

POWER PURCHASE AGREEMENT

BETWEEN

US MAGNESIUM LLC

AND

PACIFICORP

THIS AGREEMENT, entered into this ____day of October, 2004, is by and between US Magnesium LLC ("Seller") and PacifiCorp (collectively, the "Parties").

RECITALS

Seller owns, operates and maintains magnesium production and related facilities ("Production Facilities"), including an existing gas-fired generation facility ("QF Facility") for the generation of electric power located within the State of Utah, within the county of Tooele with a Nameplate Capacity Rating of 45,000 kilowatt (kW) with an existing estimated output of approximately 36,000kW; and

Seller intends to operate the QF Facility as a "qualifying facility," as such term is defined in Section 3.2.6 below.

Seller estimates that the average amount of Delivered Energy to be delivered by the QF Facility to PacifiCorp is 238,272 megawatt-hours (MWh), consistent with the scheduled maintenance as shown in Exhibit D hereto; and

Seller shall sell and PacifiCorp shall purchase the Delivered Energy from the QF Facility in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, the Parties mutually agree as follows:

SECTION 1: DEFINITIONS

When used in this Agreement, the following terms shall have the following meanings:

1.1 "As-built Supplement" shall be a supplement to Exhibit A, provided by Seller, describing the Facility as actually built.

1.2 "Billing Period" means the time period between PacifiCorp's reading of its power purchase billing meter at the QF Facility in the normal course of PacifiCorp's business. Such periods typically range between twenty-seven (27) and thirty-four (34) days and may not coincide with calendar months, however, the Billing Period shall be consistent with other power sales or purchase agreements between the Parties.

- 1.3 “Commission” means the Public Service Commission of Utah.
- 1.4 "Contract Year" means a twelve (12) month period commencing at the hour ending (HE) 0100 Mountain Prevailing Time (“MPT”) on January 1 and ending at HE 2400 MPT on December 31 of the calendar year.
- 1.5 “Delivered Energy” shall have the meaning ascribed thereto in Section 4.2 of this Agreement.
- 1.6 "Effective Date" shall have the meaning as set forth in Section 2.1 hereto.
- 1.7 "QF Facility" means Seller's gas-fired generation facility as described in Exhibit A of this Agreement.
- 1.8 “Generation Interconnection Agreements” means the generation interconnection agreements entered into separately between Seller and PacifiCorp’s transmission department, providing for the construction and operation of the interconnection facilities at the Point of Delivery, which agreements are described in Exhibit C.
- 1.9 “Hourly Market Price” means the applicable Index Price for the specified time period (on-peak or off-peak) in a specified day multiplied by the Hourly Shaping Factor.
- 1.10 “Hourly Shaping Factor” means the Hourly Shaping Factors utilized by PacifiCorp for transactions at Palo Verde, as set forth in Tables 1 through 3 of Exhibit E for each hour (the hourly shaping factors are specified in hour-ending format as shown for both MPT and Pacific Prevailing Time (“PPT”)). By notice given to Seller at least sixty (60) days before the beginning of another Contract Year, PacifiCorp may adjust the Hourly Shaping Factors set forth in Exhibit E in a commercially reasonable manner, with such adjustment to be in effect during the next Contract Year; provided, the summation of the Hourly Shaping Factors for the on-peak sixteen (16) hour period, divided by sixteen (16), shall equal one (1), and the summation of the Hourly Shaping Factors for the eight (8) hour off-peak time period, divided by eight (8), shall equal one (1), and the summation of the Hourly Shaping Factors for a twenty-four (24) hour period, divided by twenty-four (24), shall equal one (1). Such adjustment shall be subject to Seller’s consent, which Seller shall not unreasonably withhold, condition or delay.
- 1.11 “Index Price” means for Monday through Saturday, the Dow Jones TM Palo Verde Firm On-Peak Price and the Dow Jones TM Palo Verde Firm Off-Peak Price. For Sunday and NERC holidays, Dow Jones TM Palo Verde 24-Hour Index Price, unless Dow JonesTM shall publish a Firm On-Peak and Firm Off-Peak Price for such days for Palo Verde, in which event such indices shall be utilized for such days with adjustments for appropriate Hourly Shaping Factors. Dow Jones TM Palo Verde daily indexes are calculated seven days a week, including NERC holidays. If the Dow Jones TM Palo Verde index or any replacement of that index ceases to be published during the Term, PacifiCorp shall select as a replacement a substantially equivalent index that, after any appropriate or necessary adjustments, provides the most

reasonable substitute for the index in question. PacifiCorp's selection shall be subject to Seller's consent, which Seller shall not unreasonably withhold, condition or delay.

1.12 "Nameplate Capacity Rating" means the nameplate baseload capacity of the QF Facility, expressed in kW, when operated consistent with the manufacturers' recommended power factor and operating parameters, as set forth in Exhibit A.

1.13 "Net Output" means all energy and capacity produced by the QF Facility, less station use and less transformation and transmission losses and other adjustments, if any.

1.14 "Point of Delivery" means the high side of the generation step-up transformer(s) located at the point of interconnection between the QF Facility and PacifiCorp's transmission system, as specified in the Generation Interconnection Agreement and in Exhibit B.

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

1.16 "Prudent Electrical Practices" means any of the practices, methods and acts engaged in or approved by a significant portion of the electrical utility industry 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. Prudent Electrical Practices is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts that are reasonable under the circumstances.

1.17 "Required Facility Documents" means all licenses, permits, authorizations, and agreements necessary for operation and maintenance of the QF Facility including without limitation those set forth in Exhibit C.

