

April 24, 2020

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, OR 97301-1166

RE: RE-142 - Informational Filing on Qualifying Facility Transactions

In accordance with Oregon Administrative Rules (OAR) 860-029-0020(1), PacifiCorp submits an electronic copy of an executed qualifying facility (QF) power purchase agreement (PPA), as listed on Attachment A, and the non-confidential attachment.

QF PPAs are entered into under the Public Utility Regulatory Policies Act of 1978 (PURPA). Under OAR 860-029-0020(1), public utilities must file a true copy of executed PPAs between the utility and PURPA QFs.

If you have any questions, please contact Cathie Allen at (503) 813-5934.

Sincerely,



Michael Wilding
Director, Regulation

Enclosures

cc: JP Batmale, PUC Staff

RE-142

Informational Filing – QF Agreements

April 24, 2020

Attachment A

Oregon / PacifiCorp

Docket: RE-142 – Informational Filing

Qualifying Facility (QF) Agreements per OAR 860-029-0020(1)

<p>Oregon Qualifying Facility (QF) Agreements ** NON-CONFIDENTIAL **</p>
<p>Skysol, LLC</p>

POWER PURCHASE AGREEMENT

BETWEEN

SKYSOL, LLC

AND

PACIFICORP

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EXHIBITS

Exhibit A	Estimated Monthly Net Output
Exhibit B	Description of Seller's Facility
Exhibit C	Seller's Interconnection Facilities
Exhibit D	Required Facility Documents
Exhibit E	Real Estate Documents
Exhibit F	Performance Guaranty
Exhibit G	Form of Parent Guaranty
Exhibit H	Seller Authorization to Release Generation Data to PacifiCorp
Exhibit I	Required Insurance
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Exhibit K	Contract Price
Exhibit L	Party Notice Information
Exhibit M	Form of Lender Estoppel
Exhibit N	Qualified Reporting Entity Services Agreement

POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (this “Agreement”), is entered into between Skysol, LLC, a Utah limited liability company (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 solar-powered generating facility for the generation of electric energy located in Klamath County, Oregon, with an expected nameplate capacity rating of 55 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:

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; (b) after commencement of the construction of the Facility, but prior to the Commercial Operation Date, the complete cessation of the construction, testing, and inspection of the Facility for ninety (90) consecutive days; and (c) after the Commercial Operation Date, the complete cessation of the operation of the Facility for ninety (90) consecutive days; provided in the case of (a) through (c) above, that such relinquishment or cessation is not caused by or attributable to an Event of Default by PacifiCorp, a written request by PacifiCorp, or an event of Force Majeure.

“Affected Party” is defined in Section 14.1.

“Affiliate” means, with respect to any entity, each entity that directly or indirectly controls, is controlled by, or is under common control with, such designated entity, with “control” meaning the possession, directly or indirectly, of the power to direct management and policies, whether through the ownership of voting securities or by contract or otherwise.

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 Preamble.

“As-built Supplement” provides the final “as-built” description of the Facility, including the Point of Delivery, and sufficient information describing the final modules and panels incorporated into the Facility and applicable degradation factors.

“Business Day” means every day other than a Saturday, Sunday or day which is a legal holiday in Portland, Oregon, on which banks are not generally open for business.

“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. Capacity Rights are measured in MW and do not include 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, and which occurs when all of the following events (a) have occurred, all of which are Seller’s responsibility to receive or obtain, 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 Oregon 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 electric energy reliably in amounts expected by and consistent with the terms and conditions of this 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 addressed to PacifiCorp from a Licensed Professional Engineer licensed in the state of Oregon 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) PacifiCorp has received from Seller a copy of the final, executed Generation Interconnection Agreement, and in accordance with the Generation Interconnection Agreement, all required interconnection facilities and metering have been constructed, all required interconnection tests have been completed and the Facility is physically interconnected with PacifiCorp's electric system; 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 achieved Commercial Operation and its Nameplate Capacity Rating accompanied by the documentation described above. 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, provided that, except as permitted under Section 5.1.2, the Commercial Operation Date cannot be a date that is earlier than ninety (90) days prior to the Scheduled Commercial Operation Date.

"Commission" means the Oregon Public Utility Commission.

"Conditional DNR Notice" is defined in Section 4.2.2.

"Contract Interest Rate" means the lesser of (a) the highest rate permitted under Requirements of Law or (b) 200 basis points per annum plus the rate per annum equal to the publicly announced prime rate or reference 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 the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, N.Y., selected by the Party to whom interest is being paid.

"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 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 from 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, and provided further that if (a) or (b) is not available, 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.

“Default Security” is an amount equal to fifty dollars (\$50) per kW of the Nameplate Capacity Rating for the first ten (10) Contract Years following the Commercial Operation Date, and ninety dollars (\$90) per kW of the Nameplate Capacity Rating for the remainder of the Term.

“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.

“Energy Imbalance Market” means generation facilities electrically located within PacifiCorp’s balancing authority areas that are, from time to time, bid in to or otherwise subject to dispatch instructions issued or originating from the Market Operator.

“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 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 that the Premises will not be available or usable for the purposes contemplated by this Agreement.

“Event of Default” is defined in Section 11.1.

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

“Expected Net Output” means 139,479 MWh of Net Output in the first full Contract Year reduced, as applicable, by an annual degradation factor of 0.7% 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 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 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, and specifically excludes any Maintenance Outage or Planned Outage.

“Generation Interconnection Agreement” means the generator interconnection agreement entered into separately between Seller and Interconnection Provider concerning the Interconnection Facilities.

“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 by any of the foregoing.

“Green Tags” means (a) the Environmental Attributes associated with all Output, together with (b) the Green Tag Reporting Rights associated with such energy and Environmental Attributes, however commercially transferred or traded under any or other

product names, such as “Renewable Energy Credits,” “Green-e Certified,” or otherwise. One Green Tag represents the Environmental Attributes made available by the generation of one MWh of energy from the Facility.

“Green Tags Price Component” means: (1) the price for Green Tags determined by arithmetically averaging quotes for Green Tags from three nationally recognized independent Green Tag brokers selected by PacifiCorp pursuant to which PacifiCorp could reasonably purchase substitute Green Tags similar to those Green Tags that Seller failed to deliver, with delivery terms, vintage period and any renewable program certification eligibility that are similar to those contained herein, calculated as of the date of default or as soon as reasonably possible thereafter; or (2) if after the Effective Date a liquid market for Green Tags exists, the price established for Green Tags from the established liquid market for Green Tags in a form and location that PacifiCorp determines reasonably states the market value of the Green Tags delivered hereunder.

“Green Tag Reporting Rights” means the exclusive right of a purchaser of Environmental Attributes to report ownership of Environmental Attributes in compliance with federal or state law, if applicable, and to federal or state agencies or other parties at such purchaser's discretion, including under any present or future domestic, international, or foreign emissions trading program or renewable portfolio standard.

“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).

“Indemnifying 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, transformers and associated equipment, substations, relay and switching equipment, and safety equipment.

“Interconnection Provider” means PacifiCorp Transmission.

“KW” means kilowatt.

“Lender” means an entity lending money or extending credit (including any financing lease, monetization of 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.

“Lender Estoppel” is defined in Section 8.6.

“Letter of Credit” means an irrevocable standby letter of credit in form and substance 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) 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 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 reasonably acceptable to PacifiCorp who: (a) to the extent mandated by Requirements of Law is licensed to practice 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 providing a certification, evaluation or opinion; (c) is not an employee of Seller or any Affiliate of Seller; and (d) is not employed by (i) an engineer, contractor or designer or otherwise involved in the development of the Facility, or (ii) 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 the Energy Imbalance Market or 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 55 MW.

“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” means all hours that are not On-Peak Hours.

“On-Peak Hours” means 6:00am PPT until 10:00pm PPT, Monday through Saturday, excluding NERC holidays.

“Output” means all energy produced by the Facility.

“Pacific Prevailing Time” or “PPT” means Pacific Standard Time or Pacific Daylight Time, as applicable in Oregon on the day in question.

“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 or transmission function capacity.

“PacifiCorp’s Cost to Cover” means the positive difference, if any, between (a) the sum of (i) the time weighted average of the Firm Market Price Index for each day for which the determination is being made, plus (ii) the Green Tags Price Component, and (b) the Contract Price in effect on such days, stated as an amount per MWh.

“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 or occupancy of the Premises.

“Planned Outage” means NERC Event Type PO, as provided in attached Exhibit J, and specifically excludes any Maintenance Outage or Forced Outage.

“Point of Delivery” means the point of interconnection between the Facility and the System, as specified in the 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 on Exhibit B.

“Project Development Security” is an amount equal to twenty five dollars (\$25) per kW of the expected Nameplate Capacity Rating.

“Prudent Electrical Practices” means any of the practices, methods and acts engaged in or approved by a significant 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 Part 292) in effect on the Effective Date.

