<u>0</u>			
<u>2041</u>	<u>94.4</u> 4	<u>86.5</u> 7	<u>85.3</u> 8	<u>70.9</u> 5	<u>60.20</u>	<u>34.27</u>	<u>71.8</u> 1	<u>84.4</u> 4	<u>91.5</u> 4	<u>93.51</u>	<u>98.28</u>	<u>101.69</u>
<u>2042</u>	<u>96.3</u> 3	<u>88.3</u> 1	<u>87.0</u> 8	<u>72.3</u> 7	<u>61.40</u>	<u>34.95</u>	<u>73.2</u> 5	<u>86.1</u> 3	<u>93.3</u> 7	<u>95.38</u>	<u>100.24</u>	<u>103.73</u>
<u>2043</u>	<u>98.2</u> 5	<u>90.0</u> 7	<u>88.8</u> 3	<u>73.8</u> 1	<u>62.63</u>	<u>35.65</u>	<u>74.7</u> 1	<u>87.8</u> 5	<u>95.2</u> 3	<u>97.28</u>	<u>102.24</u>	<u>105.80</u>

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Effective for service  
 on and after \_\_\_\_\_, 2018 April 24, 2019

Schedule 201

WIND INTEGRATION

Table 7

<b>TABLE 7</b>		
<b>Integration Costs</b>		
<b>Year</b>	<b>Wind</b>	<b>Solar</b>
<u>2018</u>	<u>0.87</u>	<u>0.00</u>
<u>2019</u>	<u>0.88</u>	<u>0.00</u>
<u>2020</u>	<u>0.90</u>	<u>0.00</u>
<u>2021</u>	<u>0.92</u>	<u>0.00</u>
<u>2022</u>	<u>0.94</u>	<u>0.00</u>
<u>2023</u>	<u>0.96</u>	<u>0.00</u>
<u>2024</u>	<u>0.98</u>	<u>0.00</u>
<u>2025</u>	<u>1.00</u>	<u>0.00</u>
<u>2026</u>	<u>1.02</u>	<u>0.00</u>
<u>2027</u>	<u>1.04</u>	<u>0.00</u>
<u>2028</u>	<u>1.06</u>	<u>0.00</u>
<u>2029</u>	<u>1.08</u>	<u>0.00</u>
<u>2030</u>	<u>1.10</u>	<u>0.00</u>
<u>2031</u>	<u>1.12</u>	<u>0.00</u>
<u>2032</u>	<u>1.14</u>	<u>0.00</u>
<u>2033</u>	<u>1.17</u>	<u>0.00</u>
<u>2034</u>	<u>1.19</u>	<u>0.00</u>
<u>2035</u>	<u>1.21</u>	<u>0.00</u>
<u>2036</u>	<u>1.24</u>	<u>0.00</u>
<u>2037</u>	<u>1.26</u>	<u>0.00</u>
<u>2038</u>	<u>1.29</u>	<u>0.00</u>
<u>2039</u>	<u>1.31</u>	<u>0.00</u>
<u>2040</u>	<u>1.34</u>	<u>0.00</u>
<u>2041</u>	<u>1.37</u>	<u>0.00</u>
<u>2042</u>	<u>1.39</u>	<u>0.00</u>
<u>2043</u>	<u>1.42</u>	<u>0.00</u>

{00043049.7}