1.18 "Scheduled Maintenance Periods" means those times, as reflected in Exhibit D, during which the QF Facility is shut down for routine maintenance. In the event Seller modifies the Scheduled Maintenance Periods, Seller shall provide notice of such changes to PacifiCorp as soon as reasonably possible.

1.19 "Term" means January 1, 2005 through December 31, 2024.

SECTION 2: EFFECTIVE DATE AND REGULATORY TREATMENT

2.1 This Agreement shall become effective January 1, 2005, assuming prior execution by both Parties and approval by the Commission ("Effective Date"); provided, however, this

Agreement shall not become effective until the Commission has approved this Agreement as consistent with applicable laws and determined that the prices to be paid for energy and capacity sold to PacifiCorp are just and reasonable, and in the public interest.

2.2 In the event that the Commission order approving this Agreement requires any change in this Agreement or imposes any requirement or condition not anticipated by the Parties that may reasonably be expected to be materially adverse to either party, the party adversely impacted by such change or condition may terminate this Agreement by providing the other party notice within thirty (30) days of the entry of the Commission's order.

2.3 The parties anticipate that costs and revenues associated with this Agreement shall be treated for inter-jurisdictional cost allocation purposes in accordance with the proposed PacifiCorp Inter-Jurisdictional Cost Allocation Revised Protocol currently pending before the Commission for approval ("MSP Protocol"). Under the MSP Protocol, this Agreement will constitute a "New QF Contract" and, as such, costs incurred by PacifiCorp to purchase Delivered Energy under this Agreement will be allocated as a system resource unless a portion of such costs are determined by the Commission to exceed the cost that PacifiCorp would have otherwise incurred acquiring comparable resources, in which case the excess costs will be assigned on a situs basis to the State of Utah. The parties stipulate and agree that the Purchase Prices specified in Section 5 do not exceed the costs that PacifiCorp would have otherwise incurred acquiring comparable resources.

2.4 As a condition precedent to PacifiCorp's obligations under this Agreement, prior to the Effective Date, Seller shall provide to PacifiCorp copies of any or all ~~Required~~ Facility Documents that PacifiCorp may reasonably request from Seller in writing. At any time during the Term, Seller, if reasonably requested by PacifiCorp, in writing, shall provide copies of any or all requested Required Facility Documents not previously provided.

2.5 Except as otherwise provided herein, this Agreement shall terminate at HE 2400 MPT on December 31, 2024.

2.6 If Seller determines that conditions so warrant, it may request to terminate this Agreement and request a new agreement that provides for firm contract pricing at the then-approved avoided cost rates for such purchases including all such terms and conditions consistent with QF firm power purchase agreements. The Parties shall negotiate in good faith in an attempt to reach agreement on a new agreement. In the event the parties are unable to reach such new agreement, either Party may petition the Commission for any appropriate determination or relief. Upon approval by the Commission of any such new agreement with firm contract pricing, this Agreement shall terminate.

SECTION 3: REPRESENTATIONS AND WARRANTIES

3.1 PacifiCorp represents, covenants, and warrants to Seller that:

3.1.1 PacifiCorp is duly organized and validly existing under the laws of the State of Oregon.

3.1.2 PacifiCorp has the requisite corporate power and authority to enter into this Agreement and to perform according to the terms of this Agreement.

3.1.3 PacifiCorp 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 hereby.

3.1.4 Subject to Commission approval, the execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on PacifiCorp or any valid order of any court, or any regulatory agency or other body having authority to which PacifiCorp is subject.

3.1.5 Subject to Commission approval, this Agreement is a valid and legally binding obligation of PacifiCorp, enforceable against PacifiCorp in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).

3.2 Seller represents, covenants, and warrants to PacifiCorp that:

3.2.1 Seller is a limited liability company duly organized and validly existing under the laws of the State of Delaware and duly qualified to do business in Utah.

3.2.2 Seller has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof, including all required regulatory authority to make wholesale sales from the QF Facility.

3.2.3 Seller has taken all actions required to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.

3.2.4 The execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.

3.2.5 This Agreement is a valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general

principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).

3.2.6 The QF Facility is and shall for the term of this Agreement continue to be a "qualifying facility" ("QF") as that term is defined in the version of 18 C.F.R. Part 292 in effect on the Effective Date. Seller has provided the appropriate QF certification, which may include a Federal Energy Regulatory Commission ("FERC") self-certification to PacifiCorp prior to PacifiCorp's execution of this Agreement. At any time during the term of this Agreement but no more than once per year, PacifiCorp may require Seller to provide PacifiCorp with a written legal opinion from an attorney in good standing in the state of Utah stating that the QF Facility is a QF and to provide sufficient proof (including copies of all relevant documents and data as PacifiCorp may reasonably request) demonstrating that Seller has maintained and will continue to maintain the QF Facility as a QF.

SECTION 4: DELIVERY OF POWER

4.1 Commencing on the Effective Date and continuing through the term of this Agreement, Seller shall sell and make available to PacifiCorp a portion of the Net Output from the QF Facility at the Point of Delivery as more particularly described in Section 4.2 hereto.

4.2 Seller shall have the option, but not the obligation, to provide and deliver to PacifiCorp at the Point of Delivery the Net Output of the Facility, in the form of non-firm energy available during any hours HE 0100 through HE 2400 MPT, Monday through Sunday, from the QF Facility (the amount of energy that Seller actually delivers to PacifiCorp from the QF Facility, whether more or less than 36,000 kW per hour, shall be referred to herein as the "Delivered Energy"). PacifiCorp shall take and pay for the Delivered Energy at the Point of Delivery subject to the pricing provisions of section 5. Seller shall have the right at any time to utilize all or any portion of the Net Output of the QF Facility in its Production Facilities, including during times when PacifiCorp has provided a notice of interruption for electricity supplied for Seller's Production Facilities. In the event, Seller chooses to utilize all or a portion of its Net Output in its Production Facilities, Seller shall provide a minimum one-hour advance notice to PacifiCorp of its intent to utilize all or any portion of the Net Output of the QF Facility in its Production Facilities or otherwise. The notice shall be by email, fax or phone and in such form as PacifiCorp may reasonably request.