“Qualifying Institution” means a United States commercial bank or trust company organized under the laws 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 Output to PacifiCorp in accordance with this Agreement and Requirements of Law, including those listed in 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.).

“Scheduled Commercial Operation Date” means February 28, 2023.

“Security” means Project Development Security or Default Security.

“Seller” is defined in the Recitals.

“Seller Indemnities” is defined in Section 12.1.2.

“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 Output not purchased by PacifiCorp as required under this Agreement.

“Senior Lenders” means Lenders being granted senior security interests on the Facility or its assets, or Seller or its equity, other than Affiliates of Seller.

“System” means the electric transmission substation and transmission or distribution facilities owned, operated or maintained by Transmission 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 revised from time to time.

“Tax Credits” means any state, local and federal production and investment tax credits, tax deductions, or other 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 responsible for the safe and reliable operation of PacifiCorp’s balancing authority areas.

“WECC” means the Western Electricity Coordinating Council.

“WREGIS” means the Western Renewable Energy Generation Information System.

“WREGIS Certificate” or “Certificate” means “Certificate” as defined by the

WREGIS Operating Rules.

“WREGIS Operating Rules” means the operating rules and requirements adopted by WREGIS.

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 stated otherwise; (j) the word “or” is not necessarily exclusive; and (k) reference to “days,” “months” and “years” means calendar days, months and years, respectively, 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, 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, and is not liable for any breach of agreement or duty by Interconnection Provider or Transmission Provider.

SECTION 2 TERM; MILESTONES

2.1 Term. This Agreement shall be effective upon execution and delivery by both Parties (the “Effective Date”). Unless earlier terminated as provided herein, this Agreement shall remain in effect until midnight February 28, 2043 (the “Term”).

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 and Green Tags by the Scheduled Commercial Operation Date is critically important. Therefore, Seller must achieve the milestones provided in (a) through (e) below at the times so indicated.

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

(b) 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.

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

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

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

2.3 Delay Damages. If Commercial Operation is not achieved on or before the Scheduled Commercial Operation Date, then: (a) Seller must pay to PacifiCorp Delay Damages from and after the Scheduled Commercial Operation Date up to, but not including, the earlier of (i) the date this Agreement is terminated in accordance with its terms; and (ii) the date that the Facility achieves Commercial Operation; and (b) PacifiCorp may terminate this Agreement consistent with Section 11.

2.4 Damages Calculation. Each Party acknowledges and agrees that: (a) the damages PacifiCorp would incur due to Seller's delay in achieving Commercial Operation by the Scheduled Commercial Operation Date are difficult or impossible to predict with certainty; (b) it is impractical and difficult to assess actual damages in these circumstances; and, therefore (c) Delay Damages as agreed to by the Parties and set forth herein are a fair and reasonable calculation of damages and not a penalty.

2.5 Damages Invoicing. By the tenth (10th) day following the end of the calendar month in which Delay Damages begin to accrue and continuing on the tenth (10th) day of each subsequent 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 monthly updates to PacifiCorp concerning the progress of Seller regarding the acquisition, design, financing, engineering, construction, installation, start-up and testing of the Facility, including any significant developments or delays in achieving Commercial Operation by the Scheduled Commercial Operation Date. PacifiCorp, at its own expense, will have the right to monitor the construction, installation, start-up and testing of the Facility for compliance with this Agreement; provided that PacifiCorp must schedule any visit to the Premises in advance with Seller and PacifiCorp must agree to comply with Seller's reasonable written health, safety and security requirements. Notwithstanding anything to the contrary contained in this Agreement, 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 third party, and PacifiCorp will have no liability to Seller for failing to advise it of any condition, damage, circumstance, infraction, fact, act, omission or disclosure discovered or not discovered by PacifiCorp with respect to the Facility or any contractor.

SECTION 3 REPRESENTATIONS AND WARRANTIES

3.1 PacifiCorp's Representations and Warranties. PacifiCorp represents and warrants to Seller that:

3.1.1 Organization. It is duly incorporated, validly existing and in good standing under the laws of the state of Oregon.

3.1.2 Authority. It has the requisite power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement in accordance with the 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, delivery of this Agreement and the performance of its obligations in this Agreement does not and will not contravene or result in a violation or breach of or default under, any provision of its organization documents, any indenture, mortgage, security instrument or undertaking, or other material agreement to which it is a party or by which its assets are bound, or any Requirement of Law applicable to it.

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 applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and general principles of equity.

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

3.2.1 Organization. It is duly organized, validly existing and in good standing under the laws of the state of Utah.

3.2.2 Authority. It (a) has the requisite power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement in accordance with the terms (b) has (or will have prior to the Commercial Operation Date) all required regulatory authority to make wholesale sales from the Facility; (c) has the power and authority to own and operate the Facility and be present upon the Premises for the Term; and (d) 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.

3.2.3 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.

3.2.4 No Contravention. The execution and delivery of this Agreement and the performance of its obligations in this Agreement does not and will not:

(a) contravene or result in a violation or breach of or default under, any provision of its organization documents, any indenture, mortgage, security instrument or undertaking, or other material agreement to which it is a party or by which its assets are bound, or any Requirement of Law applicable to it;

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

3.2.5 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 applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and general principles of equity.

3.2.6 Required Facility Documents. All Required Facility Documents are listed on Exhibit D. Seller holds as of the Effective Date, or will hold by the Commercial Operation Date (or such other date as may be specified under applicable Requirements of Law), and will maintain throughout the Term all Required Facility Documents. The anticipated use of the Facility complies with all applicable restrictive covenants affecting real property agreements, including leases and easements, required for the construction, ownership, operation and maintenance of the Facility or the performance of any obligations of Seller in this Agreement and that are identified in Exhibit E. Following the Commercial Operation Date, Seller must promptly notify PacifiCorp of any additional Required Facility Documents not listed on Exhibit D. If reasonably requested by PacifiCorp, Seller must provide copies of any or all Required Facility Documents.

3.2.7 Delivery of Energy. Before the Commercial Operation Date and throughout the Term, Seller must hold all legal and contractual 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.

3.2.8 Control of Premises. Seller has all legal and contractual rights necessary for Seller to enter upon and occupy the Premises for the purpose of constructing, owning, operating and maintaining the Facility throughout the Term. All real property rights agreements, including leases and easements, required for the construction, ownership, operation and maintenance of the Facility or the performance of any obligations of Seller in this Agreement are identified in Exhibit E. Seller must maintain throughout the Term all such real property agreements, including leases and easements, required for the construction, ownership, operation and maintenance of the Facility or the performance of all obligations of Seller under this Agreement. Upon request by PacifiCorp, Seller must provide copies of all memoranda of real property interests recorded in connection with the development of the Facility.

3.2.9 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 litigation, arbitration, investigation or proceeding is pending or, to the best of Seller's knowledge, 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.

3.2.10 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.

3.2.11 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.

3.2.12 Capacity Rights. Seller has not sold, or entered into any contract or agreement to sell, to any person (other than PacifiCorp under the terms of this Agreement) the Capacity Rights, if any.

3.2.13 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.

3.2.14 Renewable Claims. Seller has at all times complied with the Federal Trade Commission requirements set forth in 16 CFR Part 260 in any communications concerning the Output, the Facility and the Green Tags that have or may be generated from the Facility. Seller has not claimed the Green Tags, Environmental Attributes or other “renewable energy,” “green energy,” “clean energy” or similar attributes of the Output or the Facility as belonging to the Seller or any Seller Affiliate and is not aware of any such claims made by third parties with respect to the Facility or the Output.

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 of this Agreement.

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 any event or information that would have caused any of its representations and warranties in this Agreement to be materially untrue or misleading at the time given, such Party must as soon as practicable 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 to the maximum extent possible.

SECTION 4 DELIVERIES OF NET OUTPUT AND GREEN TAGS

4.1 Purchase and Sale. Commencing on the Commercial Operation Date and continuing through the Term, Seller will sell and make available to PacifiCorp, and PacifiCorp will purchase and receive (a) the entire Net Output from the Facility at the Point of Delivery, and (b) all Green Tags associated with the Output or otherwise resulting from the generation of energy by the Facility. In addition, prior to the Commercial Operation Date, Seller may sell and make available to PacifiCorp, and PacifiCorp will purchase and receive, all Net Output and Green Tags from the Facility as provided in Section 5.1.1.

4.2 Designation as Network Resource.

4.2.1 Within seven (7) 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. PacifiCorp will

request an effective date for commencement of network transmission service for the Facility that is ninety (90) days prior to the Scheduled Commercial Operation Date. PacifiCorp will inform Seller of the Transmission Provider's response to the application described above in this paragraph within seven (7) days of PacifiCorp's receipt of such response from the Transmission Provider.

