April 29, 2021

Updated Staff Proposal

AR 631 Parties:

Attached are two documents that Staff pans to use as the framework for continuing discussion of the terms and contracting process for PURPA PPAs:

1. Issues Matrix: The first document is an updated matrix of Staff's proposal for standard PURPA PPA terms and the contracting process. This Matrix includes the proposed terms circulated by Staff on January 15, Staff's proposed modifications to its previous proposal, and some brief explanatory comments.
2. Form of PPA: The second document is the form of PPA (the WUTC PAC PPA) provided by the Joint Utilities, with Staff modifications.

Staff believes the WUTC PAC PPA could be a good starting point for discussion regarding contracting terms in Oregon and agrees with the Joint Utilities that discussing terms in the context of an actual PPA could be an efficient process. However, some of the provisions in the PAC PPA are not supported by Staff. The attached PAC PPA identifies some of these provisions with comments or edits that are added by Staff.

Staff's edits and comments to the PAC PPA do not represent an exhaustive list of what Staff would like to discuss with stakeholders with respect to the PPA. However, the modified document incorporates some of the elements of Staff's proposal in the Matrix and reflects Staff proposals on other terms that have not yet been discussed with parties.

Finally, Staff notes that its current proposal in the attached Matrix and the modified PPA are to be considered together. These documents reflect the following key updates to the Staff proposal:

- Eligibility requirements related to interconnection: Staff's modified proposal does not include the requirement that a QF obtain a completed interconnection study as a prerequisite for an executable PPA. Staff believes provisions in the PAC PPA may offer sufficient protection for ratepayers that such a requirement is not necessary. Staff may return to its proposal regarding a completed interconnection study if it finds after further discussion and modifications the other requirements of the contracting process and PPA terms do not offer sufficient protection to ratepayers and an appropriate balance between developers and ratepayers. Staff has also modified the requirement regarding site control.
- Timelines: simplified and expedited the turnaround times for the contracting process.
- Same site criteria: Staff proposes to continue using the 5-mile rule currently used in Oregon to determine whether a QF is a single QF for purposes of standard PPA eligibility.
- Updates to avoided costs: Staff proposes to continue the post-IRP Acknowledgment Update and May 1 Update rather than the revised updates suggested in the January 15, 2021 proposal.
- Security: added a requirement for Project Development Security.
- Scheduling: modified requirements related to scheduling.
- Damages: added damages for failure to meet Scheduled Commercial Operation Date.
- Other PPA terms included in the WUTC PAC PPA.

Staff requests that AR 631 participants submit comments on Staff's updated proposal by May 27, 2021. Staff plans to discuss its updated proposal and participants' comments at a June 9, 2021 workshop.

Please direct questions to Stephanie Andrus at stephanie.andrus@doj.state.or.us or 971-719-0690 or Caroline Moore at caroline.f.moore@puc.oregon.gov or 503-480-9427.

AR 631 (REV)

Initial Staff Proposed Terms	Staff Revised Proposal	Staff Comments re: revisions
Eligibility for draft PPA		
QF has: (1) filed request for interconnection with host utility or rappropriate transmission provider; (2) provided evidence of site control; (3) provided required information regarding facility(information requirements to be approved by Commission).	(1) Filed request for interconnection with host utility or appropriate transmission provider; **(2) provided evidence of meaningful steps to seek site control, including, but not limited to, an option to lease or purchase the site or an executed letter of intent or exclusivity agreement to negotiate an option to lease or purchase the site.** (3) Provided required information regarding facility (list of information approved by Commission). **Staff proposes to use PAC's informational requirements in Schedule 37, minus the "status of interconnection," as well as two of the information requirements included in the Joint Utilities' comments circulated earlier in this docket.** **<u>PAC 37</u>** **(a) demonstration of ability to obtain QF status; (b) design capacity (MW), station service requirements, and net amount of power to be delivered to the Company's electric system; (c) generation technology and other related technology applicable to the site; (d) proposed site location; (e) schedule of monthly power deliveries; (f) calculation or determination of minimum and maximum annual deliveries; (g) motive force or fuel plan; (h) proposed on-line date and other significant dates required to complete the milestones; (i) proposed contract term and pricing provisions as defined in this Schedule (i.e.,standard fixed price, renewable fixed price); (j) status of interconnection or**	• Accept QF's recommendation to replace "(2) provided evidence of site control" with: (2) provided evidence of meaningful steps to seek site control, including, but not limited to, an option to lease or purchase the site or an executed letter of intent or exclusivity agreement to negotiate an option to lease or purchase the site. • For (3), suggest using requirements in PAC Schedule 37 minus information re: IX status along with two of the information requests included in Joint Utilities Comments circulated earlier in this docket. • This proceeding is not intended to address non-standard contracting issue, so will not address NewSun's proposal to expressly allow multiple pricing scenarios.

	transmission arrangements; (k) point of delivery or interconnection. **a) Specific data re: latitude/longitude and site layout to allow evaluation of FERC same site rule and Oregon's five-mile rule;** **b) For a QF with battery storage system, clarification of the storage design capacity, storage system duration, net power output, description of technology used by battery storage system.**	
Eligibility for executable PPA		
All utilities: (1) QF has satisfied informational requirements for draft PPA; (2) No additional revisions are requested or needed; (3) QF has submitted written request for final executable PPA; and (4) QF has received a Cluster Study indicating interconnection within four years is possible or January 1 of the calendar year following the QF's participation in a Cluster Study, whichever is first. For PGE and IPCo: QF has received a SIS indicating interconnection with four years is possible or or six months after the QF executed the SIS Agreement, whichever is first.	(1) QF has satisfied informational requirements for draft PPA; (2) No additional revisions to the draft PPA are requested or needed; **and** ~~(3)~~ QF has submitted written request for final executable PPA. ; ~~and~~ ~~(4) QF has received a Cluster Study indicating interconnection within four years is possible or January 1 of the calendar year following the QF's participation in a Cluster Study, whichever is first. For PGE and IPCo: QF has received a SIS indicating interconnection with four years is possible or or six months after the QF executed the SIS Agreement, whichever is first.~~	• Modified requirement re: site control and removed requirement for IX Study as prerequisite for executable PPA in light of protections offered in PAC PPA.

Avoided Cost Updates		
• Limit updates to standard avoided cost prices to once a year,on specific date, i.e. February 1 filing date with price change effective on March 15. • Any changes to inputs after IRP acknowledgment will beincluded in next March 15 update filing rather than in an update filed 30 days after IRP acknowledgment. • When no IRP acknowledgment in previous 12 months, March 15 update will be limited to factors specified for currently effective May 1 Annual Update. See OAR 860-029-0085.	**No change to current requirement that utility file updated avoided cost one month after IRP acknowledgement.** **Retain current requirement of May annual update.**	Staff withdraws proposal re: updates after IRP acknowledgment. Staff does not intend to propose changes to the inputs that may be updated in the annual update in this proceeding. This may be a topic for UM 2000.
Timelines for contracting process		
• **Pre-SIS or Cluster Study** Utility has 15 business days to provide draft or ask for missing information. Once missing information provided, utility has 15 business days to provide revised draft. If QFrequests changes to draft, utility has 15 business days to provide new draft. •**After completed SIS or Cluster Study** Utility has 10 business day turnaround to provide executableversion or any revisions. • If utility is unable to comply with the deadline in this rule, utility will notify QF in writing that it will not meet the deadline and provide explanation as to why. The notice must be provided on or prior to the deadline.	**• Utility has 15 business days to provide first draft of standard PPA or ask for missing information. In the event the utility asks for missing information, the utility has 15 business days from receipt of missing information to provide first draft of PPA.** **• Thereafter utility has 10 business days to provide revised drafts upon request by QF for revisions. Once QF has met all eligibility requirements and asked for executable PPA in writing, utility has 10 business days to provide new draft.** **• If utility is unable to comply with the deadline in this rule, utility will notify QF in writing that it will not meet the deadline and provide explanation as to why. The notice must be provided on or prior to the deadline.**	The duration of the contracting process has been a point of contention for some time. QFs have asserted 15 business days is generally too long a turn-around time. While 15 business days may make sense for initial draft of PPA, the need for a 15-business day turnaround as the contracting progresses is not evident to Staff. If the utilities believe they are unable to process the PPAs within 10 days as is proposed, they have the option of revisiting their internal contracting process or allocating resources in order to meet the new deadline of 10 business days. Staff does not support distinguishing between the turnaround time for revisions to a PPA that are non-substantive and those that are not (i.e., typos), because of the likelihood of disputes about whether the change is substantive or non-substantive.

• A utility's written notification that it will not meet the deadline does not excuse the utility's failure to meet the deadline. However, the Commission will consider the reasonableness of the utility's delay in determining whether the QF has established a legally enforceable obligation. The Commission will also consider the utility's failure to comply with the notice provision of this rule in determining whether a QF has established a legally enforceable obligation.	**• A utility's written notification that it will not meet the deadline does not excuse the utility's failure to meet the deadline. However, the Commission will consider the reasonableness of the utility's delay in determining whether the QF has established a legally enforceable obligation. The Commission will also consider the utility's failure to comply with the notice provision of this rule in determining whether a QF has established a legally enforceable obligation.**	To ensure there is communication between the QF and utility, Staff proposes the utilities' provide written notice and explanation if they are not going to meet the turnaround time. This written notice will also be helpful in resolving any disputes about whether the QF has done what it is necessary to establish a LEO in circumstances when the contracting process breaks down.
Time to construct facility (interval between PPA execution and scheduled on-line date)		
• QF's have unilateral right to select scheduled COD up tothree years after PPA execution. • If SIS or Cluster Study shows interconnection completion date more than three years after PPA execution but within four years, QF has unilateral right to select scheduled COD up to four years after PPA execution. For every month in the interval between PPA execution and scheduled on-line date that is after three years, the fixed-price term will be shortened.For example, if the scheduled COD is 3 years and six months after PPA execution, the fixed price term for the PPA will be 14 years and 6 months (15 years – 6 months). QF may not select scheduled COD more than four yearsafter contract execution date.	Same proposal.	Stakeholders have asked for the ability to establish a scheduled COD that is more than three years without shortening the fixed price term of the PPA, as is currently allowed under the stipulation adopted in UM 1610. Stakeholders note that the need for a greater than 3-year period to come on-line may be due to a utility delay or the fact the resource type requires a longer period to come online. Staff does not believe an additional exception process to allow a scheduled COD more than three years, without a corresponding deduction from duration of PPA, is warranted. At the time of contract execution, the only "utility delay" the QF could rely on is the estimated time to construct the IX facilities and related upgrades. But the fact upgrades may take longer than three years is why the policy allows unilateral selection of scheduled COD up to four years from contract execution and is not the sort of "delay" that warrants an exception to the proposal re: shortening the term of the PPA. The fact that a resource may be of the sort that takes longer than three years to come on-line also does not warrant an exception in light of the new benefit provided to QFs for a unilateral right to select a scheduled COD x years from contract execution. Ultimately, the purpose of shortening the fixed-price term is the protection of ratepayers. This

		protection is appropriate no matter the reason for the need for a scheduled COD 3+ years from contract execution. QFs would like the opportunity to select a scheduled COD that is up to five years after contract execution. A five-year delay between PPA execution and scheduled COD is too long a delay to be standard option.
Contract Term		
QF has ability to select 20-year term with15-year fixed-price term, except when QF elects scheduled COD more than three years after contract execution. In this case, the term of the contract will be shortened so that it ends no later than a PPA that started three years after contract execution. (Example: Scheduled COD is four years after contract execution. In this case, QF will have PPA with fixed price term of 14 years (15-1= 14) and fixed price term will be **shortened at end** during deficiency period not at the beginning during sufficiency period.)	No change from original proposal.	Staff appreciates QF proposal re: ownership of RECs in last five years of 20-year PPA, but believes this issue falls within the scope of UM 2000 re: avoided cost prices and is not in scope here. Staff believes that at this point, the recommendations regarding contract length are better suited for the UM 2000 docket.
Default for failure to meet scheduled COD/Damages/Termination		

•Utility may issue Notice of Default when QF fails to meet scheduled COD. •QF has one-year period to cure after Notice of Default when scheduled COD is three years or less after PPA execution. QF has six-month period to cure when scheduled COD is more than three years after PPA execution. •QF must provide written notice to utility 90 days in advance if not coming on-line by scheduled COD. (Later notice acceptable if QF had no way of knowing would not be coming on-line on scheduled COD 90 days in advance.) •If QF provides written notice will not be coming on-line byscheduled COD, QF will owe no damages to utility for replacement power costs during cure period. •A QF that fails to meet scheduled COD but comes on-line during cure period (or after with agreement from utility), will have a shortened fixed-price term in contract (subtract number of months in cure period it took QF to come on-line from end of fixed-price term). •Utility may terminate PPA after expiration of cure period ifQF does not come on-line, but utility must provide written notice of intent to terminate one month prior to notice of termination. Notice period for termination and cure period may overlap.	• Utility may issue Notice of Default when QF fails to meet scheduled COD. • QF has one year period to cure after Notice of Default when scheduled COD is three years or less after PPA execution. QF has six-month period to cure when scheduled COD is more than three years after PPA execution. • QF must provide written notice to utility 90 days in advance if not coming on-line by scheduled COD. (Later notice acceptable if QF had no way of knowing would not be coming on-line on scheduled COD 90 days in advance.) ~~• If QF provides written notice will not be coming on-line by scheduled COD, QF will owe no damages to utility for replacement power costs during cure period.~~ • A QF that fails to meet scheduled COD but comes on-line during cure period ~~(or after with agreement from utility),~~ will have a shortened fixed-price term in contract (subtract number of months in cure period it took QF to come on-line from end of fixed-price term), unless delay is an Excused Delay. •Utility may terminate PPA after expiration of cure period ifQF does not come on-line, but utility must provide written notice of intent to terminate one month prior to notice of termination. Notice period for termination and cure period may overlap. •Utility may impose liquidated damages when PPA terminated because QF not coming on-line at (i.e., QFbreaches commitment to sell energy and capacity). QF has no unilateral ability to terminate PPA. **Staff agrees with the following principle suggested by QFs: Notwithstanding the above**	**Added following REC/CREA language to Staff proposal:** Notwithstanding the above requirements, the delay default provisions in the PPA must contain reasonable exceptions to the QF's obligation to pay damages in the case of a delay caused by the purchasing utility, and that extend the fixed-price and/or variable-price terms of the PPA to hold the QF harmless for the utility-caused delay.

• Utility may impose liquidated damages when PPA terminated because QF not coming on-line at (i.e., QFbreaches commitment to sell energy and capacity). QF has no unilateral ability to terminate PPA.	**requirements, the delay default provisions in the PPA must contain reasonable exceptions to the QF's obligation to pay damages in the case of a delay caused by the purchasing utility, and that extend the fixed-price and/or variable-price terms of the PPA to hold the QF harmless for the utility-caused delay.**	
Ability to come on-line prior to scheduled COD		
(1) QF cannot come on-line sooner than 90 days before scheduled COD without consent of utility. (2) QF may start deliveries up to 90 days before scheduledCOD for compensation at as-available rate (or other comparable rate).	No Change to proposal.	
Eligibility for Standard PPA – Nameplate Capacity Rating		
Definition of nameplate capacity should be based on the power production capacity of the facility as a whole, rather than just a component.	Definition of nameplate capacity should be based on the power production capacity of the facility as a whole, ratherthan just a component.	
Eligibility for standard PPA—Same Site Rule		
Replace current 5-mile rule and community-based/family-owned exemption with FERC Order 872 presumptions re: same site.	**Keep Commission's current 5-mile rule.**	

Modifications to QF Facility prior to COD and after COD		
Staff intends to explore with parties whether QFs have sufficient flexibility to incorporate technological advancements in design of Facility after PPA execution and before scheduled COD and after scheduled COD, and to otherwise make upgrades to Facility to maximum output and efficiency.	**For generation attributable to the original power production capacity (as defined above), the QF should continue to receive the contracted-for standard prices. For incremental generation attributable to incremental power production capacity up to the standard contract threshold, the QF should also continue to receive the standard prices in the original contract. For incremental generation beyond the standard contract threshold, the QF should negotiate a supplemental PPA with negotiated pricing.**	Staff incorporates the proposal made by the QFs.
Requirement for Minimum Availability Guarantee (MAG) for intermittent resources		
No change to current Commission requirements.	No change to proposal.	
Penalties for failure to meet MAG		
No change to current Commission requirements, which are: Damages for failure to meet MAG (1) determine the amount of the "shortfall," which is the difference between the projected on- and off-peak net output from the project that would have been delivered had the project been available at the minimum guaranteed availability for the contract year and the actual net output provided by the QF for the contract year; (2) multiply theshortfall by the positive difference, if any, obtained by subtracting the contract price from the price at which the utility purchased replacement power; and (3) add any reasonable costs incurred by the utility to purchase replacement power and additional transmission costs	No change to proposal.	

to deliver replacement power to point of delivery, if any. (Order No. 15-130) Utility may terminate if fail tomeet MAG for two years unlessfailure is excused. (Order 15-130).		
Scheduled Outages		
Leave current practice in place: PAC: QF must provide at least90 days' notice of scheduled maintenance and reasonably accommodate PAC's request toreschedule. PGE: QF must provide at least60 days' notice for scheduled maintenance. IPCo: QF must provide annualwritten proposed maintenance schedule no later than Jan. 31 ofeach calendar year.	**QF must provide annual written proposed maintenance schedule no later than Jan. 31 of each calendar year.**	Staff believes all three current practices are reasonable. However, creating a rule that allows for all three practices would likely lead to a rule that is open to interpretation and ultimately result in disputes. Staff suggests the practice of Idaho Power is a reasonable baseline.
Requirements for minimum delivery for intermittent resource (w/no battery)		
Utility may not impose minimum delivery requirement for intermittent resource that has no associated battery	No change to initial proposal.	.
Default Security		
	Staff withdraws initial proposal re: security pending discussion of terms in PAC PPA.	