4.3 If (a) Seller desires to make an improvement to the QF Facility in a manner that will cause the Actual Hourly Metered Generation Output of the QF Facility to increase to more than 36 MWh per delivery hour on a continual basis, and (b) Seller provides PacifiCorp with engineering designs, feasibility studies and other information reasonably necessary to document the proposed improvement and Seller's actual intention to make it, the Parties shall negotiate in good faith in an attempt to reach agreement on any appropriate changes to this Agreement. In the event the parties are unable to reach such agreement, either Party may petition the Commission for any appropriate determination or relief. To the extent not otherwise provided in the Generation Interconnection Agreement, all costs associated with the modifications to PacifiCorp's interconnection facilities or electric system occasioned by or related to the

interconnection of the QF Facility with PacifiCorp's system, or any increase in generating capability of the QF Facility shall be borne by Seller.

SECTION 5: PURCHASE PRICES

PacifiCorp shall pay to Seller the Total Monthly Payment, for the Delivered Energy, to be calculated as follows:

$$\text{Total Monthly Payment (\$)} = \sum \text{Total Hourly Value for the Billing Period.}$$

Where:

$$\text{"Total Hourly Value (\$/hr)" = Hourly Market Price * Non-firm Discount * Actual Hourly Metered Generation Output * (1 + Losses)}$$

$$\text{Non-firm Discount (\%)} = 93\%$$

"Actual Hourly Metered Generation Output (MWh)" = Delivered Energy in any hour, up to the Net Output, as available from Seller's generation as metered at the Point of Delivery.

"Losses" are the system transmission losses equal to 4.92 percent to account for QF Facility specific avoided transmission losses.

SECTION 6: OPERATION AND CONTROL

6.1 Seller shall operate and maintain the QF Facility in a safe manner in accordance with the Generation Interconnection Agreement, Prudent Electrical Practices and in accordance with the requirements of all applicable federal, state and local laws and the National Electric Safety Code as such laws and code may be amended from time to time. PacifiCorp shall have no obligation to purchase Net Output or Delivered Energy from the QF Facility to the extent the interconnection between the QF Facility and PacifiCorp's electric system is disconnected, suspended or interrupted, in whole or in part, pursuant to the Generation Interconnection Agreement, or to the extent generation curtailment is required as a result of Seller's non-compliance with the Generation Interconnection Agreement.

6.2 Seller may cease operation of the entire QF Facility or individual units, if applicable, for Scheduled Maintenance Periods at such times as are provided in the monthly maintenance schedule set forth as Exhibit D and may be modified as deemed appropriate by the Seller. Seller shall notify PacifiCorp of any material changes to the monthly maintenance schedule.

6.3 If the QF Facility ceases operation for unscheduled maintenance or otherwise during on-peak hours, Seller shall notify PacifiCorp as soon as practicable of the shutdown and the anticipated duration of such shutdown. Seller shall use commercially reasonable efforts to avoid unscheduled maintenance during on-peak hours, to limit the duration of such unscheduled maintenance, and to perform unscheduled maintenance during non-peak hours.

6.4 At least ninety (90) days before the first day of each calendar quarter, Seller shall provide PacifiCorp with written notice of the QF Facility's planned generation schedule ("Schedule") for that calendar quarter. At least ten (10) days before the beginning of each month, Seller shall notify PacifiCorp in writing of any changes or updates to the Schedule for that month. At or before 0730 MPT on the day before a given day of delivery, Seller shall notify PacifiCorp's generation coordinator desk, by sending an e-mail to wsc@pacificorp.com, or telephoning 503-813-5212, or sending a facsimile to 503-813-6265, of the QF Facility's generation schedule for the delivery day and shall inform PacifiCorp no later than 2-hours following an event of Force Majeure, unscheduled outage or unscheduled derate, of the expected duration of any such event.

SECTION 7: FUEL/MOTIVE FORCE

Seller shall be responsible to procure and pay for all fuel as required and have it delivered to the QF Facility.

SECTION 8: RIGHT TO AUDIT

8.1 PacifiCorp and Seller shall have the right, upon reasonable notice to the other and during regular business hours and without unduly interfering with the conduct of the other's business, to access all of PacifiCorp's or Seller's records pertaining to invoices under this Agreement and to audit the reports, data, calculations and invoices that must be retained or provided under this Agreement. Each party shall bear its own costs of performing such audit; *provided, however*, that each Party agrees to cooperate with such audit and shall not charge the other for any reasonable costs (including without limitation the cost of photocopies) that the other may incur as a result of such audit. Each party shall have two (2) years from the date on which a billing statement is received to audit and to challenge that billing statement.

8.2 Should the audit reveal a billing error or errors that resulted in an overpayment by PacifiCorp, the Seller shall refund to PacifiCorp the amount of the overpayment plus interest thereon from the date such overpayment was made by PacifiCorp to (but not including) the date PacifiCorp actually receives the refund thereof from the Seller, such interest to be at an annual rate equal to the Prime Rate in effect on the date such overpayment was made by PacifiCorp plus two percent (2%), provided however, that the interest rate shall at no time exceed the maximum rate allowed by applicable law. Should the audit reveal a billing error or errors that resulted in an underpayment by PacifiCorp, PacifiCorp shall pay to the Seller the amount of the underpayment plus interest thereon from the Due Date thereof to (but not including) the date the Seller actually receives the payment thereof from PacifiCorp, such interest to be at an annual rate equal to the Prime Rate in effect on the date such underpayment was made by PacifiCorp plus two percent (2%), provided however, that the interest rate shall at no time exceed the maximum rate allowed by applicable law.