4.2.2 If PacifiCorp is notified in writing by the Transmission Provider that designation of the Facility as a Network Resource is contingent on PacifiCorp procuring transmission service from a third-party transmission provider, or will require the construction of transmission system network upgrades or otherwise require potential redispatch of other Network Resources of PacifiCorp (a "Conditional DNR Notice"), PacifiCorp will provide Seller the transmission study or other documentation from Transmission Provider, and the Parties will proceed as follows:

(a) If the Conditional DNR Notice states that designation of the Facility as a Network Resource is contingent on PacifiCorp procuring transmission service from a third-party transmission provider, the Parties will follow the process set forth in Exhibit A to Oregon's Non-Standard Avoided Cost Rates Schedule as in effect on the Effective Date.

(b) If the Conditional DNR Notice states that designation of the Facility as a Network Resource requires the construction of transmission system network upgrades or otherwise requires potential redispatch of other Network Resources of PacifiCorp, and the option provided in Section 4.2.2(a) is not identified in 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 thirty (30) days following the date of PacifiCorp's receipt of the Conditional 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 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. PacifiCorp will submit such filing with the Commission within sixty (60) days following the date of PacifiCorp's receipt of the Conditional DNR Notice.

(c) In the event 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 of this 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, Green Tags 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 or Green Tags as required under this Agreement.

4.4 Title and Risk of Loss of Net Output. Seller must deliver Net Output, Green Tags 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 Point of Delivery due to any of the following: (a) the interconnection between the Facility and the System is disconnected, suspended or interrupted, in whole 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 of the Facility (which would include the Net Output) for any reason (excluding curtailment of purchases for general economic reasons unilaterally directed by the Market Operator or PacifiCorp acting solely in its merchant function capacity), 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; or if PacifiCorp curtails or otherwise reduces the Net Output in any way in order to meet its obligations to the Market Operator or Transmission Provider to operate within system limitations; (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 on the 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.

4.7 Ownership of Green Tags.

4.7.1 Title to Green Tags. Seller shall transfer the Green Tags to PacifiCorp during the Term. Title to the Green Tags shall pass from Seller to PacifiCorp immediately upon the generation of the Output at the Facility that gives rise to such Green Tags.

4.7.2 Documentation. The Parties shall execute all additional documents and instruments reasonably requested by PacifiCorp in order to further document the transfer of the

Green Tags to PacifiCorp or its designees. Seller must, at its own cost and expense cause the Facility to maintain its registration in good standing with the Center for Resource Solution's Green-e Program (or such successor program) throughout the Term. Seller, at its own cost and expense, shall register with, pay all fees required by, and comply with, all reporting and other requirements of WREGIS relating to the Facility or Green Tags. Seller shall ensure that the Facility will participate in and comply with, during the Term, all aspects of WREGIS. Seller shall, at its sole expense, effectuate the transfer of WREGIS Certificates to PacifiCorp in accordance with WREGIS Operating Rules. Seller may either elect to enter into a Qualified Reporting Entity Services Agreement with PacifiCorp in a form similar to that in Exhibit N or elect to act as its own WREGIS-defined Qualified Reporting Entity. Unless the failure to deliver WREGIS Certificates was caused by action of PacifiCorp not acting in its capacity as Qualified Reporting Entity under the Qualified Reporting Entity Services Agreement, PacifiCorp shall be entitled to a refund of the Green Tags Price Component of Green Tags associated with any Output for which WREGIS Certificates are not delivered, and shall not transfer the affected Green Tags back to Seller, provided that Seller shall have thirty (30) days to correct any error and deliver such WREGIS Certificates to PacifiCorp or provide such refund payment. Seller shall promptly provide PacifiCorp copies of all documentation it submits to WREGIS. Further, in the event of the promulgation of a scheme involving Green Tags administered by a Governmental Authority, upon notification by such Governmental Authority that any transfers contemplated by this Agreement will not be recorded, the Parties shall promptly cooperate in taking all reasonable actions necessary so that such transfers can be recorded.

4.7.3 Publicity. Seller shall not make any public statement or report under any program that any of the Green Tags purchased by PacifiCorp hereunder belong to any person other than PacifiCorp. Seller shall reasonably cooperate in any registration by PacifiCorp of the Facility in the renewable portfolio standard or equivalent program in all such further states and programs in which PacifiCorp may wish to register or maintained registered the Facility by providing copies of all such information as PacifiCorp reasonably requires for such registration.

4.7.4 Renewable Claims. Seller will comply with the Federal Trade Commission requirements set forth in 16 CFR Part 260 in any communications concerning the Output, the Facility and the Green Tags that are or may be generated from the Facility. During the Term, Seller will not claim the Green Tags, Environmental Attributes or other "renewable energy," "green energy," "clean energy" or similar attributes of the Output or the Facility as belonging to the Seller or any Seller Affiliate.

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.

4.9 Further Assurances. 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 Green Tags and Capacity Rights. PacifiCorp will pay Seller the prices stated below for all deliveries of Net Output, Green Tags and Capacity Rights, up to the Maximum Delivery Rate.

5.1.1 Deliveries Prior to the Commercial Operation Date. 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 owed to PacifiCorp by Seller. If Seller desires to deliver Net Output at the Point of Delivery before the Commercial Operation Date on a date earlier than ninety (90) days prior to the Scheduled Commercial Operation Date, PacifiCorp will only be obligated to purchase such Net Output if PacifiCorp is able to modify its network resource designation for the Facility such that the output could be delivered using network transmission service as described in Section 4.2 above at no additional cost or other economic impact to PacifiCorp.

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"). If Seller desires to establish a Commercial Operation Date on a date earlier than ninety (90) days prior to the Scheduled Commercial Operation Date, PacifiCorp will only be obligated to purchase such Net Output if: (i) PacifiCorp is able to modify its network resource designation for the Facility such that the output could be delivered using network transmission service as described in Section 4.2 above at no additional cost or other economic impact to PacifiCorp; or (ii) alternative point-to-point transmission service is available and Seller agrees to promptly reimburse PacifiCorp for all costs incurred in arranging such alternative transmission service.

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 Transmission Provider or Interconnection Provider. Except 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.

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, cause to be paid when due, 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, Capacity Rights or Green Tags 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, Capacity Rights or Green Tags 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. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Net Output, shall be effective regardless of whether the sale of Output or Net Output from the Facility is eligible for or receives Tax Credits during the Term. 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. Further, absent the agreement in writing by both Parties, the standard of review for changes to this Agreement proposed by a Party, a non-party or the FERC acting *sua sponte* will be the “public interest” application of the “just and reasonable” standard of review as described in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956), and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956), and clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish, 554 U.S. 527, 128 S. Ct. 2733 (2008).

SECTION 6 OPERATION AND CONTROL

6.1 As-Built Supplement. No later than thirty (30) days prior to the Commercial Operation Date, Seller must provide PacifiCorp the As-Built Supplement which, as necessary, the Parties will use to amend Exhibits A and Exhibit B and the Expected Net Output accordingly. 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 the Nameplate Capacity Rating, 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 in the definition of "Nameplate Capacity Rating," 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%).

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 Requirements of Law 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 mandatory standards, 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. Seller acknowledges that it has no claim under this Agreement against PacifiCorp with respect to any requirements imposed by or damages caused by (or allegedly caused by) the 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 that has at least two (2) years of experience in the operation and maintenance of similar facilities of comparable size to the Facility. Seller must provide PacifiCorp thirty (30) days prior written notice of any change in the 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 Indemnified 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, defend and hold harmless the Indemnified Party against any and all Liabilities suffered or incurred by the Indemnified Party as a result thereof, including all fees, damages or penalties imposed on the Indemnified Party by any Governmental Authority or other person, including other utilities.

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 operation of the Facility in parallel with the System, or Seller may contract with PacifiCorp to do so at Seller's cost and expense. PacifiCorp must at all times have access to all switching equipment capable of isolating the 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 (1) month, but no more than three (3) 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. Seller may not schedule a Planned Outage during any portion of the months of December and July, except (a) as may be required in the Generation Interconnection Agreement or (b) 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 Maintenance Outage begins. Seller must take all reasonable measures consistent with Prudent Electrical Practices to not schedule any Maintenance Outage during the day light hours in the months of December and July. Notice of a proposed Maintenance Outage by Seller must include the expected start date and time of the Maintenance Outage, the amount of generation capacity of the Facility that will not be available, and the expected completion date and time of the Maintenance Outage. PacifiCorp will promptly respond to such notice and may request reasonable modifications in the schedule for the Maintenance 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 must take all reasonable actions 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 any changed circumstances. As soon as practicable, any oral report must be confirmed in writing to PacifiCorp. Seller must take all reasonable actions 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 Contract Year during the Term (except for the last Contract 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 reasonably satisfactory to PacifiCorp 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 cost and expense, PacifiCorp will solicit in its reasonable discretion 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 reasonable discretion during the Term.