Additional topics:

Staff:

1) Obligations of QFs and utilities related to scheduling; **(Addressed in PAC PPA)**
2) How to determine nameplate capacity of QF with storage;
3) What constitutes an excess delivery and utility's obligation to pay; **(Need clarification on PAC PPA treatment of this topic).**
4) Need for carve-out from certain contract provisions for very small QFs; **(Need to discuss with parties. Need proposal on what provisions should not apply to small QFs).**
5) Process for renewing QFs. **(Same as above, need to discuss and need proposals).**
6) QF and utility obligations re: test energy; **(Need to discuss with parties.)**
7) QF and utility obligations re: requirements before commercial operation date, i.e., As-Available Supplement, proof of necessarypermits, etc. **(Addressed in PAC PPA.)**
8) Definition of environmental attributes to address T-RECs, etc. **(Believe addressed in PAC PPA.)**

OSSIA:

1) Reasonable damages or penalties for utility actions to evade PURPA obligations.

NewSun:

1) Explore and clarify which provisions discussed in AR 631 apply to non-standard PPAs.
2) Explore and clarify what should be required for non-standard QF to receive an indicative pricing proposal.
3) what should be required to receive an indicative pricing proposal. Additionally, there needs to be a framework around when and how a utility can update the inputs to the indicative pricing proposals it provides. For example, in providing indicative pricing proposals, at what point is it appropriate for the utility to move into the next increment of solar capacity pricing: only after executing sufficient other solar contracts to fill up the current increment, or after it has received indicative pricing requests to fill up that bucket, or something else? NewSun believes that this particular input should not be updated based on the number of indicative pricing requests submitted prior to the current request but should be based on executed contracts.

Joint Utilities:

1) AR 631 should include consideration of specific contract language.
2) Standard PPAs should include conditional designation of network resource notice provision approved by Commission for Community Solar Program PPAs. This the notice provision allows for additional negotiations between the QF and the utility followed by a process before the Commission, if needed, in the event the utility's transmission service request for the QF's output, submitted by the utility after the PPA is executed, shows transmission-service-related network upgrades are required.
3) Contractual language in the liquidated damages and force majeure provisions should be clarified.

4) Explore different contracting process, terms, and conditions for renewing QFs.
5) Explore other provisions to update PPA to include market-based terms and conditions, including but not limited to provisions to address scheduling for test energy, environmental attributes (including damages provisions), payment provisions for off-system QFs, and capacity rights.

POWER PURCHASE

AGREEMENT

BETWEEN

____

AND

PACIFICOR

P

This working draft is provided pursuant to PacifiCorp Schedule QF. This working draft does not constitutea binding offer, does not form the basis for an agreement by estoppel or otherwise, and is conditioned upon satisfaction of all requirements of Schedule QF, including each party's receipt of all required internalapprovals and any other necessary regulatory approvals.

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Information

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POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (this "Agreement"), is entered into between [COMPANY NAME], a [TYPE OF ORGANIZATIONAL ENTITY AND STATE OF ORGANIZATION] (the "Seller") and
PacifiCorp, an Oregon corporation ("PacifiCorp"). Seller and PacifiCorp are sometimes referred to in this Agreement collectively as the "Parties" and individually as a "Party."

A. Seller intends to construct, own, operate and maintain a [___]-powered generating facility for the generation of electric energy located in [_______] County, Washington, with a nameplate capacity rating of [_][1] MW (the "Facility"); and

B. Seller will operate the Facility as a Qualifying Facility ("QF"); and

C. Seller desires to sell, and PacifiCorp agrees to purchase, the Net Output delivered by the Facility in accordance with the terms and conditions of this Agreement; and

D. The rates, terms and conditions in this Agreement are in accordance with the rates, terms, and conditions approved by the Commission for purchases from QFs; and

E. PacifiCorp intends to designate the Facility as a Network Resource for the purposes of serving network load.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties mutually agree as follows:

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[1] **Note To Form** – Must be five (5) MWAC or less.

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SECTION 1

DEFINITIONS, RULES OF INTERPRETATION

1.1 Defined Terms.¶Unless otherwise required by the context in which any term appears, initially capitalized terms used in this Agreement have the following meanings:

"Abandonment" means (a) the relinquishment of all possession and control of the Facility by Seller, or (b) if after commencement of the construction, testing, and inspection of the above-ground portions of the Facility (exclusive of road building), and prior to the Commercial Operation Date, there is a complete cessation of the construction, testing, and inspection of the Facility for ninety (90) consecutive days, but only if such relinquishment or cessation is not caused by or attributable to an Event of Default by PacifiCorp, a request by PacifiCorp, or an event of Force Majeure.

"AC" means alternating current.

"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. Notwithstanding the foregoing, with respect to PacifiCorp, "Affiliate" only includes Berkshire Hathaway Energy Company and its direct, wholly owned subsidiaries.

"Agreement" is defined in the Recitals.

"As-built Supplement" is a supplement to Exhibit B of this Agreement, as provided in Section 6.1, which provides the final "as-built" description of the Facility, including the Point of Delivery and, subject to the provisions of Section 6.1, identifies changes in equipment or Facility configuration, or other modifications to the information provided in Exhibit B as of the Effective Date.

"Business Day" means any day on which banks in Portland, Oregon, are not authorized or required by Requirements of Law to be closed.

"Capacity Rights" means any current or future defined characteristic, certificate, tag, credit, ancillary service or attribute thereof, or accounting construct, including any of the same counted towards any current or future resource adequacy or reserve requirements, associated with the electric generation capability and capacity of the Facility or the Facility's capability and ability to produce energy and any of those services necessary to support the transmission of electric power from Seller to PacifiCorp and to maintain reliable operations of the System, including voltage control, operating reserve, spinning reserve and reactive power. Capacity Rights do not include

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any Tax Credits or other tax incentives existing now or in the future associated with the construction, ownership or operation of the Facility.

"Commercial Operation" means that the Nameplate Capacity Rating of the Facility is fully operational and reliable and the Facility is fully interconnected, fully integrated, and synchronized with the System, all of which are Seller's responsibility to receive or obtain, and which occurs when Seller has achieved the Milestones set forth in Section 2.2 and all of the following events (a) have occurred, and (b) remain simultaneously true and accurate as of the date and moment on which Seller gives PacifiCorp notice that Commercial Operation has occurred:

(i) PacifiCorp has received a letter addressed to PacifiCorp from a Licensed Professional Engineer licensed in the state of Washington certifying: (1) the Nameplate Capacity Rating of the Facility at the anticipated time of Commercial Operation, and (2) that the Facility is able to generate

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electric energy reliably in amounts expected by and consistent with the terms and conditions ofthis Agreement;

(ii) PacifiCorp has received a letter addressed to PacifiCorp from a Licensed Professional Engineer certifying that, in conformance with the requirements of the Generation Interconnection Agreement: (1) all required Interconnection Facilities have been constructed, (2) all required interconnection tests have been completed, and (3) the Facility is physically interconnected with the System in conformance with the Generation Interconnection Agreement;

(iii) PacifiCorp has received a letter from a Licensed Professional Engineer licensed in the state of Washington addressed to PacifiCorp certifying that Seller has obtained or entered into all Required Facility Documents;

(iv) PacifiCorp has received a certificate from an officer of Seller stating that neither Seller nor the Facility are in violation of or subject to any liability under any Requirements of Law;

(v) Seller has satisfied its obligation to pay for any network upgrades or other interconnection costs required under the Generation Interconnection Agreement (as terms are defined in the Generation Interconnection Agreement); and

(vi) PacifiCorp has received the Default Security, as applicable.

Seller must provide written notice to PacifiCorp stating when Seller believes that the Facility has achievedCommercial Operation and its Nameplate Capacity Rating accompanied by the documentation describedabove. PacifiCorp must respond to Seller's notice within ten (10) Business Days of receipt of a notice satisfying the requirements of the preceding sentence. If PacifiCorp does not respond to Seller's complying notice within such time period, the Commercial Operation Date will be the date of PacifiCorp's receipt of such complying notice from Seller. If PacifiCorp informs Seller within such ten (10) Business Day period that PacifiCorp believes the Facility has not achieved Commercial Operation, identifying the specific areas of deficiency, Seller must address the concerns stated in PacifiCorp's deficiency notice to the reasonable satisfaction of PacifiCorp; the Commercial Operation Date will then be the date that the matters identified in PacifiCorp's deficiency notice have been addressed to PacifiCorp's reasonable satisfaction.

"Commercial Operation Date" means the date that Commercial Operation is achieved for the Facility.

"Commission" means the Washington Utilities and Transportation

Commission."Conditional DNR Notice" is defined in Section 4.2.

"Contract Interest Rate" means the lesser of (a) the highest rate permitted under Requirements of Law or

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(b) 200 basis points per annum plus the rate per annum equal to the publicly announced prime rate orreference rate for commercial loans to large businesses in effect from time to time quoted by Citibank,
N.A. as its "prime rate." If a Citibank, N.A. prime rate is not available, the applicable prime rate will be theannounced prime rate or reference rate for commercial loans in effect from time to time quoted by a bankwith $10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest is being paid.

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"Contract Price" means the applicable price, expressed in $/MWh, for Net Output and Capacity Rights stated in Section 5.1.[2]

"Contract Year" means any consecutive twelve (12) month period during the Term, commencing at 00:00 hours on the Commercial Operation Date or any of its anniversaries and ending at 24:00 hours on the last day of such twelve (12) month period.

"Credit Requirements" means (1) a senior, unsecured long term debt rating (or corporate rating if such debt rating is unavailable) of (a) 'BBB+' or greater from S&P, or (b) 'Baa1' or greater form Moody's; provided that if such ratings are split, the lower of the two ratings must be at least 'BBB+' or 'Baa1' from S&P or Moody's; or (2) if (1) (a) or (b) is not available, (a) an equivalent rating as determined by PacifiCorp through an internal process review and utilizing a proprietary credit scoring model developed in conjunction with a third party or, (b) in the event the Nameplate Capacity Rating of the Facility is 2 MW or less, that the representations and warranties of Seller in Section 3.2.10 are true and accurate subject to verification by PacifiCorp based on financial information provided by Seller.

"Default Security" is an amount equal to fifty dollars ($50) per kW of the final Nameplate Capacity Rating.

"Delay Damages" for any given day are equal to (a) the Expected Net Output for the Facility, expressed in MWhs per year, divided by 365, multiplied by (b) PacifiCorp's Cost to Cover.

"Effective Date" is defined in Section 2.1.

"Electric System Authority" means each of NERC, WECC, WREGIS, an RTO, a regional or sub-regional reliability council or authority, and any other similar council, corporation, organization or body of recognized standing with respect to the operations of the electric system in the WECC region, as such are applicable to the Seller or PacifiCorp.

"Environmental Attributes" means any and all claims, credits, benefits, emissions reductions, offsets, and allowances associated with the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water. Environmental Attributes include: (a) any avoided emissions of pollutants to the air, soil, or water such as sulfur oxides, nitrogen oxides, carbon monoxide, and other pollutants; and (b) any avoided emissions of carbon dioxide, methane, and other greenhouse gases that have been determined by any Governmental Authority 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) Tax Credits or other tax incentives existing now or in the

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future associated with the construction, ownership or operation of the Facility, (ii) matters designated by PacifiCorp as sources of liability, or (iii) adverse wildlife or environmental impacts.

"Environmental Contamination" means the introduction or presence of Hazardous Materials at such levels, quantities or location, or of such form or character, as to constitute a violation of federal, state or local laws or regulations, and present a material risk under federal, state or local laws and regulations thatthe Premises will not be available or usable for the purposes contemplated by this Agreement.

"Event of Default" is defined in Section 11.1.

[2] **Note to Form** – The Contract Price in this form of agreement assumes that the QF Seller requests a fixed price determined at the time of contract execution. This form of agreement will be revised if the QFSeller requests that pricing be determined at the time of delivery of Net Output.

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"Excused Delay" means the failure of Seller to achieve Commercial Operation on or before the Scheduled Commercial Operation Date, but only to the extent such failure is caused by an event of Force Majeure or an Event of Default by PacifiCorp, a default by PacifiCorp under the Generation Interconnection Agreement or related interconnection study agreement(s) for Seller's Facility, including a default resulting from any breach by PacifiCorp of any obligation to meet a material deadline included in such agreement(s), or PacifiCorp's violation of applicable tariff provisions governing the interconnection of Seller's Facility; provided that the duration of any Excused Delay shall not extend to any period of delay that could have been prevented had Seller taken mitigating actions using commercially reasonable efforts.

"Expected Monthly Net Output" means the estimated monthly Net Output as determined in Exhibit A.

"Expected Net Output" means [] MWh of Net Output in the first full Contract Year reduced, as applicable, by an annual degradation factor of [_] per Contract Year, measured at the Point of Delivery. Seller estimates that the Net Output will be delivered during each Contract Year according to the Expected Monthly Net Output provided in Exhibit A, as reduced each Contract Year, as applicable, by the annual degradation factor.

"Facility" is defined in the Recitals and is more fully described in attached Exhibit B and includes all equipment, devices, associated appurtenances owned, controlled, operated and managed by Seller in connection with, or to facilitate, the production, generation, transmission, delivery, or furnishing of electric energy by Seller to PacifiCorp and required to interconnect with the System.

"FERC" means the Federal Energy Regulatory Commission.

"Firm Market Price Index" means the hourly value calculated based on the average prices reported by the Intercontinental Exchange, Inc. ("ICE") Day-Ahead Mid-C On-Peak Index and the ICE Day-Ahead Mid-C Off-Peak Index (each an "ICE Index") for a given day, weighted by the count of hours for each ICE Index on such day, multiplied by the hourly CAISO day-ahead market locational marginal price for the "PACW. DGAP_PACW-APND" location, and divided by the average of the same CAISO index over all hours in such day. If applicable, the resulting value will be reduced by the integration costs specified in the then- current PacifiCorp Washington Schedule QF as applicable to the Facility. If any index is not available for a given period, the Firm Market Price Index will be the average price derived from days in which all published data is available, for the same number of days immediately preceding and immediately succeeding the period in which an index was not available, regardless of which days of the week are used for this purpose. If the Firm Market Price Index or its replacement or any component of that index or its replacement ceases to be published or available, or

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useful for its intended purpose under this Agreement, during the Term, the Parties must agree upon a replacement Firm Market Price Index or component that, after any necessary adjustments, provides the most reasonable substitute quotation of the hourly price of electricity for the applicable periods.

"Force Majeure" is defined in Section 14.1.

"Forced Outage" means NERC Event Types U1, U2 and U3, as provided in attached Exhibit J, andspecifically excludes any Maintenance Outage or Planned Outage.

"Generation Interconnection Agreement" means the generator interconnection agreement entered intoseparately between Seller and Interconnection Provider concerning the Interconnection Facilities.

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"Governmental Authority" means any supranational, federal, state or other political subdivision thereof, having jurisdiction over Seller, PacifiCorp or this Agreement, including any municipality, township or county, and any entity or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any corporation or other entity owned or controlled byany of the foregoing.

"Hazardous Materials" means any waste or other substance that is listed, defined, designated or classified as or determined to be hazardous under or pursuant to any environmental law or regulation.

"Indemnified Party" is defined in Section 6.2.3(b).

"Interconnection Facilities" means all the facilities installed, or to be installed, for the purpose of interconnecting the Facility to the System, including electrical transmission lines, upgrades, transformersand associated equipment, substations, relay and switching equipment, and safety equipment.

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"KW" means kilowatt.

"Lender" means an entity lending money or extending credit (including any financing lease, monetizationof tax benefits, transaction with a tax equity investor, back leverage financing or credit derivative arrangement) to Seller or Seller's Affiliates (a) for the construction, term or permanent financing or refinancing of the Facility, (b) for working capital or other ordinary business requirements for the Facility (including for the maintenance, repair, replacement or improvement of the Facility), (c) for any development financing, bridge financing, credit support, and related credit enhancement or interest rate,currency, weather, or Environmental Attributes in connection with the development, construction or operation of the Facility, or (d) for the purchase of the Facility and related rights from Seller.