8.3 PacifiCorp and Seller shall maintain for a period of two (2) years records, including bills and invoices, related to the calculation of payment prices and other material terms herein.

SECTION 9: METERING

9.1 PacifiCorp has already installed its own metering equipment required pursuant to the Generation Interconnection Agreement.

9.2 Metering shall continue to be performed at the location and in the existing manner and as specified in the Generation Interconnection Agreement. All quantities of energy purchased hereunder shall be adjusted to account for electrical losses, if any, between the point of metering and the Point of Delivery, so that the purchased amount reflects the net amount of power flowing into PacifiCorp's system at the Point of Delivery.

9.3 The metering equipment will be inspected, tested, repaired and replaced as provided in the Generation Interconnection Agreements. If any of the inspections or tests disclose Inaccurate Metering as defined in the Generation Interconnection Agreements, a correction will be made as provided in those agreements. Any correction in billings or payments resulting from a correction in the meter records shall be settled and netted in accordance with Section 10.2.

9.4 To the extent not otherwise provided in the Generation Interconnection Agreement, all PacifiCorp's costs relating to all metering equipment installed to accommodate Seller's QF Facility shall be borne by Seller.

SECTION 10: BILLINGS, COMPUTATIONS AND PAYMENTS

10.1 No later than the twentieth (20th) day of each month, Seller shall provide to PacifiCorp by facsimile an invoice for amounts due under this Agreement for the preceding month, along with sufficient detail to allow PacifiCorp to verify the billing. Within twenty (20) days of its receipt of Seller's invoice, PacifiCorp shall pay all undisputed amounts by wire transfer or otherwise as reasonably directed by Seller from time to time.

10.2 Either Party may offset against any payments owed to the other Party under this Agreement any undisputed amounts incurred after the Effective Date that are owed to it by the other Party pursuant to any other agreement between the Parties. If Seller and PacifiCorp disagree on the amount due under this Agreement or any other agreement, the lower of the amounts due asserted by each Party shall be so netted. After resolution of the disagreement, the balance (if any) shall be netted with the next payment, if any, due to either Party, or shall be paid in full within ten (10) days by the owing Party to the other.

10.3 Parties shall attempt in good faith to resolve any billing disputes within thirty (30) days. If either Party pays any invoice under protest and its position is subsequently upheld, or if an error in any billing is discovered within two (2) years of the date on which it was submitted,

interest shall accrue at the rate specified in Section 10.4, applied to the amount of any billing adjustment from the date the bill was initially paid to the date of the adjustment.

Unless otherwise provided herein, any amounts owing after the due date thereof shall bear interest at the Prime Rate plus two percent (2%) from the date due until paid; provided however, that the interest rate shall at no time exceed the maximum rate allowed by applicable law.

SECTION 11: DEFAULT AND REMEDIES

11.1 The following events shall constitute defaults under this Agreement:

11.1.1 Failure of a Party to perform any material obligation imposed upon that Party by this Agreement (including but not limited to failure to make a payment when due) or breach by a Party of a representation or warranty set forth in this Agreement, if such failure or breach is not cured within thirty (30) days following written notice;

11.1.2 Filing of a petition in bankruptcy by or against a Party if such petition is not withdrawn or dismissed within sixty (60) days after it is filed;

11.1.3 Failure to cure any default under the Generation Interconnection Agreement within the time allowed for a cure under such agreement.

11.2 In the event of any default hereunder that is not cured in the manner provided for in this Agreement, the non-defaulting party may terminate this Agreement at its sole discretion by delivering written notice to the other party and may pursue any and all legal or equitable remedies provided by law or pursuant to this Agreement. The rights provided in this Section 11 are cumulative such that the exercise of one or more rights shall not constitute a waiver of any other rights.

11.3 Whenever a Party believes that a dispute has arisen in connection with this Agreement, that Party shall promptly provide written notice to the other Party describing the matter in dispute. Unless the dispute is resolved sooner, senior management for both Parties shall meet at least once within a period of one month following notice to attempt in good faith to resolve the dispute. If the Parties' senior management does not resolve the dispute, each Party shall have the right to pursue whatever remedies it may have under the terms of this Agreement or applicable regulations, laws, or principles of equity.

SECTION 12: INDEMNIFICATION, LIABILITY AND INSURANCE

12.1 Indemnities.

12.1.1 Seller agrees to release, indemnify and hold harmless PacifiCorp, its directors, officers, agents, and representatives against and from any and all loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with, facilities on Seller's side of the

Point of Delivery, or Seller's operation and/or maintenance of the Facility, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PacifiCorp, Seller or others, excepting only such loss, claim, action or suit as may be caused solely by the fault or gross negligence of PacifiCorp, its directors, officers, employees, agents or representatives.

12.1.2 PacifiCorp agrees to release, indemnify and hold harmless Seller, its directors officers, agents and representatives against and from any and all loss, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with, the energy delivered by Seller hereunder after the Point of Delivery or with facilities on PacifiCorp's side of the Point of Delivery or PacifiCorp's operation and/or maintenance of its facilities, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property, excepting only such loss, claim, action or suit as may be caused solely by the fault or gross negligence of Seller, its directors, officers, employees, agents or representatives.