6.8 Increase in Nameplate Capacity Rating; New Project Expansion or Development. At start-up (and at any other time upon at least six months' prior written notice), Seller may increase Net Output, if such increase is due to normal variances in estimated versus actual performance, changed Facility operations, or improvements in Facility efficiency. Seller may not increase Net Output under this Agreement by installing additional panels, inverters, batteries or other similar types of incremental generating units. Seller shall be responsible for ensuring that any planned increase in the Facility Capacity Rating or the maximum instantaneous capacity of the Facility complies with Seller's Generation Interconnection Agreement and any other agreements with PacifiCorp. Subject to the limitations of this section, PacifiCorp will purchase any Net Output or Green Tags above the Maximum Delivery Rate (but not exceeding 80 MW in any hour) at 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.

If Seller elects to build an expansion or additional project within one mile of the Facility (measured from the nearest generation equipment at both locations), 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. 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.

6.9 Telemetry. Seller must during the Term provide telemetry 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 otherwise make 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 for the 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 quarter.

6.12.3 Information to Governmental Authorities. Seller must, promptly upon written request from PacifiCorp, provide PacifiCorp with data collected by Seller related to the construction, operation or maintenance of the Facility reasonably required for reports to any Governmental Authority or Electric System Authority, along with a statement from an officer of Seller certifying that the contents of the submittals are true and accurate to the best of Seller's knowledge. Seller must use best efforts to provide this information to PacifiCorp sufficiently in

advance to enable PacifiCorp to review such information and meet any submission deadlines. PacifiCorp will reimburse Seller for all of Seller's reasonable actual costs and expenses in excess of \$5,000 per year, if any, incurred in connection with PacifiCorp's requests for information under this Section 6.12.

6.12.4 Data Request. Seller must, promptly upon written request from PacifiCorp, provide PacifiCorp with data collected by Seller related to the construction, operation or maintenance of the Facility reasonably required for information requests from any Governmental Authorities, state or federal agency intervener or any other party achieving intervenor status in any PacifiCorp rate proceeding or other proceeding before any Governmental Authority. Seller must use best efforts to provide this information to PacifiCorp sufficiently in advance to enable PacifiCorp to review such data and meet any submission deadlines. PacifiCorp will reimburse Seller for all of Seller's reasonable actual costs and expenses in excess of \$5,000 per year, if any, incurred in connection with PacifiCorp's requests for information under this subsection.

6.12.5 Documents to Governmental Authorities. After sending or filing any statement, application, and report or any document with any Governmental Authority or Electric System Authority relating to operation and maintenance of the Facility, Seller must promptly provide to PacifiCorp a copy of the same.

6.12.6 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 Requirements of Law, or the presence of Environmental Contamination at the Facility or on the Premises.

6.12.7 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 or any of its 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.

6.12.8 Additional Information. Seller must provide to PacifiCorp such other information as relevant to Seller's performance of its obligations under this Agreement or the Facility as PacifiCorp may, from time to time, reasonably request.

6.12.9 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 to make 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 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 by ASC 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 any Governmental 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. The Parties shall comply with the provisions set forth in Exhibit F to 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 within ten (10) days of its filing with any Governmental Authority. At any time during the Term, PacifiCorp may require 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

8.1 Provision of Security. During the Term, Seller must provide and maintain Security as required by this Section 8. If on the Effective Date, PacifiCorp determines Seller satisfies the Credit Requirements, then Seller must thereafter provide every three (3) months following the Effective Date all such reasonable financial information and records as PacifiCorp may reasonably request in order 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 post and maintain Project Development Security in favor of PacifiCorp in the form of either (a) a guaranty from a 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 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 and liabilities 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 any Security provided by Seller pursuant to this Agreement will terminate or expire by its terms within thirty (30) days and Seller has not delivered to PacifiCorp replacement Security in such amount and form as is required under this Agreement, then PacifiCorp will be entitled to draw the full amount of the Security and to hold such amount as security until such time as Seller delivers to PacifiCorp replacement Security in such amount and form as is required under this Agreement.

8.5 Waiver of PacifiCorp Security. Seller waives any and all rights it may have, including under Requirements of Law or otherwise, to require PacifiCorp to provide financial assurances or security (including cash, letters of credit, bonds or other collateral) in respect of its obligations under this Agreement.

8.6 Senior Lender Protective Provisions. PacifiCorp agrees to provide an estoppel for in substantially the form attached hereto as Exhibit M or as otherwise acceptable to PacifiCorp (the “Lender Estoppel”) for the benefit of the Senior Lenders, and to reasonably cooperate with the reasonable requests of such Senior Lenders in conjunction with any financing of the Facility; provided, however, that if and to the extent any Senior Lenders request any additional documents from PacifiCorp with regard hereto, then Seller shall reimburse PacifiCorp for its reasonable costs in providing any such additional documents, with such costs to be paid to PacifiCorp at the closing of the financing.

SECTION 9 METERING

9.1 Installation of Metering Equipment. At Seller’s cost and 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 based upon the inaccuracy found 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 cannot be ascertained, the proper correction will be made to the measurements taken during the time the metering equipment was in service since last tested, but not exceeding three (3) months, in the amount the metering equipment was shown to be in error by such test. Any correction in billings or payments resulting from a correction in the meter records will be made in the next monthly billing or payment rendered. Such correction, when made, will constitute full adjustment of any claim between Seller and PacifiCorp arising out of such inaccuracy of metering equipment.

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

9.5 WREGIS Metering. 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 (10th) 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 (20th) day following receipt of such invoice or the thirtieth (30th) day following the end of each month, payment for Seller's deliveries of Net Output and associated Green Tags 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 cost and 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.

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 is not cured within ten (10) 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.

(c) Seller sells Output, Green Tags or Capacity Rights from the Facility to a party other than PacifiCorp in breach of Section 4.3, or Seller makes a public statement or otherwise takes an action that any Governmental Authority or the Center for Resource Solutions determines is a retirement, double counting, double sale, double use or double claim of Green Tags, 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 of the notice received by PacifiCorp.

(e) After the Commercial Operation Date, Seller fails to maintain any Required Facility Documents or Permits 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 or Permits.

(f) Seller's Abandonment of construction or operation of the Facility and such failure continues for thirty (30) days after Seller's receipt of written notice from PacifiCorp.

(g) 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.

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

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 a 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.

11.2.2 Remedy for PacifiCorp's Failure to Purchase. If PacifiCorp fails to receive or purchase all or part of the Net Output and Green Tags 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 (15) days before such termination date. The notice required under this Section 11.3 may be provided in the notice of default (and does not have to be a separate notice) provided it complies with the terms of this Section 11.3. 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. Seller's 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," must state any amount alleged to be owed, and must include wiring instructions for payment. Notwithstanding any other provision of this Agreement to the contrary, Seller will not have any right to terminate this Agreement if the default that gave rise to the termination right is cured within fifteen (15) days of PacifiCorp's receipt of such notice. 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 the exercise 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, all provisions of this Agreement that either expressly by their terms survive, or, by their nature are intended to survive or come into or continue in force and effect after the termination or expiration of this Agreement shall remain in effect.

11.4 Termination of Duty to Buy. In the event this Agreement is terminated because of Seller's default 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.

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 a default by PacifiCorp, Seller must use commercially reasonable efforts to maximize the price for Net Output and associated Green Tags 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 and associated Green Tags not purchased or accepted by PacifiCorp, to the extent permitted by Requirements of Law and the Generation Interconnection Agreement. With respect to a default by Seller, PacifiCorp must use commercially reasonable efforts to minimize the price paid to third parties for energy and Green Tags purchased to replace Net Output and Green Tags not delivered by Seller as required under this Agreement.

11.7 No Termination. PacifiCorp may not terminate this Agreement due solely to an exercise of remedies under the financing documents between Seller and Senior Lenders, including foreclosure, or due to an Event of Default under Section 11.1.2(d) that is solely due to a foreclosure by Senior Lenders.

11.8 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.

11.9 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 of Seller, on or prior to commencement of construction activities on the Premises, Seller must secure and continuously carry the insurance coverage specified on Exhibit I.

**SECTION 14
FORCE MAJEURE**

14.1 Definition of Force Majeure. “Force Majeure” or “an event of Force Majeure” means an event or circumstance that prevents a Party (the “Affected Party”) from performing, in whole or in part, an obligation under this Agreement and that: (a) is not reasonably anticipated by the Affected Party as of the Effective Date; (b) is not within the reasonable control of the Affected Party or its Affiliates; (c) is not the result of the negligence or failure to act by the Affected Party or its Affiliates; and (d) could not be overcome by the use of due diligence by the Affected Party or its Affiliates. Force Majeure includes the following types of events and circumstances (but only to the extent that such events or circumstances satisfy the requirements in the preceding sentence): environmental disasters; civil disturbance; sabotage; strikes; lock-outs; work stoppages; and action or restraint by court order 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 action or restraint). Notwithstanding the foregoing, none of the following constitute Force Majeure: (i) Seller’s ability to sell, or PacifiCorp’s ability to purchase energy, capacity or Green Tags 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 an independent event of Force Majeure; (vii) any delay, alleged breach of contract, or failure by the Transmission Provider or Interconnection Provider unless due to an independent event of Force Majeure; (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 Provider or Interconnection Provider, unless due to an independent event of Force Majeure; 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 Force Majeure, provided that: (a) the Affected Party, 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 of Force Majeure 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 strike, walkout, lockout or other labor dispute, are contrary to the Party's best interests.