"Letter of Credit" means an irrevocable standby letter of credit in a form reasonably acceptable to PacifiCorp, naming PacifiCorp as the party entitled to demand payment and present draw requests that:

(1) is issued by a Qualifying Institution;

(2) by its terms, permits PacifiCorp to draw up to the face amount thereof for the purpose of paying any and all amounts owing by Seller under this Agreement;

(3) permits PacifiCorp to draw the entire amount available if such letter of credit is not renewed or replaced at least thirty (30) Business Days prior to its stated expiration date;

(4) permits PacifiCorp to draw the entire amount available if such letter of credit is not increased or

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replaced as and when provided in Section 8;

(5) is transferable by PacifiCorp to any party to which PacifiCorp may assign this Agreement; and

(6) remains in effect for at least ninety (90) days after the end of the Term.

“Liabilities” is defined in Section 12.1.1.

“Licensed Professional Engineer” means a person proposed by Seller and acceptable to PacifiCorp in itsreasonable judgment who (a) to the extent mandated by Requirements of Law is licensed to practice

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engineering in the appropriate engineering discipline for the required certification being made, in the United States, and in all states for which the person is providing a certification, evaluation or opinion with respect to matters or Requirements of Law specific to such state, (b) has training and experience in the engineering disciplines relevant to the matters with respect to which such person is called upon to provide a certification, evaluation or opinion, (c) is not an employee of Seller or an Affiliate, and (d) is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or a representative of a manufacturer or supplier of any equipment installed in the Facility.

"Maintenance Outage" means NERC Event Type MO, as provided in attached Exhibit J, and includes any outage involving ten percent (10%) of the Facility's Net Output that is not a Forced Outage or a Planned Outage.

"Market Operator" means the California Independent System Operator or any other entity performing the market operator function for any organized day-ahead or intra-hour market.

"Maximum Delivery Rate" means the maximum hourly rate of delivery of Net Output in MWh from the Facility to the Point of Delivery, calculated on the basis of the Net Output delivered in an hour accruing at an average rate equivalent to the actual Nameplate Capacity Rating, as stated in Exhibit A.

"Moody's" means Moody's Investor

Services, Inc. "MW" means megawatt.

"MWh" means megawatt-hour.

"Nameplate Capacity Rating" means the maximum installed instantaneous generation capacity of the completed Facility, expressed in MW (AC), when operated in compliance with the Generation Interconnection Agreement and consistent with the recommended power factor and operating parameters provided by the manufacturer of the generator. The Nameplate Capacity Rating of the Facility is [__] MW, as reflected in the Seller's FERC Form 556.

"NERC" means the North American Electric Reliability Corporation.

"Net Output" means all energy and capacity produced by the Facility, less station use and less transformation and transmission losses and other adjustments (e.g., Seller's load other than station use), if any. For purposes of calculating payment under this Agreement, Net Output of energy will be the amount of energy flowing through the Point of Delivery.

"Network Resource" is defined in the Tariff.

"Off-Peak Hours" has the meaning as provided in Schedule QF, as attached in Exhibit K.

"On-Peak Hours" has the meaning as provided in Schedule QF, as attached in Exhibit K.

"Output" means all energy produced by the Facility.

"Pacific Prevailing Time" or "PPT" means Pacific Standard Time or Pacific Daylight Time, as applicable inOregon on the day in question.

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"PacifiCorp" is defined in the Recitals, and explicitly excludes PacifiCorp

Transmission."PacifiCorp Indemnitees" is defined in Section 12.1.1.

"PacifiCorp Representatives" is defined in Section 6.14.

"PacifiCorp Transmission" means PacifiCorp, an Oregon corporation, acting in its interconnection ortransmission function capacity.

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"Party" and "Parties" are defined in the Recitals.

"Permits" means the permits, licenses, approvals, certificates, entitlements and other authorizations issued by Governmental Authorities required for the construction, ownership or operation of the Facility oroccupancy of the Premises.

"Planned Outage" means NERC Event Type PO, as provided in attached Exhibit J, and specificallyexcludes any Maintenance Outage or Forced Outage.

"Point of Delivery" means the point of interconnection between the Facility and the System, as specified inthe Generation Interconnection Agreement and as further described in Exhibit C.

"Premises" means the real property on which the Facility is or will be located, as more fully described onExhibit B.

"Project Development Security" is an amount equal to twenty five dollars ($25) per kW of the NameplateCapacity Rating.

"Prudent Electrical Practices" means any of the practices, methods and acts engaged in or approved by asignificant portion of the independent electric power generation industry for facilities of similar size and characteristics or any of the practices, methods or acts, which, in the exercise of reasonable judgment in the light of the facts known at the time a decision is made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition.

"PURPA" means the Public Utility Regulatory Policies Act of 1978.

"QF" means "Qualifying Facility," as that term is defined in the FERC regulations (codified at 18 CFR Part292) in effect on the Effective Date.

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"Qualifying Institution" means a United States commercial bank or trust company organized under thelaws of the United States of America or a political subdivision thereof having assets of at least
$10,000,000,000 (net of reserves) and a credit rating on its long-term senior unsecured debt of at least 'A'from S&P and 'A2' from Moody's.

"Required Facility Documents" means the Permits and other authorizations, rights and agreements necessary for construction, ownership, operation, and maintenance of the Facility, and to deliver the Net

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Output to PacifiCorp in accordance with this Agreement and Requirements of Law, including those listedin Exhibit D.

"Requirements of Law" means any applicable federal, state and local law, statute, regulation, rule, action,order, code or ordinance enacted, adopted, issued or promulgated by any Governmental Authority (including those pertaining to electrical, building, zoning, environmental and wildlife protection, and occupational safety and health).

"Rolling Period" means every consecutive twelve (12) month period commencing with the Commercial Operation Date through the last hour of the Term; provided, however, that the month in which the Commercial Operation Date occurs will be considered a full month for purposes of establishing the first Rolling Period.

"RTO" means any entity (including an independent system operator) that becomes responsible as system operator for, or directs the operation of, the System.

"S&P" means Standard & Poor's Rating Group (a division of S&P Global, Inc.).

"Schedule QF" means Pacific Power Washington Schedule No. QF as attached in Exhibit K, and asapproved by the Commission on the Effective Date.

"Schedule Recovery Plan" means a written recovery plan, approved by PacifiCorp, an initial draft of which Seller shall submit to PacifiCorp (i) within five (5) Business Days after Seller's receipt of a written request from PacifiCorp in the event of Seller's Abandonment of the Facility under clause (b) of the definition thereof or (ii) by the Scheduled Commercial Operation Date in the event of Seller's failure to achieve Commercial Operation by the Scheduled Commercial Operation Date. The Schedule Recovery Plan shall include a detailed plan to complete all necessary work to achieve Commercial Operation by the Scheduled Commercial Operation Date, in the case of Abandonment, or, in the case of failure to achieve Commercial Operation by the Scheduled Commercial Operation Date, by the first to occur of (i) the date that occurs one hundred eighty (180) days following the Scheduled Commercial Operation Date or (ii) the date that occurs on the third (3rd) anniversary of the Effective Date ("Cure Period Deadline"). Upon its receipt of a draft recovery plan, PacifiCorp shall promptly approve or submit reasonable revisions to it.
Seller promptly shall incorporate any such revisions into the plan and resubmit it to PacifiCorp for approval. Upon approval of the revised plan by PacifiCorp, Seller shall diligently prosecute the work inaccordance with the Schedule Recovery Plan. Seller shall be responsible for any costs or expenses incurred by Seller as a result of the formulation and implementation of the Schedule Recovery Plan.
Approval by PacifiCorp of such plan shall not be deemed in any way to have relieved Seller of its obligations under this Agreement relating to the failure to timely achieve

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Commercial Operation by the Scheduled Commercial Operation Date or be a basis for any increase in the Contract Price or other claim against PacifiCorp.

“Scheduled Commercial Operation Date” means [ ], subject to extension for Excused Delay as provided in Section 2.7. The Scheduled Commercial Operation Date must be a date that occurs ninety (90) days or more after the Effective Date but no later than the fourth (4^{th}) anniversary of the Effective Date.

“Seller” is defined in the Recitals.

“Seller Indemnitees” is defined in Section 12.1.2.

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"Seller's Cost to Cover" means the positive difference, if any, between (a) the Contract Price per MWh, and (b) the net proceeds per MWh actually realized by Seller from the sale to a third party of Net Outputnot purchased by PacifiCorp as required under this Agreement.

"Seller Uncontrollable Minutes" means, for the Baseload Facility in any Rolling Period, the total number of minutesduring such Rolling Period during which the Facility was unable to deliver Net Output to PacifiCorp (or during which PacifiCorp failed to accept such delivery) due to one or more of the following events, each as recorded by Seller's SCADA and indicated by Seller's electronic fault log: (a) an emergency or Force Majeure event; (b) to the extent not caused by Seller's actions or omissions, a curtailment in accordancewith Section 4.5; (c) Planned Outages, but in no event exceeding [______________________________________] per Contract Year; and (d) a default by PacifiCorp; <u>provided</u>, <u>however</u>, that if any of the events described above in items (a) through
(d) occur simultaneously, then the relevant period of time will only be counted once in order to prevent double counting. Seller Uncontrollable Minutes do not include minutes when (i) the Facility or any portionthereof was unavailable solely due to Seller's non-conformance with the Generation Interconnection Agreement or (ii) the Facility or any portion thereof was paused or withdrawn from use by Seller for reasons other than those covered in this definition.

"System" means the electric transmission substation and transmission or distribution facilities owned, operated or maintained by PacifiCorpTransmission Provider, which includes the circuit reinforcements, extensions,and associated terminal facility reinforcements or additions required to interconnect the Facility, all as provided in the Generation Interconnection Agreement.

"Tariff" means PacifiCorp's Open Access Transmission Tariff on file with FERC, as such tariff is revisedfrom time to time.

"Tax Credits" means any state, local and federal production and investment tax credits, tax deductions, orother tax benefits specific to the production of renewable energy or investments in renewable energy facilities.

"Term" is defined in Section 2.1.

"Termination Damages" is defined in Section 11.5.

"Transmission Provider" means PacifiCorp Transmission, including PacifiCorp's business unit responsiblefor the safe and reliable operation of PacifiCorp's balancing authority areas.

"WECC" means the Western Electricity Coordinating Council.

1.2 Rules of Interpretation.

1.2.1 General. Unless otherwise required by the context in which any term appears, (a) the singular includes the plural and vice versa; (b) references to "Articles," "Sections," "Schedules," "Appendices" or "Exhibits" are to articles, sections, schedules, appendices or exhibits of this Agreement; (c) all references to a particular entity or an electricity market price index include a reference to such entity's or index's successors; (d) "herein," "hereof" and "hereunder" refer to this Agreement as a whole; (e) all accounting terms not specifically defined in this Agreement must be construed in accordance with generally accepted accounting principles, consistently applied; (f) the masculine includes the feminine and neuter and vice versa; (g) "including" means "including, without limitation" or "including, but not limited to"; (h) all references to a particular law or statute mean that law or statute as amended from time to time; (i) all references to energy or capacity are to be interpreted as utilizing alternating current, unless expressly

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stated otherwise; and (j) the word "or" is not necessarily exclusive. Reference to "days" means calendardays, unless expressly stated otherwise in this Agreement.

1.2.2 Terms Not to be Construed For or Against Either Party. Each term in this Agreement must be construed according to its fair meaning and not strictly for or against either Party.

1.2.3 Headings. The headings used for the sections and articles of this Agreement are for convenience and reference purposes only and in no way affect the meaning or interpretation of the provisions of this Agreement.

1.2.4 Interpretation with FERC Orders. Each Party conducts its operations in a manner intended to comply with FERC Order No. 717, Standards of Conduct for Transmission Providers, and its companion orders, requiring the separation of its transmission and merchant functions. Moreover, the Parties acknowledge that Interconnection Provider's transmission function offers transmission service on its system in a manner intended to comply with FERC policies and requirements relating to the provision of open-access transmission service.

(a) The Parties acknowledge and agree that the Generation Interconnection Agreement is a separate and free standing contract and that the terms of this Agreement are not binding upon the Interconnection Provider.

(b) Notwithstanding any other provision in this Agreement, nothing in the Generation Interconnection Agreement, nor any other agreement between Seller on the one hand and Transmission Provider or Interconnection Provider on the other hand, nor any alleged event of default under the Generation Interconnection Agreement, will alter or modify the Parties' rights, duties, and obligations in this Agreement. This Agreement will not be construed to create any rights between Seller and the Interconnection Provider or between Seller and the Transmission Provider.

(c) Seller acknowledges that, for purposes of this Agreement, consistent with FERC Order No. 717, Standards of Conduct for Transmission Providers, and its companion orders, the Interconnection Provider and Transmission Provider are deemed separate entities and separate contracting parties from PacifiCorp. Seller acknowledges that PacifiCorp, acting in its merchant capacity function as purchaser in this Agreement, has no responsibility for or control over Interconnection Provider or Transmission Provider.

SECTION 2
TERM; MILESTONES

2.1 Effective Date. This Agreement is effective when executed and delivered by both Parties (the "EffectiveDate").

2.1.1 Fixed Price Term Start Date. The Fixed Price Term begins the later of Commercial Operation or the Scheduled Commercial Operation Date. If the originally selected Scheduled Commercial Operate Date is extended by an Excused Delay, the extended date is the Scheduled Commercial Operation Date for purposes of this section.

2.1.2 Fixed Price Term.

(a) For Sellers that select a Scheduled Commercial Operation Date within three years of the Effective Date, the Fixed Price Term is 15 years subject to Section 2.1.2(c) and (d).

(b) For Sellers that select a Scheduled Commercial Operation Date more than three years from the Effective Date, the Fixed Price Term is 15 years minus the number of days between the three- and four-year anniversaries of the Effective Date that pass before the Commercial Online Date.

(c) If a Seller does not begin Commercial Operation by the Scheduled Commercial Operation Date under Section 2.1.2(a), the 15-year Fixed Price Term will be reduced by the number of days between the Scheduled Commercial Operation Date and Commercial Operation Date that are an Excused Delay under Section 2.7.

(d) Any reduction to the 15-year Fixed Price Term under 2.1.2 will be taken from the end of the Fixed Price Term.

2.1.3 The Variable Price Term starts the day after the Fixed Price Term ends and ends on the five-year anniversary of the Variable Price Term start date.

2.2 Milestones.¶Time is of the essence in the performance of this Agreement, and Seller's completion of the Facility and delivery of Net Output by the Scheduled Commercial Operation Date is critically important. Therefore, Seller must achieve the milestones provided in (a) through (e) below at thetimes so indicated.

(a) Seller must provide a fully executed and effective Generation Interconnection Agreement to PacifiCorp before the Scheduled Commercial Operation Date.

(e) If and to the extent required by this Agreement, on or before the thirtieth (30th) day following the Effective Date, Seller must post the Project Development Security.

(f) If and to the extent required by this Agreement, on or before the Commercial Operation Date, Seller must post the Default Security.

(g) Seller must provide PacifiCorp with documentation showing that Seller has obtained retail electric service for the Facility before the Commercial Operation Date.

(h) Seller must cause the Facility to achieve Commercial Operation on or before the Scheduled Commercial Operation Date.

2.3 Delay Damages; Schedule Recovery Plan.

(a) If Commercial Operation is not achieved on or before the Scheduled Commercial Operation Date, Seller must (i) pay to PacifiCorp Delay Damages from and after the Scheduled Commercial Operation Date up to, but not including, the earlier to occur of the date that the Facility achieves Commercial Operation and the date of termination as provided in Section 2.3(b), if applicable, and (ii) deliver a Schedule Recovery Plan to PacifiCorp no later than the Scheduled Commercial Operation Date.

(b) If the Facility does not achieve Commercial Operation by the Scheduled Commercial Operation Date, PacifiCorp may terminate this Agreement under, and subject to, Section 11.1.2(b).¶

2.4 Damages Calculation.¶Each Party agrees that the damages PacifiCorp would incur due to Seller's delay in achieving Commercial Operation are difficult or impossible to predict with certainty, and that it is impractical and difficult to assess actual damages in the circumstances stated. Except for termination damages determined in accordance with Section 11.5, the Parties agree that Delay Damages are PacifiCorp's exclusive remedy for a delay in achieving Commercial Operation and believe that Delay Damages fairly represent actual damages.

2.5 Damages Invoicing.¶By the tenth (10^{th}) day following the end of the calendar month in which Delay Damages begin to accrue and continuing on the tenth (10^{th}) day of each subsequent calendar month while such Delay Damages continue to accrue, PacifiCorp will deliver to Seller an invoice for the amount of Delay Damages due PacifiCorp. No later than ten (10) days after receiving such an invoice and subject to Sections 10.3 and 10.4, Seller must pay to PacifiCorp, by wire transfer of immediately available funds to an account specified in writing by PacifiCorp, the amount stated in such invoice.