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

12.3 Neither Party hereto shall be liable to the other for special, punitive, indirect or consequential damages, whether arising from contract, tort (including negligence), strict liability or otherwise.

12.4 Each party hereto shall comply with any applicable laws, including Workers Compensation Laws.

12.5 Without limiting any liability or any other obligations of Seller, Seller shall secure and continuously carry with Best A-rated insurers or better the following insurance coverage:

12.5.1 Employers Liability insurance with a minimum limit of \$1,000,000, to the extent Seller has employees.

12.5.2 Commercial General Liability insurance, to include contractual liability, with a minimum single limit of \$1,000,000 to protect against Seller's liability for injury to persons or damage to property stemming from this Agreement. To the extent available without significant additional cost, such policy required herein shall include i) provisions or endorsements naming PacifiCorp, its board of directors, officers, managers and employees, as additional insured, and ii) cross liability coverage so that the insurance

applies separately to each insured against whom claim is made or suit is brought, even in instances where one insured claims against or sues another insured.

12.5.3 Business Automobile Liability insurance with a minimum single limit of \$1,000,000 for bodily injury and property damage with respect to vehicles, if any, whether owned, hired or non-owned, assigned to or used in connection with this Agreement.

12.5.4 To the extent reasonably available, all liability policies required by this Agreement shall 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 hereunder, and provisions that such policies shall not be cancelled or their limits reduced without 1) ten (10) days prior written notice to PacifiCorp if canceled for non-payment of premium, or 2) thirty (30) days prior written notice to PacifiCorp if cancelled for any other reason. A certificate in a form reasonably satisfactory to PacifiCorp certifying to the issuance of such insurance shall be furnished to PacifiCorp. Commercial General Liability coverage written on a “claims-made” basis, if any, shall be specifically identified on the certificate.

12.5.5 Insurance coverage, if provided on a “claims-made” basis, shall be maintained by Seller for a minimum period of two (2) 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.

SECTION 13: FORCE MAJEURE

13.1 As used in this Agreement, “Force Majeure” or “an event of Force Majeure” means any cause beyond the reasonable control of the Seller or of PacifiCorp which, despite the exercise of due diligence, such party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to acts of God, fire, flood, storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority which is in each case (i) beyond the reasonable control of such party, (ii) by the exercise of reasonable foresight such party could not reasonably have been expected to avoid and (iii) by the exercise of due diligence, such party shall be unable to prevent or overcome. Force Majeure, however, specifically excludes the cost or availability of alternative sources of supply or changes in market conditions that affect the price of energy or transmission, the demand for products manufactured by Seller, or that otherwise render this Agreement uneconomic or unprofitable for a Party.

13.2 If either party is rendered wholly or in part unable to perform its obligation under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

13.2.1 the non-performing party, shall, within two (2) weeks after the occurrence of the Force Majeure, give the other party written notice describing the particulars of the occurrence; and

13.2.2 the suspension of performance shall be of no greater scope and of no longer duration than is required by the Force Majeure; and

13.2.3 the non-performing party uses its best efforts to remedy its inability to perform.

13.3 No obligations of either party which arose before the Force Majeure causing the suspension of performance shall be excused as a result of the Force Majeure.

13.4 Neither party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the party involved in the dispute, are contrary to the party's best interests.

SECTION 14: REGULATORY TERMINATION

PacifiCorp may terminate this Agreement, with the advance approval of the Commission, in the event Seller does not maintain the QF Facility as a QF or otherwise based upon the QF Facility's loss of its QF certification.

SECTION 15: SEVERAL OBLIGATIONS

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

SECTION 16: CHOICE OF LAW

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

SECTION 17: PARTIAL INVALIDITY

It is not the intention of the Parties to violate any laws governing the subject matter of this Agreement. If any of the terms of the 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 the Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any applicable law and the intent of the Parties to this Agreement.

SECTION 18: WAIVER

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

SECTION 19: GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

This Agreement is subject to the jurisdiction of those governmental agencies having control over either party or this Agreement.

SECTION 20: SUCCESSORS AND ASSIGNS

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. No assignment hereof by either party shall become effective without the written consent of the other party being first obtained and such consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party may assign this Agreement without the other Party's consent to a lender as part of a financing transaction or as part of (a) a sale of all or substantially all of the assigning Party's assets, or (b) a merger, consolidation or other reorganization of the assigning Party.

SECTION 21: ENTIRE AGREEMENT

This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding PacifiCorp's purchase of Delivered Energy from the QF Facility. No modification of this Agreement shall be effective unless it is in writing and signed by both Parties.

SECTION 22: NOTICES

22.1 All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered if delivered in person or when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested

To Seller:

All Notices:

Lee R. Brown
US Magnesium, LLC
238 North 2200 West
Salt Lake City, Utah 84116
Phone: (801) 532-2043
Facsimile: (801) 534-1407

Email: lbrown@usmagnesium.com

With additional Notices of an Event of Default or Potential Event of Default to:

Roger Swenson
238 North 2200 West
Salt Lake City, Utah 84116
Phone: (801) 532-2043
Facsimile: (801) 534-1407
Email: roger.swenson@prodigy.net

and to:

Gary A. Dodge
10 W. Broadway, Suite 400
Salt Lake City, UT 84101
Phone: (801) 363-6363
Facsimile: (801) 363-6666
Email: gdodge@hjdllaw.com

To PacifiCorp:

All Notices:

Street: 825 NE Multnomah Street
City: Portland, OR 97232
Attn: Contract Administration, Suite 600
Phone: (503) 813 - 5952
Facsimile: (503) 813 - 6291
Duns: 00-790-9013
Federal Tax ID Number: 93-0246090

Invoices:

Attn: Back Office, Suite 600
Phone: (503) 813 - 5585
Facsimile: (503) 813 - 5580

Scheduling:

Attn: Resource Planning, Suite 600
Phone: (503) 813 - 6090
Facsimile: (503) 813 - 6265

Payments:

Attn: Wholesale Sales
PO Box 5504
Portland, OR 97228

Wire Transfer:

BNK: Bank One N.A.
ABA: 071000013
ACCT: 55-44688
NAME: PacifiCorp Wholesale

Credit and Collections:

Attn: Credit Manager, Suite 1800
Phone: (503) 813 - 5684
Facsimile: (503) 813 - 5609

**With additional Notices of an Event of Default or
Potential Event of Default to:**

Attn: Andrew P. Haller, Esq. and Dean S. Brockbank, Esq.
Phone: (503) 813-6266 and (801) 220-4568
Facsimile: (503) 813-7262 and (801) 220-3299

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

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

PacifiCorp

By: _____
Name: _____
Title

STATE OF _____)

COUNTY OF _____)

Subscribed and sworn to before me this ____ day of _____, _____ by
_____[Name]_____.

My commission expires:

_____ .

Notary Public

US Magnesium LLC

By: _____
Name: _____
Title: _____

STATE OF _____)

COUNTY OF _____)

Subscribed and sworn to before me this ____ day of _____, _____ by
_____[Name]_____.

My commission expires:

_____ .

Notary Public

EXHIBIT A

DESCRIPTION OF SELLER'S FACILITY

Seller's QF Facility is a 36 MW nominally rated gas-fired cogeneration facility, consisting of three 12.4 MW nominally rated General Electric Model Frame 5 gas-fired turbines (turbine numbers 214034, 214035, and 214036), with a total gross production capacity of about 37.2 MW and net power production of about 24.9 MW at a 67% operating factor. The QF Facility is located in Tooele County, Utah.

~~DRAFT August 20, 2004~~
~~Subject to further review and change~~
~~GAD Revisions 9/14/04~~

EXHIBIT B

POINT OF DELIVERY / PARTIES' INTERCONNECTION FACILITIES

"Point of Delivery" means the high side of the generation step-up transformer(s) located at the point of interconnection between the QF Facility and PacifiCorp's transmission system at US Magnesium's 138/13.8 kV Rowley Substation in Tooele County, Utah, as specified in the Generation Interconnection Agreement.

~~**DRAFT August 20, 2004**~~
~~**Subject to further review and change**~~
~~**GAD Revisions 9/14/04**~~

EXHIBIT C

REQUIRED FACILITY DOCUMENTS

1. Substation Bill of Sale and Assignment dated January 1, 1997, as amended by Letter dated June 5, 2001
2. Generation Interconnection Agreement executed on or about May 15, 2002
3. Transmission Line Bill of Sale and Assignment dated January 1, 1997, as amended by Letter dated May 15, 2003.
4. Transmission Operation and Maintenance Agreement dated January 1, 1997.

~~**DRAFT August 20, 2004**~~
~~**Subject to further review and change**~~
~~**GAD Revisions 9/14/04**~~

EXHIBIT D
MONTHLY MAINTENANCE SCHEDULES

Scheduled Maintenance Periods during the Term of this Agreement are tentatively scheduled for:

Normal preventative maintenance is typically done when a unit is down for operational reasons. Major scheduled maintenance is typically done every five years on each unit and lasts for about one month. It is currently anticipated that major scheduled maintenance will be done in March of 2005 for one unit, in March of 2006 for one unit, and in March of 2007 for one unit and, in each case, every five years thereafter.

These schedules are tentative and may be adjusted by Seller. Seller agrees to notify PacifiCorp of material changes to Scheduled Maintenance Periods as soon as reasonably possible after such change.