14.5 Right to Terminate. If a Force Majeure event prevents an Affected Party from substantially performing its obligations under this Agreement for a period exceeding one hundred and eighty (180) consecutive days (despite the Affected Party's effort to take all reasonable steps to remedy the effects of the Force Majeure with all reasonable dispatch), then the other Party not affected by the Force Majeure may terminate this Agreement by giving ten (10) days prior notice to the other Affected Party. Upon such termination, neither Party will have any liability to the other with respect to the period following the effective date of such termination; provided, however, that this Agreement will remain in 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 MISCELLANEOUS PROVISIONS

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

15.2 Choice of Law. This Agreement will be interpreted and enforced in accordance with the laws of the state of Oregon, without applying any choice of law rules that may direct the application of the laws of another jurisdiction.

15.3 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. The Parties 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.

15.4 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.

15.5 Governing Jurisdiction and Authorizations. This Agreement is subject to the jurisdiction of those Governmental Authorities having jurisdiction over either Party or this Agreement.

15.6 Successors and Assigns.

15.6.1 Restriction on Assignments. Except as provided in this Section 15.6, neither Party may assign this Agreement or any of its rights or obligations without the prior

written consent of the other Party.

15.6.2 Permitted Assignments. Notwithstanding Section 15.6.1, either Party may, without the need for consent from the other Party (but with prior written 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.

15.7 Entire Agreement. This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or 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.

15.8 Notices. 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, electronic transmission, 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 been given upon receipt. The Parties may change any of the persons to whom notices are addressed, or their addresses, by providing written notice in accordance with this section.

15.9 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 for its review. Any use of the name “Berkshire Hathaway,” in any form, requires the prior written consent of PacifiCorp.

15.10 Dispute Resolution.

15.10.1 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. 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 after delivery 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 in any 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.

15.10.2 Mediation. If the dispute is not resolved under the procedures provided in Section 15.10.1, 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.

15.10.3 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.

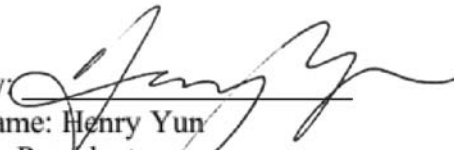
15.10.4 WAIVER OF JURY TRIAL. EACH PARTY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON THIS AGREEMENT, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR 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.

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

SKYSOL, LLC

SKYSOL, LLC

By: Hanwha Energy USA Holdings Corporation
d/b/a 174 Power Global
Its: Manager

By: 
Name: Henry Yun
Its: President

PACIFICORP

Bruce Griswold

By: 2020.04.08 11:45:14 -07'00'

Name: Bruce Griswold

Title: Director, Short-term Origination

EXHIBIT A

EXPECTED MONTHLY NET OUTPUT

Month	On-Peak Energy (MWh)	Off-Peak Energy (MWh)	Total Energy (MWh)
January	4845.37	586.57	5431.94
February	5876.40	1051.34	6927.74
March	9263.93	1564.02	10827.95
April	11069.78	1988.78	13058.56
May	12606.87	3038.79	15645.66
June	15445.18	2376.48	17821.66
July	14911.73	4082.73	18994.46
August	14851.78	2339.50	17191.28
September	10862.73	3083.75	13946.48
October	8308.85	1253.80	9562.65
November	4342.81	1014.78	5357.59
December	3805.24	907.45	4712.69

The energy values above will be reduced 0.7% each Contract Year following the Commercial Operation Date.

MAXIMUM DELIVERY RATE

55.0 MWh/hr

EXHIBIT B
DESCRIPTION OF SELLER'S FACILITY

Type (synchronous or inductive): SYNCHRONOUS

Facility Nameplate Capacity Rating: 55000 kW

Model: SMA SC4200UP

Number of Phases: Three

Power factor requirements: ± 0.95 per LGIA

Rated Power Factor (PF) or reactive load (kVAR): PF=1 @ Rated Power, Adjustable to ± 0.8 on demand

Rated Output (kW): 63000 (output will be curtailed by SCADA not to exceed 55000kW at point of delivery)

Rated Output (kVA): 63000

Rated Voltage (line to line): 230KV

Rated Current (A): 158.15amps @ main transformer HV bushings (230kV)

Maximum kW Output: 55000 kW

Maximum kVA Output: 63000 kVA

Minimum kW Output: 0 kW

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

Station service consumption will be approximately 135 kW when inverter are not operating. This includes medium & high-voltage transformer no-load losses, inverter standby consumption and SCADA power. Staffed O&M facilities have not been considered in this total.

No external loads will be served by the facility

Location of the Facility:

Section 35, Township 40S, Range 11E
Klamath County, OR

EXHIBIT C

SELLER'S INTERCONNECTION FACILITIES

1. *Description of point of metering, and Point of Delivery*

The point of metering for the Facility is at the Point of Delivery at the 230kV bus of a 3-breaker ring bus to be constructed on the Transmission Provider's 230kV Malin to Snow Goose transmission line as further set forth in the attached QF LGIA, Appendix A, Section 4, and as depicted in the attached QF LGIA Attachment A.

2. *Interconnection single line drawing of Facility including any transmission facilities on Seller's side of the Point of Delivery.*

As depicted in the attached QF LGIA Attachment A:

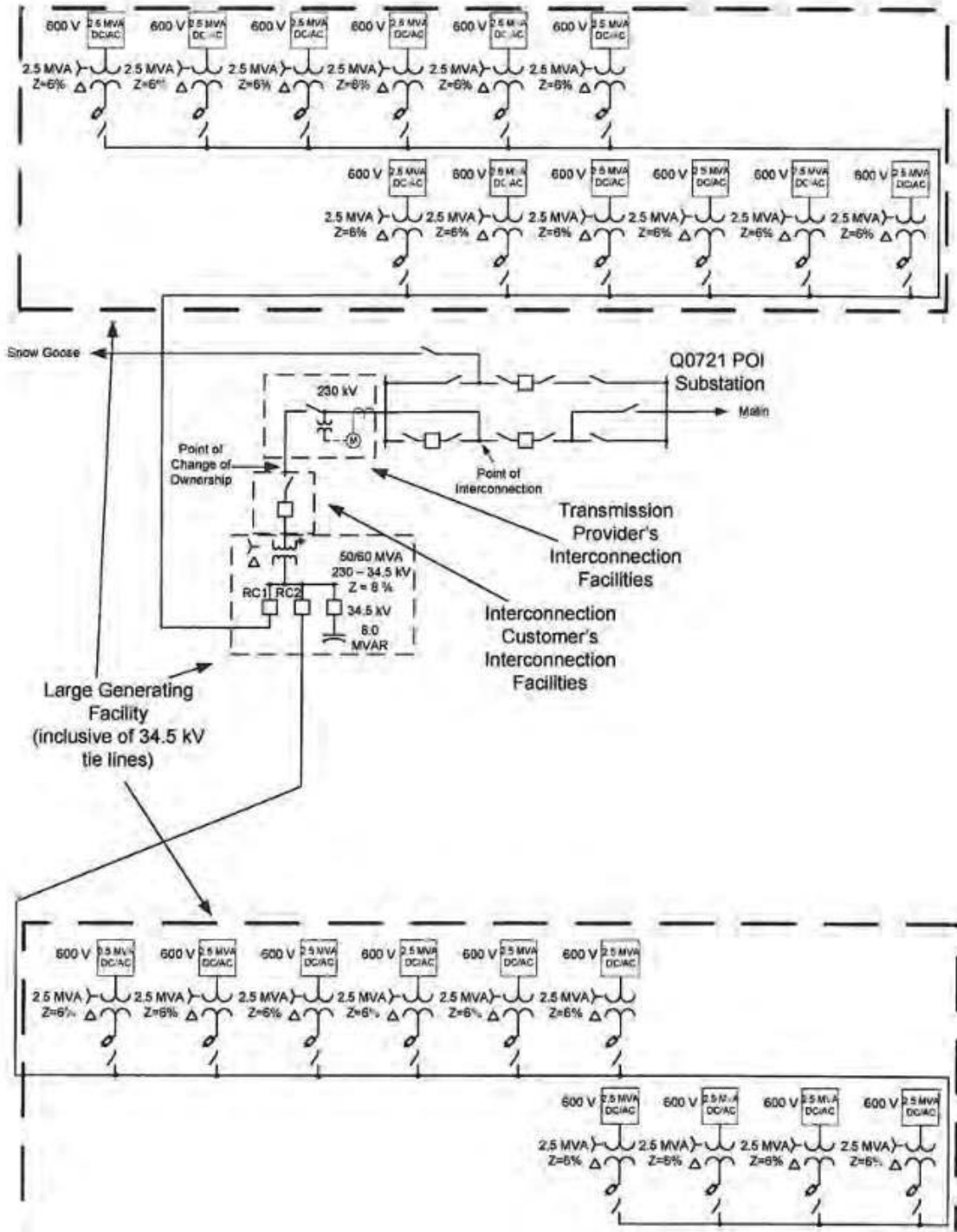


EXHIBIT D
REQUIRED FACILITY DOCUMENTS

1. Qualifying Facility Large Generator Interconnection Agreement, dated June 5, 2017, between Skysol, LLC, and PacifiCorp.
2. Agreement to Amend Qualifying Facility Large Generator Interconnection Agreement, dated March 25, 2020, between Skysol, LLC, and PacifiCorp.
3. Federal Energy Regulatory Commission Form 556 Certification of Qualifying Facility for Skysol, LLC, dated November 10, 2016 (FERC Docket No. QF16-433-001)