2.6 PacifiCorp's Right to Monitor.¶During the Term, Seller will provide updates to PacifiCorp every six months concerning (a) the progress of Seller regarding the acquisition, design, financing, engineering, construction and installation of the Facility, and (b) the contractors' performance of tests required to achieve Commercial Operation. Seller must provide PacifiCorp at least one hundred and twenty (120) days prior notice of each such performance test. Notwithstanding the foregoing, nothing in this Agreement will be construed to require PacifiCorp to monitor Seller's development of the Facility or to review, comment on, or approve any contract between Seller and a thirdparty.

2.7 Excused Delay. If Seller fails to achieve Commercial Operation on or before the Scheduled Commercial Operation Date due to an Excused Delay, the Scheduled Commercial Operation Date shall be deemed extended on a day-for-day basis to match the duration of such Excused Delay, subject to

Section 14.5 in the event that the Excused Delay is caused by a Force Majeure event. Upon the request

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of Seller, and provided that the existence or duration of any Excused Delay is not the subject of a goodfaith dispute between the Parties and no Seller Event of Default has occurred and is continuing, PacifiCorp agrees to provide reasonable assurances to Seller's Lenders and other financial institutionsthat the Scheduled Commercial Operation Date has been extended under this Section 2.7.

SECTION 3
REPRESENTATIONS AND WARRANTIES

3.1 Mutual Representations and Warranties.¶Each Party represents and warrants to the other that:

3.1.1 Organization. It is duly organized and validly existing under the laws of the State of its organization.

3.1.2 Authority. It has the requisite power and authority to enter this Agreement and to perform according to its terms.

3.1.3 Corporate Actions. It has taken all corporate actions required to be taken by it to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated.

3.1.4 No Contravention. The execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, security instrument or undertaking, or other material agreement to which it is a party or by which it is bound, or any valid order of any court, or any regulatory agency or other Governmental Authority having authority to which it is subject.

3.1.5 Valid and Enforceable Agreement. This Agreement is a valid and legally binding obligation of it, enforceable in accordance with its terms, except as enforceability may be limited by general principles of equity or bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies.

3.2 Seller's Further Representations, Warranties and Covenants.¶Seller further represents, warrants, and covenants to PacifiCorp that:

3.2.1 Authority. Seller (a) has (or will have prior to the Commercial Operation Date) all required regulatory authority to make wholesale sales from the Facility; (b) has the power and authority to own and operate the Facility and be present upon the Premises for the Term; and (c) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property, or the conduct of its business requires such qualification.

3.2.2 No Contravention. The execution, delivery, performance and observance by Seller of its obligations in this Agreement do not and will not:

(a) contravene, conflict with or violate any provision of any material Requirements of Law presently in effect having applicability to either Seller or any owner of Seller;

(b) require the consent or approval of or material filing or registration with any Governmental Authority or other person other than consents and approvals which are (i) provided in Exhibit D or (ii) required in connection with the construction or operation of the Facility and expected to beobtained in due course; or

(c) result in a breach of or constitute a default under any provision of (i) any security issued by Seller

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or any owner of Seller, the effect of which would materially and adversely affect Seller's performance of, or ability to perform, its obligations in this Agreement, or (ii) any material agreement, instrument or undertaking to which either Seller or any owner or other Affiliate of Seller is a party or by which the property of either Seller or any owner or other Affiliate of Seller isbound, the effect of which would materially and adversely affect Seller's performance of, or abilityto perform, its obligations in this Agreement.

3.2.3 Required Facility Documents. All Required Facility Documents are listed on Exhibit D. Pursuant to the Required Facility Documents, Seller holds as of the Effective Date, or will hold by the Commercial Operation Date (or such other later date as may be specified under Requirements of Law), and will maintain for the Term all Required Facility Documents. The anticipated use of the Facility complies with all applicable restrictive covenants affecting the Premises. Following the Commercial Operation Date, Seller must promptly notify PacifiCorp of any additional Required Facility Documents. If reasonably requested by PacifiCorp, Seller must provide copies of any or all Required Facility Documents.

3.2.4 Delivery of Energy. Before the Commercial Operation Date, Seller must hold all rights sufficient to enable Seller to deliver Net Output at the Nameplate Capacity Rating from the Facility to the Point of Delivery pursuant to this Agreement throughout the Term.

3.2.5 Control of Premises. Seller has all legal rights necessary for the Seller to enter upon and occupy the Premises for the purpose of constructing, operating and maintaining the Facility for the Term. All leases of real property required for the operation of the Facility or the performance of any obligations of Seller in this Agreement are identified in Exhibit E. Seller must maintain all leases or other land grants necessary for the construction, operation and maintenance of the Facility. Upon request by PacifiCorp, Seller must provide copies of the memoranda of lease recorded in connection with the development of the Facility.

3.2.6 Litigation. No litigation, arbitration, investigation or other proceeding is pending or, to the best of Seller's knowledge, threatened against Seller or any Affiliate of Seller, with respect to this Agreement, the Facility, or the transactions contemplated in this Agreement. No other investigation or proceeding is pending or threatened against Seller or any Affiliate of Seller, the effect of which would materially and adversely affect Seller's performance of its obligations in this Agreement.

3.2.7 Eligible Contract Participant. Seller, and any guarantor of its obligations under this Agreement, is an "eligible contract participant" as that term is defined in the United States Commodity Exchange Act.

3.2.8 Undertaking of Agreement; Professionals and Experts. Seller has engaged those professional or other experts it believes necessary to understand its rights and obligations pursuant to this Agreement. In entering into this Agreement and agreeing to undertake the obligations within, Seller has investigated and determined that it is capable of performing and has not relied upon the advice, experience or expertise of PacifiCorp in connection with the transactions contemplated by this Agreement.

3.2.9 Verification. All information relating to the Facility, its operation and output provided to PacifiCorp and contained in this Agreement has been verified by Seller and is true and accurate.

3.2.10 Credit Representations and Warranties. If Seller is meeting the Credit Requirements under clause 2(b) of the definition thereof:

(a) Neither the Seller nor any of its principal equity owners is or has within the past two (2) years been the debtor in any bankruptcy proceeding, is unable to pay its bills in the ordinary course of its business, or is the subject of any legal or regulatory action, the result of which could reasonably be

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expected to impair Seller's ability to own and operate the Facility in accordance with the terms of thisAgreement.

(b) Neither Seller nor any of its principal equity owners is or has at any time defaulted in any of its payment obligations for electricity purchased from PacifiCorp.

(c) Seller is not in default under any of its other agreements and is current on all financial obligations, including construction related financial obligations.

(d) Seller owns and will continue to own through 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. 3.3 No Other Representations or Warranties.¶Each Party acknowledges that it has entered into this Agreement in reliance upon only the representations and warranties provided in this Agreement, and that no other representations or warranties have been made by the other Party with respect to the subject matter.

3.4 Continuing Nature of Representations and Warranties; Notice.¶The representations and warranties provided in this Section 3 are made as of the Effective Date and deemed repeated as of the Commercial Operation Date. If at any time during the Term, either Party obtains actual knowledge of anyevent or information that would have caused any of the representations and warranties in this Agreementto be materially untrue or misleading at the time given, such Party must provide the other Party with written notice of the event or information, the representations and warranties affected, and the action, if any, which such Party intends to take to make the representations and warranties true and correct. The notice required by this section must be given as soon as practicable after the occurrence of each such event.

SECTION 4
DELIVERIES OF NET OUTPUT

4.1 Purchase and Sale.¶Subject to the provisions of this Agreement, Seller must sell and make available to PacifiCorp, and PacifiCorp must purchase and receive the entire Net Output from the Facility at the Point of Delivery. PacifiCorp is under no obligation to make any purchase other than Net Output and is not obligated to purchase, receive or pay for Net Output that is not delivered to the Point of Delivery.

4.2 Designation as Network Resource for off-system QFs, within five (5) Business Days following the Effective Date, PacifiCorp will submit an application to the Transmission Provider requesting designation of the Facility as a Network Resource, thereby authorizing transmission service under PacifiCorp's Network Integration Transmission Service Agreement with the Transmission Provider. If PacifiCorp is notified in writing by theTransmission Provider that designation of the Facility as a Network Resource requires the construction oftransmission system network upgrades or otherwise requires potential redispatch of other Network Resources of PacifiCorp (the "Conditional DNR Notice"), the Parties will promptly meet to determine how such conditions to the Facility's Network Resource designation may impact the Contract Price or other terms and conditions of this PPA. If, within sixty (60) days following the date of PacifiCorp's receipt of theConditional DNR Notice, the Parties are unable to reach agreement on any necessary adjustments to ensure the Contract Price reflects an "avoided cost" price as determined by

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the Commission and PURPA,PacifiCorp will submit the matter to the Commission for a determination on what adjustments, if any, are appropriate as a result of the Conditional DNR Notice. The Parties reserve the right to present their respective positions to the Commission as to whether and how the Contract Price or other non-rate termsand conditions of this Agreement should be adjusted in light of the Conditional DNR Notice. In the event

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of a Conditional DNR Notice, Seller will have the right to terminate the Agreement upon written notice to PacifiCorp and such termination by Seller will not be an Event of Default and no damages or other liabilities under this Agreement will be owed by one Party to the other Party; provided, however, that Seller's right to terminate the Agreement under this Section 4.2 will cease following (a) any amendment ofthis Agreement associated with addressing matters covered under this Section 4.2 or (b) PacifiCorp incurring costs at Seller's request in furtherance of addressing matters covered under this Section 4.2.

4.3 No Sales to Third Parties.¶During the Term, Seller will not sell any Net Output, energy, or Capacity Rights from the Facility to any party other than PacifiCorp; provided, however, that this restriction does not apply during periods when PacifiCorp is in default under this Agreement because it has failed to accept or purchase Net Output as required under this Agreement.

4.4 Title and Risk of Loss of Net Output.¶Seller must deliver Net Output to the Point of Delivery and Capacity Rights free and clear of all liens, claims and encumbrances. Title to and risk of loss of all Net Output transfers from Seller to PacifiCorp upon its delivery to PacifiCorp at the Point of Delivery. Seller is in exclusive control of, and responsible for, any damage or injury caused by, all Output up to and at the Point of Delivery. PacifiCorp is in exclusive control of, and responsible for, any damages or injury caused by, Net Output after the Point of Delivery.

4.5 Curtailment.¶PacifiCorp is not obligated to purchase, receive, pay for, or pay any damages associated with, Net Output not delivered to the System or Point of Delivery due to any of the following: (a) the interconnection between the Facility and the System is disconnected, suspended or interrupted, inwhole or in part, consistent with the terms of the Generation Interconnection Agreement; (b) the Market Operator or Transmission Provider directs a general curtailment, reduction, or redispatch of generation in the area (which would include the Net Output) for any reason required or permitted under applicable Federal laws and regulations, NERC standards or directives, and/or tariffs of the Market Operator, Transmission Provider, or Interconnection Provider, even if and no matter how such curtailment or redispatch directive is carried out by PacifiCorp, which may fulfill such directive by acting in its sole discretion; (c) the Facility's Output is not received because the Facility is not fully integrated or synchronized with the System; or (d) an event of Force Majeure prevents either Party from delivering or receiving Net Output. Seller will reasonably determine the MWh amount of Net Output curtailed under this Section 4.5 based onthe amount of energy that could have been generated at the Facility and delivered to PacifiCorp as Net Output but that was not generated and delivered because of the curtailment. Seller must promptly provide PacifiCorp with access to such information and data as PacifiCorp may reasonably require to confirm to its reasonable satisfaction the amount of energy that was not generated or delivered because of a curtailment described in this Section 4.5.

4.6 PacifiCorp as Merchant.¶Seller acknowledges that PacifiCorp, acting in its merchant capacity function as purchaser under this Agreement, has no responsibility for or control over PacifiCorp Transmission, in either its capacity as Transmission Provider or Interconnection Provider, consistent with FERC Order No. 717. Notwithstanding the foregoing, it is understood and agreed that to the extent

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PacifiCorp has any rights or claims against PacifiCorp Transmission under the Network Integration Transmission Services Agreement and/or the Tariff with respect to any actual or alleged breach by PacifiCorp Transmission of its duties and obligations thereunder, e.g., in connection with a wrongful curtailment, etc., upon written notice from Seller that such breach adversely impacts Seller, PacifiCorp will take appropriate action and make good faith efforts to pursue applicable remedies on Seller's behalf.

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4.7 Ownership of Environmental Attributes.¶[_________________].[3]

4.8 Purchase and Sale of Capacity Rights.¶Seller transfers to PacifiCorp, and PacifiCorp accepts from Seller, any right, title, and interest that Seller may have in and to Capacity Rights, if any, existing during the Term. Seller represents that it has not sold, and covenants that during the Term it will not sell or attempt to sell to any other person or entity the Capacity Rights, if any. During the Term, Seller must not report to any person or entity that the Capacity Rights, if any, belong to anyone other than PacifiCorp. At PacifiCorp's request, Seller must execute such documents and instruments as may be reasonably required to effect recognition and transfer of the Net Output or any Capacity Rights to PacifiCorp.

SECTION 5
CONTRACT PRICE;
COSTS

5.1 Contract Price; Includes Capacity Rights.¶PacifiCorp will pay Seller the prices stated in Exhibit K and as described in this Section 5.1 for all deliveries of Net Output and Capacity Rights, up to the Maximum Delivery Rate.

5.1.1 Deliveries Prior to the Commercial Operation Date. Beginning no earlier than ninety (90) days before the Scheduled Commercial Operation Date, or earlier with the consent of the utility, PacifiCorp will pay Seller for Net Output delivered at the Point of Delivery before the Commercial Operation Date, an amount per MWh equal to the lower of (i)eighty five percent (85%) of the Firm Market Price Index for the applicable hour on the applicable day in the applicable month; and (ii) eighty five percent (85%) of the Contract Price; provided, however, that Seller's right to receive payment for energy deliveries under this Section 5.1.1 is subject to PacifiCorp's right of offset under Section 10.2 for, among other things, payment by Seller of any Delay Damages owedto PacifiCorp by Seller.

5.1.2 Commercial Operation. For the period beginning on the Commercial Operation Date and thereafter during the Term, PacifiCorp will pay to Seller the Contract Price per MWh of Net Output delivered to the Point of Delivery, as specified in Exhibit K. The Contract Price will not be adjusted if Schedule QF is modified during the Term of this Agreement. If PacifiCorp requests a modification to Schedule QF, including a modification to pricing, neither Seller nor PacifiCorp will request that any change in Schedule QF be applicable to this Agreement.

5.2 Costs and Charges.¶Seller is responsible for paying or satisfying when due all costs or charges imposed in connection with the scheduling and delivery of Net Output up to and at the Point of Delivery, including transmission costs, transmission line losses, and any operation and maintenance charges imposed by Interconnection Provider for the Interconnection Facilities. Except as may be determined by the Parties or the Commission otherwise, as provided in Section 4.2, PacifiCorp is responsible for all costs or charges, if any, imposed in connection with the delivery of Net Output at and from the Point of Delivery. Without limiting the generality of the foregoing, Seller, in accordance with the Generation Interconnection Agreement, is responsible for all costs associated with the modifications to Interconnection Facilities or the System (including System upgrades) caused by or related to the Facility.

[3] **Note to Form** – Except where expressly conveyed to PacifiCorp for additional consideration, the QF seller will retain all renewable energy certificates and other environmental attributes associated with the Output of the QF, unless the Contract Price was determined based on the avoided capacity costs of an eligible renewable resource. The Seller will transfer to PacifiCorp at no further cost the renewable energy certificates

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and other environmental attributes associated with the output of the QF during any period that the QF Seller is receiving a Contract Price that is based on the avoided capacity costs of an eligible renewable resource. WAC 480-106-050(4)(c).

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5.3 Station Service.¶Seller is responsible for arranging and obtaining, at its sole risk and expense, station service required for the Facility that is not provided by the Facility itself.

5.4 Taxes.¶Seller must pay, or reimburse PacifiCorp for, all existing and any new sales, use, excise, severance, ad valorem, and any other similar taxes, imposed or levied by any Governmental Authority on the Net Output or Capacity Rights up to and including the Point of Delivery, regardless of whether such taxes are imposed on PacifiCorp or Seller under Requirements of Law. PacifiCorp must pay, or reimburse Seller for, all such taxes imposed or levied by any Governmental Authority on the Net Output or Capacity Rights beyond the Point of Delivery, regardless of whether such taxes are imposed on PacifiCorp or Seller under Requirements of Law. The Contract Price will not be adjusted on the basis of any action of any Governmental Authority with respect to changes to or revocations of sales and use tax benefits, rebates, exception or give back. In the event any taxes are imposed on a Party for which the other Party is responsible in this Agreement, the Party on which the taxes are imposed must promptly provide the other Party notice and such other information as such Party reasonably requests with respect to any such taxes.

5.5 Costs of Ownership and Operation.¶Without limiting the generality of any other provision of this Agreement and subject to Section 5.4, Seller is solely responsible for paying when due (a) all costs of owning and operating the Facility in compliance with existing and future Requirements of Law and the terms and conditions of this Agreement, and (b) all taxes and charges (however characterized) now existing or later imposed on or with respect to the Facility and its operation, including any tax or charge (however characterized) payable by a generator of Environmental Attributes.