**EXHIBIT E
Hourly Scalars**

Scalar date: 3.18.04		Table 1. Monday - Friday Scalars											
MPT	PPT	Month											
Hour Ending		1	2	3	4	5	6	7	8	9	10	11	12
HE0200	HE0100	96.52%	97.07%	97.12%	101.07%	94.74%	96.39%	104.80%	104.82%	98.70%	101.64%	96.07%	99.03%
HE0300	HE0200	89.87%	92.74%	93.00%	91.28%	86.66%	88.12%	90.50%	91.54%	87.79%	90.86%	89.99%	93.35%
HE0400	HE0300	88.89%	91.31%	89.84%	84.54%	84.49%	81.73%	81.78%	81.37%	82.85%	83.90%	83.50%	89.40%
HE0500	HE0400	88.25%	91.28%	87.94%	83.57%	82.15%	75.25%	78.54%	76.47%	81.33%	81.80%	83.36%	89.00%
HE0600	HE0500	90.73%	92.07%	89.84%	84.94%	81.08%	74.39%	78.07%	76.65%	81.15%	83.22%	87.76%	91.90%
HE0700	HE0600	102.10%	101.64%	100.34%	91.67%	86.17%	76.40%	79.03%	77.72%	82.22%	89.00%	103.89%	100.81%
HE0800	HE0700	90.36%	96.05%	87.13%	78.73%	57.26%	34.34%	42.97%	43.87%	52.36%	68.69%	83.25%	92.38%
HE0900	HE0800	100.84%	103.43%	98.54%	87.17%	64.50%	40.71%	47.80%	47.33%	59.78%	81.51%	93.13%	101.01%
HE1000	HE0900	104.76%	106.89%	99.41%	95.76%	72.76%	48.02%	55.82%	58.51%	70.13%	90.38%	97.05%	102.70%
HE1100	HE1000	103.45%	101.67%	98.35%	97.18%	78.74%	55.12%	65.76%	67.48%	80.19%	94.65%	99.07%	102.31%
HE1200	HE1100	101.12%	97.45%	97.67%	97.51%	83.55%	63.63%	76.52%	78.51%	86.81%	98.27%	98.96%	99.26%
HE1300	HE1200	98.25%	96.06%	97.01%	100.78%	88.60%	77.81%	87.38%	90.16%	94.60%	99.91%	97.94%	95.86%
HE1400	HE1300	96.53%	95.76%	96.91%	102.75%	108.69%	100.28%	104.17%	103.06%	106.57%	101.32%	97.51%	92.47%
HE1500	HE1400	94.39%	93.72%	98.15%	103.76%	117.72%	111.69%	114.58%	122.01%	116.22%	103.86%	97.68%	90.89%
HE1600	HE1500	93.22%	93.31%	98.68%	105.12%	122.56%	113.63%	133.58%	130.85%	124.76%	109.74%	97.04%	89.86%
HE1700	HE1600	92.83%	94.64%	98.17%	104.57%	128.28%	140.95%	144.62%	138.51%	126.00%	108.08%	98.60%	89.94%
HE1800	HE1700	95.49%	95.95%	100.32%	104.06%	126.52%	152.31%	144.19%	141.01%	125.29%	105.96%	103.20%	95.65%
HE1900	HE1800	102.78%	104.53%	102.68%	105.53%	121.96%	157.23%	140.91%	137.61%	123.45%	106.58%	110.16%	106.75%
HE2000	HE1900	109.40%	107.59%	109.89%	103.28%	119.11%	152.08%	135.16%	128.30%	120.10%	109.36%	111.82%	113.39%
HE2100	HE2000	110.93%	109.66%	110.76%	105.70%	105.60%	141.79%	118.78%	114.41%	112.13%	109.70%	109.22%	115.13%
HE2200	HE2100	106.17%	103.74%	106.92%	105.96%	105.90%	124.58%	99.25%	102.40%	104.98%	108.68%	107.86%	109.62%
HE2300	HE2200	99.49%	99.55%	99.41%	102.15%	98.26%	85.82%	88.50%	95.96%	96.62%	103.31%	97.52%	102.76%
HE2400	HE2300	127.53%	120.31%	126.22%	140.71%	157.11%	171.71%	151.60%	155.38%	150.76%	142.09%	136.31%	123.85%
HE0100	HE2400	116.11%	113.57%	115.70%	122.22%	127.60%	136.01%	135.69%	136.05%	135.21%	127.50%	119.13%	112.67%

Scalar date: 3.18.04		Table 2. Saturday Scalars											
MPT	PPT	Month											
Hour Ending		1	2	3	4	5	6	7	8	9	10	11	12
HE0200	HE0100	102.16%	100.88%	102.40%	102.15%	101.06%	99.15%	102.44%	100.66%	105.09%	100.62%	99.67%	104.65%
HE0300	HE0200	96.24%	97.30%	98.24%	92.44%	95.46%	91.71%	96.62%	93.20%	94.87%	95.07%	95.13%	99.58%
HE0400	HE0300	94.82%	98.00%	95.49%	91.14%	88.20%	87.35%	91.51%	82.15%	98.39%	89.75%	92.29%	95.77%
HE0500	HE0400	94.41%	93.93%	93.92%	89.63%	89.15%	88.12%	86.47%	79.20%	86.00%	89.29%	94.15%	93.07%
HE0600	HE0500	94.10%	94.68%	94.41%	89.85%	86.80%	81.03%	79.30%	78.53%	87.21%	90.17%	93.67%	93.81%
HE0700	HE0600	100.39%	100.82%	97.64%	92.22%	87.24%	80.15%	75.49%	80.02%	86.48%	92.01%	101.29%	95.10%
HE0800	HE0700	92.50%	92.70%	88.50%	78.34%	68.54%	58.16%	58.86%	46.42%	81.38%	72.63%	86.73%	84.39%
HE0900	HE0800	99.03%	100.02%	94.52%	84.36%	73.02%	64.62%	57.85%	49.20%	66.93%	76.34%	92.72%	90.81%
HE1000	HE0900	102.64%	100.06%	97.18%	93.14%	82.83%	71.28%	63.12%	55.15%	73.20%	80.89%	94.32%	102.12%
HE1100	HE1000	102.15%	96.97%	99.45%	98.27%	88.68%	78.69%	69.59%	63.43%	81.93%	85.26%	98.48%	101.06%
HE1200	HE1100	100.51%	98.28%	99.48%	99.35%	93.90%	88.78%	80.82%	77.50%	89.58%	92.71%	100.63%	99.30%
HE1300	HE1200	99.54%	97.16%	100.07%	104.16%	101.51%	97.72%	95.09%	88.95%	97.14%	100.89%	100.60%	98.27%
HE1400	HE1300	97.97%	94.86%	99.34%	100.69%	106.28%	105.19%	105.27%	98.57%	103.71%	105.90%	99.85%	97.37%
HE1500	HE1400	95.98%	92.67%	97.75%	100.01%	108.69%	111.91%	112.46%	107.33%	110.84%	106.10%	99.57%	93.91%
HE1600	HE1500	93.03%	92.26%	95.99%	100.01%	109.56%	116.29%	121.28%	135.81%	114.57%	107.64%	97.08%	92.93%
HE1700	HE1600	92.32%	93.11%	95.15%	100.77%	110.85%	117.41%	123.56%	137.18%	114.30%	107.84%	96.33%	93.23%
HE1800	HE1700	89.89%	94.17%	96.56%	103.41%	109.85%	116.87%	125.93%	137.78%	115.01%	106.38%	101.81%	96.54%
HE1900	HE1800	102.28%	105.46%	104.30%	103.63%	110.09%	119.90%	124.64%	138.18%	115.29%	109.98%	106.06%	109.36%
HE2000	HE1900	110.66%	112.42%	109.99%	106.23%	111.51%	116.99%	121.30%	123.84%	113.40%	114.32%	108.88%	112.02%
HE2100	HE2000	111.58%	112.91%	110.46%	107.56%	110.14%	115.74%	118.20%	117.63%	110.73%	115.72%	110.59%	116.51%
HE2200	HE2100	107.48%	110.98%	108.86%	112.44%	109.86%	111.07%	113.81%	116.25%	106.70%	110.76%	107.23%	109.15%
HE2300	HE2200	102.45%	105.97%	102.39%	107.63%	104.69%	109.37%	108.23%	106.77%	105.30%	106.64%	99.13%	103.04%
HE2400	HE2300	111.81%	110.71%	112.61%	127.79%	134.66%	147.75%	137.73%	151.29%	124.03%	125.86%	120.43%	113.35%
HE0100	HE2400	106.08%	103.69%	105.29%	114.78%	117.43%	124.74%	130.44%	134.95%	117.93%	117.23%	103.37%	104.67%