EXHIBIT E

REAL ESTATE DOCUMENTS

1. Memorandum of Amended and Restated Lease and Easement for a Solar Energy Project, dated effective June 18, 2015, between Gavin Rajnus L.L.C., and Skysol LLC, filed in Klamath County, Oregon (File # 2017-001670).
2. Memorandum of First Amendment to Amended and Restated Lease and Easement for a Solar Energy Project, dated December 28, 2018, between Gavin Rajnus L.L.C., and Skysol LLC, filed in Klamath County, Oregon (File # 2019-000431).
3. First Amendment to Memorandum of Lease and Easement for a Solar Energy Project, dated June 26, 2015, between Gavin Rajnus L.L.C., and Skysol LLC, filed in Klamath County, Oregon (File # 2015-011878).
4. Memorandum of Lease and Easement for a Solar Energy Project, dated effective January 14, 2019, between Don and Sharon Rajnus, and Skysol LLC, filed in Klamath County, Oregon (File # 2019-000430).

EXHIBIT F

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) eighty five percent (85%) 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. As used herein, “Seller Uncontrollable Minutes” means, for the Facility in any Rolling Period, the total number of minutes during 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: (i) an emergency or Force Majeure event; (ii) to the extent not caused by Seller’s actions or omissions, a curtailment in accordance with Section 4.5; (iii) Planned Outages, but in no event exceeding 200 hours per Contract Year; and (iv) a default by PacifiCorp; provided, however, that if any of the events described above in items (i) through (iv) 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 (A) the Facility or any portion thereof was unavailable solely due to Seller’s non-conformance with the Generation Interconnection Agreement or (B) the Facility or any portion thereof was paused or withdrawn from use by Seller for reasons other than those covered in this definition.

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:

$$\text{Output Shortfall} = \text{Output Guarantee} \text{ minus } \text{Net Output}$$

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.

EXHIBIT G

FORM OF PARENT GUARANTY

THIS GUARANTY (this "Guaranty"), dated as of _____, 2020, is issued and delivered by _____, a _____ corporation (the "Guarantor") for the benefit of PacifiCorp, an Oregon corporation (the "Beneficiary"), with reference to the following:

WHEREAS, the Beneficiary and _____, a _____ limited liability company (the "Obligor") entered into that certain Power Purchase Agreement, dated as of _____, 2020 (the "Agreement"); and Guarantor delivers to the Beneficiary this Guaranty as an inducement to Beneficiary to enter into the Agreement.

NOW, THEREFORE, in consideration of the foregoing and for good and valuable consideration, the Guarantor hereby agrees as follows:

1. Guarantor absolutely and unconditionally guarantees, as an independent obligation of Guarantor, the prompt and complete payment when due of the Obligor's obligations and liabilities under the Agreement (the "Guaranteed Obligations"); provided, however, that the Guarantor's aggregate liability hereunder shall not exceed Expenses as defined in Section 10, plus (a) _____ U.S. Dollars (U.S. \$ _____) for the period from the date that is ten (10) days after the effective date of the Agreement, through but not including the date that is three (3) months after the effective date of the Agreement, (b) _____ U.S. Dollars (\$ _____) for the period from the date that is three (3) months after the effective date of the Agreement through but not including the Commercial Operation Date (as defined in the Agreement), and (c) _____ U.S. Dollars (U.S. \$ _____) for the period from the Commercial Operation Date (as defined in the Agreement) through the Expiration Date.

2. This Guaranty is one of payment and not of collection and shall apply regardless of whether recovery of any Obligations may be or become barred by any statute of limitations, discharged, or uncollectible due to any change in law or regulation or in any bankruptcy, insolvency or other proceeding, or otherwise be unenforceable. All sums payable by Guarantor hereunder shall be made in immediately available funds without any setoff, deduction, counterclaim or withholding for taxes unless required by applicable law, in which case Guarantor shall pay, in addition to the payment to which Beneficiary is otherwise entitled, such additional amount as is necessary to ensure that the net amount actually received by Beneficiary (free and clear of any setoff, deduction, counterclaim or withholding for taxes) will equal the full amount which Beneficiary would have received had no such setoff, deduction, counterclaim or withholding been required.

3. Beneficiary may at any time, whether before or after termination of this Guaranty, and from time to time without notice to or consent of Guarantor and without impairing or releasing the obligations of Guarantor hereunder: (1) apply any sums received to any indebtedness or other obligations for which Obligor is liable, whether or not such indebtedness is an Obligation; (2) modify, compromise, release, subordinate, substitute, exercise, alter, enforce or fail or refuse to exercise or enforce any claims, rights or remedies of any kind which Beneficiary may have, at any time against Obligor or Guarantor, endorser, or other party liable for the

Obligations or any part or term thereof, or with respect to collateral or security of any kind Beneficiary may have, at any time, whether under the Obligations, or any other agreement, or this Guaranty, or otherwise; (3) release, substitute, or surrender and to enforce, collect or liquidate or to fail or refuse to enforce, collect or liquidate, any collateral or security of any kind Beneficiary may have, at any time, whether under this Guaranty or otherwise; (4) take and hold security for the payment and performance of the obligations guaranteed hereby, and exchange, enforce, waive, and release or apply such security and direct the order or manner of sale thereof as Beneficiary in its discretion may determine; (5) release or substitute any other Guarantor of Obligor's payment or performance; and (6) assign this Guaranty in whole or in part or Beneficiary's rights hereunder to anyone at any time. Guarantor hereby consents to each and all of the foregoing acts, events and/or occurrences.

4. Guarantor expressly waives (i) protest, (ii) notice of acceptance of this Guaranty by the Beneficiary, (iii) demand for payment of any of the Guaranteed Obligations; (iv) any right to assert against Beneficiary any defense (legal or equitable), counter-claim, set-off, cross-claim or other claim that Guarantor may now or at any time hereafter have (a) against Obligor or (b) acquired from any other party, not affiliated with Guarantor, to which Beneficiary may be liable; and (v) any defense arising by reason of any claim or defense based upon an election of remedies by Beneficiary which in any manner impairs, affects, reduces, releases, destroys or extinguishes Guarantor's subrogation rights, rights to proceed against Obligor for reimbursement, or any other rights of the Guarantor to proceed against Obligor or against any other person, property or security.

5. This Guaranty shall continue in full force and effect with respect to all Obligations arising prior to its termination. This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Obligation is rescinded or must otherwise be restored or returned due to bankruptcy or insolvency laws or otherwise. The failure of Beneficiary to enforce any of the provisions of this Guaranty at any time or for any period of time shall not be construed to be a waiver of any such provision or the right thereafter to enforce the same. All remedies of Beneficiary shall be cumulative. The terms and provisions hereof may not be waived, altered, modified, or amended except in a writing executed by Guarantor and a duly authorized officer of Beneficiary.

6. Until all Obligations are indefeasibly paid in full, Guarantor hereby waives all rights of subrogation, reimbursement, contribution, and indemnity from Obligor and any collateral held therefor, and Guarantor hereby subordinates all rights under any debts owing from Obligor to Guarantor, whether now existing or hereafter arising, to the prior payment of the Obligations. No payment in respect of any such subordinated debts shall be received by Guarantor. Upon any Obligation becoming due, Obligor or its assignee, trustee in bankruptcy, receiver, or any other person having custody or control over any or all of Obligor's property is authorized and directed to pay to Beneficiary the entire unpaid balance of the debt before making any payments to Guarantor, and for that purpose. Any amounts received by Guarantor in violation of the foregoing shall be received as trustee for the benefit of Beneficiary and shall forthwith be paid over to Beneficiary.