5.6 Rates Not Subject to Review.¶The rates for service specified in this Agreement will remain in effect until expiration of the Term, and are not subject to change for any reason, including regulatory review, absent agreement of the Parties. Neither Party will petition FERC to amend such prices or terms, or support a petition by any other person seeking to amend such prices or terms, absent the agreement in writing of the other Party.

SECTION 6
OPERATION AND CONTROL

6.1 As-Built Supplement. No later than ninety (90) days following the Commercial Operation Date, Seller must provide PacifiCorp the As-Built Supplement which will be incorporated into Exhibit B of this Agreement. The Facility, as reflected in the As-Built Supplement to be provided under this Section, may not (a) have a Nameplate Capacity Rating that exceeds that stated in Exhibit B, or (b) result in the expected annual Net Output, as calculated in Exhibit A, to increase by more than ten percent (10%). Seller may not modify the Facility in a manner that materially alters the As-Built Supplement without PacifiCorp's prior written approval (which approval may not unreasonably be withheld, conditioned or delayed), provided that PacifiCorp is not required to approve any modification of the Facility that (i) results in the Facility increasing its Nameplate Capacity Rating beyond that stated in Exhibit B, or (ii) is reasonably likely to result in the expected annual Net Output, as calculated in Exhibit A, to increase by more than ten percent (10%). At the written request of Seller, PacifiCorp shall exercise reasonable efforts to maintain the confidentiality of information provided pursuant to this Section 6.1.

6.2 Standard of Facility Construction and Operation.

6.2.1 General. Seller will construct and operate all interconnected equipment associated with the Facility within its control in accordance with all applicable federal, state, and local laws and regulations to ensure system safety and reliability of interconnected operations. At Seller's sole cost and expense,

Seller must operate, maintain and repair the Facility in accordance with (a) the applicable and mandatorystandards, criteria and formal guidelines of FERC, NERC, any RTO, and any other Electric System Authority and any successors to the functions thereof; (b) the Permits and Required Facility Documents;
(c) the Generation Interconnection Agreement; (d) all Requirements of Law; (e) the requirements of this Agreement; and (f) Prudent Electrical Practice. Except for any claims Seller may have in connection withPacifiCorp's obligation under Section 4.6 in its merchant capacity to take appropriate action and make good faith efforts to pursue applicable remedies on Seller's behalf, Seller acknowledges that it has no claim under this Agreement against PacifiCorp acting as in its capacity Transmission Provider or Interconnection Provider or with respect to the provision of station service.

6.2.2 Qualified Operator. Seller or an Affiliate of Seller must operate and maintain the Facility or cause the Facility to be operated and maintained by an entity (i) that has at least two years of experience in the operation and maintenance of similar facilities of comparable size to the Facility; or (ii) that Seller demonstrates is otherwise qualified to operate the Facility in a manner consistent with Prudent Electrical Practices and has the financial resources and qualified personnel necessary to fulfill obligations under this Agreement. Seller must provide PacifiCorp thirty (30) days prior written notice of any change in operator of the Facility.

6.2.3 Fines and Penalties.

(a) Without limiting a Party's rights under Section 6.2.3(b), each Party must pay all fines and penalties incurred by such Party on account of noncompliance by such Party with Requirements of Law as such fines and penalties relate to the subject matter of this Agreement, except where such fines and penalties are being contested in good faith through appropriate proceedings.

(b) If fines, penalties, or legal costs are assessed against or incurred by either Party (the "Indemnified Party") on account of any action by any Governmental Authority due to noncompliance by the other Party (the "Indemnifying Party") with any Requirements of Law or the provisions of this Agreement, or if the performance of the Indemnifying Party is delayed or stopped by order of any Governmental Authority due to the Indemnifying Party's noncompliance with any Requirements of Law, the Indemnifying Party must indemnify and hold harmless the Indemnified Party against any and all Liabilities suffered or incurred by the Indemnified Party as a result thereof. Without limiting the generality of the foregoing, the Indemnifying Party must reimburse the Indemnified Party for all fees, damages, or penalties imposed on the Indemnified Party by any Governmental Authority, other person or to other utilities for violations to the extent caused by a default by the Indemnifying Party or a failure of performance by the Indemnifying Party under this Agreement.

6.3 Interconnection.¶Seller is responsible for the costs and expenses associated with obtaining from the Interconnection Provider network resource interconnection service (or interconnection service of a comparable nature) for the Facility at its Nameplate Capacity Rating. Seller has no claims under this Agreement against PacifiCorp, acting in its merchant function capacity, with respect to any requirements imposed by or damages caused by (or allegedly caused by) acts or omissions of the Transmission Provider or Interconnection Provider, acting in such capacities, in connection with the Generation Interconnection Agreement or otherwise.

6.4 Coordination with System.¶Seller's delivery of electricity to PacifiCorp under this Agreement must be at a voltage, phase, power factor, and frequency as reasonably specified by PacifiCorp. Seller will furnish, install, operate, and maintain in good order and repair, and without cost to PacifiCorp, such switching equipment, relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus determined by PacifiCorp to be reasonably necessary for the safe and reliable

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operation of the Facility in parallel with the System, or Seller may contract with PacifiCorp to do so at the Seller's expense. PacifiCorp must at all times have access to all switching equipment capable of isolatingthe Facility from the System.

6.5 Outages.

6.5.1 Planned Outages. Seller must provide PacifiCorp with an annual forecast of Planned Outages for each Contract Year at least one month, but no more than three months, before the first day of that Contract Year, and may update such Planned Outage schedule as necessary to comply with Prudent Electrical Practices. Any such update to the Planned Outage schedule must be promptly submitted to PacifiCorp. Except as may be required in the Generation Interconnection Agreement, Seller may not schedule a Planned Outage during any portion of the months of December and July, except to the extent reasonably required to enable a vendor to satisfy a guarantee requirement.

6.5.2 Maintenance Outages. If Seller reasonably determines that it is necessary to schedule a Maintenance Outage, Seller must notify PacifiCorp of the proposed Maintenance Outage as soon as practicable but in any event at least five (5) days before the outage begins. Seller must take all reasonable measures consistent with Prudent Electrical Practices to not schedule any Maintenance Outage during the months of December and July. Notice of a proposed Maintenance Outage by Seller must include the expected start date and time of the outage, the amount of generation capacity of the Facility that will not be available, and the expected completion date and time of the outage. PacifiCorp will promptly respond to such notice and may request reasonable modifications in the schedule for the outage. Seller must use all reasonable efforts to comply with any request to modify the schedule for a Maintenance Outage provided that such change has no substantial impact on Seller. Once the Maintenance Outage has commenced, Seller must keep PacifiCorp apprised of any changes in the generation capacity available from the Facility during the Maintenance Outage and any changes in the expected Maintenance Outage completion date and time. As soon as practicable, any notifications given orally must be confirmed in writing. Seller make take all reasonable measures consistent with Prudent Electrical Practices to minimize the frequency and duration of Maintenance Outages.

6.5.3 Forced Outages. Seller must promptly provide to PacifiCorp an oral report, via telephone to a number specified by PacifiCorp (or other method approved by PacifiCorp), of any Forced Outage resulting in more than ten percent (10%) of the Nameplate Capacity Rating of the Facility being unavailable. This report from Seller must include the amount of the generation capacity of the Facility that will not be available because of the Forced Outage and the expected return date of such generation capacity. Seller must promptly update the report as necessary to advise PacifiCorp of changed circumstances. As soon as practicable, the oral report must be confirmed in writing to PacifiCorp. Seller must take all reasonable measures consistent with Prudent Electrical Practices to avoid Forced Outages and to minimize their duration.

6.5.4 Notice of Deratings and Outages. Without limiting the foregoing, Seller will inform PacifiCorp, via telephone to a number specified by PacifiCorp (or other method approved by PacifiCorp), of any limitations, restrictions, deratings or outages reasonably predicted by Seller to affect more than five percent (5%) of the Nameplate Capacity rating of the Facility for the following day and will promptly update such notice to the extent of any material changes in this information.

6.5.5 Effect of Outages on Estimated Output. Seller represents and warrants that the Expected Monthly Net Output provided in Exhibit A takes into account the Planned Outages, Maintenance Outages, and Forced Outages that Seller reasonably expects to encounter in the ordinary course of operating the Facility.

6.6 Scheduling.

6.6.1 Cooperation and Standards. With respect to any and all scheduling requirements, (a) Seller must cooperate with PacifiCorp with respect to scheduling Net Output, and (b) each Party will designate authorized representatives to communicate with regard to scheduling and related matters arising under this Agreement. Each Party must comply with the applicable variable resource standards and criteria of any applicable Electric System Authority, as applicable.

6.6.2 Schedule Coordination. If, as a result of this Agreement, PacifiCorp is deemed by an RTO to be financially responsible for Seller's performance under the Generation Interconnection Agreement due to Seller's lack of standing as a "scheduling coordinator" or other RTO-recognized designation, qualification or otherwise, then Seller must promptly take all actions necessary to acquire such RTO-recognized standing (or must contract with a third party who has such RTO-recognized standing) so that PacifiCorp is no longer responsible for Seller's performance under the Generation Interconnection Agreement or RTO requirement.

6.7 Forecasting.

6.7.1 Long-Range Forecasts. Seller must, by December 1st of each year during the Term (except for the last year of the Term), provide an annual update to the expected long-term monthly/diurnal mean net energy and net capacity factor estimates (12 X 24 profile). Seller must prepare such forecasts utilizing a renewable energy resource prediction model or service that is satisfactory to PacifiCorp in the exercise of its reasonable discretion and comparable in accuracy to models or services commonly used in the industry. The forecasts provided by Seller must comply with all applicable Electric System Authority tariff procedures, protocols, rules and testing as necessary and as may be modified from time to time.

6.7.2 Day-Ahead Forecasts and Updates. At Seller's expense, PacifiCorp will solicit and obtain from a qualified renewable energy production forecasting vendor forecast data and information with respect to the Facility, including day-ahead and real-time forecasting services and provision of real-time meteorological data necessary for compliance with applicable Electric System Authority procedures, protocols, rules and testing. Upon request by PacifiCorp, Seller must provide a 24-hour telephone number that PacifiCorp may contact to determine the then-current status of the Facility. PacifiCorp will present Seller with an invoice and documentation supporting the costs of obtaining such forecasting data. Seller must pay the amount stated on the invoice within fifteen (15) days of receipt. PacifiCorp reserves the right to change the forecasting vendor in its sole discretion during the Term.[4]

6.8 Increase in Nameplate Capacity Rating; New Project Expansion or Development.¶If Seller elects to increase the ability of the Facility to deliver Net Output in quantities in excess of the Maximum Delivery Rate through any means, including replacement or modification of Facility equipment or related infrastructure, PacifiCorp is not required to purchase any Net Output above the Maximum Delivery Rate. If Seller elects to build an expansion or additional project such that the Facility and the expansion or additional project would be deemed a single QF or the same site under FERC regulations, Seller may not require PacifiCorp to purchase (and PacifiCorp will have no obligation to purchase pursuant to this Agreement) the output of any such expansion or additional facility under the terms, conditions, and prices in this Agreement, but Seller may exercise any rights to enter into a new agreement for the sale of such

[4] **Note to Form** – The language in the above Section 6.7.2 applies only to variable resource QFs. For any baseload renewable QF, as defined in Washington Schedule QF, this provision will be replaced witha provision requiring Seller to provide a monthly

delivery schedule that sets forth the expected hourly delivery rate for each day of such month.

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incremental energy from such expansion or additional facility that is a QF under then-applicable laws andregulations. Seller agrees that it will not seek to avoid the obligations in this Section 6.8 through use or establishment of a special purpose entity or other Affiliate. Any such expansion or additional facility may not materially and adversely impact the ability of either Party to fulfill its obligations under this Agreement. Notwithstanding the foregoing restrictions on PacifiCorp's purchase obligation, PacifiCorp acknowledges that hydropower facilities on its system may from time-to-time deliver Net Output in in excess of the Maximum Delivery Rate due to stream flow conditions, and PacifiCorp agrees, only with respect to hydropower facilities, to purchase and pay for such energy at market rates.

6.9 Telemetering.¶Seller must provide telemetering equipment and facilities capable of transmitting the following information concerning the Facility pursuant to the Generation Interconnection Agreement and to PacifiCorp on a real-time basis, and will operate such equipment when requested by PacifiCorp to indicate:

(a) instantaneous MW output at the Point of Delivery;

(b) Net Output; and

(c) the Facility's total instantaneous generation capacity.

Commencing on the date of initial deliveries under this Agreement, Seller must also transmit or otherwisemake accessible to PacifiCorp any other data from the Facility that Seller receives on a real time basis, including Net Output data. Such real time data must be made available to PacifiCorp on the same basis as Seller receives the data (e.g., if Seller receives the data in four second intervals, PacifiCorp must also receive the data in four second intervals). If Seller uses a web-based performance monitoring system forthe Facility, Seller must provide PacifiCorp access to Seller's web-based performance monitoring system.

6.10 Transmission Provider Consent.¶Within ten (10) days of the Effective Date, Seller must execute and submit to PacifiCorp, a consent in the form provided in Exhibit H or as otherwise required by Transmission Provider, that allows PacifiCorp to read the meter and receive any and all data from the Transmission Provider relating to transmission of Output or other matters relating to the Facility without the need for further consent from Seller.

6.11 Dedicated Communication Circuit.¶Seller must install a dedicated direct communication circuit (which may be by common carrier telephone) between PacifiCorp and the control center in the Facility's control room or such other communication equipment as the Parties may agree.

6.12 Reports and Records.

6.12.1 Electronic Fault Log. Seller must maintain an electronic fault log of operations of the Facility during each hour of the Term commencing on the Effective Date. Seller must provide PacifiCorp with a copy of the electronic fault log within thirty (30) days after the end of the calendar month to which the fault log applies.

6.12.2 Other Information to be Provided to PacifiCorp. Following the Effective Date until the Commercial Operation Date, Seller must provide to PacifiCorp a quarterly progress report stating the percentage completion of the Facility and a brief summary of construction activity during the prior quarter and contemplated for the next calendar quarter

6.12.3 Notice of Material Adverse Events. Seller must promptly notify PacifiCorp of receipt of written notice or actual knowledge by Seller or its Affiliates of the occurrence of any event of default under any material agreement to which Seller is a party and of any other development, financial or otherwise, which would have a material adverse effect on Seller, the Facility, or Seller's ability to develop, construct, operate, maintain or own the Facility, including any material violation of any environmental laws or regulations arising out of the construction or operation of the Facility, or the presence of Environmental Contamination at the Facility or on the Premises.

6.12.4 Notice of Litigation. Following its receipt of written notice or knowledge of the commencement of any action, suit, or proceeding before any court or Governmental Authority against Seller, its members, or any Affiliate relating to the Facility or this Agreement, or that could materially and adversely affect Seller's performance of its obligations in this Agreement, Seller must promptly notify PacifiCorp.

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6.12.5 Confidential Treatment. The reports and other information provided to PacifiCorp under this Section 6.12 will be treated as confidential if such treatment is requested in writing by Seller at the time the information is provided to PacifiCorp, subject to PacifiCorp's rights to disclose such information pursuant to Sections 6.12.3 and 6.12.4, and pursuant to any applicable Requirements of Law. Seller will have the right to seek confidential treatment of any such information from any Governmental Authority entitled to receive such information.

6.13 Financial and Accounting Information.¶If PacifiCorp or one of its Affiliates determines that, under (a) the Accounting Standards Codification (ASC) 810, Consolidation of Variable Interest Entities, and (b) Requirements of Law that it may hold a variable interest in Seller, but it lacks the information necessary tomake a definitive conclusion, Seller agrees to provide, upon PacifiCorp's written request, sufficient financial and ownership information so that PacifiCorp or its Affiliate may confirm whether a variable

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interest does exist under ASC 810 and Requirements of Law. If PacifiCorp or its Affiliate determines that,under ASC 810, it holds a variable interest in Seller, Seller agrees to provide, upon PacifiCorp's written request, sufficient financial and other information to PacifiCorp or its Affiliate so that PacifiCorp may properly consolidate the entity in which it holds the variable interest or present the disclosures required byASC 810 and Requirements of Law. PacifiCorp will reimburse Seller for Seller's reasonable costs and expenses, if any, incurred in connection with PacifiCorp's requests for information under this Section
6.13. Seller will have the right to seek confidential treatment of any such information from anyGovernmental Authority entitled to receive such information.

6.14 Access Rights.¶Upon reasonable prior notice and subject to the prudent safety requirements of Seller, and Requirements of Law relating to workplace health and safety, Seller must provide PacifiCorp and its authorized agents, employees and inspectors ("PacifiCorp Representatives") with reasonable access to the Facility: (a) for the purpose of reading or testing metering equipment, (b) as necessary to witness any acceptance tests, and (c) for other reasonable purposes at the reasonable request of PacifiCorp. PacifiCorp will release Seller from any and all Liabilities resulting from actions or omissions by any of the PacifiCorp Representatives in connection with their access to the Facility, except to the extent such Liabilities are caused by the intentional or negligent act or omission of Seller or its agents or Affiliates.