Scalar date: 3.18.04		Table 3. Sunday and NERC Holiday Scalars											
MPT	PPT	Month											
Hour Ending		1	2	3	4	5	6	7	8	9	10	11	12
HE0200	HE0100	85.09%	88.19%	84.47%	86.56%	71.94%	67.82%	87.65%	74.91%	71.89%	87.05%	86.48%	85.92%
HE0300	HE0200	78.66%	86.41%	80.66%	78.89%	66.14%	62.41%	78.93%	66.35%	64.72%	79.50%	79.92%	79.61%
HE0400	HE0300	75.72%	84.85%	77.25%	73.84%	63.89%	58.43%	68.52%	62.46%	61.57%	76.22%	76.28%	78.27%
HE0500	HE0400	77.46%	83.96%	75.02%	69.61%	58.50%	55.35%	62.54%	60.58%	60.33%	74.89%	74.79%	77.15%
HE0600	HE0500	77.28%	85.15%	74.57%	68.78%	56.36%	54.60%	54.11%	54.30%	58.10%	73.41%	74.91%	77.02%
HE0700	HE0600	78.49%	87.75%	77.53%	71.37%	56.34%	55.57%	51.37%	56.38%	57.54%	71.59%	74.91%	78.18%
HE0800	HE0700	87.27%	94.20%	80.79%	81.99%	67.42%	56.46%	52.52%	56.46%	59.52%	76.11%	85.89%	83.37%
HE0900	HE0800	93.71%	98.75%	86.53%	85.89%	71.86%	62.57%	53.17%	56.37%	60.54%	73.59%	91.70%	91.10%
HE1000	HE0900	100.62%	101.12%	92.63%	94.46%	76.94%	67.22%	58.87%	60.03%	71.78%	82.34%	97.42%	101.01%
HE1100	HE1000	108.35%	100.69%	97.70%	98.70%	85.74%	79.21%	70.89%	69.73%	80.01%	89.41%	103.90%	102.28%
HE1200	HE1100	107.82%	100.65%	100.33%	103.11%	89.60%	89.77%	91.10%	82.03%	92.40%	92.55%	106.02%	101.76%
HE1300	HE1200	106.70%	99.91%	101.32%	104.90%	95.31%	101.64%	102.36%	93.48%	102.79%	99.85%	108.16%	100.63%
HE1400	HE1300	105.63%	100.74%	100.52%	107.83%	101.56%	121.12%	117.27%	107.66%	112.37%	107.18%	106.83%	99.45%
HE1500	HE1400	98.64%	97.77%	102.88%	108.32%	110.94%	126.30%	125.33%	123.73%	130.69%	110.76%	105.66%	99.02%
HE1600	HE1500	98.23%	98.06%	103.54%	108.85%	137.02%	127.61%	131.85%	150.25%	138.22%	116.00%	105.89%	97.01%
HE1700	HE1600	99.20%	99.61%	103.80%	109.31%	174.92%	132.75%	139.68%	152.68%	141.63%	115.74%	105.24%	96.85%
HE1800	HE1700	108.58%	99.32%	103.11%	112.68%	196.08%	138.12%	140.93%	148.43%	143.05%	116.73%	107.73%	107.46%
HE1900	HE1800	116.81%	109.11%	116.98%	118.78%	128.15%	141.06%	144.95%	146.21%	145.81%	121.43%	119.57%	121.05%
HE2000	HE1900	120.58%	116.90%	153.63%	124.12%	162.81%	147.37%	142.96%	153.85%	145.60%	137.32%	126.96%	129.48%
HE2100	HE2000	128.07%	120.68%	128.28%	129.60%	116.03%	146.99%	140.61%	145.82%	142.68%	129.85%	126.36%	130.55%
HE2200	HE2100	120.90%	120.37%	126.18%	130.23%	115.45%	144.40%	137.59%	139.59%	132.73%	132.38%	125.05%	128.55%
HE2300	HE2200	119.27%	116.29%	118.80%	124.13%	111.55%	138.56%	127.06%	136.18%	127.53%	123.79%	114.22%	120.31%
HE2400	HE2300	105.70%	108.44%	111.10%	111.01%	99.48%	119.42%	115.12%	108.01%	104.45%	111.25%	104.56%	112.73%
HE0100	HE2400	101.21%	101.10%	102.38%	97.03%	85.96%	105.24%	104.62%	94.52%	94.05%	101.06%	91.56%	101.26%