7. Guarantor warrants and represents that it is an "eligible contract participant" within the meaning of Section 1a(18) of the Commodity Exchange Act.

8. This Guaranty shall remain in full force and effect until the earlier of (i) such time as all the Guaranteed Obligations have been finally and indefeasibly discharged in full, and (ii) _____ (the "Expiration Date"); provided however, the Guarantor will remain liable hereunder for Guaranteed Obligations that were outstanding prior to the Expiration Date.

9. This Guaranty shall be governed by and construed in accordance with the internal laws of the State of Oregon. Guarantor and Beneficiary agree to the exclusive jurisdiction of the state and federal courts located in the state of Oregon over any disputes arising or relating to this Guaranty.

10. Guarantor agrees to pay all reasonable out-of-pocket expenses (including the reasonable fees and expenses of the Beneficiary's counsel) relating to the enforcement of the Beneficiary's rights hereunder in the event the Guarantor disputes its obligations under this Guaranty and it is finally determined (whether through settlement, arbitration or adjudication, including the exhaustion of all permitted appeals), that the Beneficiary is entitled to receive payment of a portion of or all of such disputed amounts ("Expenses").

11. Waiver of Jury Trial. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THIS PARAGRAPH WILL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

12. This Guaranty integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all oral negotiations and prior writings in respect to the subject matter hereof. Each provision hereof shall be severable from every other provision when determining its legal enforceability such that this Guaranty may be enforced to the maximum extent permitted under applicable law. This Guaranty may only be amended or modified by an instrument in writing signed by each of the Guarantor and the Beneficiary. There are no intended third party beneficiaries of this Guaranty.

13. Guarantor may not assign its rights nor delegate its obligations under this Guaranty in whole or part, without written consent of Beneficiary, and any purported assignment or delegation absent such consent is void. Guarantor agrees to properly execute, or cause to be executed, all documents reasonably required by Beneficiary in connection herewith in order to fulfill the intent and purposes hereof and of the Transaction.

14. Notices. Any communication, demand or notice to be given hereunder will be duly given when delivered in writing to the Guarantor or to the Beneficiary, as applicable, at its address as indicated below:

If to the Guarantor, at:

With a copy to:

If to the Beneficiary, at:

PacifiCorp
825 NE Multnomah, Suite 600
Portland, OR 97232-2315
Attn: Director, Valuation & Commercial Business

With a copies to:

PacifiCorp
825 NE Multnomah, Suite 600
Portland, OR 97232-2315
Attn: Contract Administration
email: cntadmin@pacificorp.com

PacifiCorp Legal Department
825 NE Multnomah, Suite 2000
Portland, OR 97232-2315
Attn: Assistant General Counsel

or such other address as the Guarantor or the Beneficiary shall from time to time specify. Notice shall be deemed given when received, as evidenced by signed receipt, if sent by hand delivery, overnight courier or registered mail.

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty as of the day and year first above written.

By: _____
Name:
Title:

EXHIBIT H
SELLER AUTHORIZATION TO RELEASE
GENERATION DATA TO PACIFICORP

Refer to executed Seller Authorization to Release Generation Date to PacificCorp, dated March 10, 2020, from Skysol, LLC.

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 “A-/VII” by the A.M. Best Company the insurance coverage specified below:

1.1.1 Workers’ Compensation. Seller shall comply with all applicable laws where Seller performs work relating to the Facility.

1.1.2 Employers’ Liability. Seller shall maintain employers’ liability insurance with minimum limits covering bodily injury for: \$1,000,000 – each accident, \$1,000,000 by disease – each employee, and \$1,000,000 by disease – policy limit.

1.1.3 Commercial General Liability. Seller shall maintain insurance to include premises and operations, contractual liability, with a minimum single limit of \$1,000,000 each occurrence to protect against and from loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement.

1.1.4 Business Automobile Liability. Seller shall secure and continuously carry business automobile liability insurance with a minimum single limit of \$1,000,000 each accident covering bodily injury and property damage with respect to Seller’s vehicles whether owned, hired or non-owned.

1.1.5 Umbrella/excess Liability. Seller shall maintain umbrella or excess liability insurance on an occurrence and following form basis with a minimum limit of \$5,000,000.

1.1.6 Property Insurance. Seller shall maintain property insurance covering equipment and structures in an amount at least equal to the full replacement value for “all risks” of physical loss or damage, including coverage for earth movement, flood, boiler and machinery, and business interruption. The policy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. Property insurance will be maintained in accordance with terms available in the insurance market for similar facilities.

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 no less than thirty (30) days prior written notice of cancellation or no less than ten (10) days prior written notice of cancellation if cancellation is due to non-payment of insurance premium. If any coverage is written on a “claims-made” basis, the certification accompanying the policy must 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.

1.5 Periodic Review. PacifiCorp may review this schedule of insurance as often as once every two (2) years. PacifiCorp may in its discretion require Seller to make reasonable changes to the policies and coverages described in this Exhibit to the extent reasonably necessary to cause such policies and coverages to conform to the insurance policies and coverages typically obtained or required for power generation facilities comparable to the Facility at the time PacifiCorp's review takes place.

EXHIBIT J
NERC EVENT TYPES

Event Type	Description of Outages
U1	<u>Unplanned (Forced) Outage—Immediate</u> – An outage that requires immediate removal of a 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	<u>Unplanned (Forced) Outage—Delayed</u> – An outage that does not require immediate removal of a unit from the in-service state but requires removal within six (6) hours. This type of outage can only occur while the unit is in service.
U3	<u>Unplanned (Forced) Outage—Postponed</u> – An outage that can be postponed beyond six hours 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	<u>Startup Failure</u> – 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 period begins 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 the unit is synchronized or another SF occurs.
MO	<u>Maintenance Outage</u> – 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 a PO.)
ME	<u>Maintenance Outage Extension</u> – An extension of a maintenance outage (MO) 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 problems or delays render the unit out of service beyond the estimated end date of the MO.
PO	<u>Planned Outage</u> – An outage that is scheduled well in advance and is of a predetermined duration, lasts for several weeks and occurs only once or twice a year.
PE	<u>Planned Outage Extension</u> – 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 problems or delays render the unit out of service beyond the estimated end date of the PO.

EXHIBIT K CONTRACT PRICE

The Contract Price upon the Commercial Operation Date is shown in the table below.

Month	2022		2023		2024		2025		2026	
	HLH	LLH	HLH	LLH	HLH	LLH	HLH	LLH	HLH	LLH
Jan					\$59.62	\$50.10	\$62.75	\$52.29	\$60.83	\$51.12
Feb			\$47.59	\$40.33	\$50.86	\$43.10	\$50.25	\$42.22	\$50.59	\$43.24
Mar			\$46.48	\$39.39	\$49.39	\$41.86	\$48.73	\$41.30	\$50.96	\$42.12
Apr			\$43.00	\$36.76	\$43.46	\$36.83	\$44.98	\$37.49	\$44.91	\$37.74
May			\$41.46	\$33.17	\$40.73	\$32.84	\$41.00	\$34.16	\$40.33	\$34.17
Jun			\$46.63	\$32.16	\$47.80	\$32.08	\$48.64	\$30.21	\$51.80	\$31.78
Jul			\$41.45	\$25.74	\$47.45	\$30.22	\$47.86	\$30.88	\$49.70	\$33.13
Aug			\$37.78	\$25.36	\$45.75	\$30.50	\$46.05	\$32.20	\$49.66	\$35.22
Sep			\$39.94	\$29.80	\$41.30	\$29.29	\$42.00	\$30.00	\$41.39	\$30.21
Oct			\$48.50	\$41.10	\$50.97	\$41.78	\$50.96	\$42.83	\$53.26	\$44.75
Nov			\$50.13	\$40.43	\$53.59	\$46.20	\$54.12	\$45.10	\$53.44	\$43.45
Dec			\$58.46	\$49.55	\$60.04	\$50.03	\$62.51	\$51.23	\$63.75	\$51.41