6.15 Performance Guaranty for baseload resources.¶[___].[5]

6.16. Mechanical Availability Guarantee (MAG) for intermittent resources. Seller guarantees that beginning with the third year after the commercial operate date, the annual Mechanical Availability of the Facility shall be no less than 90 percent.

6.16.1. MAG notification. Within ten (10) days after the end of a Contract Year, the Seller will provide utility with the Seller certified accurate Mechanical Availability calcuations for the recently passed Contract Year. At the minimum the information provided to utility will include a summary record of the Contract Year's Generation Unit Downtime Hours, Lack of Prime Mover, Force Majeure events and any other information required to confirm the Seller's Mechanical Availability calculation.

6.16.2. The Seller will maintain detailed documentation of the Seller's Mechanical Availability calculation for a minimum of three years.

6.16.3 Utility shall have the right to review and audit the documentation supporting the calculation of the Mechanical Availability at reasonable times at the Seller's Facility or other mutually agreed to location.

6.16.4. Failure of the Facility's Mechanical Availability to meet or exceed the Mechanical Availability Guarantee for two consecutive Contract Years shall be an Event of Default under this Agreement.

SECTION 7
QUALIFYING FACILITY STATUS

7.1 Seller's QF Status.¶Seller must maintain throughout the Term the Facility's status as a QF. Seller must provide PacifiCorp with copies of any QF certification or recertification documentation withinten (10) days of its filing with any Governmental Authority. At any time during the Term, PacifiCorp mayrequire Seller to provide PacifiCorp with evidence satisfactory to PacifiCorp in its reasonable discretion that the Facility continues to qualify as a QF under all applicable requirements.

SECTION 8

SECURITY AND CREDIT SUPPORT

8.1 Provision of Security.¶Seller must provide security as provided below if it does not meet the Credit Requirements. If on the Effective Date PacifiCorp determined Seller satisfied the Credit Requirements, Seller must thereafter provide every three (3) months following the Effective Date all reasonable financial information necessary for PacifiCorp to verify Seller continues to satisfy the Credit Requirements.

8.2 Project Development Security.¶ On or before the date specified in Section 2.2(b), Seller must postand maintain Project Development Security in favor of PacifiCorp in the form of either (a) a guaranty froma party that satisfies the Credit Requirements, in substantially the form attached as Exhibit G, or (b) a Letter of Credit in favor of PacifiCorp, in a form acceptable to PacifiCorp in its reasonable discretion. Seller and any entity providing a guaranty must provide within five (5) Business Days from receipt of a written request from PacifiCorp all reasonable financial records necessary for PacifiCorp to confirm the guarantor satisfies the Credit Requirements. If the Commercial Operation Date occurs after the Scheduled Commercial Operation Date and Seller has failed to pay any Delay Damages when due under this Agreement, PacifiCorp is entitled to draw upon the Project Development Security an amount equal to

[5] **Note to Form** –Please refer to form Exhibit F for forms of availability or output guarantee, as determinedby type of renewable energy resource.

(continued)

the Delay Damages until the Project Development Security is exhausted. PacifiCorp is also entitled to draw upon the Project Development Security for other damages if this Agreement is terminated under Section 11 because of Seller's default. Seller is no longer required to maintain the Project Development Security after the Commercial Operation Date, if no damages are owed to PacifiCorp under this Agreement and, if applicable, Default Security has been provided as required under this Agreement. Seller may elect to apply the Project Development Security toward the Default Security required by Section 8.3.

8.3 Default Security.¶On the date specified in Section 2.2(c), Seller must post and maintain Default Security in favor of PacifiCorp in the form of either (a) a guaranty from an entity that satisfies the Credit Requirements, in substantially the form attached hereto as Exhibit G, or (b) a Letter of Credit in favor of PacifiCorp, in a form acceptable to PacifiCorp in its reasonable discretion. Seller and any entity providing a guaranty must provide within five (5) Business Days from receipt of a written request from PacifiCorp all reasonable financial records necessary for PacifiCorp to confirm the guarantor satisfies the Credit Requirements. If no obligations remain due by Seller to PacifiCorp upon termination of the Agreement, PacifiCorp must return any remaining Default Security to Seller within sixty (60) days following the termination of the Agreement.

8.4 Security is Not a Limit on Seller's Liability.¶The security contemplated under this Agreement constitutes security for, but is not a limitation of, Seller's obligations under this Agreement and is not PacifiCorp's exclusive remedy for Seller's failure to perform in accordance with this Agreement. To the extent PacifiCorp draws on any security, Seller must, within thirty (30) days following such draw, replenish or reinstate the security to the full amount then required under this Agreement. If at any time Seller or Seller's credit support provider(s) fails to meet the Credit Requirements, Seller must provide replacement security meeting the requirements in this Section 8 within ten (10) Business Days after the earlier of (a) Seller's receipt of notice from any source that Seller or the credit support provider(s), as applicable, no longer meets the Credit Requirements or (b) Seller's receipt of written notice from PacifiCorp requesting the posting of alternate security.

SECTION 9
METERING

9.1 Installation of Metering Equipment.¶At Seller's expense, metering equipment must be designed, furnished, installed, owned, inspected, tested, maintained and replaced as provided in the Generation Interconnection Agreement. Seller must reasonably cooperate with PacifiCorp in developing any metering protocols necessary for PacifiCorp to comply with the requirements of the Market Operator.

9.2 Metering.¶Metering must be performed at the location and in the manner specified in Exhibit C, the Generation Interconnection Agreement, and as necessary to perform Seller's obligations under this Agreement. All quantities of Net Output purchased must reflect the net amount of energy flowing onto the System at the Point of Delivery.

9.3 Inspection, Testing, Repair and Replacement of Meters.¶PacifiCorp has the right to periodically inspect, test, repair and replace the metering equipment that is provided for in the Generation Interconnection Agreement, without PacifiCorp assuming any obligations of Seller under the Generation Interconnection Agreement. If any of the inspections or tests disclose an error exceeding 0.5 percent (0.5%), either fast or slow, the necessary corrections will 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 of error cannot be ascertained, the corrections will be made for the entire time period since the metering equipment was last inspected and verified accurate, not to exceed three

(3) months. Any corrections under this Section 9.3 will be reflected as an adjustment in the next monthly

(continued)

invoice.

9.4 Metering Costs.¶To the extent not otherwise provided in the Generation Interconnection Agreement, Seller is responsible for all costs relating to all metering equipment installed to accommodate Seller's Facility.

9.5 WREGIS Metering.¶If PacifiCorp owns the Environmental Attributes pursuant to Section 4.7, Seller must cause the Facility to implement all necessary generation information communications in WREGIS, and report generation information to WREGIS pursuant to a WREGIS-approved meter dedicated to the Facility and only the Facility.

SECTION 10

BILLINGS, COMPUTATIONS AND PAYMENTS

10.1 Monthly Invoices.¶On or before the tenth (10^{th}) day following the end of each calendar month, Seller must deliver to PacifiCorp an invoice showing Seller's computation of Net Output delivered to the Point of Delivery during such month. When calculating the invoice, Seller must provide computations showing the portion of Net Output that was delivered during On-Peak Hours and the portion of Net Output that was delivered during Off-Peak Hours. If such invoice is delivered by Seller to PacifiCorp, then PacifiCorp must send to Seller, on or before the later of the twentieth (20^{th}) day following receipt of such invoice or the thirtieth (30^{th}) day following the end of each month, payment for Seller's deliveries of Net Output to PacifiCorp.

10.2 Offsets.¶Either Party may offset any payment due under this Agreement against amounts owed by the other Party pursuant under this Agreement. Either Party's exercise of recoupment and set off rights will not limit the other remedies available to such Party under this Agreement.

10.3 Interest on Late Payments.¶Any amounts not paid when due under this Agreement will bear interest at the Contract Interest Rate from the date due until paid.

10.4 Disputed Amounts.¶If either Party, in good faith, disputes any amount due under an invoice provided under this Agreement, such Party must notify the other Party of the specific basis for the dispute and, if the invoice shows an amount due, must pay that portion of the invoice that is undisputed on or before the due date. Any such notice of dispute must be provided within two (2) years of the date of the invoice in which the error first occurred. If any amount disputed by such Party is determined to be due the other Party, or if the Parties resolve the payment dispute, the amount due must be paid within five (5) Business Days after such determination or resolution, along with interest at the Contract Interest Rate from the date due until the date paid.

10.5 Audit Rights.¶Each Party, through its authorized representatives, has the right, at its expense upon reasonable notice and during normal business hours, to examine and copy the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made under this Agreement or to verify the other Party's performance of its obligations under this Agreement. Upon request, each Party must provide to the other Party statements evidencing the quantities of Net Output delivered at the Point of Delivery. If any statement is found to be inaccurate, a corrected statement will be issued and, subject to Section 10.4, any amount due one Party to the other Party as a result of the corrected statement will be promptly paid including the payment of interest at the Contract Interest Rate from the date of the overpayment or underpayment to the date of receipt of the reconciling payment.

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SECTION 11
DEFAULTS AND REMEDIES

11.1 Defaults.¶The following events are defaults under this Agreement, and are "Events of Defaults" after the passing of notice and cure periods, as applicable:

11.1.1 Defaults by Either Party.

(a) A Party fails to make a payment when due under this Agreement if the failure (i) is not subject to a good faith dispute of the amount due under Section 10.4, and (ii) is not cured within fifteen (15) Business Days after the non-defaulting Party gives the defaulting Party a notice of the default.

(b) A Party (i) makes a general assignment for the benefit of its creditors; (ii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it and such petition is not withdrawn or dismissed within sixty (60) days after such filing; (iii) becomes insolvent; or (iv) is unable to pay its debts when due.

(c) A Party breaches a representation or warranty in this Agreement if the breach is not cured within thirty (30) days after the non-defaulting Party gives the defaulting Party a notice of the default; provided, however, that if such default is not reasonably capable of being cured within the thirty (30) day cure period but is reasonably capable of being cured within ninety (90) days, the defaulting Party will have an additional reasonable time to cure the default, not to exceed ninety (90) days following the date of notice of the default by the non-defaulting Party, if the defaulting Party provides to the non-defaulting Party a remediation plan within fifteen (15) days following the date of notice of the default by the non-defaulting Party, the non-defaulting Party approves such remediation plan, and the defaulting Party promptly commences and diligently pursues the remediation plan.

(d) A Party fails to perform any material obligation in this Agreement for which an exclusive remedy is not provided in the Agreement and which is not otherwise an identified Event of Default in this Agreement, if the failure is not cured within thirty (30) days after the non-defaulting Party gives the defaulting Party notice of the default; provided, however, that if such default is not reasonably capable of being cured within the thirty (30) day cure period but is reasonably capable of being cured within ninety (90) days, the defaulting Party will have an additional reasonable time to cure the default, not to exceed ninety (90) days following the date of notice of the default by the non-defaulting Party, if the defaulting Party provides to the non-defaulting Party a remediation plan within fifteen (15) days following the date of notice of the default by the non-defaulting Party, the non-defaulting Party approves such remediation plan, and the defaulting Party promptly commences and diligently pursues the remediation plan.

11.1.2 Defaults by Seller.

(a) Seller fails to post, increase, or maintain the Project Development Security or Default Security as required under this Agreement and such failure is not cured within fifteen (15) days after Seller's receipt of written notice from PacifiCorp.

(b) Seller fails to cause the Facility to achieve Commercial Operation on or before the Scheduled Commercial Operation Date and one or more of the following events occur: (i) Seller fails to deliver a draft Schedule Recovery Plan by the Scheduled Commercial Operation Date, as

(continued)

provided in Section 2.3(a); (ii) Seller fails to diligently and continuously finalize and implement itsSchedule Recovery Plan and such failure, in either case, is not cured within ten (10) days from the date of Seller's receipt of notice of such failure from PacifiCorp; (iii) Seller fails to achieve Commercial Operation by Cure Period Deadline.

(c) Seller sells Output or Capacity Rights from the Facility to a party other than PacifiCorp in breach of Section 4.3, if Seller does not permanently cease such sale and compensate PacifiCorp for the damages arising from the breach within ten (10) days after PacifiCorp gives Seller a notice of default.

(d) PacifiCorp receives notice of foreclosure of the Facility or any part thereof by a Lender, mechanic or materialman, or any other holder, of an unpaid lien or other charge or encumbrance, if the same has not been stayed, paid, or bonded around within ten (10) days of the date on which PacifiCorp provides notice to Seller that PacifiCorp has received a notice of foreclosure. An assignment in lieu of foreclosure as permitted pursuant to Article 20 of this Agreement and occurring prior to the date that is thirty (30) days after the date on which PacifiCorp provides notice to Seller that PacifiCorp has received a notice of foreclosure shall cure an Event of Default pursuant to this Section 11.1.2(d).

(e) After the Commercial Operation Date, Seller fails to maintain any Required Facility Documents, Permits or leases/land grants necessary to own or operate the Facility and is not able to obtain the necessary Required Facility Documents or Permits within ninety (90) days after the loss of the applicable Required Facility Documents, Permits or leases/land grants.

(f) Seller's Abandonment of construction or operation of the Facility, such Abandonment continues and no draft Schedule Recovery Plan is implemented within thirty (30) days after Seller's receipt of written notice from PacifiCorp or, in the event a Schedule Recovery Plan is implemented, Seller fails to diligently and continuously implement said Schedule Recovery Plan and such failure is not cured within thirty (30) days from the date of Seller's receipt of notice of such failure from PacifiCorp.

(f) Seller fails to maintain insurance as required by the Agreement and such failure continues for fifteen (15) days after Seller's receipt of written notice from PacifiCorp.

(g) Seller fails to satisfy the requirements of the Performance Guaranty for three consecutive Rolling Periods.

(h) Seller fails to satisfy the requirement to maintain QF status under Section 7.1.

11.2 Remedies for Failure to Deliver/Receive.

11.2.1 Remedy for Seller's Failure to Deliver. Upon the occurrence and during the continuation of an Event of Default of Seller under Section 11.1.2(c), Seller must pay PacifiCorp within five (5) Business Days after receipt of invoice, an amount equal to the sum of (a) PacifiCorp's Cost to Cover multiplied by the Net Output delivered to a party other than PacifiCorp, (b) additional transmission charges, if any, reasonably incurred by PacifiCorp in moving replacement energy to the Point of Delivery or if not there, to such points in PacifiCorp's control area as determined by PacifiCorp, and (c) any additional cost or expense incurred as a result of Seller's default, as determined by PacifiCorp in a commercially reasonable manner. The invoice for such amount must include a written statement explaining in reasonable detail the calculation of such amount.

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11.2.2 Remedy for PacifiCorp's Failure to Purchase. If PacifiCorp fails to receive or purchase all or part of the Net Output required to be purchased under this Agreement and such failure is not excused by Seller's failure to perform under or comply with this Agreement, then PacifiCorp must pay Seller, on the earlier of the date payment would otherwise be due in respect of the month in which the failure occurred or within five (5) Business Days after receipt of invoice, an amount equal to Seller's Cost to Cover multiplied by the amount of Net Output not purchased. The invoice for such amount must include a written statement explaining in reasonable detail the calculation of such amount.

11.2.3 Remedy for Seller's Failure to Provide Capacity Rights. Seller is liable for PacifiCorp's actual damages in the event Seller fails to sell or deliver all or any portion of the Capacity Rights to PacifiCorp.

11.3 Termination and Remedies.¶From and during the continuance of an Event of Default, the non-defaulting Party will be entitled to all remedies available at law or in equity, and may terminate this Agreement by notice to the other Party designating the date of termination and delivered to the defaulting Party no less than fifteen (30) days before such termination date. The notice required under this Section 11.3 must be provided separately from the notice of default before the applicable cure period(s) have lapsed and an Event of Default has occurred provided that the non- defaulting Party complies with the terms of this Section 11.3 and that the stated termination date is no earlier than the first day following expiration of the fifteen (15) period or the first day following the expiration of the applicable cure period(s), whichever occurs last ("Earliest Termination Date"). Where Seller is the non-defaulting Party, Seller must provide copies of such termination notice to the notice addresses of the then-current President and General Counsel of PacifiCorp by registered overnight delivery service or by certified or registered mail, return receipt requested. A termination notice must state prominently in type font no smaller than 14-point capital letters that "THIS IS A TERMINATION NOTICE UNDER A PPA. YOU MUST CURE A DEFAULT, OR THE PPA WILL BE TERMINATED," muststate any amount alleged to be owed, and must include wiring instructions for payment. Notwithstanding any other provision of this Agreement to the contrary, the non-defaulting Party will not have any right to terminate this Agreement if the default that gave rise to the termination right is cured by the Earliest Termination Date.

Further, from and after the date upon which Seller fails to remedy a default within the time periods provided in this Agreement, and until PacifiCorp has recovered all damages incurred on account of such default by Seller, PacifiCorp may offset its damages against any payment due Seller. Except in circumstances in which a remedy provided for in this Agreement is described as a Party's sole or exclusive remedy, the non-defaulting Party may pursue any and all legal or equitable remedies provided by law, equity or this Agreement. The rights contemplated by this Section 11 are cumulative such that theexercise of one or more rights does not constitute a waiver of any other rights. In the event of a termination of this Agreement:

(a) Each Party must pay to the other all amounts due the other under this Agreement for all periods prior to termination, subject to offset by the non-defaulting Party against damages incurred by such Party.

(b) The amounts due under this Section 11.3 must be paid within thirty (30) days after the billing date for such charges and will bear interest at the Contract Interest Rate from the date of termination until the date paid. The foregoing does not extend the due date of, or provide an interest holiday for any payments otherwise due under this Agreement.

(c) Without limiting the generality of the foregoing, the provisions of Sections 4.6, 5.4, 5.5, 6.12.3, 6.12.4, 6.13, 10.3, 10.4, 10.5, 11.3, 11.4, 11.5, 11.6, 11.7, 11.8, 12, 13, 16, 17, 21, and 24 survive

(continued)

the termination of this Agreement.

11.4 Termination of Duty to Buy.¶If this Agreement is terminated because of an Event of Default by Seller and Seller wishes to again sell Net Output to PacifiCorp following such termination, PacifiCorp in its sole discretion may require that Seller do so subject to the terms of this Agreement, including but not limited to the Contract Price, until the termination date. Seller agrees that it will not take any action or permit any action to occur the result of which avoids or seeks to avoid the restrictions in this Section 11.4, *e.g.*, through use or establishment of a special purpose entity or other Affiliate.

11.5 Termination Damages.¶If this Agreement is terminated by PacifiCorp as a result of an Event of Default by Seller, termination damages owed by Seller to PacifiCorp will be the positive difference, if any, between (a) PacifiCorp's estimated costs to secure replacement power for a period of twenty four (24) months following the date of termination, including any associated transmission necessary to deliver such replacement power; and (b) the Contract Price for such twenty four (24) month period ("Termination Damages"). PacifiCorp must calculate the Termination Damages in a commercially reasonable manner and provide to Seller a written statement explaining in reasonable detail the calculation of Termination Damages. Amounts owed pursuant to this Section 11.5 are due by Seller within ten (10) Business Days after receipt of the written statement of Termination Damages from PacifiCorp. Each Party agrees and acknowledges that the damages that PacifiCorp would incur due to Seller's Event of Default would be difficult or impossible to predict with certainty, it is impractical and difficult to assess actual damages in the circumstances stated, and therefore the Termination Damages as agreed to in this Section 11.5 are a fair and reasonable calculation of such damages

11.6 Duty/Right to Mitigate.¶Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance. With respect to Seller, Seller must use commercially reasonable efforts to maximize the price for Net Output received by Seller from third parties, including entering into an enabling agreement with, or being affiliated with, one or more power marketers of nationally recognized standing to market such Net Output not purchased or accepted by PacifiCorp (only during a period PacifiCorp is in default), to the extent permitted by Requirements of Law and the Generation Interconnection Agreement. With respect to PacifiCorp, PacifiCorp must use commercially reasonable efforts to minimize the price paid to third parties for energy purchased to replace Net Output not delivered by Seller as required under this Agreement.

11.7 Security.¶If this Agreement is terminated because of Seller's default, PacifiCorp may, in addition to pursuing any and all other remedies available at law or in equity, proceed against any security held by PacifiCorp in whatever form to reduce the amounts that Seller owes PacifiCorp arising from such default.

11.8 Cumulative Remedies.¶Except in circumstances in which a remedy provided for in this Agreement is described as a sole or exclusive remedy, the rights and remedies provided to PacifiCorp in this Agreement are cumulative and not exclusive of any rights or remedies of PacifiCorp.

SECTION 12
INDEMNIFICATION AND LIABILITY

12.1 Indemnities.

12.1.1 Indemnity by Seller. To the extent permitted by Requirements of Law and subject to Section 12.1.5, Seller releases, indemnifies and holds harmless PacifiCorp, its divisions, Affiliates, and each of its and their respective directors, officers, employees, agents, and representatives (collectively, the

"PacifiCorp Indemnitees") against and from any and all losses, fines, penalties, claims, demands, damages, liabilities, actions or suits of any nature whatsoever (including legal costs and attorneys' fees, both at trial and on appeal, whether or not suit is brought) (collectively, "Liabilities") actually or allegedly resulting from, arising out of, or in any way connected with, the performance by Seller of its obligations under this Agreement, or relating to the Facility or Premises, for or on account of injury, bodily or otherwise, to, or death of, or damage to, or destruction or economic loss of property of, any person or entity, except for Liabilities caused by the gross negligence or willful misconduct of any person or entity within the PacifiCorp Indemnitees. Seller is solely responsible for (and will defend and hold PacifiCorp harmless against) any damage that may occur as a direct result of Seller's breach of the Generation Interconnection Agreement.

12.1.2 Indemnity by PacifiCorp. To the extent permitted by Requirements of Law and subject to Section 12.1.5, PacifiCorp releases, indemnifies and holds harmless Seller, its Affiliates, and each of its and their respective directors, officers, employees, agents, and representatives (collectively, the "Seller Indemnitees") against and from any and all Liabilities actually or allegedly resulting from, arising out of, or in any way connected with, the performance by PacifiCorp of its obligations under this Agreement for or on account of injury, bodily or otherwise, to, or death of, or damage to, or destruction or economic loss of property of, any person or entity within the Seller Indemnitees, except for Liabilities caused by the gross negligence or willful misconduct of any person or entity within the Seller Indemnitees.

12.1.3 Additional Cross Indemnity. Without limiting Sections 12.1.1 and 12.1.2, Seller releases, indemnifies and holds harmless the PacifiCorp Indemnitees from and against all Liabilities related to Net Output prior to its delivery by Seller at the Point of Delivery, and PacifiCorp releases, indemnifies and holds harmless the Seller Indemnitees from and against all Liabilities related to Net Output once delivered to PacifiCorp at the Point of Delivery as provided in this Agreement, except in each case to the extent such Liabilities are attributable to the gross negligence, willful misconduct, or a breach of this Agreement by any member of the PacifiCorp Indemnitees or the Seller Indemnitees, respectively, seeking indemnification under this Agreement.

12.1.4 No Dedication. Nothing in this Agreement will be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party. No undertaking by one Party to the other under any provision of this Agreement will constitute the dedication of PacifiCorp's facilities or any portion thereof to Seller or to the public, nor affect the status of PacifiCorp as an independent public utility corporation or Seller as an independent individual or entity.

12.1.5 Consequential Damages. **NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER SUCH DAMAGES ARE ALLOWED OR PROVIDED BY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE. THE PARTIES AGREE THAT ANY LIQUIDATED DAMAGES, DELAY DAMAGES, TERMINATION DAMAGES, PACIFICORP AND SELLER COST TO COVER DAMAGES, OR OTHER SPECIFIED MEASURE OF DAMAGES EXPRESSLY PROVIDED FOR IN THIS AGREEMENT DO NOT REPRESENT SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES**

AS CONTEMPLATED IN THIS PARAGRAPH.

SECTION 13 INSURANCE

13.1 Required Policies and Coverages.¶Without limiting any Liabilities or any other obligations ofSeller, Seller must secure and continuously carry the insurance coverage specified on Exhibit I.

(continued)

SECTION 14 FORCE MAJEURE

14.1 Definition of Force Majeure.¶"Force Majeure" or "an event of Force Majeure" means an event that prevents a Party from performing an obligation under this Agreement and that (a) is not reasonably anticipated as of the Effective Date, (b) is not within the reasonable control of the Party affected by the event, (c) is not the result of such Party's negligence or failure to act, and (d) could not be overcome by the affected Party's use of due diligence in the circumstances. Force Majeure includes events of the following types (but only to the extent that such an event, in consideration of the circumstances, satisfies the requirements in the preceding sentence): environmental disasters; civil disturbance; sabotage; strikes; lock-outs; work stoppages; and action or restraint by court order or public or Governmental Authority (as long as the affected Party has not applied for or assisted in the application for, and has opposed to the extent reasonable, such court or government action). Notwithstanding the foregoing, none of the following constitute Force Majeure: (i) Seller's ability to sell, or PacifiCorp's ability to purchase energy or capacity at a more advantageous price than is provided under this Agreement; (ii) the cost or availability of fuel or motive force to operate the Facility; (iii) economic hardship, including lack of money or the increased cost of electricity, steel, labor, or transportation; (iv) any breakdown or malfunction of the Facility's equipment (including any serial equipment defect) that is not caused by an independent event of Force Majeure; (v) the imposition upon a Party of costs or taxes; (vi) delay or failure of Seller to obtain or perform any Required Facility Document unless due to a Force Majeure event; (vii) any delay, alleged breach of contract, or failure by the Transmission Provider or Interconnection Provider unless due to a Force Majeure event as defined in any agreement with the Transmission Provider or Interconnection Provider; (viii) maintenance upgrade or repair of any facilities or right of way corridors constituting part of or involving the Interconnection Facilities, whether performed by or for Seller, or other third parties (except for repairs made necessary as a result of an event of Force Majeure); (ix) Seller's failure to obtain, or perform under, the Generation Interconnection Agreement, or its other contracts and obligations to transmission owner, Transmission Provider or Interconnection Provider, unless due to a Force Majeure event; or (x) any event attributable to the use of Interconnection Facilities for deliveries of Net Output to any party other than PacifiCorp.

14.2 Suspension of Performance.¶Neither Party will be liable for any delay or failure in its performance under this Agreement, nor will any delay, failure, or other occurrence or event become an Event of Default, to the extent such delay, failure, occurrence or event is substantially caused by conditions or events of Force Majeure during the continuation of the event of Force Majeure, provided that: (a) the Party affected by the Force Majeure, within five (5) days after the occurrence of the event of Force Majeure, gives the other Party written notice describing the particulars of the event of Force Majeure and how the event has impacted the affected Party's obligations under this Agreement; (b) the suspension of performance of the affected Party's obligations is of no greater scope and of no longer duration than is required to remedy the effect of the Force Majeure; and (c) the affected Party uses diligent efforts to remedy its inability to perform.

14.3 Force Majeure Does Not Affect Other Obligations.¶No obligations of either Party that arose before the event of Force Majeure causing the suspension of performance or that arise after the cessation of such event of Force Majeure is excused by such event of Force Majeure.

14.4 Strikes.¶Notwithstanding any other provision of this Agreement, neither Party will 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.

14.5 Right to Terminate.¶If a Force Majeure event prevents a Party from substantially performing its

obligations under this Agreement for a period exceeding 180 consecutive days, then the Party not affected by the Force Majeure event may terminate this Agreement by giving ten (10) days prior notice to the other Party. Upon such termination, neither Party will have any liability to the other with respect to theperiod following the effective date of such termination; provided, however, that this Agreement will remainin effect to the extent necessary to facilitate the settlement of all liabilities and obligations arising under this Agreement before the effective date of such termination.

SECTION 15
SEVERAL OBLIGATIONS

Nothing in this Agreement will be construed to create an association, trust, partnership or joint venture orto impose a trust, partnership or fiduciary duty, obligation or Liability on or between the Parties.

SECTION 16
CHOICE OF LAW

This Agreement will be interpreted and enforced in accordance with the laws of the State of Washington,applying any choice of law rules that may direct the application of the laws of another jurisdiction.

SECTION 17
PARTIAL INVALIDITY

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 will remain in effect. TheParties agree to use best efforts to amend this Agreement to reform or replace any terms determined to be invalid, illegal or void, such that the amended terms (a) comply with and are enforceable under applicable law, (b) give effect to the intent of the Parties in entering into this Agreement, and (c) preserve the balance of the economics and equities contemplated by this Agreement in all material respects.

SECTION 18 NON-WAIVER

No waiver of any provision of this Agreement will be effective unless the waiver is provided in writing that (a) expressly identifies the provision being waived, and (b) is executed by the Party waiving the provision. A Party's waiver of one or more failures by the other Party in the performance of any of the provisions of this Agreement will not be construed as a waiver of any other failure or failures, whether of a like kind or different nature.

SECTION 19
GOVERNMENTAL JURISDICTION
AND AUTHORIZATIONS

This Agreement is subject to the jurisdiction of those Governmental Authorities having jurisdiction overeither Party or this Agreement.

SECTION 20
SUCCESSORS AND ASSIGNS

20.1 Restriction on Assignments.¶Except as provided in this Section 20, neither Party may assign this Agreement or any of its rights or obligations without the prior written consent of the other Party; provided that if Seller's proposed assignee agrees in writing to be bound by the terms and conditions of this Agreement, possesses the same or a better level of experience developing and operating facilities like the Facility as that of Seller, and has the same or better creditworthiness scores as that of Seller,

(continued)

PacifiCorp's consent shall not unreasonably be withheld.

20.2 Permitted Assignments.¶Notwithstanding Section 20.1, either Party may, without the need for consent from the other Party (but with notice to the other Party, including the names of the assignees): (a) transfer, sell, pledge, encumber or assign this Agreement or the related accounts, revenues or proceeds in connection with project financing for the Facility; or (b) transfer or assign this Agreement to an Affiliate meeting the requirements of this Agreement, provided, however, that Seller will not transfer, sell, encumber or assign this Agreement or any interest in this Agreement to any Affiliate of PacifiCorp without the prior written consent of PacifiCorp. For any assignment under (b) above, the assignee must agree in writing to be bound by the terms and conditions of this Agreement and must possess the same or similar experience, and possess the same or better creditworthiness, as the assignor. PacifiCorp may assign this Agreement in whole or in part without the consent of Seller to any person or entity in the event that PacifiCorp ceases to be a load-serving entity, in which event PacifiCorp will be released from liability under this Agreement. The Party seeking to assign or transfer this Agreement is solely responsible for paying all costs of assignment.

SECTION 21
ENTIRE AGREEMENT

This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussionsor letters, whether oral or in writing, regarding the subject matter of this Agreement. No modification of this Agreement is effective unless it is in writing and executed by both Parties.

SECTION 22
NOTICES

22.1 Addresses and Delivery Methods.¶All notices, requests, statements or payments must be made to the addresses set out in Exhibit L. In addition, copies of a notice of termination of this Agreement under Section 11.3 must contain the information required by Section 11.3 and must be sent to the then- current President and General Counsel of PacifiCorp. Notices required to be in writing must be delivered by letter or other tangible documentary form. Notice by overnight mail or courier will be deemed to have been given on the date and time evidenced by the delivery receipt. Notice by hand delivery will be deemed to have been given when received or hand delivered. Notice by electronic transmission is effective as of transmission, but must be followed up by notice by registered mail or overnight carrier to be effective. Notice by certified or registered mail, return receipt requested, will be deemed to have beengiven upon receipt. The Parties may change any of the persons to whom notices are addressed, or theiraddresses, by providing written notice in accordance with this section.

SECTION 23
PUBLICITY

(continued)

23.1 News Releases and Publicity.¶Before Seller issues any news release or publicly distributed promotional material regarding this Agreement, Seller must first provide a copy thereof to PacifiCorp forits review. Any use of the name “Berkshire Hathaway,” in any form, requires the prior written consent ofPacifiCorp.

SECTION 24 DISAGREEMENTS

24.1 Negotiations.¶Prior to proceeding with formal dispute resolution, the Parties must first attempt in good faith to resolve informally all disputes arising out of, related to or in connection with this Agreement.

(continue

Any Party may give the other Party written notice of any dispute not resolved in the normal course of business. Executives of both Parties at levels one level above those employees who have previously been involved in the dispute must meet at a mutually acceptable time and place within ten (10) days afterdelivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within thirty (30) days after the referral of the dispute to such executives, or if no meeting of such executives has taken place within fifteen (15) days after such referral, either Party may initiate any legal remedies available to the Party. No statements of position or offers of settlement made in the course of the dispute process described in this section will be offered into evidence for any purpose in any litigation between the Parties, nor will any such statements or offers of settlement be used in any manner against either Party inany such litigation. Further, no such statements or offers of settlement will constitute an admission or waiver of rights by either Party in connection with any such litigation. At the request of either Party, any such statements and offers of settlement, and all copies thereof, will be promptly returned to the Party providing the same.

24.2 Mediation.¶If the dispute is not resolved under the procedures provided in Section 24.1, either Party may request that the matter be submitted to non-binding mediation. The costs of the mediation, including fees and expenses, will be borne equally by the Parties. All verbal and written communications between the Parties and issued or prepared in connection with the mediation will be deemed prepared and communicated in furtherance, and in the context, of dispute settlement, and will be exempt from discovery and production, and will not be admissible in evidence (whether as admission or otherwise) in any litigation or other proceedings for the resolution of the dispute.

24.3 Choice of Forum.¶Each Party irrevocably consents and agrees that any legal action or proceeding arising out of this Agreement or the actions of the Parties leading up to the Agreement will be brought exclusively in the state and federal courts in Portland, Oregon. By execution and delivery of this Agreement, each Party (a) accepts the exclusive jurisdiction of such court and waives any objection that it may now or hereafter have to the exercise of personal jurisdiction by such court over each Party for the purpose of any proceeding related to this Agreement; (b) irrevocably agrees to be bound by any final judgment (after any and all appeals) of any such court arising out of such documents or actions; (c) irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceedings arising out of such documents brought in such court (including any claim that any such suit, action or proceeding has been brought in an inconvenient forum) in connection herewith; (d) agrees that service of process in any such action may be effected by mailing a copy thereof by registered or certified mail, postage prepaid, to such Party at its address stated in this Agreement; and (e) agrees that nothing in this Agreement affects the right to effect service of process in any other manner permitted by law.