Month	2027		2028		2029		2030		2031	
	HLH	LLH	HLH	LLH	HLH	LLH	HLH	LLH	HLH	LLH
Jan	\$59.43	\$50.36	\$42.92	\$36.37	\$40.22	\$33.24	\$45.15	\$36.71	\$40.73	\$33.38
Feb	\$54.47	\$45.77	\$41.69	\$35.33	\$38.89	\$33.24	\$41.43	\$35.11	\$0.97	\$0.81
Mar	\$52.93	\$44.10	\$45.66	\$38.05	\$44.78	\$39.98	\$46.20	\$40.53	\$42.69	\$37.78
Apr	\$46.02	\$37.42	\$42.45	\$35.08	\$40.87	\$35.23	\$42.79	\$37.21	\$43.01	\$36.76
May	\$42.90	\$36.67	\$41.26	\$34.38	\$41.03	\$33.36	\$41.81	\$34.27	\$41.00	\$34.46
Jun	\$51.45	\$33.41	\$46.81	\$33.92	\$46.69	\$36.47	\$45.33	\$35.14	\$45.07	\$32.43
Jul	\$49.85	\$33.91	\$51.70	\$34.46	\$47.06	\$32.68	\$52.53	\$36.23	\$55.12	\$39.10
Aug	\$48.38	\$34.81	\$35.93	\$25.67	\$34.07	\$24.00	\$36.81	\$27.06	\$32.09	\$24.31
Sep	\$41.24	\$30.33	\$39.73	\$29.87	\$38.41	\$29.10	\$39.27	\$29.97	\$40.95	\$31.50
Oct	\$52.73	\$43.94	\$46.32	\$39.93	\$46.81	\$38.06	\$46.72	\$37.68	\$46.81	\$38.05
Nov	\$55.60	\$46.73	\$45.28	\$37.42	\$43.32	\$35.22	\$44.62	\$36.87	\$44.20	\$36.23
Dec	\$63.80	\$52.30	\$49.03	\$39.86	\$47.30	\$37.84	\$47.62	\$38.72	\$49.45	\$39.88

Month	2032		2033		2034		2035		2036	
	HLH	LLH	HLH	LLH	HLH	LLH	HLH	LLH	HLH	LLH
Jan	\$36.99	\$30.07	\$30.60	\$24.68	\$31.73	\$25.38	\$30.31	\$24.06	\$34.31	\$26.60
Feb	\$33.24	\$27.70	\$31.58	\$26.54	\$30.81	\$26.11	\$32.16	\$27.03	\$36.72	\$30.86
Mar	\$45.15	\$39.26	\$43.09	\$38.14	\$43.14	\$38.18	\$42.19	\$37.01	\$42.37	\$37.49
Apr	\$41.27	\$35.89	\$39.95	\$36.31	\$39.34	\$35.44	\$38.67	\$35.81	\$44.24	\$38.47
May	\$40.78	\$35.16	\$39.48	\$34.63	\$40.88	\$34.94	\$43.36	\$37.06	\$43.48	\$38.48
Jun	\$46.86	\$33.24	\$45.44	\$32.93	\$45.19	\$30.74	\$45.33	\$40.11	\$45.54	\$34.76
Jul	\$46.25	\$33.76	\$53.98	\$42.50	\$52.89	\$41.97	\$48.76	\$39.97	\$51.97	\$41.91
Aug	\$30.09	\$22.97	\$30.97	\$24.77	\$29.61	\$24.27	\$27.50	\$21.65	\$29.92	\$24.94
Sep	\$39.15	\$30.35	\$32.47	\$26.19	\$33.08	\$27.12	\$34.53	\$28.07	\$39.68	\$32.00
Oct	\$45.36	\$37.18	\$40.20	\$33.22	\$42.15	\$34.27	\$44.23	\$35.96	\$46.31	\$37.34
Nov	\$43.43	\$35.60	\$39.37	\$32.54	\$39.35	\$32.26	\$41.56	\$33.25	\$42.81	\$34.52
Dec	\$48.24	\$39.54	\$46.21	\$37.88	\$47.12	\$39.27	\$84.55	\$68.74	\$94.27	\$75.42

Month	2037		2038	
	HLH	LLH	HLH	LLH
Jan	\$38.81	\$30.80	\$39.67	\$31.48
Feb	\$44.67	\$37.54	\$45.63	\$38.35
Mar	\$47.07	\$41.65		
Apr	\$48.81	\$44.37		
May	\$48.30	\$42.00		
Jun	\$50.19	\$39.21		
Jul	\$57.21	\$45.77		
Aug	\$34.62	\$28.38		
Sep	\$44.48	\$35.87		
Oct	\$51.25	\$41.33		
Nov	\$47.49	\$38.61		
Dec	\$100.53	\$79.78		

March 1, 2038 through February 28, 2043 will be Firm Market Index.

EXHIBIT L
PARTY NOTICE INFORMATION

Notices	PacifiCorp	Seller
All Notices:	PacifiCorp 825 NE Multnomah, Suite 600 Portland, Oregon 97232- 2315 Attn: Contract Administration E-mail: cntadmin@pacificorp.com	Attn: Legal Department 300 Spectrum Center Drive Suite 1020 Irvine, CA 92618 Phone: (949) 748-5970 ext, 696 E-mail: legal@174powerglobal.com
All Invoices:	Attn: Back Office, Suite 1900 Email: powerinvoices@pacificorp.com	Attn: Eva De La Torre 300 Spectrum Center Drive Suite 1020 Irvine, CA 92618 Phone: (949) 748-5970 ext. 702 E-mail: eva.delatorre@174powerglobal.com
Scheduling:	Attn: Pre-Scheduling, Suite 600 Phone: (503) 813-6090 Email: ctpreschd@pacificorp.com	Attn: Bethann Donarski 300 Spectrum Center Drive Suite 1020 Irvine, CA 92618 Phone: (651) 308-6555 E-mail: bethann.donarski@174powerglobal.com
Payments:	Attn: Central Cashiers Office, Suite 550 Phone: (503) 813-6826	Attn: Eva De La Torre 300 Spectrum Center Drive Suite 1020 Irvine, CA 92618 Phone: (949) 748-5970 ext. 702 E-mail: eva.delatorre@174powerglobal.com
Wire Transfer:	To be provided in separate letter from PacifiCorp to Seller	Attn: Sung Son 300 Spectrum Center Drive Suite 1020 Irvine, CA 92618 Phone: (949) 748-5970 E-mail: sung.son@174powerglobal.com
Credit and Collections:	Attn: Credit Manager, Suite 600 Phone (503) 813-7280	Attn: Sung Son 300 Spectrum Center Drive Suite 1020 Irvine, CA 92618 Phone: (949) 748-5970 E-mail: sung.son@174powerglobal.com

Notices	PacifiCorp	Seller
Notices of an Event of Default or Potential Event of Default:	PacifiCorp Legal Department 825 NE Multnomah, Suite 2000 Portland, Oregon 97232-2315 Attn: Assistant General Counsel	Attn: Bethann Donarski 300 Spectrum Center Drive Suite 1020 Irvine, CA 92618 Phone: (651) 308-6555 E-mail: bethann.donarski@174powerglobal.com

EXHIBIT M
FORM OF LENDER ESTOPPEL
ESTOPPEL
(POWER PURCHASE AGREEMENT)

To: [_____]]
[_____]]
[_____]]
[_____]]

Re: Power Purchase Agreement by and between [_____] (“Seller”), and PacifiCorp, an Oregon corporation (“PacifiCorp”), dated [_____] (the “PPA”)

[Insert Appropriate Lender Recitals]

All capitalized terms used but not otherwise defined herein have the meanings set forth in the PPA.

PacifiCorp hereby confirms to Seller and Lender as follows as of the effective date of this Estoppel:

1. As of the execution date set forth below: (a) the PPA is in full force and effect; (b) except as stated in **Exhibit A**, to PacifiCorp's knowledge, no default exists on the part of PacifiCorp or Seller under the PPA, and PacifiCorp has no notice that any circumstance currently exists that, but for the giving of notice or the passage of time, or both, would be such a default that would allow termination of or suspension of obligations under the PPA; (c) except as stated in **Exhibit A**, and except for any and all agreements between Seller and PacifiCorp, acting in its interconnection and transmission function capacity, the PPA constitutes the entire agreement between PacifiCorp and Seller with respect to the Facility as defined therein; (d) except as stated in **Exhibit A**, the PPA has not been amended, modified or supplemented, and has not been superseded. A true and correct copy of the PPA (including all amendments thereto) is attached hereto as **Exhibit B**.
2. All payments, security and deposits required to be paid or posted under the PPA (if any) by the Seller have been so paid or posted.
3. To PacifiCorp’s knowledge, all obligations and conditions of the Seller to be performed under the PPA (if any) as of the date of this Estoppel have been performed by Seller and, to PacifiCorp’s knowledge, there are no facts entitling PacifiCorp to any claim, counterclaim, offset or defense against the Seller in respect of the PPA.

4. To PacifiCorp's knowledge, (i) there are no disputes or proceedings between PacifiCorp on the one hand and the Seller on the other, (ii) there are no events, acts, circumstances or conditions constituting an event of Force Majeure (as defined in the PPA), and (iii) each of PacifiCorp and the Seller does not owe any indemnity payments under the PPA.

Each of Seller and PacifiCorp hereby represents and warrants that is has full right and authority to execute and deliver this certificate and that respective person signing on behalf of each of Seller and PacifiCorp is authorized to do so.

This Estoppel has been executed and is effective [_____].

[SELLER]

PACIFICORP

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit A to Estoppel

[Insert Items, as necessary]

Exhibit B to Estoppel

[Insert PPA]

EXHIBIT N

QUALIFIED REPORTING ENTITY SERVICES AGREEMENT

[Form provided by Purchaser]