24.4 WAIVER OF JURY TRIAL.¶EACH PARTY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WITH ANY PROCEEDING IN WHICH A JURY TRIAL HAS NOT OR CANNOT BE WAIVED. THIS PARAGRAPH WILL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

(continue

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in theirrespective names as of the date last written below.

[______________________]	PACIFICORP
By:___________________________________	By:___________
Name:_________________________________	Name:_________
Title: _______________________________	Title:__________
Date: ______________________________	Date:__________

(continue

EXHIBIT A

EXPECTED MONTHLY NET OUTPUT[6]

Month	**On-Peak Energy (MWh)**	**Off-Peak Energy (MWh)**	**Total Energy (MWh)**
January			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			
First Contract Year Total			

The energy values above will be reduced [_] each Contract Year following the Commercial Operation Date.

MAXIMUM DELIVERY RATE

[___________________]

(continue

[6] **Note to Form** – Prior to executing the Agreement, Seller will be required to provide PacifiCorp information sufficient to allow PacifiCorp to reasonably verify the output estimates stated in Exhibit A.

(continue

EXHIBIT B

DESCRIPTION OF SELLER'S FACILITY

[Provide a detailed description of the Facility, including the following, as applicable:]

Type (synchronous or inductive):
Facility Nameplate Capacity Rating (as stated in Seller's FERC Form 556):Model:
Number of Phases:
Power factor requirements:
Rated Power Factor (PF) or reactive load (kVAR):
Rated Output (kW):
Rated Output (kVA):
Rated Voltage (line to line):
Rated Current (A): Stator:_____A; Rotor:_A
Maximum kW Output:_________kW
Maximum kVA Output:__kVA
Minimum kW Output:______kW

Station service requirements, and other loads served by the Facility, if any:

Location of the Facility: *[Please include city and county, and legal description of parcel*]

(continue

EXHIBIT C

SELLER'S INTERCONNECTION FACILITIES

[Instructions to Seller:
1. Include description of point of metering, and Point of Delivery
2. Provide interconnection single line drawing of Facility including any transmission facilities on Seller's side of the Point of Delivery.]

(continue

EXHIBIT D

REQUIRED FACILITY DOCUMENTS

[REQUIRED OF ALL FACILITIES:
QF Certification
Interconnection Agreement (or list of studies and study agreements completed as of the EffectiveDate)

Depending upon the type of Facility and its specific characteristics, additional Required Facility Documents may be requested.]

(continue

EXHIBIT E

LEASES

(continue

EXHIBIT F[7]

PERFORMANCE GUARANTY - WIND

Availability Guarantee. Seller guarantees that the availability of the Facility will be at least ninety percent (90%) of the calculated Availability (the "Guaranteed Availability") measured over each Rolling Period. As used in this Exhibit F, "Availability" means the ratio, expressed as a percentage, of (a) the aggregate sum of the turbine-minutes for each applicable period, as the context requires below, in which each of the wind turbines was available to operate during such period over (b) the product of the number of wind turbines at the Facility multiplied by the number of minutes in such period. As used in the precedingsentence, a wind turbine will be "available" during (i) all minutes in which such wind turbine is actually available to generate electricity, and (ii) all Seller Uncontrollable Minutes. The Availability Guaranty shall not be calculated until the completion of the first Rolling Period after Commercial Operation.

If the Availability in any Rolling Period falls below the Guaranteed Availability, the resulting shortfallwill be expressed in MWh as the "Availability Shortfall." For each Rolling Period, the Availability Shortfall will equal the mathematical difference between the Guaranteed Availability and the Availability, multiplied by the Expected Net Output, expressed in the formula below:

Availability Shortfall (MWh) = (Guaranteed Availability(%) minus Availability (%))multiplied by Expected Net Output (MWh)

Liquidated Damages for Availability Shortfall. If an Availability Shortfall occurs in any Rolling Period,for each month of that Rolling Period, PacifiCorp will identify each month where the Availability was below the Guaranteed Availability as compared against the Expected Monthly Net Output provided in Exhibit A ("Monthly Output Shortfall"). For each month during the Rolling Period where there is a Monthly Output Shortfall, Seller will pay PacifiCorp liquidated damages equal to the product of (a) the Monthly Output Shortfall, multiplied by (b) the Output Shortfall for that Rolling Period divided by the total of all Monthly Output Shortfalls for that Rolling Period, multiplied by (c) PacifiCorp's Cost to Cover for such month. Each Party agrees and acknowledges that (i) the damages that PacifiCorp would incur due to the Facility's failure to achieve the Guaranteed Availability would be difficult or impossible to predict with certainty and (ii) the liquidated damages contemplated by this provision are a fair and reasonable calculation of such damages.

Invoicing for Availability Shortfall. On the thirtieth (30th) day following the end of each Rolling Period,PacifiCorp will deliver to Seller an invoice showing PacifiCorp's computation of Net Output and Availability Shortfall, if any, for the prior Rolling Period and any amount due to PacifiCorp for liquidated damages calculated pursuant to this Exhibit F. In preparing such invoices, PacifiCorp will utilize the meter dataprovided to

(continue

PacifiCorp for the applicable Rolling Period, provided that if the meter data for any portion of such Rolling Period is then incomplete or otherwise not available, PacifiCorp may also rely on historical averages and other information as may be available to PacifiCorp at the time of invoice preparation. To the extent required, PacifiCorp will true up any such invoice as promptly as practicable following its receipt of actual results for the relevant Rolling Period. Within thirty (30) days after receiving the invoice, Seller must either (a) pay to PacifiCorp, by wire transfer of immediately available funds to an account specified in writing by PacifiCorp or by any other means agreed to by the Parties, the amount due in such invoice, or
(b) provide a written notice to PacifiCorp disputing all or any portion of the invoice. All disputes regarding such invoices are subject to Section 10.4. Objections not made by Seller within the thirty (30) day period will be deemed waived.

[7] **Note to Form** – The Performance Guaranty will be determined based on QF resource type.

(continue

EXHIBIT F[8]

PERFORMANCE GUARANTY – SOLAR

Output Guarantee. Seller is obligated to deliver a quantity of Net Output during each Rolling Period which is equal to the Output Guarantee. For purposes of this Agreement, "Output Guarantee" for any Rolling Period means the sum of (a) 90% of the Expected Net Output of the Facility for such Rolling Period, less (b) any quantities of Output that were not delivered to the Point of Delivery (or accepted by PacifiCorp) in such Rolling Period during periods constituting Seller Uncontrollable Minutes. The Output Guaranty shall not be calculated until the completion of the first Rolling Period after Commercial Operation. If the quantity of Net Output delivered by the Facility during any Rolling Period is less than the Output Guarantee for such Rolling Period, the resulting shortfall will be expressed in MWh as the "Output Shortfall," in accordance with the following formula:

Output Shortfall = Output Guarantee minus Net Output

Liquidated Damages for Output Shortfall. If the product of the Output Shortfall calculation provided above is a positive number, Seller must pay PacifiCorp liquidated damages equal to the product of (a) the Output Shortfall for that Rolling Period, multiplied by (b) PacifiCorp's Cost to Cover for such Rolling Period. If the product of the Output Shortfall calculation provided above is a negative number, Seller will not be obligated to pay PacifiCorp liquidated damages for such Rolling Period. Each Party agrees and acknowledges that (i) the damages that PacifiCorp would incur due to the Facility's failure to achieve the Output Guarantee would be difficult or impossible to predict with certainty and (ii) the liquidated damages contemplated by this provision are a fair and reasonable calculation of such damages.

Invoicing for Output Shortfall. On the thirtieth (30th) day following the end of each Rolling Period, PacifiCorp will deliver to Seller an invoice showing PacifiCorp's computation of Net Output and Output Shortfall, if any, for the prior Rolling Period and any amount due to PacifiCorp for liquidated damages calculated pursuant to this Exhibit F. In preparing such invoices, PacifiCorp will utilize the meter data provided to PacifiCorp for the applicable Rolling Period, provided that if the meter data for any portion of such Rolling Period is then incomplete or otherwise not available, PacifiCorp may also rely on historical averages and other information as may be available to PacifiCorp at the time of invoice preparation. To the extent required, PacifiCorp will true up any such invoice as promptly as practicable following its receipt of actual results for the relevant Rolling Period. Within thirty (30) days after receiving the invoice, Seller must either (a) pay to PacifiCorp, by wire transfer of immediately available funds to an account specified in writing by PacifiCorp or by any other means agreed to by the Parties, the amount due in such invoice, or

(b) provide a written notice to PacifiCorp disputing all or any portion of the invoice. All disputes regarding such invoices are subject to Section 10.4. Objections not made by Seller within the thirty (30) day period will be deemed waived.

[8] **Note to Form** – The Performance Guaranty will be determined based on QF resource type.

(continued)

EXHIBIT F[9]

PERFORMANCE GUARANTY – BASELOAD RENEWABLE

Output Guarantee. Seller is obligated to deliver a quantity of Net Output during each Rolling Period which is equal to the Output Guarantee. For purposes of this Agreement, "Output Guarantee" for any Rolling Period means the sum of (a) 90% of the Expected Net Output of the Facility for such Rolling Period, less (b) any quantities of Output that were not delivered to the Point of Delivery (or accepted by PacifiCorp) in such Rolling Period during periods constituting Seller Uncontrollable Minutes. The Output Guaranty shall not be calculated until the completion of the first Rolling Period after Commercial Operation. If the quantity of Net Output delivered by the Facility during any Rolling Period is less than the Output Guarantee for such Rolling Period, the resulting shortfall will be expressed in MWh as the "Output Shortfall," in accordance with the following formula:

Output Shortfall = Output Guarantee minus Net Output

Liquidated Damages for Output Shortfall. If the product of the Output Shortfall calculation provided above is a positive number, Seller will pay PacifiCorp liquidated damages equal to the product of (a) the Output Shortfall for that Rolling Period, multiplied by (b) PacifiCorp's Cost to Cover for such Rolling Period. If the product of the Output Shortfall calculation provided above is a negative number, Seller will not be obligated to pay PacifiCorp liquidated damages for such Rolling Period. Each Party agrees and acknowledges that (i) the damages that PacifiCorp would incur due to the Facility's failure to achieve the Output Guarantee would be difficult or impossible to predict with certainty and (ii) the liquidated damages contemplated by this provision are a fair and reasonable calculation of such damages.

Invoicing for Output Shortfall. On the thirtieth (30th) day following the end of each Rolling Period, PacifiCorp will deliver to Seller an invoice showing PacifiCorp's computation of Net Output and Output Shortfall, if any, for the prior Rolling Period and any amount due to PacifiCorp for liquidated damages calculated pursuant to this Exhibit F. In preparing such invoices, PacifiCorp will utilize the meter data provided to PacifiCorp for the applicable Rolling Period, provided that if the meter data for any portion of such Rolling Period is then incomplete or otherwise not available, PacifiCorp may also rely on historical averages and other information as may be available to PacifiCorp at the time of invoice preparation. To the extent required, PacifiCorp will true up any such invoice as promptly as practicable following its receipt of actual results for the relevant Rolling Period. Within thirty (30) days after receiving the invoice, Seller must either (a) pay to PacifiCorp, by wire transfer of immediately available funds to an account specified in writing by PacifiCorp or by any other means agreed to by the Parties, the amount due in such invoice, or

(continue

(b) provide a written notice to PacifiCorp disputing all or any portion of the invoice. All disputes regarding such invoices are subject to Section 10.4. Objections not made by Seller within the thirty (30) day period will be deemed waived.

[9] **Note to Form** – The Performance Guaranty will be determined based on QF resource type.

(continue

EXHIBIT G

FORM OF PARENT GUARANTY

(continue

EXHIBIT H

SELLER AUTHORIZATION TO RELEASEGENERATION DATA TO PACIFICORP

[DATE]

Director, Transmission ServicesPacifiCorp
825 NE Multnomah, Suite 1600
Portland, OR 97232

RE:	Queue Number (if available): ___

To Whom it May Concern:

____________________ ("Seller") hereby voluntarily authorizes PacifiCorp's Transmission business unit to share Seller's interconnection information with marketing function employees of PacifiCorp, including but not limited to those in Energy Supply Management. Seller acknowledges that PacifiCorp didnot provide it any preferences, either operational or rate-related, in exchange for this voluntary consent.

____

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EXHIBIT I

REQUIRED

INSURANCE

1.1 Required Policies and Coverages. Without limiting any liabilities or any other obligations of Seller under this Agreement, Seller must secure and continuously carry with an insurance company or companies rated not lower than "B+" by the A.M. Best Company the insurance coverage specified below:[10]

1.1.1 Workers' Compensation.

1.1.2 Employers' Liability.

1.1.3 Commercial General Liability.

1.1.4 Business Automobile Liability.

1.1.5 Umbrella/excess Liability.

1.1.6 Property Insurance.

1.2 Additional Provisions or Endorsements.

1.2.1 Except for workers' compensation and property insurance, the policies required must include provisions or endorsements as follows:

(a) naming PacifiCorp, parent, divisions, officers, directors and employees as additional insureds;

(b) include provisions that such insurance is primary insurance with respect to the interests of PacifiCorp and that any other insurance maintained by PacifiCorp is excess and not contributory insurance with the insurance required under this schedule; and

(c) cross liability coverage or severability of interest.

1.2.2 Unless prohibited by applicable law, all required insurance policies must contain provisions that the insurer will have no right of recovery or subrogation against PacifiCorp.

1.3 Certificates of Insurance. Seller must provide PacifiCorp with certificates of insurance within ten (10) days after the date by which such policies are required to be obtained, in ACORD or similar industry form. The certificates must indicate that the insurer will provide thirty (30) days prior written notice of cancellation. If any coverage is written on a "claims-made" basis, the certification accompanying the policymust conspicuously state that the policy is "claims made."

1.4 Term of Commercial General Liability Coverage. Commercial general liability coverage must be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such other length of time necessary to cover liabilities arising out of the activities under this Agreement.

XX

[10] **Note to Form** – Project-specific insurance requirements will be provided in the project-specific draft PPA, informed by the specific details of the proposed project.

(continue

EXHIBIT J

NERC EVENT TYPES[11]

Event Type	**Description of Outages**
U1	Unplanned (Forced) Outage—Immediate – An outage that requires immediate removal ofa unit from service, another outage state or a Reserve Shutdown state. This type of outage results from immediate mechanical/electrical/hydraulic control systems trips and operator-initiated trips in response to unit alarms.
U2	Unplanned (Forced) Outage—Delayed – An outage that does not require immediate removal of a unit from the in-service state but requires removal within six (6) hours. Thistype of outage can only occur while the unit is in service.
U3	Unplanned (Forced) Outage—Postponed – An outage that can be postponed beyond sixhours but requires that a unit be removed from the in-service state before the end of the next weekend. This type of outage can only occur while the unit is in service.
SF	Startup Failure – An outage that results from the inability to synchronize a unit within a specified startup time period following an outage or Reserve Shutdown. A startup periodbegins with the command to start and ends when the unit is synchronized. An SF begins when the problem preventing the unit from synchronizing occurs. The SF ends when theunit is synchronized or another SF occurs.
MO	Maintenance Outage – An outage that can be deferred beyond the end of the next weekend, but requires that the unit be removed from service before the next planned outage. (Characteristically, a MO can occur any time during the year, has a flexible start date, may or may not have a predetermined duration and is usually much shorter than aPO.)
ME	Maintenance Outage Extension – An extension of a maintenance outage (MO) beyond itsestimated completion date. This is typically used where the original scope of work requires more time to complete than originally scheduled. Do not use this where unexpected problems or delays render the unit out of service beyond the estimated enddate of the MO.
PO	Planned Outage – An outage that is scheduled well in advance and is of a predeterminedduration, lasts for several weeks and occurs only once or twice a year.
PE	Planned Outage Extension – An extension of a planned outage (PO) beyond its estimated completion date. This is typically used where the original scope of work requires more time to complete than originally scheduled. Do not use this where unexpected problemsor delays render the unit out of service beyond the estimated end date of the PO.

(continue

[11] **Note to Form** – This table will be adjusted as necessary to conform with NERC requirements as theyexist at the time of PPA execution.

(continue

EXHIBIT K

SCHEDULE QF AND PRICING SUMMARY TABLE

[Schedule QF as it exists on the Effective Date will be inserted as Exhibit K.]

(continue

EXHIBIT L

PARTY NOTICE INFORMATION

Notices	PacifiCorp	Seller
All Notices:		
All Invoices:		
Scheduling:		
Payments:		
Wire Transfer:		
Credit and Collections:		
Notices of an Event of Default or Potential Event of Default:		

(continue